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► Policy Design for Unemployment Benefits in Myanmar:

The Social Security Law, 2012,
and Social Security Rules, 2014

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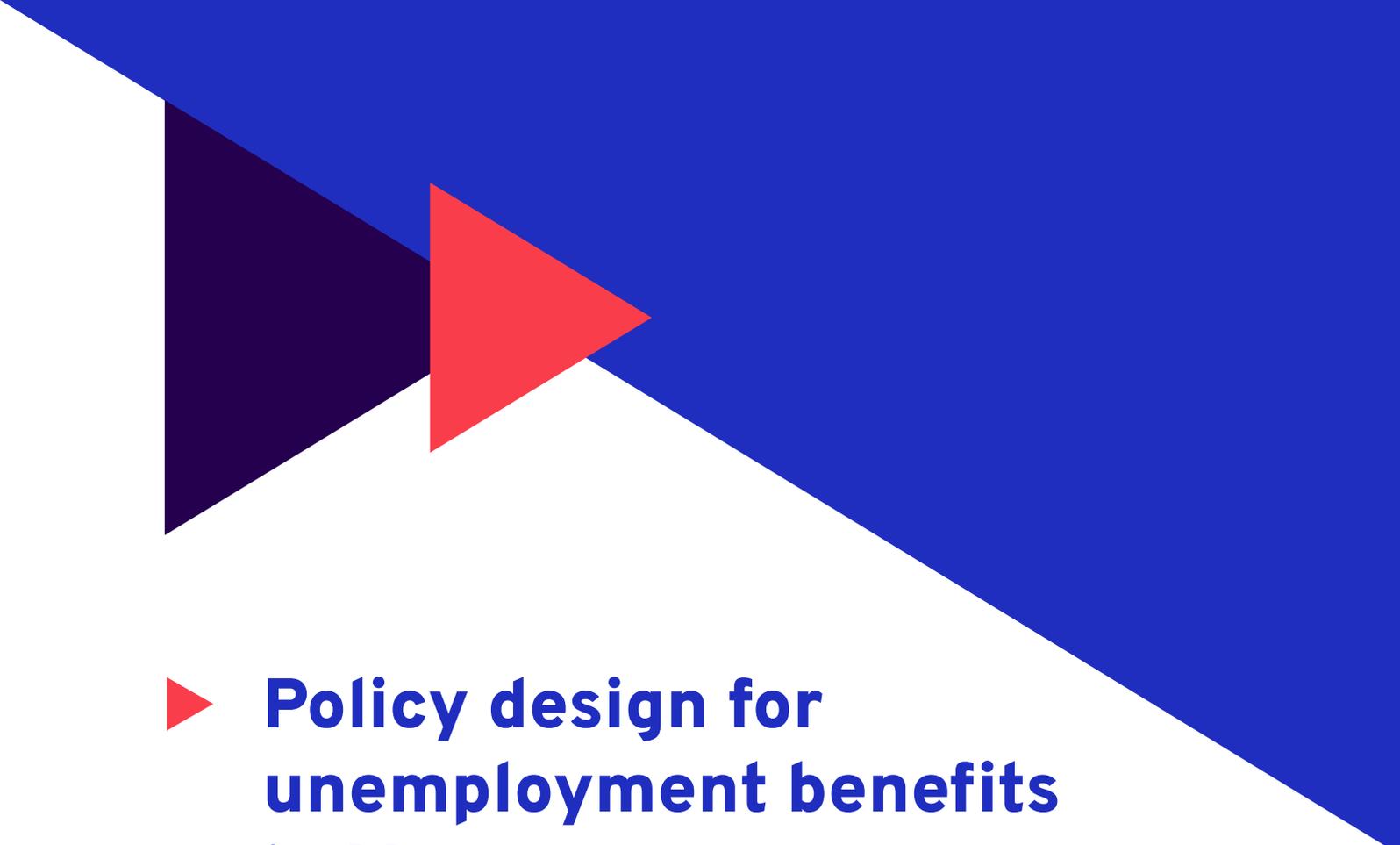
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Social Protection
& Public Finance Management



▶ **Policy design for
unemployment benefits
in Myanmar:**

The Social Security Law, 2012,
and Social Security Rules, 2014

Ippei Tsuruga
Luisa Fernanda Carmona Llano
Saw U Ler Moo

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Foreword

Unemployment protection schemes provide unemployed workers with income security over a determined period, as well as support to return to work through employment services and re-skilling or up-skilling programmes. As Myanmar goes through processes of structural transformation, there may be broad population shifts, including rural-to-urban migration, and employment shifts from low-productivity and labour-intensive sectors to high-productivity and skills-intensive sectors. These types of resettlement and sectoral shifts often entail increased unemployment and informal employment. Adequately resourced and effectively implemented unemployment protection systems can therefore support structural transformation, higher levels of productivity and inclusive economic development.

The ILO Conventions and Recommendations on social security serve as crucial references for the design and implementation of such systems, and include the Social Security (Minimum Standards) Convention, 1952 (No. 102), Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), and the Social Protection Floors Recommendation, 2012 (No. 202).

Before assessing a possible application of these international labour standards, it is crucial to understand the national context. This paper aims to identify the principal features and policy design of the Unemployment Insurance Benefit System in Myanmar through a review of existing legal provisions as well as information and data from official and primary references available as of 31 December 2020. Therefore, although this paper presents an overview without detailed analysis or recommendations, it is hoped that it will offer a good knowledge base for advanced studies and policy dialogues in the future.



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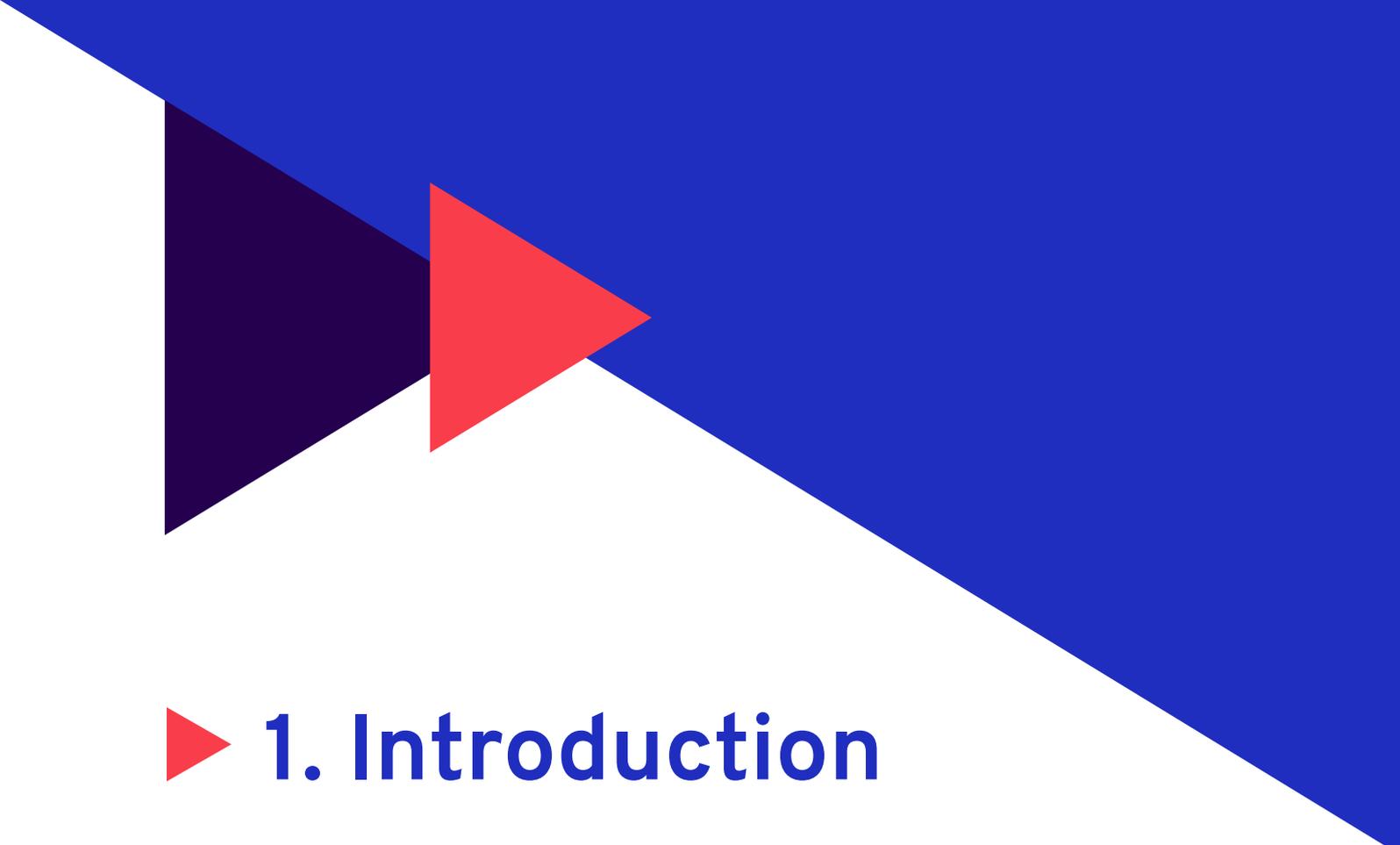
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Abbreviations and acronyms

ESDA	Employment and Skills Development Authority
ESL	Employment and Skills Development Law, 2013
MOLES	Ministry of Labour, Employment and Social Security
MOLIP	Ministry of Labour, Immigration and Population
SEC	Standard Employment Contract
SSB	Social Security Board
SSL	Social Security Law, 2012
SSR	Social Security Rules, 2014
TLEO	Township Labour Exchange Office
TSSO	Township Social Security Office



1. Introduction

The National Social Security System in Myanmar is regulated by the Social Security Law, 2012 (SSL), which amended the Social Security Act, 1954. The SSL was enacted on 31 August 2012, and came into force on 1 April 2014. In accordance with the provisions of the SSL ¹, the Government and the Ministry of Labour, Employment and Social Security (MOLES) ² adopted the implementing regulations – the Social Security Rules, 2014 (SSR) – on 2 April 2014, and as a result, the gradual implementation of social security schemes commenced.

The SSL established the Unemployment Benefit Insurance System, though it had not yet been implemented as of the time of writing this paper. In 2020, the Government of Myanmar requested assistance from the ILO in the implementation of this system. The implementation of any new social security scheme, as with any reform to an existing scheme, requires a series of technical studies from legal, financial, institutional and operational perspectives. Such studies will be necessary in order to operationalize the Unemployment Benefit Insurance System, including to develop detailed and effective designs for its policies, administration and operation. Therefore, the scope of such technical studies cannot remain solely within the area of social security, but also must ensure coherence with the existing national legal framework – notably issues addressed by the country’s labour laws, including employment, termination and employer liabilities – as well as other labour market policies, including public employment services and the upskilling and reskilling of unemployed workers.

1 Specifically, section 103(a).

2 The labour administration in Myanmar has been reformed several times. Labour matters were administered by the Ministry of Labour, Employment and Social Security (MOLES) until March 2016 and by the Ministry of Labour, Immigration and Population (MOLIP) as of 31 December 2020. When describing the labour administration and its authority, the SSL and the SSR refer to MOLES or the Ministry of Labour. As this paper aims at identifying the system as of 31 December 2020, we read the labour administration in the SSL and the SSR as the MOLIP.

This paper primarily aims to create a knowledge base for advanced studies and policy dialogues in the future by identifying the features and policy design elements of the Unemployment Insurance Benefit System in Myanmar. As such, it focuses primarily on presenting a review of the existing legal provisions as well as information and data from official and primary references available as of 31 December 2020. It should be noted that this review is based on English translations of the relevant legal instruments³ and that the interpretation of certain provisions in these legal instruments will need to be confirmed through national consultations in the future. As such, this paper does not aim at providing detailed analysis or recommendations. Instead, the paper seeks to illustrate the policy design of unemployment protections in Myanmar under the existing legal provisions.

3 Available at: <https://www.mol.gov.mm/en/laws-and-regulations/>.



▶ 2. National Social Security System

The Unemployment Benefit Insurance System in Myanmar is regulated by the SSL and the implementing regulations enacted in 2014 as part of the National Social Security System administered by the Social Security Board (SSB). Therefore, this paper will start by reviewing the overall legal, institutional and operational framework of the National Social Security System.

In this paper, the term “National Social Security System” is used to describe the national system composed of the Social Security System and the Employment Injury Benefit Insurance System, according to the definitions provided by the SSL and the SSR (see section 2.3 below). The first component – the Social Security System – refers to a specific system that comprises the:

- ▶ Health and Social Care Insurance System;
- ▶ Family Assistance Insurance System;
- ▶ Invalidity, Old-age and Survivors’ Benefit Insurance System;
- ▶ Unemployment Benefit Insurance System;
- ▶ Social Security Housing Plan Fund; and
- ▶ Other Social Security System.

2.1. Legal framework

The SSL sets out administrative features of the National Social Security System as well as policies and parameters, such as the system's coverage, qualifying conditions, the level of benefits and their duration. The implementing regulations, namely the Social Security Rules, 2014 (SSR), provide technical details that guide the implementation of the SSL.

SSL section 13 defines benefits for nine major contingencies, including medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit. In addition to these social security branches, the SSL provides a funeral benefit and housing plan, as well as other benefits that can be established by the Ministry of Labour, Immigration and Population (MOLIP) in coordination with the Social Security Board (SSB). Table 1 summarizes key areas covered by the National Social Security System with reference to applicable sections of the SSL and SSR.

It should be noted that employment services and skills development are regulated by the Employment and Skills Development Law, 2013 (ESL), which replaced the Employment and Training Act, 1950.

► **Table 1. Comparative list of legal provisions found in the SSL and SSR**

Areas	Legal instrument	
	SSL 2012	SSR 2014
Common provisions for the National Social Security System		
► Definitions and objectives	sections 1–3	rules 1–2
► Institutions and administrations	sections 4–10, 67–68	rules 3–22
► Suspension of benefit	sections 63–64	rule 53
► Benefit claims	sections 65–66, 69–73	n/a ¹
► Inspection	sections 74–76	rules 47–49
► Penalty for non-compliance with contribution	section 77-78 section 93-94	rule 65
► Fund management	sections 79–87	rules 23–39
► Appeal	sections 88–92	rules 205–213
► Coverage, registration	n/a ¹	rules 40–46, 50–52
► Contribution rate	n/a ¹	rules 54–59
► Insurable earnings	n/a ¹	rules 60–61, 202–203
► Contribution collections	n/a ¹	rules 62–66, 201
► Miscellaneous	sections 95–104	rules 214–216

Areas	Legal instrument	
	SSL 2012	SSR 2014
Common provisions for the Social Security System	sections 11–20	n/a¹
Health and Social Care Fund		
▶ Common provisions for medical care	sections 21–22, 25, 29	rules 67–109
▶ Sickness benefit	sections 23–24	rules 110–116, 204
▶ Maternity and paternity benefit	sections 26–28	rules 117–125, 204
▶ Funeral benefit	section 30	rules 126–131
Family Assistance Fund		
▶ Educational allowance	section 31	rules 132–135
▶ Disaster relief benefit	section 31	rules 136–138
Invalidity, Old-age and Survivors' Benefit Fund		
▶ Invalidity benefit	sections 32–33	rules 139–144, 204
▶ Old-age benefit	sections 34–35	rules 145–148
▶ Survivors' benefit	section 36	rules 149–153
▶ Withdrawal	sections 41, 70	rules 154–158
Unemployment Benefit Fund		
▶ Medical care for unemployed workers	section 38	rules 67–109
▶ Unemployment benefit	sections 37–41	rules 159–164
Social Security Housing Plan Fund		
▶ Housing plan	sections 42–44	rules 165–173
Other Social Security Fund regulated by the MOLIP in coordination with the SSB		
▶ Other compulsory social security benefit	section 15	n/a ¹
▶ Other voluntary social security benefit		
Common provisions for the Employment Injury Benefit Insurance System	sections 45–51	rules 174–179
Employment Injury Benefit Fund		
▶ Medical care, rehabilitation, job arrangement	sections 52–54, 60–61	rules 67–109
▶ Temporary disability benefit for work related injuries and sickness	sections 55–56	rules 180–187
▶ Permanent disability benefit for work related injuries and sickness	sections 57–59	rules 188–195
▶ Survivors' benefit for work related death	section 62	rules 196–200

¹ The SSR lays out the necessary precisions, as prescribed in the separate provisions of the SSL, to implement the SSL. The structure of the SSR is not fully comparable to that of the SSL. For example, coverage is regulated separately by the Social Security System and the Employment Injury Benefit Insurance System in the SSL, while it is regulated by common provisions that affect the entire system in the SSR. Also, see Appendix 2 for the relationship between systems and funds.

Source: Compiled by the authors from national legislation.

2.2. Administration

The Social Security Board (SSB) was created in 1956 following the adoption of the Social Security Act, 1954. In accordance with section 5(a) of the SSL, the SSB is responsible for carrying out the necessary management and supervision for enabling the implementation of the provisions of the SSL. The SSR provides further guidance regarding the formation, functions and duties of the SSB. In particular, the SSB shall submit recommendations to the MOLIP, among others, concerning contribution rates, coverage, pensionable age and the remuneration used to calculate contributions (SSR, rule 6).

Members of the SSB are “suitable persons from the MOLIP and the relevant Union Ministries, Government departments, organizations, representatives and experts of employers and workers” (SSL, section 4(a)).

With regard to its internal governance, the SSB is managed by an Executive Committee composed by a minimum of seven suitable persons, including a workers’ representative, employers’ representative and an expert in labour affairs (SSR, rule 13(a)).

2.3. Funds and benefits

The SSB manages three accounts: (i) the Social Security Fund Account; (ii) the Employment Injury Benefit Fund Account; and (iii) the Administrative Account (SSR, rule 24(a)).

The Social Security Fund Account comprises the:

- ▶ Health and Social Care Fund;
- ▶ Family Assistance Fund;
- ▶ Invalidity, Old-age and Survivors’ Benefit Fund;
- ▶ Unemployment Benefit Fund;
- ▶ Social Security Housing Plan Fund;⁴ and
- ▶ any other social security funds established by the MOLIP in coordination with the SSB upon the approval of the Union Government⁵ (SSL, section 13).

These funds finance related systems, such as the Health and Social Care Insurance System; the Family Assistance Insurance System; the Invalidity, Old-age and Survivors’ Benefit Insurance System; the Unemployment Benefit Insurance System; and other social security systems, including the Social Security Housing Plan.

The Employment Injury Benefit Fund Account is composed entirely of the Employment Injury Benefit Insurance Fund, which finances the Employment Injury Benefit Insurance System.

4 Under the current regulations, the Social Security Housing Plan Fund will allow workers who voluntarily contribute to this scheme to “live, hire, use, own, purchase, sell, or transfer by any other means and obtain a loan in priority for enabling to purchase housing according to the stipulated terms and conditions” (SSL, section 13(e)(i)). This scheme has yet to be implemented.

5 At the time of writing this report, there is no evidence suggesting that any other social security fund has been established by the MOLIP in coordination with the SSB.

The Administrative Account is managed separately from the other two accounts, and finances administration up to 25 per cent of the total amount of contributions received in a fiscal year (SSR, rule 24(b)). The Administrative Account receives its funds via transfer from the Union Fund⁶; the Health and Social Care Fund; the Invalidity, Old-age and Survivors' Benefit Fund; the Unemployment Benefit Fund; the Social Security Housing Plan Fund; and the Employment Injury Benefit Fund (SSR, rule 29). It should be noted that under the national legal framework the SSB is not able to establish Social Security Offices, hospitals and clinics or appoint necessary service personnel with its own funds. However, the SSB can request – through the MOLIP – that the Union Government pay the salaries, allowances, honorariums, gratuities, pensions and other benefits of the service personnel at Social Security Offices, hospitals and clinics from the Union Fund.⁷

In practice, only the Health and Social Care Fund, the Family Assistance Fund and the Employment Injury Benefit Fund have been implemented (see table 2). The Family Assistance Fund comprises two benefits: a means-tested educational allowance for children, and a disaster relief benefit, which includes healthcare services and income support in case the insured and their family encounter a natural disaster (SSL, section 31).

It should be noted that Chapter VIII of the SSL includes general provisions concerning the financial governance of the Social Security System, notably, the SSB's obligation to use its funds for matters and benefits pertaining to the Social Security System, the Employment Injury Benefit Insurance System and administrative matters (SSL, section 82(a)(i)), and with regards to the scheme's auditing and reporting obligations (SSL, section 83).

The Unemployment Benefit Fund is part of the Social Security Fund Account and finances cash benefits paid to insured persons when they become unemployed (SSL, section 13(d)). The Unemployment Benefit Fund is financed by contributions from workers and employers (SSL, sections 15(a)(iv), 15(b)) (see section 2.4). It should be noted that workers who qualify for cash benefits from the Unemployment Benefit Fund are also entitled to medical care during the entitled duration of the cash benefits, but medical care expenses are financed through the Health and Social Care Fund (SSR, rule 26).⁸

► **Table 2. Relationships between various social protection accounts, funds and benefits**

Account	Fund (System)	Benefit	Status
Social Security Fund Account (Social Security System)	Health and Social Care Fund (Health and Social Care Insurance System)	Medical care ¹	Implemented
		Sickness benefit	Implemented
		Maternity benefit	Implemented
		Funeral benefit ²	Implemented

6 The Union Fund is based on general tax revenues.

7 SL section 86, in conjunction with SSR rule 39(a).

8 The Health and Social Care Fund finances medical care expenses for all the insured under the Social Security Fund Account. The Employment Injury Benefit Fund Account finances medical care expenses related to medical care and orthopaedic and prosthetic appliances for insured who suffer an employment-related injury.

Account	Fund (System)	Benefit	Status	
Social Security Fund Account (Social Security System)	Family Assistance Fund ³ (Family Assistance Insurance System)	Educational allowance	Not implemented	
		Disaster relief benefit	Implemented	
	Invalidity, Old-age and Survivors' Benefit Fund (Invalidity Benefit, Superannuation Benefit and Survivors' Benefit Insurance System)		Invalidity benefit	Not implemented
			Old-age benefit	Not implemented
			Survivors' benefit	Not implemented
	Unemployment Benefit Fund (Unemployment Benefit Insurance System)	Unemployment benefit	Not implemented	
Social Security Housing Plan Fund	Housing plan	Not implemented		
	Other mandatory or voluntary funds (Other Social Security System)	Other benefits	n/a	
Employment Injury Benefit Fund Account	Employment Injury Benefit Fund (Employment Injury Benefit Insurance System)	Medical care, rehabilitation, support for return to work	Implemented	
		Temporary disability benefit	Implemented	
		Permanent disability benefit	Implemented	
		Survivors' benefit	Implemented	
Administrative Account	Administrative Fund	n/a	n/a	

n/a = not applicable.

¹ Recipients of unemployment benefits are entitled to access medical care, the expenses for which are financed by the Health and Social Care Fund.

² Insured workers who die as a result of a work injury or occupational disease are also entitled to receive the funeral benefit, which is financed by the Health and Social Care Fund.

³ No standalone contributions are established for family benefits. The Family Assistance Fund receives its funding via transfers from the Health and Social Care Fund in order to pay family benefits. MOLIP Notification 164/2021 partially implemented the Family Assistance Fund; namely the cash assistance component of the disaster relief benefit, in accordance with SSL section 31(b)(ii) and SSR rule 136(b).

Source: Compiled by the authors from national legislation.

2.4. Financing

The Social Security Fund Account is financed by contributions from employers and workers, and contributions and subsidies from the Union Fund granted by the Union Government (SSL, section 79(c)). The Employment Injury Benefit Fund Account is financed by contributions from employers and by subsidies from the Union Fund (SSL, section 79(d)).

The SSR provides further guidance in regard to the source of funds of the Social Security Fund Account, which comprise:

- a. the Social Security Fund, transferred and received from the former Social Security Board;
- b. contributions, subsidies and loans from the Union Fund;
- c. contributions from employers and workers to each system under the Social Security System;
- d. defaulting fees imposed by law;
- e. interest earned from savings, deposits and loans of the fund;
- f. money received from the sale and renting of Social Security Housing;
- g. increased money from investments;
- h. donations by local and foreign well-wishers; and
- i. other income (SSR, rule 25).

Similarly, the source of funds of the Employment Injury Benefit Fund Account comprise:

- a. the Employment Injury Benefit Fund, transferred and received from the former Social Security Board;
- b. contributions, subsidies and loans from the Union Fund;
- c. contributions from employers to the employment injury insurance system;
- d. defaulting fees imposed by law;
- e. interest earned from savings, deposits and loans of the fund;
- f. increased money from investments;
- g. donations by local and foreign well-wishers; and
- h. other income (SSR, rule 27).

Moreover, the SSB may make requests to the Union Government (through the MOLIP) for contributions, subsidies or loans from the Union Fund in instances where the Social Security Fund and the Employment Injury Benefit Fund are insufficient to pay out benefits (SSL, section 87(a)). Likewise, according to the SSR, budgetary support may be requested if the available funds are insufficient to build or extend SSB hospitals, offices and clinics (SSR, rule 7(e)).

The MOLIP, in coordination with the SSB, is authorized to determine contribution rates to be collected from employers and workers upon the approval of the Union Government (SSL, section 17). In practice, the SSR defines the contribution rates for the systems under the Social Security Fund Account (SSR, rule 55) and the Employment Injury Benefit Fund Account (SSR, rule 58). The Health and Social Care Fund adopts two different contribution rates that vary according to the worker's age at the time of initial registration. If an insured person registers at the age of 60 or before, the total contribution rate is 4 per cent in total shared equally between the worker and the employer. If the initial registration is made after the age of 60, the contribution rate is 5 per cent in total shared equally between the worker and the employer. No standalone contribution rate is prescribed for the Family Assistance Fund. Instead, the Fund receives transfers from the Health

and Social Care Fund in order to pay benefits of the Family Assistance System. The Invalidity, Old-age and Survivors' Benefit Fund requires 3 per cent of earnings from both workers and employers, or 6 per cent in total. The Unemployment Benefit Fund requires 1 per cent of earnings from both workers and employers; or 2 per cent in total. The Social Security Housing Plan Fund shall be financed by voluntary contributions from employees and employers, and the employee shall bear at least 25 per cent of earnings.⁹ The Employment Injury Benefit Fund adopts contribution rates that vary according to the numbers of employees and the accident rates of establishments.

Finally, it should be noted that although the SSR stipulates the contribution rates applicable to each fund, only the Health and Social Care Fund and the Employment Injury Benefit Fund have been collecting contributions at the time of writing this paper.

► **Table 3. Worker and employer contribution rates to various funds (% of earnings)**

Fund	Modality	Worker	Employer	Total ⁵
Health and Social Care Fund ¹	Social insurance	2.0%–2.5%	2.0%–2.5%	4.0%–5.0%
Family Assistance Fund ²	Social insurance	–	–	–
Invalidity, Old-age and Survivors' Benefit Fund	Social insurance	3.0%	3.0%	6.0%
Unemployment Benefit Fund	Social insurance	1.0%	1.0%	2.0%
Social Security Housing Plan Fund ³	Savings	25.0% or more	–	25.0% or more
Employment Injury Benefit Fund ⁴	Social insurance	–	1.0%–1.5%	1.0%–1.5%
Total		31.0%–31.5% or more	7.0%–8.0%	38.0%–39.5% or more
Total (excluding the housing plan fund)		6.0%–6.5%	7.0%–8.0%	13.0%–14.5%

– = nil.

¹ Rate varies according to the insured's age at initial registration. If an insured person registers at age 60 or before, the contribution rate is 4 per cent in total shared equally between the worker and the employer. If the initial registration is made after the age of 60, the total contribution rate is 5 per cent shared equally between the worker and the employer.

² No standalone contributions are prescribed for family benefits. Instead of collecting contributions, the Family Assistance Fund is financed by transfers from the Health and Social Care Fund.

³ Contribution rate of employer is not determined by either the SSL or SSR.

⁴ Rate varies according to business' size and accident rate.

⁵ Neither the SSL nor the SSR stipulate the contribution rates applicable to the voluntary participants. However, based on SSR rule 44(a), it is understood that the voluntary participants would be required to contribute both the employer's and worker's share.

Source: Compiled by the authors from national legislation.

9 The contribution rate of employers for the Social Security Housing Plan Fund is not determined by either the SSL or SSR.

2.5. Insurable earnings

Insurable earnings for calculating contributions consist of the total amount of wages or income of insured workers, which covers the amount regularly paid by an employer to a worker, including the basic wage, subsistence allowance, overtime wage and other additional monthly payments paid to the worker (SSR, rule 60(c)). Insurable earnings do not include: travel allowances or any amounts reimbursed to workers for work-related expenditures (SSR, rule 60(c); sickness, maternity, temporary disability, permanent disability and/or unemployment benefits received from Social Security Offices or employers (SSR, rule 61(a–b)); or other occasional allowances paid by employers for service rewards, annual rewards, aids for religious and social festivals, and in relation to lay-offs (SSR, rule 61(c)). Moreover, employers are not allowed to deduct from the reported insurable earnings the amount of the contributions paid on behalf of their employees to a credit fund, pension fund or any other fund established for their workers, or other medical care programmes (SSR, rule 60(d)).

The Payment of Wages Law, 2016, (PWL) provides additional clarifications about payments that are not regarded as wages. The PWL regards social security cash benefits in general as non-wage components, and therefore, the rest of social security benefits that the SSR does not explicitly state – including family benefits, employment injury benefits, survivors’ benefits and old-age benefits – are understood to also be excluded from insurable earnings (PWL, section 2(a)(iii)).

The SSR specifies that when determining insurable earnings for contributions, the calendar month is the base period for wages and income (SSR, rule 63). If insured employees work at least one day in the calendar month, employers shall pay contributions based on their monthly wage (SSR, rule 64(a–b)). It should be noted that neither the SSL nor the SSR specify how many hours of work are regarded as “a day”. Typically, the terms and conditions of employment, including working hours, are defined in labour legislation, and therefore, based on the labour legislation consulted, it is inferred that a day of work corresponds to eight hours of work.¹⁰

► **Table 4. Composition of insurable earnings by payee**

Payee	Category of payment	Reference
Employer	Basic wage	O SSR, rule 60(c)(i)
	Subsistence allowance	O SSR, rule 60(c)(ii)
	Overtime wage	O SSR, rule 60(c)(iii)
	Allowance for accommodation, meals, electricity, water, taxes and other monthly allowances	O SSR, rule 60(c)(iv);
	Reimbursement for work-related expenditures and travel allowances	X PWL, section 2(v)
	Sickness, maternity, temporary disability, permanent disability and unemployment benefits	X SSR, rule 60(c)

¹⁰ Section 62 of the Factories Law, 2016, and section 11 of the Shops and Establishments Law, 2016, stipulate eight hours per day and 48 hours per week as the maximum working hours, beyond which employers must pay overtime. Moreover, MOLIP Notification No. 1/2018 establishes a daily rate minimum wage based on an eight-hour day.

Payee	Category of payment		Reference
Employer	Other occasional allowances paid by employers for service rewards, annual rewards, aids for religious and social festivals, and lay-offs	X	SSR, rule 61(b)
	Compensation for dismissal and gratuities	X	SSR, rule 61(c)
	Pension and retirement gratuities	X	PWL, section 2(vii)
	Contribution to private corporate welfare funds for employees	X	SSR, rule 60(d); PWL, section 2(a)(iv)
Social Security Office	Sickness, maternity, temporary disability, permanent disability and unemployment benefits	X	SSR, rule 61(a)
	Cash benefits from other social security systems	X	PWL, section 2(a)(iii)

O = The listed payment is considered as part of insurable earnings; X = The payment does not consist of insurable earnings.

Source: Compiled by the authors from national legislation.

The minimum insurable earnings for contributions are subject to the statutory minimum wage set according to the formula defined by the Minimum Wages Law, 2013, and the Minimum Wages Rules, 2013 (SSR, rule 60(a)). The SSR further stipulates that the insurable earnings of apprentices and trainees who do not receive wages are regarded as being equal to the statutory minimum wage amount (SSR, rule 60(b)). Similarly, insured workers in the private sector and state-owned enterprises who are no longer subject to mandatory coverage because they have changed employment and choose to remain insured on a voluntary basis would have to pay contributions based on the minimum wage (SSR, rule 50(b) and 51(b)).

According to the Minimum Wage Law (section 5 (h)), the National Committee for Designating Minimum Wage amends the statutory minimum wage at least every two years. The National Committee determined the minimum wage for the first time in 2015 at 3,600 kyats per day and 450 kyats per hour,¹¹ and amended it in 2018 to be 4,800 kyats per day and 600 kyats per hour¹². Under the 2018 rules, the minimum wage does not apply to small businesses with fewer than ten employees or to family businesses¹³; as such, employees who work for small businesses and family businesses will receive a wage determined by mutual agreement between employer and employee.

It should be noted that the SSR does not explicitly define the minimum insurable earnings for workers who earn less than the minimum wage, other than the aforementioned apprentices, trainees and those who would like to register on a voluntary basis but have not been insured before. However, it is understood that in such cases, insurable earnings would be based on the statutory minimum wage, regardless of the worker's actual earnings.

11 Under MOLIP Notification No. 2/2015, the minimum wage was determined uniformly for the whole of Myanmar without differentiation in respect of location or type of enterprise. The minimum wage rule did not apply to small enterprises and family-owned and self-managed enterprises with 15 or fewer employees.

12 As per MOLIP Notification 1/2018.

13 These employers are also exempted from mandatory coverage under the SSL (see section 2.5 above).

The maximum insurable earnings for contributions is not defined by either the SSL or the SSR. However, the Health and Social Care Fund currently has a ceiling of insurable earnings for contribution at 300,000 kyats per month (SSB Notification No. 56/2014, section 3(a)). The ceiling is not indexed with any indicators and has not been adjusted since 2014.

No social security benefit defines a maximum or minimum benefit, and therefore, maximum benefits are based on the maximum insurable earnings, while minimum benefits are based on the statutory minimum wage.

► **Table 5. Minimum wage as specified in MOLIP Notification No. 2/2015 and Notification No. 1/2018**

Effective date	Minimum wage		Geographical coverage	Minimum no. of employees
	Hourly	Daily (8 hours per day)		
1 September 2015 (MOLIP Notification 2/2015)	450 kyats	3 600 kyats	Nationwide	15 or fewer
14 May 2018 (MOLIP Notification 1/2018)	600 kyats	4 800 kyats	Nationwide	10 or fewer

Source: Compiled by the authors from national legislation.

2.6. Applicable and inapplicable establishments

The SSL provides both for mandatory and voluntary coverage based on categories of establishments, their size and categories of workers (see Appendix 3). In this regard, the SSL defines applicable and inapplicable establishments for mandatory coverage in its sections 11 and 12, respectively. Under the law, selected employees are mandatorily covered when three conditions are met:

- i. the establishments where they work should be among the categories listed in the SSL;
- ii. such establishments should be employing the minimum number of employees, as established by the MOLIP in coordination with the SSB; and
- iii. the categories of workers are those covered by the law. Currently, the minimum number of employees is set at five (MOLIP Notification No. 58/2014)

There are 15 categories of establishments that are required to register their employees (SSL, section 11(a)). For example, the SSL explicitly stipulates the mandatory coverage of employees at state-owned enterprises or private enterprises in the manufacturing, finance, commerce, construction, investment, mining, natural resource, trade and transport industries. Employers in the construction sector only have to register employees who have employment contracts of one year or longer (SSL, section 11(a)(viii)). As a result, it is understood that employees in the construction sector who are employed for a duration shorter than one year would not be covered by the Social Security System on a mandatory basis.¹⁴

¹⁴ Employees of these establishments could still participate in the system on a voluntary basis.

On the other hand, eight categories of establishments are explicitly released from this obligation (SSL, section 12(a)). These include:

- i. government agencies that do not carry out business activities;
- ii. international organizations and diplomatic missions;
- iii. private enterprises engaged in seasonal agriculture;
- iv. non-profit enterprises;
- v. establishments that carry out business for less than three months;
- vi. economic activities within households, including family businesses without employees;
- vii. non-profit domestic services; and
- viii. other establishments exempted under section 99 of the law.¹⁵

Employees working at these establishments can participate in the Social Security System on a voluntary basis (SSL, section 12(c)).¹⁶

It should be noted that there appears to be an inconsistency concerning the obligation of certain government agencies to register their employees within the Social Security System administered by the SSB. In particular, although section 12(a)(i) of the SSL exempts government agencies that do not carry out business activities from mandatory coverage, the MOLIP and its subordinate departments and organizations are listed as applicable establishments under section 11(a)(xiv) of the law. These apparent inconsistencies require further clarification.

In sum, according to the provisions of the existing legal frameworks, employers in both the private and public sectors have to register their establishments and all of their employees on a mandatory basis if they carry out business activities and employ at least five workers.

2.7. Applicable and inapplicable categories of workers

The SSL sets the categories of workers¹⁷ for whom mandatory registration does not apply. According to SSL section 12(b), these include: ‘

- i. workers who have attained the age to qualify for old-age benefits;¹⁸
- ii. street vendors and vendors using bicycles;
- iii. daily wages earners, part-time workers, piece-workers or outside workers employed occasionally; and
- iv. other workers as determined by the MOLIP in coordination with the SSB.

The SSR provides further guidance by defining the categories of workers who should be covered by mandatory and voluntary coverage in rules 42 and 43, respectively. In particular, the SSR

15 Section 99 of the SSL stipulates that “the President of the Union may, for the interest 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”.

16 SSR rules 44–46 stipulate further details.

17 Section 2(a) of the SSL defines worker as “a person who is employed permanently or temporarily in any establishment and who earns a living with wages earned by physical or mental capacity. In such expression, it also includes apprentices and trainees whether they are paid remuneration or not. However, it does not include members of the family of employer who live together with and depend upon the employer.”

18 The age for superannuation is determined by the MOLIP in coordination with the SSB with the approval of the Union Government, according to SSL section 34.

defines applicable workers for mandatory coverage as all wage workers who are employed at the applicable establishments set out in section 11(a) of the SSL and that therefore are required to register their employees, as well as paid and unpaid apprentices and trainees (SSR, rule 42(a)). The SSR does not exclude workers based on the amount of wages they receive or the type of employment contracts they have, so long as they work at establishments applicable for mandatory registration. Therefore, in principle, the Social Security System should cover all employees no matter how much they earn; whether or not they are paid, unpaid, apprentices or trainees; and whether they have permanent, temporary or seasonal work agreements.¹⁹ As discussed above, employees at establishments that are not applicable for mandatory registration are still allowed to participate in the Social Security System on a voluntary basis (SSL, section 12(c)).

It should be noted that there is a legal inconsistency within the national legal framework in regard to “daily wages earners, part-time workers, piece-workers or outside workers employed occasionally”. While such workers are explicitly excluded from mandatory coverage according to section 12(b)(iii) of the SSL, rule 42(a) of the SSR suggests that the establishments applicable for mandatory registration have an obligation to register all workers working in permanent, temporary or seasonal arrangements. This would seemingly include certain categories of daily wage earners, part-time workers and piece-workers. These inconsistencies require further clarification.

Furthermore, as discussed in section 2.6 above, establishments in the construction sector are required to register only workers with employment contracts of one year or longer (SSL, section 11(a)(viii)), and it is understood that construction workers with employment contracts of a shorter duration would be excluded from mandatory coverage.²⁰ Similarly, employers do not have to register employees if their enterprises carry out business for less than three months (SSL, section 12(a)(v)).

Among wage workers, civil servants have limited coverage through the Social Security System. They are not covered on a mandatory basis by the Invalidity, Old-age, Survivors and Unemployment Benefit systems. While they are still allowed to participate in the Invalidity, Old-age and Survivors Benefit System on a voluntary basis, they cannot participate in the Unemployment Benefit System (SSL, section 14). It should be noted that the Civil Service Law and the Political Pension Law provide civil servants with retirement arrangements, but these laws do not provide them with unemployment benefits.

Finally, as the SSL defines a “worker” as a person who works at the establishment and obtains a wage (section 2(a)), it does not definitively provide non-wage workers with mandatory coverage under the National Social Security System stipulated by the SSL. However, the SSR opens the possibility for non-wage workers to participate on a voluntary basis by paying both the share of the employers’ and workers’ contributions (SSR, rule 44(b)(i)). Similarly, students; “persons who are away from the worksite”; “housemaids”; Myanmar migrant workers abroad; owners of a private business, “collective business” or “professional business”; and farmers can also register on a voluntary basis (SSR, rule 44(b)(ii–iii)).²¹

19 Mandatory coverage does not apply to the employers’ family members, which comprises “the wife, husband, children and parents depending on the employer” (SSL, section 42(a)).

20 In this regard, it should be noted that in Myanmar the labour legislation does not regulate the minimum term of employment contracts; instead, this is agreed upon by employers and workers in the employment contract itself, which shall be submitted to the labour exchange office for registration (ESL, section 5(g)). For more details about the rules on employment contracts, see Ippei Tsuruga and Saw U Ler Moo, *Employment termination in Myanmar: Rules and payments on separation*, 2021.

21 The SSL and the SSR are not clear about who might comprise the “persons who are away from the worksite”, “housemaids”, and owners of “collective business” or “professional business”.

Table 6 illustrates the provisions concerning the legal coverage of the Social Security System and the Employment Injury Benefit Insurance System, as well as the benefits that would be available for the different categories of workers once the systems are implemented.

► **Table 6. Legal coverage of selected categories of workers by the Social Security System)**

Selected categories of workers		Health, sickness, maternity, family	Invalidity, old-age, survivors	Unemployment	Housing, others
Wage worker	Private enterprises with at least five workers	M	M	M	V
	Private enterprises in seasonal farming and fishery	V	V	V	V
	Construction workers with employment contracts of less than one year's duration	V	V	V	V
	Public enterprises with at least five workers (excluding civil servants)	M	M	M	V
	Others (diplomatic missions, non profit organizations)	V	V	V	V
Civil servants	Government agencies with at least five workers	M	V	X	V
	Non-wage workers (own-account workers, contributing family workers, other self-employed)	V	V	V	V
	Others (students, housemaids, Myanmar migrant workers abroad, business owners)	V	V	V	V

M = Mandatory coverage; V = Voluntary coverage; X = No coverage.

Source: Compiled by the authors from national legislation. The full list is available at Appendix 3.

2.8. Benefits

The SSL (section 13) defines benefits for the nine traditional branches of social security: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit. Additionally, the national legal framework includes a funeral benefit, a disaster relief benefit and a housing plan.

Table 7 provides an overview of cash benefits and medical care available for insured workers and the key parameters of these benefits as prescribed in the SSL and the SSR.

► **Table 7. Overview of National Social Security System benefits**

Benefit	Qualifying conditions	Benefit formula	Maximum duration of benefit
Healthcare	<ul style="list-style-type: none"> ▶ Insured by the Health and Social Care Fund (no minimum employment or contribution period); ▶ Retired civil servant; ▶ Recipient of invalidity benefit or old-age benefit who contributed for 180 months; ▶ Recipient of disaster relief benefit who requires healthcare; or ▶ Recipient of unemployment benefit (basic benefit) 	<ul style="list-style-type: none"> ▶ Healthcare and medical treatment for sickness, pregnancy, child delivery, miscarriage and confinement at SSB and state-owned hospitals and clinics and other facilities contracted by the SSB; includes outpatient care, inpatient care, hospitalization, examinations and medicines; ▶ Medical treatment for sickness of newly born child up to one year after birth; ▶ Travelling allowance for medical care; and ▶ Full income replacement for prenatal examination up to seven days 	<ul style="list-style-type: none"> ▶ 26 weeks for ordinary sickness; ▶ 52 weeks for recurrent sickness or chronic diseases; or ▶ Subject to the entitled duration of unemployment benefit (basic benefit) for its recipient
Sickness benefit	<ul style="list-style-type: none"> ▶ Six months of employment and four months of contributions within the last six months prior to becoming ill; and ▶ Reduction or suspension of income due to incapability to work 	60 per cent of average monthly wage received in the months during which contributions were paid within the last six months prior to becoming ill	26 weeks for the period of being unable to work after submitting the medical certificate for sickness
Maternity benefit (periodical benefit)	12 months of employment and six months of contributions prior to maternity leave	70 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery	<ul style="list-style-type: none"> ▶ 14 weeks including six weeks before the expected date of delivery and a minimum of eight weeks after confinement ▶ Additional four weeks in case of multiple births, and six weeks in case of miscarriage

Benefit	Qualifying conditions	Benefit formula	Maximum duration of benefit
Maternity benefit (lump-sum benefit)	12 months of employment and six months of contributions prior to maternity leave	<ul style="list-style-type: none"> ▶ 50 per cent of the average monthly wage received in the months during which contributions were paid within the last 12 months for the delivery of one child; ▶ 75 per cent for the delivery of twins; or ▶ 100 per cent for the delivery of triplets or more 	Not applicable (lump sum)
Paternity benefit (periodical benefit)	12 months of employment and six months of contributions prior to paternity leave	70 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery	15 days for infant care upon confinement of the insured's wife
Paternity benefit (lump-sum benefit)	<ul style="list-style-type: none"> ▶ 12 months of employment and six months of contributions prior to paternity leave; and ▶ The insured's wife not entitled to the maternity allowance 	<ul style="list-style-type: none"> ▶ 25 per cent of the average monthly wage received in the months during which contributions were paid within the last 12 months for the delivery of one child; ▶ 37.5 per cent for the delivery of twins; or ▶ 50 per cent for the delivery of triplets or more 	Not applicable (lump sum)
Funeral benefit (lump-sum benefit)	No minimum employment or contribution requirement	Average monthly wage or income in the last four months multiplied by (no. of contributed months ÷ 18 + 1), up to five times the insured's average monthly wages or income in the last four months	Not applicable (lump sum)
Educational allowance (lump-sum benefit)	<ul style="list-style-type: none"> ▶ 36 months of contributions within the last 48 months if the insured has been registered for 48 months or more, or 36 months of contributions before the commencement of the academic year if the insured has been registered for less than 48 months; 	10 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months before the commencement of the academic year	Not applicable (lump sum)

Benefit	Qualifying conditions	Benefit formula	Maximum duration of benefit
	<ul style="list-style-type: none"> ▶ The insured's average earnings in the year prior to the claim lower than the threshold stipulated by the SSB; and ▶ The insured's child attending full-time primary education in a state-owned school or a school recognized by the State (the SSB may extend coverage to middle school, high school and university education) 		
Disaster relief benefit (lump-sum benefit)	<ul style="list-style-type: none"> ▶ 36 months of contributions within the last 48 months if the insured has been registered for 48 months or more, or 36 months of contributions before encountering a natural disaster if the insured has been registered for less than 48 months; and ▶ Loss of property due to natural disaster 	<ul style="list-style-type: none"> ▶ 40 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months before encountering the natural disaster ▶ Healthcare; and ▶ Relief materials or relief property 	Not applicable (lump sum)
Invalidity benefit	<ul style="list-style-type: none"> ▶ 180 months of contributions for the full benefit; and ▶ Total permanent incapacity to work not due to employment injury 	<ul style="list-style-type: none"> ▶ 15 times the average monthly wage received over the full contributory period and healthcare when contributing for 180 months and more; ▶ 40 per cent of the worker and employer contributions with interest when contributing for 12 months to 180 months; or ▶ Withdrawal of the worker contributions in a lump sum when contributing for less than 12 months 	Not applicable (lump sum or instalments depending on the insured's choice, up to the entitled amount)
Old-age benefit	<ul style="list-style-type: none"> ▶ 180 months of contributions for the full benefit; and ▶ Reaching 60 years old 	<ul style="list-style-type: none"> ▶ 15 times the average monthly wage received over the full contributory period and healthcare when contributing for 180 months and more; 	Not applicable (lump sum or instalments depending on the insured's choice, up to the entitled amount)

Benefit	Qualifying conditions	Benefit formula	Maximum duration of benefit
		<ul style="list-style-type: none"> ▶ 40 per cent of the worker and employer contributions with interest when contributing for 12 months to 180 months; or ▶ Withdrawal of the worker contributions in a lump sum when contributing for less than 12 months 	
Survivors' benefit	<ul style="list-style-type: none"> ▶ 180 months of contributions for the full benefit; and ▶ Death 	<ul style="list-style-type: none"> ▶ 15 times the average monthly wage received over the full contributory period when contributing for 180 months and more; ▶ 40 per cent of the worker and employer contributions with interest when contributing for 12 months to 180 months; or ▶ Withdrawal of the worker contributions in a lump sum when contributing for less than 12 months 	Not applicable (lump sum or instalments depending on the insured's choice, up to the entitled amount)
Unemployment benefit (basic benefit)	<ul style="list-style-type: none"> ▶ 36 months of contributions prior to unemployment; ▶ Involuntary unemployment; ▶ Good health, capability to work and willingness to work; and ▶ Registration at the Township Labour Exchange Office (TLEO), and report monthly their unemployment status to the TLEO and the Township Social Security Office 	<ul style="list-style-type: none"> ▶ 50 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months prior to unemployment for single persons, or 55 per cent for married persons; and ▶ Healthcare and other benefits during the entitled periods of basic benefit (see Section 3) 	<ul style="list-style-type: none"> ▶ 60 days with 36 to 47 months of contributions; ▶ 90 days with 48 to 59 months of contributions; ▶ 120 days with 60 to 71 months of contributions; ▶ 150 days with 72 to 83 months of contributions; or ▶ 180 days with 84 and over contribution months
Housing plan	<ul style="list-style-type: none"> ▶ Citizen or naturalized citizen; and ▶ Contributions paid up to an amount equivalent to 30 per cent of the housing price, or capacity to pay an amount equivalent to 30 per cent of the housing price in a lump sum 	Right to buy a house managed by the SSB at a subsidized price and receive property loans	Not applicable

Benefit	Qualifying conditions	Benefit formula	Maximum duration of benefit
Employment injury benefit (temporary disability benefit)	<ul style="list-style-type: none"> ▶ No minimum employment or contribution requirement; and ▶ Reduction or suspension of income due to incapability to work as a result of work injury or recognized occupational disease 	<ul style="list-style-type: none"> ▶ 70 per cent of average monthly wage received in the months during which contributions were paid within the last four months prior to the employment injury; ▶ Healthcare; and ▶ Rehabilitation and return to work support if it is necessary to make the recipient capable to work 	12 months
Employment injury benefit (permanent partial disability benefit)	<ul style="list-style-type: none"> ▶ No minimum employment or contribution requirement; and ▶ Permanent loss of working capacity due to employment injury or recognized occupational disease that is certified while receiving temporary disability benefit, or incapacity to work that is still persisting after exhausting the 12-month entitlement of temporary disability benefit 	<ul style="list-style-type: none"> ▶ 70 per cent of average monthly wage received in the months during which contributions were paid within the last four months prior to the employment injury x the degree of lost working capacity determined by the Social Security Medical Board x 5 years x 12 months, for an insured person with 20 per cent or less loss of working capacity; or 70 per cent of average monthly wages x 7 years x 12 months, for an insured person with 20 per cent to 75 per cent loss of working capacity; ▶ Healthcare; and ▶ Rehabilitation and return to work support if it is necessary to make the recipient capable to work 	Not applicable (lump sum)
Employment injury benefit (permanent total disability benefit)	<ul style="list-style-type: none"> ▶ No minimum employment or contribution requirement; and ▶ Permanent loss of working capacity due to employment injury or recognized occupational disease that is certified while receiving temporary disability benefit, or incapacity to work that is still persisting after exhausting the 12-month entitlement of temporary disability benefit 	<ul style="list-style-type: none"> ▶ 70 per cent of average monthly wage received in the months during which contributions were paid within the last four months prior to the employment injury x the degree of lost working capacity determined by the Social Security Medical Board x 9 years x 12 months, for an insured person with 75 per cent or more loss of working capacity; 	Not applicable (an insured person can choose either a lump sum, instalments or an annuity until death according to SSL section 58(c), but the annuity until death has not been fully implemented in practice and the duration of the annuity benefit is limited up to nine years)

Benefit	Qualifying conditions	Benefit formula	Maximum duration of benefit
		<ul style="list-style-type: none"> ▶ Additional 10 per cent of the amount calculated by the above formula if the recipient requires the constant attendance of personal assistant; ▶ Healthcare; and ▶ Rehabilitation and return to work support if it is necessary to make the recipient capable to work 	
Employment injury benefit (survivors' benefit)	<ul style="list-style-type: none"> ▶ No minimum employment or contribution requirement ▶ Death due to employment injury 	70 per cent of average monthly wage received in the months during which contributions were paid within the last four months prior to death due to the employment injury multiplied by 30 for an insured person who contributed for 60 months and less, by 50 for 61 to 120 months of contributions, by 60 for 121 to 240 months of contributions, or by 80 for more than 240 months of contributions	Not applicable (a person nominated by the insured can choose either lump sum or instalments)

Source: Compiled by the authors from national legislation.

2.9. Prescription period for claiming benefits

The SSL stipulates prescription periods during which the insured must claim benefits at the relevant Township Social Security Offices before they become extinct (SSL, sections 73(a–b)). The insured workers must claim old-age, invalidity and survivors' benefits as well as permanent disability and survivors' benefits due to employment injury within one year from the day of entitlement. For the rest of the benefits, claims must be filed within three months from the day of entitlement. However, the SSR modified the prescription period for claiming unemployment benefits from three months to one month from the day of employment termination (SSR, rule 161). Neither the SSL nor the SSR establish a prescription period for claiming the Social Security Housing Plan.

Nonetheless, the SSL permits that insured persons who did not submit their relevant claim within the prescribed timeframes mentioned above can still request a benefit if there are sufficient grounds. It should be noted that there is no further definition in the legal framework for what sufficient grounds may include.

► **Table 8. Prescription period for claiming benefits**

Cash benefit	Time-limits	Reference
Sickness benefit	3 months from the expiry of the leave period mentioned in the medical certificate	SSL, section 73(b); SSR, rule 113(b)
Maternity benefit	3 months from the expiry of the leave period mentioned in the medical certificate	SSL, section 73(b); SSR, rule 122(c)
Funeral benefit	3 months from the death of the insured	SSL, section 73(b); SSR, rule 128
Family benefit	3 months from the commencement of the relevant academic year for educational allowance 3 months from the occurrence of natural disaster	SSL, section 73(b); SSR, rules 132(b), 137
Invalidity benefit	1 year from the day of issue of medical certificate	SSL, section 73(a)
Old-age benefit	1 year from the day of reaching the pensionable age	SSL, section 73(a); SSR, rule 102(d)
Survivors' benefit	1 year from the day of death of the insured	SSL, section 73(a)
Unemployment benefit	1 month from the day of employment termination	SSL, section 73(b); SSR, rule 161
Housing plan	No prescription period	Not applicable
Temporary disability benefit owing to employment injury	3 months from the expiry of the period of disability to work according to the medical certificate	SSL, section 73(b); SSR, rule 185(b)
Permanent disability benefit owing to employment injury	1 year from the day of accident of the insured or the day of termination of temporary disability benefit	SSL, section 73(a); SSR, rule 188(c)
Survivors' benefit owing to employment injury	1 year from the day of death of the insured	SSL, section 73(a); SSR, rule 199(e)

Source: Compiled by the authors from national legislation.

2.10. Relation between social security benefits

The SSL stipulates that insured workers cannot simultaneously receive the following combinations of benefits:

- i. sickness and maternity benefits;
- ii. sickness and temporary disability benefits;
- iii. maternity and temporary disability benefits;
- iv. unemployment and sickness benefits;
- v. unemployment and maternity benefits; and
- vi. unemployment and temporary disability benefits (SSL, section 63(a)).

Yet, insured workers may be eligible for several social security benefits at the same time. In such cases, insured workers receive the highest benefit among those to which they are entitled (SSL, section 63(b)).

► **Table 9. Relations between social security benefits**

Cash benefit	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
(1) Sickness benefit	-	-	-	-	-	-	-	-	-	-	-	-
(2) Maternity benefit	X	-	-	-	-	-	-	-	-	-	-	-
(3) Funeral benefit	O	O	-	-	-	-	-	-	-	-	-	-
(4) Family benefit	O	O	O	-	-	-	-	-	-	-	-	-
(5) Invalidity benefit	O	O	O	O	-	-	-	-	-	-	-	-
(6) Old-age benefit	O	O	O	O	O	-	-	-	-	-	-	-
(7) Survivors' benefit	O	O	O	O	O	O	-	-	-	-	-	-
(8) Unemployment benefit	X	X	O	O	O	O	O	-	-	-	-	-
(9) Housing plan	O	O	O	O	O	O	O	O	-	-	-	-
(10) Temporary disability benefit owing to employment injury	X	X	O	O	O	O	O	X	O	-	-	-
(11) Permanent disability benefit owing to employment injury	O	O	O	O	O	O	O	O	O	O	-	-
(12) Survivors' benefit owing to employment injury	O	O	O	O	O	O	O	O	O	O	O	-

- = Not applicable; O = Both benefits can be provided; X = The higher benefit is provided among the two benefits.

Source: Compiled by the authors from national legislation.



▶ 3. Benefits available for unemployed workers

According to the SSL, unemployment benefits in Myanmar comprise a periodical benefit (hereafter referred to as the “basic benefit”), healthcare, maternity benefit, paternity benefit, sickness benefit, training and funeral benefit (section 38). In the event that other contingencies materialize while receiving a basic benefit, an insured person may be entitled to the other listed benefits within the period that they are entitled to the basic benefit. Other than these benefits, unemployed persons are also allowed to withdraw contributions from the Invalidity, Old-age and Survivors’ Benefit Fund, the Unemployment Benefit Fund and the Social Security Housing Fund (table 10). While Section 4 below focuses on the policy design of the basic benefit, the rest of benefits available for unemployed persons are broadly addressed in this section.

▶ **Table 10. Summary of benefits available for unemployed workers**

Benefit	Description	Reference
Basic benefit	50 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months prior to employment termination if the insured is not married; an additional amount up to 10 per cent of unemployment benefit is granted for married insured	SSL, sections 38(a-b)
Healthcare	Medical treatment for sickness, maternity and confinement	SSL, sections 38(c-d)

Benefit	Description	Reference
Sickness benefit	60 per cent of average monthly wage received in the months during which contributions were paid within the last four months for the period of being unable to work after submitting the medical certificate for sickness	SSL, section 23(b)
Maternity benefit	<ul style="list-style-type: none"> ▶ 70 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months for the period of maternity leave of at least 14 weeks in total, including six weeks before and a minimum of eight weeks after confinement; ▶ lump-sum of 50 per cent of average monthly wage as maternity expenses for single delivery, 75 per cent for twin delivery and 100 per cent for triplet delivery and above; and ▶ 70 per cent of average monthly wage for the period of maternity leave up to a maximum of six weeks in case of miscarriage 	SSL, sections 27(a-b), 38(d)
Paternity benefit	<ul style="list-style-type: none"> ▶ 70 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months prior to confinement of worker's insured wife during the entitled duration of unemployment benefits; ▶ lump-sum of 25 per cent of average monthly wage as maternity expenses for single delivery, 37.5 per cent for twin delivery and 50 per cent for triplet delivery and above 	SSL, sections 28(b), 38(d)
Training	Participation in training approved by the SSB	SSL, section 38(e)
Funeral benefit	Monthly basic benefit multiplied by (number of contributed months ÷ 18 + 1), up to five times the monthly basic benefit	SSL, section 38(f)
Withdrawal from Invalidity, Old-age and Survivors' Benefit Fund	<p>In case of involuntary unemployment:</p> <ul style="list-style-type: none"> ▶ 40 per cent of worker's and employer's contributions + interest, after at least 36 months of contributions and still being unemployed after exhausting their entitled months of the basic benefit <p>In case of voluntary unemployment:</p> <ul style="list-style-type: none"> ▶ 40 per cent of worker's and employer's contributions + interest, after 36 to 179 months of contributions; ▶ 12 times of average monthly wage in instalments or as a lump sum, after 180 months of contributions; or ▶ 12 times of average monthly wage in instalments or as a lump sum + additional benefit for excess contributions (the formula is not defined for the additional benefit), after 181 months or more of contributions 	SSL, sections 41(a), 70(a)
Withdrawal from Unemployment Benefit Fund	<p>In case of voluntary resignation:</p> <ul style="list-style-type: none"> ▶ 100 per cent of worker's contributions + interest, following at least 36 months of contributions 	SSL, section 70(c)
Withdrawal from Social Security Housing Fund	<p>In case of involuntary unemployment or voluntary resignation:</p> <ul style="list-style-type: none"> ▶ 100 per cent of worker's contributions + interest 	SSL, section 70(d)

Source: Compiled by the authors from national legislation.

3.1. Basic benefit

Insured persons are entitled to temporary and partial income replacement for 60 days to 180 days, depending on the number of months that the insured have contributed to the Unemployment Benefit Fund (SSL, section 38). The policy design of the basic benefit for unemployed workers will be discussed in detail in Section 4 below.

3.2. Healthcare

The insured are entitled to healthcare and medical treatment during the entitled duration of unemployment benefits (SSL, section 38(c); SSR, rule 73(a)). In addition, if a doctor recognized by the Social Security Board approves, the insured will continue to receive medical treatment even after the end of the entitled period (SSR, rule 73(b)).

3.3. Sickness benefit

For the general insured under the Health and Social Care Fund, entitlement to sickness benefits is subject to having a minimum employment period of six months before becoming ill and a minimum contributory period of four months out of the six-month employment period (SSL, section 23(a); SSR, rule 110(b)). Eligible persons shall receive 60 per cent of the average monthly wage they received in the months during which contributions were paid within the last six months²² prior to becoming ill, and the benefit can be paid for up to 26 weeks, covering a period of being incapable of working which has resulted in reduction or suspension of income. The insured must submit a medical certificate attesting to their illness (SSL, section 23(b); SSR, rule 110(e)).

For persons insured under the Unemployment Benefit Fund, one of the qualifying conditions for receiving the basic benefit is being in good health, capable of working and willing to work (SSL, section 37(c)). In general, becoming ill and therefore incapable of actively searching for jobs during a period of unemployment leads to the suspension of basic benefit payments because of non-compliance with this condition. To prevent basic benefit recipients from losing their income replacement due to sickness, recipients may be eligible to receive a sickness benefit instead of the basic benefit. When a recipient of the basic benefit becomes ill, they would be entitled to a sickness benefit for the period that they are not capable of looking for jobs due to sickness, up to the entitled duration of the basic benefit (SSL, section 38(c); SSR, rule 115(a)).

There are four major differences between sickness benefits for employed workers and for unemployed persons receiving a basic benefit, including the qualifying conditions, the benefit formula, the maximum duration of the sickness benefit, and some procedural requirements.

22 Concerning the periods used for averaging wages, the English translations of SSL section 23(b) and SSR rule 110(e) use the phrases "average wage of the previous four months" and "average wages obtained in the months in which contributions are paid within last four months", respectively. However, it appears that these provisions in the original Myanmar language actually refer to the minimum contribution requirement of four months during the preceding six months before sickness, according to SSL section 23(a) and SSR rule 110(b). Therefore, the averaging period can range between four months and six months depending on how far back one needs to go to reach the minimum number of contributory months prior to sickness. Recognizing that the interpretations in this paper need to be validated through national dialogue, the authors have read these provisions as "60 per cent of the average monthly wage in the months in which contributions were paid within the last six months".

For employed workers, the sickness benefit requires the insured to have been employed for a minimum of six months before becoming ill and to have paid contributions for a minimum of four months during the six months (SSL, section 23(a)). For a recipient of the basic benefit, the qualifying condition for a sickness benefit are four months of contributions in the last six months prior to the date of employment termination (SSL, section 23(a)) and submission of a medical certificate to prove incapacity to search for a job due to sickness (SSR, rule 115(a)). Unlike for employed workers, a minimum employment period of six months is not required for the recipient of the basic benefit to receive sickness benefits. Although the required months of contributions to receive sickness benefits are shorter than what is required to receive the basic benefit,²³ it should be noted that the differences in the required windows of contribution may not allow all recipients of the basic benefit to fulfil the qualifying conditions for sickness benefits under the current provisions. That is because it is possible that persons receiving the basic benefit may not always have made four months of contributions within the six months preceding the termination of their employment.²⁴

Concerning the benefit formula, the sickness benefit for a recipient of the basic benefit is calculated as 60 per cent of the average monthly wage in the months during which contributions were paid within the last six months prior to the day of employment termination, as opposed to the six months prior to becoming ill, which is the metric for employed workers (SSL, section 23(b); SSR, rule 115(a)). As a recipient of the basic benefit does not receive wages, it is understood that the insurable earnings for calculating sickness benefits would be based on the average monthly salary prior to employment termination.

The maximum duration of sickness benefits for employed workers is 26 weeks (SSL, section 23(b)); whereas for recipients of the basic benefit the duration is subject to the number of months for which they are entitled to the basic benefit (SSR, rule 115(a)). Therefore, it is understood that a recipient of the basic benefit would receive a sickness benefit as long as their medical condition continues in accordance with a medical certificate, subject to the maximum duration of the basic benefit. It is understood that the basic benefit recipients continue consuming the entitled duration of the basic benefit while receiving sickness benefits and resume receiving the basic benefit once they recover from sickness until the remaining entitlement is exhausted (or they find employment).

To claim sickness benefits, an employed worker has to submit a medical certificate and an employer recommendation to the Social Security Office (SSR, rule 113(a)).²⁵ A recipient of the basic benefit is exempted from the obligation to submit an employer recommendation (SSR, rule 115(c)).

Table 11 summarizes the differences in the major parameters between sickness benefits for employed workers and unemployed recipients of the basic benefit.

23 To receive the basic benefit, one must have made at least 36 months of contributions prior to employment termination.

24 It can be further noted that the SSL stipulates that employers shall not dismiss or terminate the insured's contract of employment during periods in which he or she is receiving sickness, maternity or temporary disability benefits resulting from an employment injury (SSL, section 66(a)(i)). As such, it can be inferred that overlaps between unemployment and sickness benefits would only exist if a recipient of the basic benefit becomes sick and meets the qualifying conditions for the sickness benefit.

25 To comply with this administrative requirement, the insured must submit his or her claim attaching Form-15 and Form-16 duly signed by a doctor recognized by the SSB and the employer, respectively. Forms 15 and 16 are included as annexes to the SSR and are available on the SSB's official website.

► **Table 11. Comparison between sickness benefit for employed workers and unemployed recipients of the basic benefit**

Parameter	Employed worker	Unemployed worker
Benefit formula	60 per cent of average monthly wage in the months during which contributions were paid within the last six months prior to becoming ill	60 per cent of average monthly wage in the months during which contributions were paid within the last six months prior to employment termination
Benefit duration	Up to 26 weeks, subject to medical certificate	Up to the qualified duration of the basic benefit (60–180 days), subject to medical certificate
Qualifying conditions	Six months of employment and four months of contributions within the last six months prior to becoming ill; reduction or suspension of income due to being incapable of working	Four months of contributions in the last six months prior to employment termination; being incapable of searching for a job
Employer's recommendation	Required	Not required

Source: Compiled by the authors from national legislation.

3.4. Maternity benefit

For the general insured under the Health and Social Care Fund, entitlement to maternity benefits is subject to having a minimum employment period of 12 months with an establishment registered with the SSB prior to taking maternity leave and a minimum contributory period of six months during the 12 months (SSL, section 26; SSR, rule 118(a)). The Health and Social Care Fund provides the insured mother during the period of maternity leave with 70 per cent of the average monthly wage²⁶ received in the months during which contributions were paid within the last 12 months prior to the month of child delivery (SSL, section 27(a); SSR, rule 120(a)). The duration of maternity leave is a minimum of 14 weeks, including six weeks before the expected date of delivery and a minimum of eight weeks after confinement. In case of delivering twins, the insured is entitled to enjoy an additional four weeks for childcare after exhausting the maternity leave. In case of miscarriage, the insured is entitled to no more than six weeks of leave after the miscarriage,²⁷ subject to a medical certificate (SSL, section 25; SSR, rules 96(c) and 119). In addition, a lump-sum of 50 per cent of the average monthly wage²⁸ received in the months during which contributions were paid within the last 12 months is paid to cover maternity expenses for the delivery of one child, 75 per cent for the delivery of twins and 100 per cent for the delivery of triplets or more (SSL, section 27; SSR, rule 120(b)).

26 SSL section 27(a) defines the benefit formula as 70 per cent of the “average wage of one year”, while SSR rule 120(a) defines how to calculate the “average wage of one year”. SSR rule 120(a) defines the average wage of one year as the “average wage received in the months in which contributions are paid within the last 12 months before the month of delivery”. This interpretation needs to be validated through national dialogue.

27 The social security legislation does not seem to differentiate between maternity leave provided in case of early pregnancy loss and stillbirth.

28 SSR 120(b) defines base earnings as “average wage received within the last 12 months”, but it does not clarify whether base earnings consider wages received only in the months in which contributions were paid or wages received in each month regardless of whether contributions were paid or not paid. Recognizing that the interpretations in this paper need to be validated through national dialogue, the authors read these provisions as referring to the same base earnings previously noted in relation to SSR rule 120(a). That is, base earnings are “average wages received in the months in which contributions are paid within the last 12 months”.

► **Table 12. Maternity benefit for employed workers**

Case	Formula of periodical benefit	Duration of periodical benefit	Lump-sum benefit
Delivery of one child	70 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery	14 weeks in total, including six weeks before and a minimum of eight weeks after confinement	50 per cent of the average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery
Delivery of twins	70 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery	18 weeks in total, including six weeks before and a minimum of 12 weeks after confinement	75 per cent of the average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery
Delivery of triplets and more	70 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery	18 weeks in total, including six weeks before and a minimum of 12 weeks after confinement	100 per cent of the average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery
Miscarriage	70 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery	Up to six weeks after miscarriage	Not applicable

Source: Compiled by the authors from national legislation.

A woman recipient of the basic benefit from the Unemployment Benefit Fund is entitled to healthcare, medical treatment and cash benefits for maternity and confinement (SSL, section 38(d); SSR, rule 124(a)). Pregnancy, delivery, confinement and miscarriage may not allow insured female workers to comply with the qualifying conditions of being in good health and capable of work (SSL, section 37(c)). Without remedy, becoming incapable to actively search for jobs due to pregnancy, delivery and miscarriage during a period of unemployment might lead to the suspension of basic benefit payments because of non-compliance with these conditions. The provision of maternity benefits to recipients of the basic benefit provides these new mothers with a remedy.

The general provisions concerning maternity benefits for employed workers are also applicable to unemployed recipients of the basic benefit. However, there are four major differences between maternity benefits for employed workers and for persons receiving a basic benefit, including the qualifying conditions, the benefit formula, the maximum duration of benefit and some procedural requirements.

For an employed worker to receive maternity benefits, the insured is required to have been employed for a minimum of 12 months before maternity leave and to have a minimum contributory period of six months during the 12 months (SSL, section 26). For a recipient of the basic benefit, qualifying conditions for maternity benefits are six months of contributions in the last 12 months prior to the date of employment termination (SSL, section 26; SSR, rule 124(b)) and submission of a medical certificate (SSR, rule 124(a)). Unlike for employed workers, a minimum employment period of 12 months at an establishment registered with the SSB is not required for recipients of the basic benefit in order to receive maternity benefits. Although the required months of contributions for maternity benefits are fewer than for the basic benefit,²⁹ the difference in the windows of contribution may not allow all recipients of the basic benefit to fulfil the qualifying conditions for maternity benefits. This is because it would be possible that persons receiving the basic benefit may not always have six months of contributions within the 12 months preceding the termination of their employment.

Concerning the benefit formula, the maternity benefit for a recipient of the basic benefit is set at 70 per cent of the average monthly wage received in the months during which contributions were paid within the 12 months prior to the day of employment termination (SSR, rule 124(a)), instead of the 12 months prior to the month of child delivery (SSL, section 120). As a recipient of the basic benefit does not receive wages, it is understood that the insurable earnings for calculating maternity benefits for a recipient of the basic benefit would be based on the average monthly wage they received prior to employment termination.

The duration of maternity benefits for employed workers is 14 to 18 weeks in total, including six weeks before the due date and a minimum of eight to 12 weeks after confinement for maternity leave, depending on the number of delivered children (SSL, section 25(c)), or up to six weeks after miscarriage (SSL, section 25(d)); whereas the maternity benefit duration for a recipient of the basic benefit is subject to the entitled months for the basic benefit (SSR, rule 124(a)). Therefore, it is understood that a recipient of the basic benefit would receive maternity benefits as long as the prescribed maternity leave or miscarriage leave continues in accordance with a medical certificate, subject to the maximum duration of the basic benefit. It is understood that a recipient of the basic benefit continues consuming the entitled duration of the basic benefit while receiving the maternity benefit, and will start to receive the basic benefit again once they return from maternity leave until the remaining entitlement is exhausted (or they find employment).

To claim maternity benefits, an employed worker has to submit a medical certificate and employer recommendation to the Social Security Office (SSR, rule 122(a)).³⁰ A recipient of the basic benefit is exempted from the obligation to submit the employer's recommendation (SSR, rule 124(c)).

Table 13 summarizes the differences in the major parameters of maternity benefits for employed workers and for unemployed recipients of the basic benefit.

29 As noted above, to receive the basic benefit one must have made at least 36 months of contributions prior to employment termination.

30 To comply with this administrative requirement, the insured must submit his or her claim attaching Form-17 and Form-18 duly signed by a doctor recognized by the SSB and the employer, respectively. Forms 17 and 18 are included as annexes to the SSR and are available on the SSB's official website.

► **Table 13. Comparison between maternity benefits for employed workers and unemployed recipients of the basic benefit**

Parameter	Employed worker	Unemployed worker
Benefit formula (Periodical benefit)	70 per cent of average wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery	70 per cent of average wage received in the months during which contributions were paid within the last 12 months prior to the day of employment termination
Benefit duration (Delivery of one child)	14 weeks, including six weeks before the expected date of delivery and a minimum of eight weeks after confinement	14 weeks, including six weeks before the expected date of delivery and a minimum of eight weeks after confinement, up to the qualified duration of the basic benefit (60–180 days)
Qualifying conditions	12 months of employment and six months of contributions prior to maternity leave	Six months of contributions prior to employment termination
Employer's recommendation	Required	Not required

Source: Compiled by the authors from national legislation.

3.5. Paternity benefit

For the general insured under the Health and Social Care Fund, entitlement to paternity benefits is subject to having a minimum employment period of 12 months with an establishment registered with the SSB prior to taking paternity leave and a minimum contributory period of six months during the 12 months (SSL, section 26; SSR, rule 118(a)). The Health and Social Care Fund provides the insured father during the period of paternity leave with 70 per cent of the average monthly wage³¹ received in the months during which contributions were paid within the last 12 months prior to the month of child delivery (SSL, section 27(a); SSR, rule 120(a)). The duration of paternity leave is up to 15 days for infant care upon confinement of his wife³² (SSL, section 28; SSR, rule 119(b)). In addition, a lump-sum of 25 per cent of the average monthly wage received in the months during which contributions were paid within the last 12 months is paid to cover maternity expenses for the delivery of one child, 37.5 per cent for the delivery of twins and 50 per cent for the delivery of triplets or more, but only if the worker's wife is not entitled to the lump-sum maternity allowance (SSL, section 28(c); SSR, rule 120(c–d)). However, if the wife is insured and entitled to the lump-sum maternity allowance, the insured father is not entitled to the lump-sum allowance.

31 SSL section 27(a) defines the benefit formula as 70 per cent of "average wage of one year", while SSR rule 120(a) defines how to calculate the "average wage of one year". SSR rule 120(a) defines the average wage of one year as "average wage received in the months in which contributions are paid within the last 12 months before the month of delivery". This interpretation needs to be validated through national dialogue.

32 Under SSL section 28 it is not clear whether the worker's wife needs to be insured or not in order for the insured father to be eligible for paternity benefits. However, it is clear from SSR rule 120(b) that the benefit is not subject to the insurable status of his wife.

► **Table 14. Paternity benefit for employed workers**

Case	Formula of periodical benefit	Duration of periodical benefit	Lump-sum benefit	
			With uninsured wife	With insured wife
Delivery of one child	70 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery	15 days for infant care upon confinement of the worker's wife	25 per cent of the average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery	Not applicable
Delivery of twins	70 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery	15 days for infant care on confinement of the worker's wife	37.5 per cent of the average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery	Not applicable
Delivery of triplets or more	70 per cent of average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery	15 days for infant care on confinement of the worker's wife	50 per cent of the average monthly wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery	Not applicable
Miscarriage	Not applicable	Not applicable	Not applicable	Not applicable

Source: Compiled by the authors from national legislation.

General provisions concerning paternity benefits for employed workers are also applicable to unemployed recipients of the basic benefit. However, there are four major differences between paternity benefits for employed workers and for persons receiving a basic benefit, including the qualifying conditions, the benefit formula, the maximum duration of benefit and some procedural requirements.

For an employed worker to receive paternity benefits, the insured has to have been employed for a minimum of 12 months before paternity leave and have a minimum contributory period of six months during the 12 months (SSL, section 26). For a recipient of the basic benefit, qualifying conditions for paternity benefits are six months of contributions in the last 12 months prior to the date of employment termination (SSL, section 26; SSR, rule 124(b)) and submission of a medical certificate (SSR, rule 124(a)). Unlike for employed workers, a minimum employment period of 12 months at an establishment registered with the SSB is not required for recipients of the basic benefit in order to receive paternity benefits. Although the required months of contributions

for paternity benefits are fewer than for the basic benefit,³³ the difference in the windows of contribution may not allow all recipients of the basic benefit to fulfil the qualifying conditions for paternity benefits. This is because it would be possible that persons receiving the basic benefit may not always have six months of contributions within the 12 months preceding the termination of their employment.

Concerning the benefit formula, the paternity benefit for a recipient of the basic benefit is set at 70 per cent of the average monthly wage received in the months during which contributions were paid within the last 12 months prior to the day of employment termination (SSR, rule 124(a)), instead of the 12 months prior to the month of child delivery (SSL, section 120). As a recipient of the basic benefit does not receive wages, it is understood that the insurable earnings for calculating paternity benefit for a recipient of the basic benefit would be based on the average monthly wage they received prior to employment termination.

The maximum duration of paternity benefit for an employed worker is up to 15 days for infant care upon confinement of his wife (SSL, section 28(a); SSR, rule 119(b)), whereas the paternity benefit duration for a recipient of the basic benefit is subject to the entitled duration for the basic benefit (SSR, rule 124(a)). Therefore, it is understood that a recipient of the basic benefit would receive paternity benefits as long as the prescribed paternity leave continues in accordance with a medical certificate, subject to the maximum duration of the basic benefit. It is understood that the recipient of the basic benefit continues consuming the entitled duration of the basic benefit while receiving the paternity benefit, and will start to receive the basic benefit again once they return from paternity leave until the remaining entitlement is exhausted (or they find employment).

To claim paternity benefits, an employed worker has to submit a medical certificate and an employer recommendation to the Social Security Office (SSR, rule 122(b)).³⁴ A recipient of the basic benefit is exempted from the obligation to submit the employer’s recommendation (SSR, rule 124(c)).

Table 15 summarizes the differences in the major parameters of paternity benefits for employed workers and for unemployed recipients of the basic benefit.

► **Table 15. Comparison between paternity benefits for employed workers and unemployed recipients of the basic benefit**

Parameter	Employed worker	Unemployed worker
Benefit formula	70 per cent of average wage received in the months during which contributions were paid within the last 12 months prior to the month of child delivery	70 per cent of average wage received in the months during which contributions were paid within the last 12 months prior to the day of employment termination
Benefit duration	15 days for infant care upon confinement of the worker’s wife	15 days for infant care on confinement of the worker’s wife within the qualified duration of the basic benefit (60–180 days)

33 As noted above, to receive the basic benefit one must have made at least 36 months of contributions prior to employment termination.
34 To comply with this administrative requirement, the insured must submit his or her claim attaching Form-19 and Form-20 duly signed by a doctor recognized by the SSB and the employer, respectively. Forms 19 and 20 are included as annexes to the SSR and are available on the SSB’s official website.

Parameter	Employed worker	Unemployed worker
Qualifying conditions	12 months of employment and six months of contributions prior to paternity leave	Six months of contributions prior to employment termination
Employer's recommendation	Required	Not required

Source: Compiled by the authors from national legislation.

3.6. Training

A recipient of the basic benefit is entitled to participate in trainings permitted by the SSB (section 38(e)). The social security framework only specifies that the recipient must register at the Labour Exchange Office and participate in authorized trainings in order to qualify for benefits and maintain their entitlements. There is no further provision in the SSL and the SSR in this regard. Employment services and training for unemployed workers are regulated by the ESL.

3.7. Funeral allowance

For the general insured under the Health and Social Care Fund, the Fund provides for a funeral allowance in case of the death of an insured person, regardless of the cause of death (SSL, section 30). Neither a minimum contribution nor a minimum employment period is required to be entitled to the funeral allowance. A recipient of a funeral allowance is either a person nominated by the insured, the deceased's spouse or other dependent family members, or a person who incurred costs for the funeral if no one was nominated prior to the death of the insured (SSL, section 30; SSR, rule 126(b)). The amount of the funeral allowance is calculated by "Average monthly wages or income of last four months x (Number of contributed months ÷ 18 + 1)" (SSR, rule 131(a)). The maximum amount of the funeral allowance is five times the average monthly wage in the last four months prior to decease (SSL, section 30). If the insured person dies within one month after registering at the Social Security Office but before contributing, the wages stipulated in the employment agreement or wages received by other workers at an equivalent level are used as a proxy for calculating the funeral allowance (SSR, rule 129(a)).

► **Table 16. Funeral benefit for employed workers**

Type of benefit	Benefit formula
Benefit formula	Average monthly wages or income in the last four months x (number of contributed months ÷ 18 + 1)
Maximum benefit	Five times the insured's average monthly wages or income in the last four months prior to decease

Source: Compiled by the authors from national legislation.

If a recipient of the basic benefit from the Unemployment Benefit Fund dies while receiving the basic benefit, the funeral allowance is provided (SSL, section 38(f)). The determination of the person who receives the funeral allowance upon the death of a basic benefit recipient follows the same rule as for the general insured; namely, either a person nominated by the deceased, the deceased’s spouse or other dependent family members, or a person who incurred costs for the funeral if no one was nominated prior to death of the insured (SSL, section 30; SSR, rule 126(b)). The base earnings are different from those used to calculate the funeral allowance for employed workers. The amount of the funeral allowance for recipients of the basic benefit is calculated by “Monthly basic benefit x (Number of contributed months ÷ 18 + 1)” (SSR, 131 rule(a)). The ceiling of the funeral benefit for a recipient of the basic benefit is five times the basic benefit per month (SSR, rule 131(b)).

► **Table 17. Comparison between funeral allowance for employed workers and unemployed recipients of the basic benefit**

Parameter	Employed worker	Unemployed worker
Benefit formula	Average monthly wages or income of last four months x (number of contributed months ÷ 18 + 1)	Monthly basic benefit x (number of contributed months ÷ 18 + 1)
Maximum benefit	Five times the insured’s average monthly wage or income in the last four months	Five times the monthly basic benefit

Source: Compiled by the authors from national legislation.

3.8. Withdrawal from the Invalidity, Old-age and Survivors’ Benefit Fund upon voluntary resignation

In order to identify the relationship between unemployment and the Invalidity, Old-age and Survivors’ Benefit Fund, one first needs to briefly review the policies concerning old-age benefits. In general, when insured persons under the Fund reach the age of 60, they become eligible for old-age benefits (SSR, rule 145). Benefit amounts depend on the period of contributions. If the insured person has contributed for less than 12 months, they are allowed only to withdraw the full amount they have contributed as a lump sum (that is, they cannot access any of the employer’s contribution) (SSL, section 35(a)(iv)). If the insured persons contribute for at least 12 months but fewer than 180 months, they are eligible to receive 40 per cent of worker’s and employer’s contributions with interest (SSL, section 35(a)(iii)).³⁵ If the insured persons contribute for 180 months, they are eligible to receive 15 times their average monthly wages, either in instalments or as a lump sum (SSL, section 35(a)(i)). If the insured person contributes for more than 180 months, they are entitled to receive 15 times their average monthly wage and an additional benefit³⁶ for excess contributions (SSL, section 35(a)(ii)).

35 The SSL does not determine how to calculate interest rates and leaves it to the implementing regulations. However, while the SSR does determine the interest rate applicable to the employers’ withdrawal, it does not define the interest rate for the workers’ withdrawal (SSR, rule 146).

36 Neither the SSL nor the SSR defines the benefit formula for calculating the additional benefit.

Moreover, when the insured person receives these benefits after contributing for 12 months and above, their employers are entitled to receive 25 per cent of the employer’s contribution paid with interest accumulated by 2 per cent per annum. While a worker can withdraw from the fund accumulated throughout their entire career, employers can only withdraw their own contributions according to the abovementioned formula; that is, employers cannot withdraw contributions made by other employers who had hired the worker in the past.

► **Table 18. Withdrawal from the Invalidity, Old-age and Survivors’ Benefit Fund at the statutory retirement age**

Number of months contributed	Worker’s withdrawal	Employer’s withdrawal
Below 12 months	Full amount of worker’s contributions in lump-sum	Not applicable
12 months to 179 months	40% of worker’s and employer’s contributions + interest (the interest rate is not defined)	25% of employer’s contribution + interest (2% per annum)
180 months	15 times of average monthly wage in instalments or as a lump sum	25% of employer’s contribution + interest (2% per annum)
181 months and above	15 times of average monthly wage in instalments or as a lump sum + additional benefit for excess contributions (the formula is not defined for the additional benefit)	25% of employer’s contribution + interest (2% per annum)

Source: Compiled by the authors from national legislation.

During their career before reaching the statutory retirement age, insured persons are allowed to withdraw from the Invalidity, Old-age and Survivors’ Benefit Fund under certain conditions. One of the conditions is voluntary resignation or transfer to establishments that are not subject to mandatory coverage by the Social Security System (SSL, section 70(a); SSR, rule 155(b)). For persons below the statutory retirement age, the minimum contribution required for withdrawal from the Fund is 36 months, instead of the 12 months. If an insured person who has voluntarily resigned has made contributions for less than 36 months, they are not allowed to withdraw from the Fund. If an insured person who has voluntarily resigned has made contributions for at least 36 months but fewer than 180 months, they are eligible to withdraw 40 per cent of worker’s and employer’s contributions with interest.³⁷ If an insured person who has voluntarily resigned has contributed for 180 months, they are eligible to withdraw an amount equal to 12 times of average wage, either in instalments or as a lump sum. If an insured person who has voluntarily resigned has contributed for more than 180 months, they are entitled to withdraw an amount equal to 15 times the average monthly wage and an additional benefit³⁸ for excess contributions.

37 The SSL does not determine how to calculate interest rates and leaves it to enforcement regulations. However, while the SSR determines the interest rate in relation to employers’ benefits, it does not define it for workers’ benefits (SSR, rule 155(e)).

38 Neither the SSL nor the SSR defines the benefit formula for calculating the additional benefit.

Moreover, when the insured person who voluntarily resigned receives these benefits after contributing for 36 months and above, their employers are entitled to receive 25 per cent of the employer’s contribution paid with interest accumulated by 2 per cent per annum.

► **Table 19. Withdrawal from the Invalidity, Old-age and Survivors’ Benefit Fund upon voluntary resignation**

Number of months contributed	Worker’s withdrawal	Employer’s withdrawal
Below 36 months	Not applicable	Not applicable
36 months to 179 months	40% of worker’s and employer’s contributions + interest (the interest rate is not defined)	25% of employer’s contribution + interest (2% per annum)
180 months	12 times of average monthly wage in instalments or as a lump sum	25% of employer’s contribution + interest (2% per annum)
181 months and more	12 times of average monthly wage in instalments or as a lump sum + additional benefit for excess contributions (the formula is not defined for the additional benefit)	25% of employer’s contribution + interest (2% per annum)

Source: Compiled by the authors from national legislation.

3.9. Withdrawal from the Invalidity, Old-age and Survivors’ Benefit Fund upon involuntary unemployment

As described above, the minimum required contribution for withdrawal from the Invalidity, Old-age and Survivors’ Benefit Fund is 36 months, which is the same qualifying period established for the basic benefit. A recipient of the basic benefit is allowed to withdraw part of the Invalidity, Old-age and Survivors’ Benefit Fund if they are still unemployed after exhausting their entitled months of the basic benefit (SSL, section 41). The amount of withdrawal is 40 per cent of worker’s and employer’s contributions and interest. Moreover, employers are allowed to withdraw 25 per cent of employer’s contributions to the Fund if their former workers withdraw from the Fund.

► **Table 20. Withdrawal from the Invalidity, Old-age and Survivors’ Benefit Fund upon involuntary unemployment**

Number of months contributed	Worker’s withdrawal	Employer’s withdrawal
Below 36 months	Not applicable	Not applicable
36 months and more	40% of worker’s and employer’s contributions + interest (the interest rate is not defined)	25% of employer’s contribution + interest (2% per annum)

Source: Compiled by the authors from national legislation.

3.10. Withdrawal from the Unemployment Benefit Fund upon voluntary resignation

Upon voluntary resignation, both insured persons and their former employers are allowed to withdraw the total amount of their own contributions and accumulated interest from the Unemployment Benefit Fund (SSL, section 70(c)). The minimum required contribution is 36 months to qualify for this entitlement.

► **Table 21. Withdrawal from the Unemployment Benefit Fund upon voluntary resignation**

Number of months paid for contributions	Worker's benefit	Employer's benefit
Below 36 months	Not applicable	Not applicable
36 months and more	100% of worker's contributions + interest	100% of employer's contribution + interest

Source: Compiled by the authors from national legislation.

3.11. Withdrawal from the Social Security Housing Fund upon unemployment

Insured persons are allowed to withdraw all contributions paid to the Social Security Housing Fund when they become unemployed, either due to voluntary resignation or due to dismissal. Total withdrawals are also permitted when insured persons receive old-age benefits, become invalids or permanently disabled due to employment injury, or die (SSL, section 70(d)).



▶ 4. Policy design for the basic benefit

As the Unemployment Benefit Insurance System (UIS) is regulated as part of the Social Security System, common provisions of the Social Security System discussed above are also applicable to the UIS, in addition to specific provisions made for the UIS. This section reviews in detail the policy design of the UIS.

4.1. Coverage

Common provisions of the Social Security System concerning legal coverage apply to the UIS with some exceptions (see section 2.7). That is, the UIS provides coverage to almost all wage workers in both the private and public sectors on a mandatory basis, while covering non-wage workers on a voluntary basis only. Civil servants are the only category of workers excluded from the UIS.

Among wage workers, the UIS does not provide mandatory coverage to employees of private enterprises in seasonal farming and fishery, construction workers with employment contracts shorter than one year, workers of diplomatic missions or non-profit organizations, and employees of small enterprises that employ less than five workers (MOLIP Notification No. 58/2014). Yet, these workers may still participate in the UIS by making voluntary contributions.

Similarly, non-wage workers; students; “persons who are away from the worksite”; “housemaids”; Myanmar migrant workers abroad; owners of private businesses, “collective businesses” or “professional businesses”; and farmers may participate in the UIS on a voluntary basis.³⁹

4.2. Benefit formula

Marital status affects the amount of the basic benefit. During the entitlement period, the UIS applies a constant replacement rate of 50 per cent of the average monthly wage received in the months during which contributions were paid within the last 12 months prior to employment termination (SSL, section 38(a); SSR, rule 160(a)).

If an insured person is married at the time of unemployment, an additional amount of up to 10 per cent of the basic benefit is awarded subject to “the condition of dependents” of the insured person (SSL, section 38(b)). It should be noted that section 2(l) of the SSL defines “dependents” as the wife or husband of a worker depending on him or her, children younger than age 18, unmarried children aged 21 or younger who pursue full-time education, and the worker’s parents. Therefore, it is understood that unemployed workers who are married would be entitled to the additional top-up benefit if they support any of the eligible dependents listed. There is no further provision to clarify what conditions affect the determination of the additional amount provided to married insured persons. For example, it is not clear whether the additional top-up benefit varies according to the number of dependents or whether “the condition of dependents” refers to the health or income status of dependents.

► Table 22. Replacement rate of the basic benefit

Single person	Married person
50% x average monthly wage received in the months during which contributions were paid within the last 12 months	50% to 55% x average monthly wage received in the months during which contributions were paid within the last 12 months

Source: Compiled by the authors from national legislation.

4.3. Insurable earnings

The general provisions for the Social Security System apply to the determination of insurable earnings for calculating contributions and benefits under the UIS (see section 2.5). Maximum and minimum insurable earnings for contributions and maximum and minimum benefits are not stipulated for the UIS by either the SSL or the SSR.

³⁹ The SSL and the SSR are not clear about who might comprise the “persons who are away from the worksite”, “housemaids” and owners of “collective business” or “professional business”.

4.4. Benefit duration

An insured person become eligible for unemployment benefits up to 180 days depending on years of contributions (SSL, section 38(a); SSR, rule 160). The minimum requirement is 36 months of contributions for the maximum duration of benefits to be 60 days. Each additional 12 months of contributions entitles the insured to an additional 30 days of maximum duration, up to a maximum of 180 days. This means that the insured become entitled to 180 days of unemployment benefits when they make contributions for at least seven years.

► **Table 23. Required months of contributions and maximum duration of unemployment benefits**

Required months of contributions	Maximum duration of benefit
36 months	60 days
48 months	90 days
60 months	120 days
72 months	150 days
84 months and above	180 days

Source: Compiled by the authors from national legislation.

4.5. Qualifying conditions

Key qualifying conditions for unemployment benefits include an individual’s contribution record; a verified status of unemployment; the individual actively looking for, capable of and available for work; and the reason for contract termination.

A minimum qualifying period of 36 months of contributions is required for an initial claim (SSL, section 37).⁴⁰ As there is no provision to limit the window for contribution opportunity,⁴¹ the UIS considers all contributions made during an individual’s career prior to unemployment.

With regard to the reasons for unemployment, the UIS accepts involuntary unemployment due to dismissal or termination because of permanent closure of business (SSL, section 37(a)). The UIS disqualifies unemployed workers who have voluntarily resigned or were dismissed from work due to occupational punishment or misconduct, violation of “Civil Service Regulations”⁴² or intentionally failing to abide by the workplace regulations (SSL, section 37(b)). UIS beneficiaries are also required to be in good health, capable of working and willing to work (SSL, section 37(c)); and must register at the Township Labour Exchange Office (TLEO) and report their unemployment status monthly to the TLEO and Township Social Security Office (TSSO) (SSL, section 37(d)).

40 See Section 4.6 for the requirement for subsequent claims.

41 In many countries, unemployment insurance schemes require contributions to be made within a certain period before the contingency of unemployment materializes.

42 SSL section 37(b) addresses “Civil Service Regulations”, even though civil servants are not covered by the UIS (SSL, section 14). Further clarification is needed concerning the intent of the “Civil Service Regulations” in the section.

Insured persons have to claim unemployment benefits within one month from the day of employment termination (SSR, rule 161) (see section 2.9). It is understood that in cases where the claim has not been submitted within this period, the insured will lose their entitlement to the benefit during the current unemployment period, even if they have met all of the aforementioned conditions. Moreover, there is no provision to clarify whether an insured person can maintain their accumulated contribution records if they do not make their claim within one month. However, it is our understanding that insured persons do maintain their contribution records for claiming unemployment benefits in the future.

► **Table 24. Qualifying conditions for an initial unemployment benefit claim**

Requirement	Reference
Contributing at least for 36 months prior to unemployment	SSL, section 37
Being unemployed due to dismissal or because of permanent closure of workplace, but not as a result of voluntary resignation	SSL, section 37(a)
Not dismissed from work due to occupational punishment, misappropriation, violation of Civil Service Regulations, or intentionally failing to abide by the workplace regulations	SSL, section 37(b)
Being in good health, capable of working and willing to work	SSL, section 37(c)
Being registered at the relevant TLEO in accord with regulations and reporting unemployment status monthly to the TLEO and the TSSO	SSL, section 37(d)
Claiming the benefit within one month from the day of unemployment	SSR, rule 161

Source: Compiled by the authors from national legislation.

4.6. Subsequent claims

Rules on subsequent claims are regulated in the SSL and the SSR. In principle, workers maintain their remaining entitled months for their future periods of unemployment if they find work before exhausting their entitlements (SSR, rule 160(c)). If the insured exhaust all their entitled months of benefits, they would have to meet the qualifying conditions set out in section 37 of the SSL; that is, they would need to accumulate another contribution period of at least 36 months to qualify for the minimum entitlement (SSR, rule 163(a)). Because neither the SSL nor the SSR stipulate expiry dates for any remaining entitlement, it is understood that the insured can maintain the remaining entitled months until they exhaust all of them, while accumulating months of contributions for future unemployment benefits. In this regard, persons who file subsequent claims may rely on their remaining entitlements whether they have made less than or more than 36 months of contributions in their new employment – thereby accumulating further unemployment benefit entitlements up until the maximum prescribed duration of 180 days.

However, there is a restriction for workers who return to work at the same establishment after receiving unemployment benefits. The insured can claim the basic benefit ⁴³ only once for a specific establishment, and therefore even if they have remaining months of entitlement to the basic benefit, the insured worker will have to contribute for at least another 36 months to become eligible for the benefit again if they return to work at the same establishment (SSL, section 39(a)). These restrictions affect the entitlement to the basic benefit and the top-up benefit for unemployed workers with dependents (SSL, sections 38(a–b) and 39(a)). Because neither the SSL nor the SSR apply such restriction to the rest of the benefits, it is understood that the insured would be still entitled to medical care, sickness, maternity, paternity and funeral benefits as well as training, even if they have not contributed for another 36 months, so long as they meet the qualifying conditions set for these benefits.

► **Table 25. Requirement for subsequent unemployment benefit claims for workers who return to the same establishment**

Benefit	Required months of contributions	Reference
Basic benefit	Subsequent claims allowed only after contributing for another 36 months	SSL, sections 38(a–b), 39(a)
Healthcare	No additional qualifying conditions	SSL, section 38(c)
Sickness benefit	No additional qualifying conditions	SSL, section 38(c)
Maternity benefit	No additional qualifying conditions	SSL, section 38(d)
Paternity benefit	No additional qualifying conditions	SSL, section 38(d)
Training	No additional qualifying conditions	SSL, section 38(e)
Funeral benefit	No additional qualifying conditions	SSL, section 38(f)

Source: Compiled by the authors from national legislation.

4.7. Qualifying conditions

Recipients of unemployment benefits must maintain their status in order to receive the benefits on a regular basis. According to the SSL, payment of benefits can be suspended for failing to meet six specific conditions (table 26).

Firstly, recipients of unemployment benefits must accept jobs recommended by the TLEO or the TSSO unless they have good reasons to refuse (SSL, section 40(a)). After registering for employment at the TLEOs, unemployed workers start to receive employment services while also receiving unemployment benefits. If the claimants do not accept suitable job opportunities recommended by the TLEO or TSSO without good reasons, their benefits will be terminated.

⁴³ SSL section 39(a) specifically limits the entitlement for section 38(a–b); that is, a constant replacement rate of 50 per cent of the average monthly wage of the last 12 months prior to employment termination for 60 to 180 days, and an additional amount up to 10 per cent of unemployment benefit if the insured has dependents.

Neither the SSL nor the SSR regulate the definition of “good reasons” to refuse referrals to job opportunities. The ESL provides some indications about the definition of “good reasons”; although the ESL does not regulate the services and benefits provided by the Social Security Offices.⁴⁴ According to the ESL, jobseekers are allowed to continue receiving services and benefits provided by the Labour Exchange Offices in two particular cases, even if they refuse to accept employment recommended by the Labour Exchange Offices. These cases include if the establishment is in the midst of ongoing labour disputes or if the wages offered to the jobseeker are lower than wages paid to other workers who have the same job (ESL, section 4(b)).

Secondly, recipients of unemployment benefits are obliged to accept training recommended by the TSSO unless they have good reasons to refuse (SSL, section 40(b)). The procedure of referral to training is not regulated in detail. While the SSB has the mandate to provide beneficiaries of the Employment Injury Insurance System with rehabilitation and re-skilling to return to work (SSL, section 60(b); SSR, rules 14 and 178(a)), it does not have a mandate to provide unemployed workers with upskilling and re-skilling training to return to work. The Employment and Skills Development Authority (ESDA) is responsible for skills development of workers through the Employment and Skills Development Agencies (ESL, section 7). Therefore, it is understood that once the SSB approves the participation of unemployment insurance benefit recipients in training programmes organized by the ESDA, the recipients are obliged to accept and attend.

Thirdly, the payment of unemployment benefits is terminated when recipients are employed (SSL, section 40(c)). Persons receiving unemployment benefits are obliged to notify the relevant TSSOs when they secure employment (SSR, rule 163(c)), so that the Office can terminate the benefit. It should be noted that one of the conditions for entitlement to unemployment benefits is that claimants have to report their unemployment status every month to the TLEO and TSSO (SSL, section 37(d)).⁴⁵ This should be an occasion for the relevant TSSO to validate the unemployment status of beneficiaries for the continuation of benefits.

Fourthly, the SSL also permits the termination of unemployment benefits if the insured are convicted with imprisonment for criminal offences under any criminal law (SSL, section 40(d)).

Fifthly, payment is terminated when the recipients permanently leave the country or work abroad (section 40(e)).

Finally, unemployment benefits can be suspended when recipients become unable to fulfil the qualifying conditions of being in good health, capable of working and willing to work (SSL, section 37(c)). In the case of sickness, unemployment benefit recipients may be provided with sickness benefits instead of the basic benefit (see section 3.3). Willingness to work can be determined based on the mandatory monthly meetings to validate the results of job searching activities, or upon refusal of job referrals by the TLEOs and TSSOs.

44 It should be noted that the ESL, which sets out the legal framework for the provision of employment services but does not regulate social security benefits and services, makes a clear reference to “suitable employment”. In particular, section 3 of the ESL provides that the MOLIP shall manage the facilities and measures to support the selection of employment by supporting jobseekers to find suitable employment according to their age, strength, tenure in employment and skills development, and by helping employers recruit qualified workers.

45 There is no specific requirement regulating how to validate recipients’ willingness to work; like, for example, how many times recipients have to participate in interviews for employment.

► **Table 26. Conditions for terminating the payment of unemployment benefits**

Conditions	Reference
Refusing jobs introduced by the Labour Exchange Offices or the Social Security Offices without good reason(s)	SSL, section 40(a)
Refusing training course recommended by the SSB without good reason(s)	SSL, section 40(b)
Being employed	SSL, section 40(c)
Being convicted with imprisonment for a criminal offence under any criminal law(s)	SSL, section 40(d)
Leaving abroad permanently for work	SSL, section 40(e)
Ill health, being incapable of working or unwilling to work	SSL, section 37(c)

Source: Compiled by the authors from national legislation.

4.8. Waiting period

Neither the SSL nor the SSR stipulate a waiting period with respect to the basic benefit.

4.9. Relation with severance pay

Employers are allowed to deduct the amount of unemployment benefits from any payments made to workers on separation, according to the labour legislation or employment agreement (section 39(b)).⁴⁶

The employer’s obligation to provide severance pay is regulated at the level of law (ESL, section 5(d)), while the formula for determining severance pay is defined by an enforcement directive (MOLIP Notification No. 84/2015). In general, employers have to pay severance when they terminate the employment relationship before the expiration of the agreed period. Workers are entitled to severance pay in case of contract termination, including in the case of liquidation of the employer’s business and/or suspension of business due to unforeseeable events, as stipulated in the Standard Employment Contract (SEC) issued by the MOLIP. It should be noted that neither the ESL nor the SEC provide further information regarding the definition of “unforeseeable events” or the situations that would be considered as such. Subject to confirmation, it is understood that “unforeseeable events” refers to *force majeure* events, which typically comprise unpredictable, insurmountable and external events that prevent one or both parties from fulfilling their contractual obligations.

In contrast, severance pay is not due in case of resignation or dismissal for misconduct (see table 27). Concerning dismissal for misconduct, according to clause 15(b)(2) of the SEC, an employee shall be given a written warning for the first and second violations in case of ordinary misconduct.

⁴⁶ A separate report analyses in detail the rules around employment termination and payments made on separation. See Ippei Tsuruga and Saw U Ler Moo, *Employment termination in Myanmar: Rules and payments on separation*, 2021.

Upon the third violation, the employee shall sign an undertaking in which they commit to abiding by the workplace rules. In the event of any further violations or breach of contract within the 12 months following the third violation, the employer can terminate the employment contract without severance pay. If the employee does not commit any further offence within 12 months from the third violation, all previously committed violations shall be cancelled. It should be noted that the SEC does not specify the consequences of grave misconduct. As such, it is understood that in such cases, an immediate termination without severance pay is permitted.

The SEC further provides that both workers and employers may terminate the employment relationship if they notify the other party 30 days in advance. Employers must have a sound reason for termination and pay the corresponding severance pay.

MOLIP Notification No. 84/2015 lays out the rules for calculating severance pay. Workers obtain entitlements for severance pay according to their duration of service, ranging from the equivalent of 0.5 months of pay for six months of continuous services with the same employer to 13 months of pay for 25 years of services and longer (see table 28).

► **Table 27. Entitlement to severance pay based on reason for employment termination**

Reason for termination	Severance pay	Reference
Resignation	X	ECT, clause 15(a)(3)
Ordinary misconduct after third warning	X	ECT, clause 15(b)(2)
Grave misconduct	X	ECT, clause 15(b)(2)
Liquidation of business	O	ECT, clauses 15(b)(3), 16(a)
Suspension of business due to unforeseeable events	O	ECT, clauses 15(b)(3), 16(b)
Death of employee	O	ECT, clauses 15(b)(3), 16(c)
Cancellation with mutual agreement	M	ECT, clause 18

O = Yes; X = No; M = Subject to mutual agreement; ECT = Employment Contract Template, as found in MOLIP Notification No. 140/2017.

Source: Compiled by the authors from national legislation.

► **Table 28. Duration of employment and entitlement to severance pay**

Duration of employment	Amount of severance pay
6 to 11 months	0.5 months
12 to 23 months	1.0 month
24 to 35 months	1.5 months
36 to 47 months	3.0 months
48 to 71 months	4.0 months
72 to 95 months	5.0 months
96 to 119 months	6.0 months
120 to 239 months	8.0 months
240 to 299 months	10.0 months
300 months and over	13.0 months

Source: Compiled by the authors from national legislation.

There are several differences in the key parameters of severance pay and unemployment benefits (see table 29). Notably, unlike social insurance mechanisms providing periodic benefits based on collective financing and risk pooling principles, severance pay is a one-off payment dependent on the employer’s financial liquidity to comply with their obligations under labour legislation. For severance pay, the amount of payment is based on the last wage earned by the worker; while for unemployment benefits, it is 50 per cent of the insured’s average monthly wage for the last 12 months preceding termination of employment. Base earnings used for calculating the amount of severance pay are the employee’s wage excluding overtime payment;⁴⁷ whereas the insurable earnings defined by the SSL for unemployment benefits include overtime and other wage components (see section 2.5). Entitlement to severance pay is granted based on consecutive months of service with the same employer, while the insured’s contribution history for unemployment benefits continues to accumulate even when a worker moves to another company. Workers who voluntarily resign obtain no entitlement to severance pay or unemployment benefits.

► **Table 29. Comparison of key parameters between severance pay and unemployment benefits**

Indicator	Severance pay	Unemployment benefit
Financing	Employer’s liability	Social insurance
Duration of employment or qualifying period		
6 to 11 months	0.5 months	–

47 There is no detailed clarification on what wage components are taken into consideration for calculating severance pay.

Indicator	Severance pay	Unemployment benefit
Duration of employment or qualifying period		
12 to 23 months	1.0 month	-
24 to 35 months	1.5 months	-
36 to 47 months	3.0 months	2.0 months
48 to 59 months	4.0 months	3.0 months
60 to 71 months	4.0 months	4.0 months
72 to 83 months	5.0 months	5.0 months
84 to 95 months	5.0 months	6.0 months
96 to 119 months	6.0 months	6.0 months
120 to 239 months	8.0 months	6.0 months
240 to 299 months	10.0 months	6.0 months
300 months and over	13.0 months	6.0 months
Formula		
	Last wage	50–55% of 12-month average wage
Base earnings		
	Wage, excluding overtime	Basic wage, overtime, subsistence allowance
Consecutive employment		
	Yes	No
Treatment of voluntary resignation		
	No entitlement	No entitlement
Payment		
	Lump sum payment	Periodical payment

- = nil.

Source: Compiled by the authors from national legislation.

4.10. Relation with other social security benefits

Workers cannot receive unemployment, sickness and maternity benefits, and temporary disability benefits due to employment injury at the same time (SSL, section 63(a)) (see section 2.10). As discussed in section 3.3 and 3.4, sickness and maternity benefits are provided for unemployed workers if qualifying contingencies materialize during the entitled period for the basic benefit. If the amount of these benefits is larger than the basic benefit, a recipient of the basic benefit will receive the higher amount (SSL, section 63(b)).

4.11. Financing modality

The contribution rate for the Unemployment Benefit Fund is set at 2 per cent of the monthly wage of insured workers, and is shared equally between employer and worker (SSR, rule 55(c)) (see section 2.4). In terms of administrative expenses, the national legal framework mandates the Unemployment Benefit Fund to transfer a certain amount to the Administrative Accounts (see Section 2.2). Although the exact amount is not determined individually for each fund, the SSB's total administrative expenditures are capped at 25 per cent of the total amount of contributions received in a fiscal year (SSR, rule 24(b)).

As discussed in Section 3, persons receiving unemployment benefits might be entitled to several benefits if a different contingency materializes and they meet the qualifying conditions stipulated for such benefits (see table 30). The use of each fund is limited to specific expenses (SSR, rule 26). The Unemployment Benefit Fund is responsible only for the basic benefit and related administration expenses. The Health and Social Care Fund covers the costs of medical care, sickness benefits, maternity benefits, paternity benefits and funeral benefits provided to persons receiving unemployment benefits.

Persons receiving unemployment benefits are entitled to receive employment services and to participate in training recommended or authorized by the SSB (see section 3.6). Nonetheless, neither the SSB in general nor the Unemployment Benefit Fund collect additional contributions for operating employment services or skills development programmes for unemployed workers. As the MOLIP is responsible for managing the facilities and measures to promote employment and skill development (ESL, section 3), it is understood that the MOLIP will cover expenses related to these measures using general tax revenues.

It can be further noted that the Employment and Skills Development Law (ESL) introduced the Skills Development Fund to finance training programmes for workers and retraining and vocational training for dismissed workers who want to change their occupation. The Skills Development Fund, which is managed by the Skills Development Agency, collects a monthly contribution from employers of industrial and service enterprises, which cannot be less than 0.5 per cent of the payroll of employees up to the level of workers' supervisors (ESL, section 30(a)). Contributions to the Skills Development Fund can be determined by the Skills Development Agency according to the enterprise category, type, size and number of employees (ESL, section 31(a)), and are based on total payroll, which includes overtime payment and subsistence allowances (ESL, section 2(d)).

► **Table 30. Benefits for unemployment benefit recipients and source of funding**

Benefits for unemployment benefit recipients	Source of funding
Basic benefit	Unemployment Benefit Fund
Healthcare	Health and Social Care Fund
Sickness benefit	Health and Social Care Fund
Maternity benefit	Health and Social Care Fund
Paternity benefit	Health and Social Care Fund
Training	Skills Development Fund ¹
Funeral benefit	Health and Social Care Fund
Withdrawal from the Invalidity, Old-age and Survivors' Benefit Fund	Invalidity, Old-age and Survivors' Benefit Fund
Withdrawal from the Unemployment Benefit Fund	Unemployment Benefit Fund
Withdrawal from the Social Security Housing Fund	Social Security Housing Fund

¹ In accordance with section 26 of the ESL, the Skills Development Fund shall be established and utilized to finance programmes for workers in Industrial and Service Enterprises, including vocational training and retraining for retrenched workers.

Source: Compiled by the authors from national legislation.

► **Table 31. Contribution rates to unemployment cash benefit and skills development**

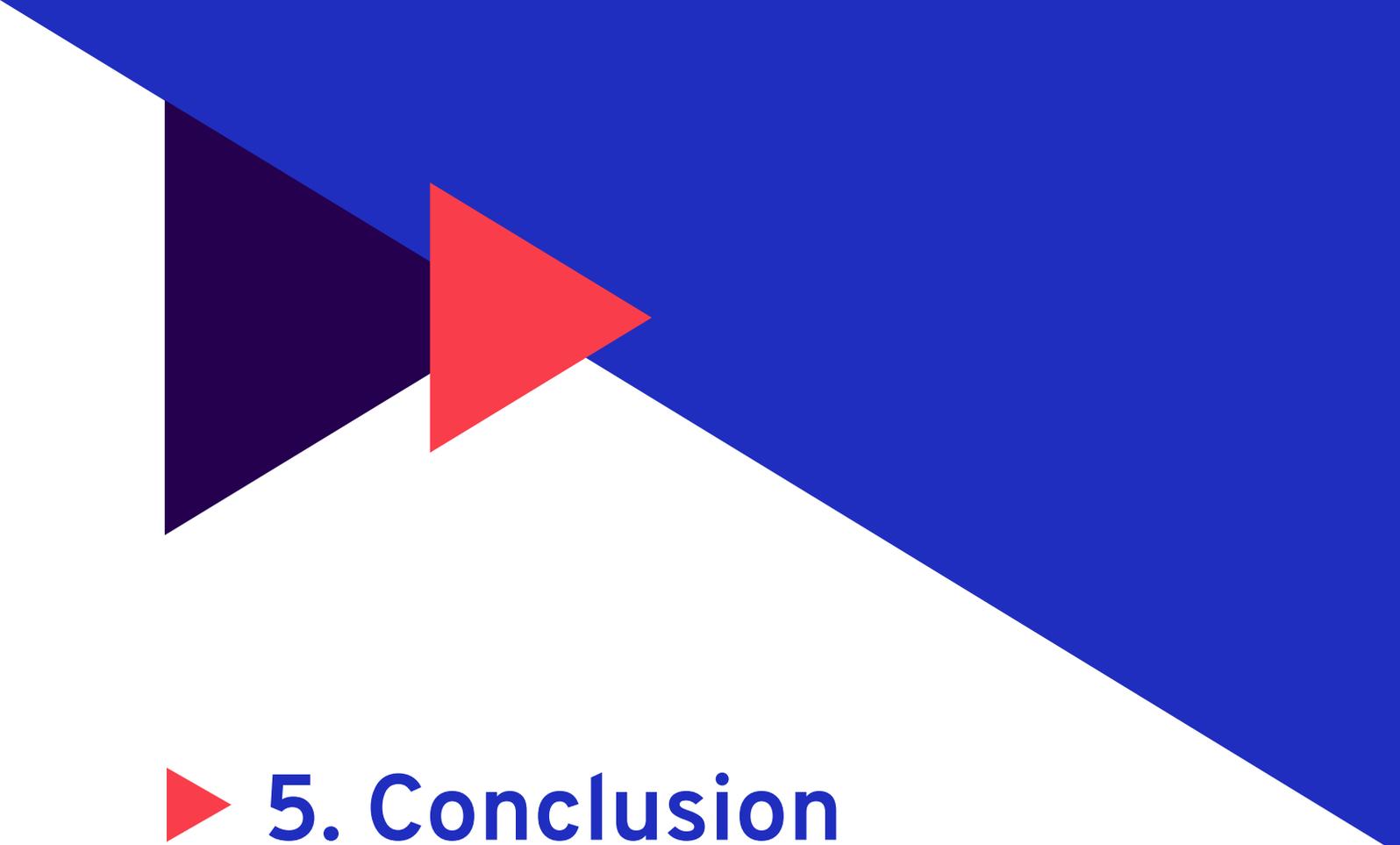
Benefit	Worker ¹	Employer ²	Government	Total
Unemployment Benefit Fund	1.0%	1.0%	–	2.0%
Skills Development Fund	–	At least 0.5% ²	–	At least 0.5%
Employment services	–	–	Total cost	–

– = nil.

¹ The contribution rate for the Unemployment Benefit Fund is applied to the insured's average monthly insurable earnings, while that for the Skills Development Fund is based on payroll paid to employees up to the level of supervisors.

² The employer of the industry and service shall pay money not less below 0.5 per cent of salary, total wages paid to the level of worker supervisor and the workers below such level in such work monthly without fail as the contribution to the fund (ESL, section 30(a)).

Source: Compiled by the authors from national legislation.



5. Conclusion

As clarified in the introduction, this paper aims to create a knowledge basis for future advanced studies but does not aim at providing analysis or recommendations. Through detailed review of the existing legal provisions as well as information and data from official and primary references available as of 31 December 2020, this report has identified the policy design around unemployment benefits in Myanmar. While each section discusses the policy designs in detail, Appendix 4 below summarizes the key policy designs of the basic benefit for unemployed workers.

Appendix 1. List of relevant legislative provisions

Employment and Skills Development Law, 2013

Factories Law, 2016

Labour Organization Law, 2011

Minimum Wage Law, 2013

Minimum Wage Rules, 2013

MOLIP Notification Number 2/2015 on minimum wage

MOLIP Notification Number 84/2015 on severance pay

MOLIP Notification Number 1/2018 on minimum wage

Payment of Wages Law, 2016

Payment of Wages Law, 2018

Shops and Establishments Law, 2016

Social Security Law, 2012

Social Security Rules, 2014

SSB Notification Number 56/2014 on contribution rates and benefits

Appendix 2. Comparative table of benefit, fund, financing requirements and relevant sections of the social security law

Contingencies		Benefit	Fund		Financing (% of insurable earnings)	
Healthcare	Medical care for sickness, maternity and confinement; and funeral benefit for decease due to any cause	section 13(a)	Health and social care fund	section 15(a) (i)	Worker : Employer = 2.0%–2.5% : 2.0%–2.5% = 4.0%–5.0% (rate varies according to the insured's age at initial registration)	section 15(b)
Sickness	Cash benefit during sick leave					
Maternity	Cash benefit for maternity and confinement leave					
Family	Educational allowance for the children of the insured who earns less than the stipulated amount of income; disaster relief benefit for healthcare and aid benefit in time of natural disaster; suitable benefit for dependent family	section 13(b)	Family assistance fund	section 15(a) (ii)	No standalone contributions are regulated, but instead, transferred from Health and Social Care Fund in stipulated proportion	section 15(c)
Invalidity	Invalidity benefit	section 13(c)	Invalidity, old-age and survivors' benefit fund	section 15(a) (iii)	Worker : Employer = 3.0% : 3.0% = 6.0%	section 15(b)
Old-age	Old-age benefit					
Survivors	Survivors' benefit arising out of decease not owing to work					
Unemployment	Medical care and cash benefit for unemployment	section 13(d)	Unemployment benefit fund	section 15(a) (iv)	Worker : Employer = 1.0% : 1.0% = 2.0%	section 15(b)

Contingencies	Benefit		Fund		Financing (% of insurable earnings)	
Employment injury	Medical care, temporary or permanent disability benefit, and survivors' benefit for employment related injury and death	section 47	Employment injury benefit fund	section 50	Worker : Employer = 0.0% : 1.0%-1.5% = 1.0%-1.5% (rate varies according to business' size and accident rate)	section 48(a-b)
Housing	Housing plan	section 13(e)	Housing plan fund	section 15(a) (vii)	Worker : Employer = 25% or more : n/a = 25% or more (contribution rate of employer is not defined)	section 15(d)
n/a	Other mandatory benefit	section 13(e)	Other fund	section 15(a) (v)	Mandatory contribution of employers and workers	section 15(b)
n/a	Other voluntary benefit	section 13(e)	Other fund	section 15(a) (vi)	Voluntary contribution of employers and workers	section 15(d)

Appendix 3. Legal coverage of the Social Security System by categories of employers and workers

Sector of employer	Category of worker	Description	Legal coverage	Section of SSL	Voluntary participation	Section of SSL
Applicable establishments for mandatory coverage						
Public	Wage	Government departments, government organizations and regional administrative organizations that carry out business	Mandatory	11(a)(ii)	n/a	n/a
Public	Wage	Government departments and government organizations that carry out business or transport businesses owned by regional administrative bodies, and transport businesses carried out with the permission of such departments, bodies or as a joint venture with such departments or bodies	Mandatory	11(a)(vii)	n/a	n/a
Public	Wage	MOLIP and its subordinate departments and organizations	Mandatory ¹	11(a)(xiv)	n/a	n/a
Private	Wage	Industries that 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	Mandatory	11(a)(i)	n/a	n/a
Private	Wage	Development organizations	Mandatory	11(a)(iii)	n/a	n/a
Private	Wage	Financial organizations	Mandatory	11(a)(iv)	n/a	n/a
Private	Wage	Companies, associations, organizations, and their subordinate departments and branch offices that carry out business	Mandatory	11(a)(v)	n/a	n/a
Private	Wage	Shops, commercial establishments, public entertaining establishments	Mandatory	11(a)(vi)	n/a	n/a
Private	Wage	Construction projects carried out for a period of one year and above under an employment agreement	Mandatory	11(a)(viii)	n/a	n/a

Sector of employer	Category of worker	Description	Legal coverage	Section of SSL	Voluntary participation	Section of SSL
Private	Wage	Businesses funded via foreign investment or citizen investment, or joint venture businesses	Mandatory	11(a)(ix)	n/a	n/a
Private	Wage	Businesses related to mining and gems contained in any existing law	Mandatory	11(a)(x)	n/a	n/a
Private	Wage	Businesses relating to petroleum and natural gas contained in any existing law	Mandatory	11(a)(xi)	n/a	n/a
Private	Wage	Ports and out-ports contained in any existing law	Mandatory	11(a)(xii)	n/a	n/a
Private	Wage	Businesses and organizations that operate through the use of freight handling workers	Mandatory	11(a)(xiii)	n/a	n/a
Private	Wage	Establishments that the MOLIP determines, on an ad hoc basis, to fall under the provisions of compulsory registration with the Social Security System and benefits contained in the law in coordination with the Social Security Board and with the approval of the Union Government	Mandatory	11(a)(xv)	n/a	n/a
Inapplicable establishments for mandatory coverage						
Public	Wage	Government departments, government organizations, or regional administrative bodies that do not carry out business	Not mandatory	12(a)(i)	Allowed with limitation ¹	12(c), 14
Public	Wage	International organizations, embassies or consulates of foreign governments	Not mandatory	12(a)(ii)	Allowed	12(c)
Private	Wage	Seasonal farming and fisheries	Not mandatory	12(a)(iii)	Allowed	12(c)
Public	Wage	Non-profit companies, associations or organizations	Not mandatory	12(a)(iv)	Allowed	12(c)
Private	Wage	Establishments that carry out business only for a period less than three months	Not mandatory	12(a)(v)	Allowed	12(c)

Sector of employer	Category of worker	Description	Legal coverage	Section of SSL	Voluntary participation	Section of SSL
Household	n/a	Private establishments that carry out business only with family members and without hired workers	Not mandatory	12(a)(vi)	Allowed	12(c)
Household	n/a	Domestic services not for business purposes	Not mandatory	12(a)(vii)	Allowed	12(c)
n/a	Wage	Establishments exempted under section 99	Not mandatory	12(a)(viii)	Allowed	12(c)
Inapplicable workers for mandatory coverage						
n/a	n/a	Workers who have not attained the working age under the existing law and workers who have completed the age entitled for old-age benefit	Not mandatory	12(b)(i)	Not regulated	Not regulated
Private	Non-wage	Street vendors and vendors using bicycles, carts, etc.	Not mandatory	12(b)(ii)	Allowed	SSR 44(b)(i)
Private	Wage	Daily wages earners, part-time workers, piece-workers or outside workers employed occasionally	Not mandatory	12(b)(iii)	Allowed	SSR 44(a)(i)
n/a	n/a	Other workers as determined by the MOLIP, on an ad hoc basis, in coordination with the Social Security Board with the approval of the Union Government to not fall under the provisions of compulsory registration with the Social Security System and benefits contained in this law	Not mandatory	12(b)(iv)	Allowed	SSR 44(a)(ii)
n/a	n/a	Members of the general public who do not work at the establishment	Not mandatory	SSR 44(b)(i)	Allowed	SSR 44(b)(i)
Private	Non-wage	Students, persons who are away from the worksite, housemaids and persons working overseas	Not mandatory	SSR 44(b)(ii)	Allowed	SSR 44(b)(ii)
Private	Non-wage	Persons who carry out private business, collective business, professional business, as well as farmers	Not mandatory	SSR 44(b)(iii)	Allowed	SSR 44(b)(iii)

¹ Invalidity, old-age, survivors and unemployment benefit systems do not provide civil servants with mandatory coverage. Civil servants are allowed to participate in the invalidity, old-age and survivors benefit system on a voluntary basis.

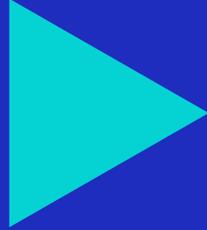
Appendix 4. Key parameters of the unemployment insurance system (basic benefit)

Parameters	Description
Coverage	<p>Mandatory: All wage workers at private and public enterprises except for the “voluntary” and “no coverage” workers detailed immediately below</p> <p>Voluntary: Employees at private enterprises engaged in seasonal farming and fishery work; construction workers with employment contracts shorter than one year; workers at diplomatic missions or non-profit organizations; employees of small enterprises that hire fewer than five workers; non-wage workers; students; persons who are away from the worksite; housemaids; Myanmar migrant workers abroad; business owners; collective businesses; professional businesses; and farmers</p> <p>No coverage: Civil servants</p>
Benefit formula	<p>Single: 50% of average monthly wage received in the months during which contributions were paid within the last 12 months prior to unemployment</p> <p>Married: 55% of average monthly wage received in the months during which contributions were paid within the last 12 months prior to unemployment</p>
Minimum benefit	Not regulated
Indexation of minimum benefit	Not applicable
Re-employment allowance	Not regulated
Benefit duration	<p>36 to 47 months of contributions for 60 days</p> <p>48 to 59 months of contributions for 90 days</p> <p>60 to 71 months of contributions for 120 days</p> <p>72 to 83 months of contributions for 150 days</p> <p>84 and over contribution months for 180 days</p>

Parameters	Description
Composition of insurable earnings	<p>Included: Basic wage; subsistence allowance; overtime wage; and allowance for accommodation, meal, electricity, water, taxes and other monthly allowance</p> <p>Excluded: Reimbursement for work-related expenditure and travel allowances; sickness, maternity, temporary disability, permanent disability and unemployment benefit; other occasional allowances paid by employers for service rewards, annual rewards, aids for religious and social festivals, and lay-off; compensation for dismissal and gratuities; pension and retirement gratuities; contributions to private corporate welfare funds for employees; sickness, maternity, temporary disability, permanent disability and unemployment benefits; and social security cash benefits</p>
Maximum insurable earning for benefits and contributions	Not regulated
Indexation of maximum insurable earnings for benefits and contributions	Not applicable
Contribution requirements	36 months
Voluntary unemployment	No benefit
Continuation of benefits	Refused jobs introduced by the Labour Exchange Offices or the Social Security Offices without good reason; refused training course by the SSB without good reason; employee convicted with imprisonment for criminal offences under any criminal laws; leaving abroad for good or for work; and ill health, being incapable of working, or unwilling to work
Consequences of job or training refusals	Termination of benefit
Non-compensable waiting period	Not regulated
Relation with severance pay	Employers are allowed to deduct the amount of unemployment benefit from monies on separation according to the labour laws or the employment agreement

Parameters	Description
Financing modality	2% of monthly wage of insured workers, shared equally between employer and worker
Subsequent or repeat claims	<p>General rule: Workers maintain their remaining entitled months for their future unemployment spells if they find jobs before exhausting their entitlements. Once the insured exhaust all their entitled months, they would have to contribute for 36 months to obtain the minimum entitlement.</p> <p>Rules for workers who return to the same establishment: Subsequent claims allowed only after contributing for another 36 months</p>
Other earnings	Workers cannot receive unemployment, sickness and maternity benefits as well as temporary disability benefits due to employment injury at the same time
Actuarial review	Not regulated

Source: Compiled by the authors from national legislation and classifications.



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