

Chapter 16

SOCIAL SECURITY LAW



INTRODUCTION

DECLARATION OF POLICY: It is the policy of the Republic of the Philippines to establish, develop, promote and perfect a sound and viable tax-exempt social security service suitable to the needs of the people throughout the Philippines which shall provide to covered employees and their families protection against the hazards of disability, sickness, old age and death, with a view to promoting their well-being in the spirit of social justice. (As amended by Sec. 1, R.A. 1792 and Sec. 2, P.D. No. 24, S-1972)

DEFINITIONS

SSS	The Social Security System created by this Act.
Commission	The Social Security Commission
Employer	Any person, natural or juridical, domestic or foreign, who carries on in the Philippines any trade, business, industry, undertaking, or activity of any kind and uses the services of another person who is under his orders as regards the employment, except the Government and any of its political subdivisions, branches or instrumentalities, including corporations owned or controlled by the Government: Provided, That a self-employed professional shall be both employee and employer at the same time.
Employee	Any person who performs services for an employer in which either or both mental and physical efforts are used and who receives compensation for such services, where there is an employer-employee relationship: Provided, That a self-employed professional shall be both employee and employer at the same time.

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Dependent	<ol style="list-style-type: none"> 1. The legal spouse entitled by law to receive support from the member; 2. The legitimate, legitimated, or legally adopted, and illegitimate child who is unmarried, not gainfully employed and has not reached twenty-one (21) years of age, or if over twenty-one (21) years of age, he is congenitally or while still a minor has been permanently incapacitated and incapable of self-support, physically or mentally; and 3. The parent who is receiving regular support from the member.
Compensation	All actual remuneration for employment, including the mandated cost of living allowance, as well as the cash value of any remuneration paid in any medium other than cash except that part of the remuneration received during the month in excess of the maximum salary credit.
Monthly salary credit	The compensation base for contributions and benefits as indicated in the schedule for Employee's Contributions.
Monthly	The period from one end of the last payroll period of the preceding month to the end of the last payroll period of the current month if compensation is on hourly, daily or weekly basis; if on any other basis, "monthly" shall mean a period of one month.
Contribution	The amount paid to the SSS by the employee and by his employer in accordance with section eighteen of this Act.
Employment	<p>Any service performed by an employee for his employer, except –</p> <ol style="list-style-type: none"> 1. Services where there is no employer-employee relationship in accordance with existing labor laws, rules, regulations and jurisprudence; 2. Service performed in the employ of the Philippine Government or instrumentality or agency thereof; 3. Service performed in the employ of a foreign government or international organization, or their wholly-owned instrumentality: <i>Provided, however, That this exemption notwithstanding, any foreign government, international organization or their wholly-owned instrumentality employing</i>

	<p>workers in the Philippines or employing Filipinos outside of the Philippines, may enter into an agreement with the Philippine Government for the inclusion of such employees in the SSS except those already covered by their respective civil service retirement systems: <i>Provided, further, That the terms of such agreement shall conform with the provisions of this Act on coverage and amount of payment of contributions and benefits: Provided, finally, That the provisions of this Act shall be supplementary to any such agreement; and</i></p> <ol style="list-style-type: none"> 4. Such other services performed by temporary and other employees which may be excluded by regulation of the Commission. Employees of <i>bona fide</i> independent contractors shall not be deemed employees of the employer engaging the service of said contractors.
Beneficiaries	<p>The dependent spouse until he or she remarries, the dependent legitimate, legitimated or legally adopted, and illegitimate children, who shall be the primary beneficiaries of the member.</p> <p>The dependent illegitimate children shall be entitled to fifty percent (50%) of the share of the legitimate, legitimated or legally adopted children.</p> <p>In the absence of the dependent legitimate, legitimated or legally adopted children of the member, his/her dependent illegitimate children shall be entitled to one hundred percent (100%) of the benefits. In their absence, the dependent parents who shall be the secondary beneficiaries of the member.</p> <p>In the absence of all of the foregoing, any other person designated by the member as his/her secondary beneficiary</p>
Contingency	The retirement, death, disability, injury or sickness and maternity of the member.

Average monthly salary credit	The result obtained by dividing the sum of the last sixty (60) monthly salary credits immediately preceding the semester of contingency by sixty (60), or the result obtained by dividing the sum of all the monthly salary credits paid prior to the semester of contingency by the number of monthly contributions paid in the same period, whichever is greater: <i>Provided</i> , That the injury or the permanent disability for the purpose of computing the average monthly salary credit.
Average daily salary credit	The result obtained by dividing the sum of the 6 highest monthly salary credits in the twelve-month period immediately preceding the semester of contingency by 180.
Semester	A period of two consecutive quarters ending in the quarter of contingency.
Quarter	A period of three consecutive calendar months ending on the last day of March, June, September and December.
Replacement ratio	The sum of twenty per cent and the quotient obtained by dividing three hundred by the sum of three hundred forty and the average monthly salary credit. (As amended by Sec. 2, P.D. No. 1636, S-1979)
Credited years of service	For a member covered prior to January nineteen hundred eighty five (1985) minus the calendar year of coverage plus the number of calendar years in which six (6) or more contributions have been paid from January nineteen hundred eighty five (1985) up to the calendar year containing the semester prior to the contingency. For a member covered in or after January nineteen hundred eighty five (1985), the number of calendar years in which six (6) or more contributions have been paid from the year of coverage up to the calendar year containing the semester prior to the contingency: <i>Provided</i> , That the Commission may provide for a different number of contributions in a calendar year for it to be considered as a credited year of service.
Member	The worker or the self-employed mandatorily covered by this Act

Self-employed	Any person whose income is not derived from employment, as defined under this Act.
Net earnings	Net income before income taxes plus non-cash charges such as depreciation and depletion appearing in the regular financial statement of the issuing or assuming institution.
Fixed charges	Recurring expense such as amortization of debt discount and rentals for leased properties, including interest on funded and unfunded debt.

SCOPE AND COVERAGE

COMPULSORY COVERAGE: Coverage in the SSS shall be compulsory upon:

1. All employees not over sixty years of age; and
2. their employers;

Effect of Separation from Employment: When an employee under compulsory coverage is separated from employment, his employer's contribution on his account and his **obligation to pay contributions** arising from that employment **shall cease at the end of the month of separation**, but said employee shall be credited with all contributions paid on his behalf and entitled to benefits according to the provisions of this Act. He may, however, continue to pay the total contributions to maintain his right to full benefit. (As amended by Sec. 4, R.A. 4857 and Sec. 7, P.D. No. 735, S-1975)

Existing benefits: already earned by employees under private benefit plans existing at the time of the approval of this Act shall not be discontinued, reduced or otherwise impaired.

Private plans which are existing and in force at the time of compulsory coverage shall be integrated with the plan of the SSS in such a way where the employer's contribution to his private plan is more than that required of him in this Act he shall pay to the SSS only the contribution required of him and he shall continue his contribution to such private plan less his contribution to the SSS so that the employer's total contribution to his private benefit plan and to the Social Security System shall be the same as his contribution to his private benefit plan before the compulsory coverage.

Any changes, adjustments, modifications, eliminations or improvements in the benefits to be available under the remaining private plan, which may be necessary to adopt by reason of the reduced contribution thereto as a result of the integration, shall be subject to agreements between the employers and employees concerned.

The private benefit plan which the employer shall continue for his employees shall remain under the employer's management and control unless there is an existing agreement to the contrary: Provided, finally, That nothing in this Act shall be construed as a limitation on the right of employers and employees to agree on and adopt benefits which are over and above those provided under this Act.

Voluntary coverage: Spouses who devote full time to managing the household and family affairs, unless they are also engaged in other vocation or employment which is subject to mandatory coverage, may be covered by SSS on a voluntary basis.

COMPULSORY COVERAGE OF THE SELF-EMPLOYED: Coverage in the SSS shall also be compulsory upon all self-employed persons as may be determined by the Commission under such rules and regulations as it may prescribe, including but not limited to the following:

1. All self-employed professionals
2. Partners and single proprietors of businesses.
3. Actors and actresses, directors, scriptwriters and news correspondents who do not fall within the definition of the term "employee" above.
4. Professional athletes, coaches, trainers and jockeys;
5. Individual farmers and fishermen.

Unless otherwise specified herein, all provisions of the SSS Law applicable to covered employees shall also be applicable to the covered self-employed persons. (As amended by Sec. 3, P.D. No. 1636, S-1979)

Effect of Interruption of Business or Professional Income: If the self-employed realizes **no income** in any given month, he shall **not be required to pay contributions for that month**. He may, however, be allowed to continue paying contributions under the same rules and regulations applicable to separated employee member. Provided, that no retroactive payment of

contributions shall be allowed other than prescribed under a schedule as the Commission may specify.

COMPULSORY COVERAGE OF OVERSEAS FILIPINO WORKERS:

Under RA No. 1161, Filipinos recruited in the Philippines by foreign-based employers for employment abroad may be covered by the SSS on a voluntary basis. However, under RA No. 11199, OFWs are not mandatorily covered by the SSS, under Section 9-B thereof, which provides the following rules:

- a) Coverage in the SSS shall be **compulsory upon all sea-based and land-based OFWs** as defined under Republic Act No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, as amended by Republic Act No. 10022, who are **not over sixty (60) years of age**.

Retirement, death, disability, funeral, sickness and maternity benefits provided under the law, among others, shall apply to all covered OFWs.

- b) **Manning agencies** are **agents** of their principals and are considered as employers of sea-based OFWs.

For purposes of the implementation of this Act, any law to the contrary notwithstanding manning agencies are **jointly and severally or solidarity liable** with their principals with respect to the civil liabilities incurred for any violation of this Act.

The persons having direct control, management or direction of the manning agencies shall be held criminally liable for any act or omission penalized under this Act.

- c) **Land-based OFWs** are compulsory members of the SSS and considered in the **same manner as self-employed persons** under such rules and regulations that the Commission shall prescribe.
- d) The Department of Foreign Affairs (DFA), the Department of Labor and Employment (DOLE) and all its agencies involved in deploying OFWs for employment abroad are **mandated to negotiate bilateral labor agreements with the OFWs' host countries** to ensure that the employers of land-based OFWs, similar to the principals of sea-based OFWs, pay the required SSS contributions, in which case these land-based OFWs shall no longer be considered in the same manner as self-employed persons in this Act. Instead, they shall be considered as compulsorily covered employees with employer and employee shares in contributions that shall be provided for in the bilateral labor agreements and their

- implementing administrative agreements: Provided, That in countries which already extend social security coverage to OFWs, the DFA through the Philippine embassies and the DOLE shall negotiate further agreements to serve the best interests of the OFWs.
- e) The DFA, the DOLE and, the SSS shall ensure compulsory coverage of OFWs through bilateral social security and labor agreements and other measures for enforcement.
 - f) Upon the **termination** of their employment overseas, **OFWs may continue to pay contributions** on a voluntary basis to maintain their rights to full benefits.
 - g) Filipino permanent migrants, including Filipino immigrants, permanent residents and naturalized citizens of their host countries may be covered by the SSS on a voluntary basis.

EFFECTIVE DATE OF COVERAGE:

1. Compulsory coverage of the employer shall take effect on the **first day of his operation**
2. For the employee - on the **day of his employment**.
3. Compulsory coverage of the self-employed person shall take effect upon his **registration** with the SSS.

PENSION, RETIREMENT AND OTHER BENEFITS

MONTHLY PENSION

The monthly pension shall be the highest of the following amounts:

- a) The sum of the following:
 - i. Three hundred pesos (P300.00); plus
 - ii. Twenty percent (20%) of the average monthly salary credit; plus
 - iii. Two percent (2%) of the average monthly salary credit for each credited year of service in excess of ten (10) years; or
- b) Forty percent (40%) of the average monthly salary credit; or
- c) One thousand pesos (P1,000.00).

Provided, That the monthly pension shall in no case be paid for an aggregate amount of less than sixty (60) months.

Minimum Pension: Notwithstanding the above, the minimum pension shall be:

1. Members with 10 credited years of service - P1,200.00
2. Members with 20 credited years of service - P2,400.00

Additional Benefit Allowance: Pursuant to Memorandum from the Executive Secretary dated 22 February 2017, by authority of the President of the Republic of the Philippines, an **additional monthly benefit allowance amounting to One thousand pesos (P1,000.00)** shall be given to all retirement, death, and disability pensioners receiving monthly pensions in or after January two thousand seventeen (2017).

The Commission may determine the grant of additional benefit allowance. Provided, That the actuarial soundness of the reserve fund shall be guaranteed.

All other additional allowances to monthly pension subsequent to the Memorandum of the Executive Secretary dated February 22, 2017 shall be subject to the **requirement of fund viability and sustainability** as determined by the Commission based on the recommendations of the Office of the Chief Actuary guaranteeing the actuarial soundness of the grant of such allowances

DEPENDENT'S PENSION: Where monthly pension is payable on account of death, permanent total disability or retirement, dependents' pension equivalent to **ten percent (10%) of the monthly pension** or **Two hundred fifty pesos (P250.00)**, whichever is higher, shall also be paid for each dependent child conceived on or before the date of the contingency but not exceeding five (5), beginning with the youngest and without substitution.

Where there are legitimate and illegitimate children, the former shall be preferred.

RETIREMENT BENEFITS

- a) A member shall be entitled to the monthly pension for as long as he lives if the following conditions are met:
 - a) The member has **paid at least one hundred twenty (120) monthly contributions** prior to the semester of retirement
 - b) The member either:
 - (1) **has reached the age of sixty (60) years** and is already separated from employment or has ceased to be self-employed or

(2) has reached the age of sixty-five (65) years,

Option to advance: The member shall have the option to receive his first eighteen (18) monthly pensions in lump sum discounted at a preferential rate of interest to be determined by the SSS.

- b) A covered member who is sixty (60) years old at retirement and who does not qualify for pension benefits under paragraph (a) above, shall be entitled to a **lump sum benefit equal to the total contributions paid by him and on his behalf.** Provided, That he is separated from employment and is not continuing payment of contributions to the SSS on his own.

Re-employment: The monthly pension shall be **suspended** upon the **reemployment or resumption of self-employment of a retired member** who is less than sixty-five (65) years old. He shall again be subject to the monthly contributions as will be discussed below.

Death: Upon the death of the retired member, his **primary beneficiaries** as of the date of his retirement shall be entitled to receive the monthly pension

If he has no primary beneficiaries and he dies within sixty (60) months from the start of his monthly pension, his secondary beneficiaries shall be entitled to a lump sum benefit equivalent to the total monthly pensions corresponding to the balance of the five-year guaranteed period, excluding the dependents' pension.

Amount of pension: The monthly pension of a member who retires after reaching age sixty (60) shall be the higher of either:

- (1) the monthly pension computed at the earliest time he could have retired had he been separated from employment or ceased to be self-employed plus all adjustments thereto; or
- (2) the monthly pension computed at the time when he actually retires

DEATH BENEFITS

Upon the covered employee's death,

1. And he has **paid at least 36 monthly contributions** prior to the semester of death, his primary beneficiaries shall be entitled to the **monthly pension and his dependents to the dependents' pension**

If he has no primary beneficiaries, his secondary beneficiaries shall be entitled to a lump sum benefit equivalent to thirty-six (36) times the monthly pension.

2. If he has **not paid the required thirty-six (36) monthly contributions**, his primary or secondary beneficiaries shall be entitled to whichever is higher between:
 - a) The lump sum benefit equivalent to the monthly pension times the number of monthly contributions paid to the SSS
 - b) 12 times the monthly pension.

PERMANENT DISABILITY BENEFITS

Upon the permanent total disability of a member

1. If he has **paid at least thirty-six (36) monthly contributions** prior to the semester of disability, he shall be entitled to the **monthly pension**
2. If he has **not paid the required thirty-six (36) monthly contributions**, he shall be entitled to the higher between:
 - a) lump sum benefit equivalent to the monthly pension times the number of monthly contributions paid to the SSS or
 - b) twelve (12) times the monthly pension

Re-employment: A member who has received a lump sum benefit and is re-employed or has resumed self-employment **not earlier than one (1) year from the date of his disability** shall again be **subject to compulsory coverage** and shall be **considered a new member.**

The **monthly pension and dependents' pension** shall be **suspended** upon:

1. The reemployment or resumption of self-employment or T
2. The recovery of the disabled member from his permanent total disability or
3. His failure to present himself for examination at least once a year upon notice by the SSS.

Death: Upon the death of the permanent total disability pensioner, his primary beneficiaries as of the date of disability shall be entitled to **receive the monthly pension.**

If he has no primary beneficiaries and he dies within sixty (60) months from the start of his monthly pension, his secondary beneficiaries shall be entitled to a lump sum benefit equivalent to the total monthly pensions corresponding

to the balance of the five-year guaranteed period excluding the dependents pension

Permanent Disability: The following disabilities shall be deemed permanent total:

1. Complete loss of sight of both eyes;
2. Loss of two limbs at or above the ankle or wrists;
3. Permanent complete paralysis of two limbs;
4. Brain injury resulting to incurable imbecility or insanity; and,
5. Such cases as determined and approved by the SSS.

Permanent Partial:

- a) If the disability is **permanent partial**, and such disability occurs **before 36 monthly contributions** have been paid prior to the semester of disability, the benefit shall be such **percentage of the lump sum benefit described in the below with due regard to the degree of disability** as the Commission may determine. (As amended by Sec. 9, P.D. No. 1636, S-1979)
- b) If the disability is **permanent partial** and such disability occurs **after 36 monthly contributions** have been paid prior to the semester of disability, the benefit shall be the **monthly pension for permanent total disability** payable not longer than the period designated in the following schedule:

Complete and Permanent Loss of Use of	Number of Months
One thumb	10
One index finger	8
One middle finger	6
One right finger	5
One little finger	3
One big toe	6
One hand	39
One arm	50
One foot	31
One leg	46
One ear	10
Both ears	20
Hearing of one ear	10
Hearing of both ears	20

Complete and Permanent Loss of Use of	Number of Months
Sight of one eye	25

Percentage Degree of Disability: is equivalent to the ratio that the designated number of months of compensability bears to seventy-five (75), rounded to the next higher integer.

It shall not be additive for distinct, separate and unrelated permanent partial disabilities, but shall be additive for deteriorating and related permanent partial disabilities, to a maximum of one hundred percent (100%), in which case the member shall be deemed as permanently totally disabled.

Permanent Partial Disability: In case of permanent partial disability, the monthly pension benefit shall be given in lump sum if it is payable for less than twelve (12) months.

Retirement or death: Should a member who is on partial disability pension retire or die, his disability pension shall cease upon his retirement or death

FUNERAL BENEFIT

A funeral grant of P12,000 shall be paid to help defray the cost of funeral expenses upon the death of a covered member, permanently totally disabled employee or retiree.

SICKNESS BENEFIT

a) A covered employee who has paid at least **three monthly contributions** in the twelve-month period immediately preceding the semester of sickness and is **confined for more than three days** in a hospital or elsewhere with the Commission's approval, shall, for each day of **compensable confinement or fraction thereof**, be paid by his employer, or the SSS, if such person is unemployed, an allowance equivalent to **90%** of his average daily salary credit, subject to the following conditions:

1. **In no case shall the daily sickness benefit be paid longer than one hundred twenty (120) days in one (1) calendar year, nor shall any unused portion of the one hundred twenty (120) days of sickness benefit granted under this section be carried forward and added to**

the total number of compensable days allowable in the subsequent year;

- 2. The daily sickness benefit shall **not be paid for more than two hundred forty (240) days** on account of the same confinement; and
- 3. The employee member shall **notify his employer** of the fact of his sickness or injury **within five (5) calendar days after the start of his confinement** unless such confinement is in a hospital or the employee became sick or was injured while working or within the premises of the employer in which case notification to the employer is not necessary.

If the member is unemployed or self-employed, he shall directly notify the SSS of his confinement within five (5) calendar days after the start thereof unless such confinement is in a hospital in which case notification is also not necessary.

In cases where notification is necessary, the confinement shall be deemed to have started not earlier than the fifth day immediately preceding the date of notification.

- b) The compensable confinement shall begin on the first day of sickness, and the payment of such allowances shall be **promptly made by the employer every regular payday or on the fifteenth and last day of each month**, and similarly in the case of direct payment by the SSS, for as long as such allowances are due and payable. Provided, That such allowance shall begin only after all sick leaves of absence with full pay to the credit of the employee member shall have been exhausted.
- c) One hundred percent (100%) of the daily benefits provided in the preceding paragraph shall be **reimbursed by the SSS** to said employer upon receipt of satisfactory proof of such payment and legality thereof. Provided, That the employer has notified the SSS of the confinement within five (5) calendar days after receipt of the notification from the employee member.

If the notification to the SSS is made by the employer beyond five (5) calendar days after receipt of the notification from the employee member, said employer shall be reimbursed only for each day of confinement starting from the tenth calendar day immediately preceding the date of notification to the SSS.

The SSS shall reimburse the employer or pay the unemployed member only for confinement within the one-year period immediately preceding the date the claim for benefit or reimbursement is received by the SSS, except confinement in a hospital in which case the claim for benefit or reimbursement must be filed within one (1) year from the last day of confinement.

- d) Where the employee member has given the required notification but the employer fails to notify the SSS of the confinement or to file the claim for reimbursement within the period prescribed **resulting in the reduction of the benefit or denial of the claim such employer shall have no right to recover** the corresponding daily allowance he advanced to the employee member as required in this Section.
- e) The claim of reimbursement shall be adjudicated by the SSS within a period of two (2) months from receipt thereof: Provided, That should no payment be received by the employer within one (1) month after the period prescribed herein for adjudication the reimbursement shall thereafter earn simple interest of one percent (1%) per month until paid.

MATERNITY LEAVE BENEFIT

A covered female workers in the government and the private sector, including those in the informal economy, regardless of civil status or the legitimacy of her child, shall be granted 105 days maternity leave with full pay and an option to extend for an additional 30 days without pay, which can be prenatal or postnatal. Provided, that the postnatal leave shall not be less than 60 days.

Solo Parent: if the employee qualifies as a solo parent under RA No. 8972 (Solo Parents' Welfare Act), the worker shall be granted an additional 15 days maternity leave with full pay.

Manner of availment: enjoyment of maternity leave cannot be deferred but should be availed of either before or after the actual period of delivery in a continuous and uninterrupted manner, not exceeding 150 days, as the case may be.

Frequency: maternity leave shall be granted to female workers in every instance of pregnancy, miscarriage or emergency termination of pregnancy, regardless of frequency.

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Miscarriage and Emergency Termination of Pregnancy: For cases of miscarriage or emergency termination of pregnancy, **60 days maternity leave with full pay** shall be granted.

Maternity Leave for Female Workers in the Public Sector: **Notice Requirement:** The head of the agency shall be given due notice, in writing, at least 45 days before the end of the maternity leave.

No prior notice shall be necessary in the event of a medical emergency but subsequent notice shall be given to the head of the agency.

Maternity Leave for Female Workers in the Private Sector: A female SSS member who has paid at least three monthly maternity contributions in the twelve-month period preceding the semester of her childbirth, miscarriage or emergency termination of pregnancy shall be paid her daily maternity benefit equivalent to 105 days, regardless of whether she gave birth via caesarian section or natural delivery subject to the following conditions:

- a) That the female worker shall have **notified** her employer of her pregnancy and the probable date of her childbirth which notice shall be transmitted to the SSS in accordance with the rules and regulations it may provide;
- b) That the payment shall be advanced by the employer within thirty days from the filing of the maternity leave application;
- c) That payment of daily maternity benefits shall be a bar to the recovery of sickness benefits for the same period for which the daily maternity benefits have been received;
- d) That the SSS shall immediately reimburse the employer of 100% of the amount of maternity benefits advanced to the employee by the employer upon receipt of satisfactory proof of such payment and legality thereof; and
- e) That if a female worker should give birth or suffer abortion or miscarriage without the required contributions having been remitted for her by her employer to the SSS, or without the latter having been previously notified by the employer of time of the pregnancy, the employer shall pay to the SSS damages equivalent to the benefits which said employee would otherwise have been entitled to.

In case the employee qualifies as a solo parent, the employee shall be paid an additional 15 days maternity benefit.

Additional days: 30 days, without pay, at the option of the female worker. Provided, that the employer shall be given due notice in writing 45 days before the end of her maternity leave. The same will not apply in case of medical emergency but subsequent notice shall be given to the head of the agency.

Salary differentials: workers availing of the maternity leave period and benefits must receive their full pay. Employers from the private sector shall be responsible for payment of the salary differential between the actual cash benefits received from the SSS by the covered female workers and their average weekly or regular wages, for the entire duration of the maternity leave, with the following **exceptions:**

1. Those operating distressed establishments;
2. Those retail/service establishments and other enterprises employing not more than 10 workers;
3. Those considered as micro-business enterprises and engaged in the production, processing, or manufacturing of products or commodities including agro-processing, trading and service, whose total assets are not more than P3,000,000; and
4. Those who are already providing similar or more than the benefits provided above.

Allocation of Maternity Leave: Any female worker entitled to maternity leave benefits may, at her option, allocate up to 7 days of said benefits to the child's father, whether or not the same is married to the female worker.

In the death, absence or incapacity of the female worker, the benefit may be allocated to an alternative caregiver who may be a relative within the 4th degree of consanguinity or the current partner of the female worker sharing the same household upon the election of the mother taking into account the best interest of the child. Provided, that written notice thereof is provided to the employers of the female worker and alternate caregiver.

If the female worker dies or is permanently incapacitated, the balance of her maternity leave benefits shall accrue to the father of the child or to a qualified caregiver mentioned above.

Termination of employment: the above benefits shall be granted even if the childbirth, miscarriage, or emergency termination of pregnancy occurs not more than 15 calendar days after the termination of an employee's service, as her right thereto has already accrued.

Maternity Leave Benefits for Women in the Informal Economy and Voluntary Contributors to the SSS: maternity benefits shall cover all married and unmarried women, including female workers in the informal economy. They are entitled to the said benefits if they have remitted to the SSS at least 3 monthly contributions in the 12 month period immediately preceding the semester of her childbirth, miscarriage, or emergency termination of pregnancy.

Female Workers with Pending Administrative Case: the maternity leave benefits shall be enjoyed by a female worker even if she has a pending administrative case.

Female Athletes: in the event that a national athlete becomes pregnant, she will be referred to the team physician or an accredited physician of the Philippine Sports Commission or an obstetrician-gynecologist to determine her fitness to continue training. She will be allowed to participate in all team-related activities, unless the physician advises that participation is not medically safe or should be limited.

Upon medical advice, she shall go on maternity leave until cleared to return to training. She shall continue receiving her allowance and be entitled to the same benefits while on maternity leave prior to childbirth and upto 6 months after, unless she can resume sooner as advised by her physician, in which case, she will be entitled to the allowance and benefits she had prior to pregnancy.

If the female athlete is employed in the public sector, she shall not receive double compensation or benefits.

UNEMPLOYMENT, INSURANCE OR INVOLUNTARY SEPARATION BENEFITS

A member may be entitled to **50% of the average monthly salary credit for a maximum of 2 months** in the form of cash payments if immediately

preceding the involuntary unemployment or separation, the following concur:

1. The member is not over 60 years of age;
2. The member paid at least 36 months contributions, 12 months of which should be in the 18-month period immediately preceding the unemployment.

Frequency: An employee who is involuntarily unemployed can only claim unemployment benefits **once every three (3) years**.

In case of concurrence of two or more compensable contingencies, only the highest benefit shall be paid, subject to the rules and regulations that the Commission may prescribe.

NON-TRANSFERABILITY OF BENEFITS

The SSS shall pay the benefits provided for in this Act to such persons as may be entitled thereto in accordance with the provisions of this Act.

Provided,

1. That the SSS shall pay the retirement benefits on the day of contingency to qualified members who have submitted the necessary documents at least six (6) months before.
2. That the beneficiary who is a **national of a foreign country** which does not extend benefits to a Filipino beneficiary residing in the Philippines, or which is not recognized by the Philippines, shall not be entitled to receive any benefit under this Act.

Notwithstanding the foregoing, where the best interest of the SSS will be served, the Commission may direct payments without regard to nationality or country of residence.

3. That if the recipient is a minor or a person incapable of administering his own affairs, the Commission shall appoint a representative under such terms and conditions as it may deem proper.

Such appointment shall not be necessary in case the recipient is under the custody of or living with the parents or spouse of the employee in which case the benefits shall be paid to such parents or spouse, as representative

payee of the recipient. Such benefits are not transferrable and no power of attorney or other document executed by those entitled thereto, in favor of any agent, attorney, or any other person for the collection thereof on their behalf shall be recognized, except when they are physically unable to collect personally such benefits.

- In case of death benefits, if no beneficiary qualifies under this Act, said benefits shall be paid to the legal heirs in accordance with the law of succession.

EXEMPTION FROM TAX, LEGAL PROCESS AND LIEN

- All laws to the contrary notwithstanding the SSS and all its assets and properties, all contributions collected and all accruals thereto and income or investment earnings therefrom as well as all supplies, equipment, papers or documents which may be required in connection with the operation or execution of this Act shall be **exempt from any tax, assessment, fee, charge, or customs or import duty**; and
- All benefit payments made by the SSS shall likewise be exempt from all kinds of taxes, fees or charges, and shall not be liable to attachments, garnishments, levy or seizure by or under any legal or equitable process whatsoever, either before or after receipt by the person or persons entitled thereto, except to pay any debt of the covered employee to the SSS.

No tax measure hereafter enacted shall apply to the SSS, unless it expressly revokes the declared policy of the State in section two hereof granting tax-exemption to the SSS. Any tax assessment against, and still unpaid by the SSS shall be null and void. (As amended by Sec. 9, P.D. No. 24, S-1972 and Sec. 14, P.D. No. 735, S-1975)

FEE OF AGENTS, ATTORNEYS, ETC.: No agent, attorney or other person in charge of the preparation, filing or pursuing any claim for benefit under this Act shall demand or charge for his services any fee, and any stipulation to the contrary shall be null and void.

the retention or deduction of any amount from any benefit granted under this Act for the payment of fees for such services is prohibited.

Provided, however, That any member of the Philippine Bar who appears as counsel in any case heard by the Social Security Commission shall be entitled to attorney's fees not exceeding ten per cent of the benefits awarded by the Commission, which fees shall not be payable before the actual payment of the benefits, and any stipulation to the contrary shall be null and void.

Any violation of the provisions of this Section shall be punished by a fine of not less than P500 nor more than P5,000, or imprisonment for not less than 6 months nor more than 1 year, or both, at the discretion of the court. (As amended by Sec. 4, P.D. No. 347, S-1973 and Sec. 8, P.D. No. 1202, S-1977)

EMPLOYEE'S AND EMPLOYER'S CONTRIBUTIONS

EMPLOYEES'/EMPLOYERS' CONTRIBUTION: Under Section 4(a)(9) of RA No. 11199, the following shall be the contributions and monthly salary credits applicable:

Year of Implementation	Contribution Rate	Share		Monthly Salary Credit	
		Employer	Employee	Minimum	Maximum
2019	12%	8%	4%	P2,000.00	P20,000.00
2020	12%	8%	4%	P2,000.00	P20,000.00
2021	13%	8.5%	4.5%	P3,000.00	P25,000.00
2022	13%	8.5%	4.5%	P3,000.00	P25,000.00
2023	14%	9.5%	4.5%	P4,000.00	P30,000.00
2024	14%	9.5%	4.5%	P4,000.00	P30,000.00
2025	15%	10%	5%	P5,000.00	P35,000.00

The above rates equally applies to self-employed, voluntary and other members.

Kasambahays: the domestic workers or "kasambahays" as defined under Republic Act No. 10361 or the Batas Kasambahay who are receiving a monthly income lower than minimum monthly salary credit prescribed under this Act shall pay contributions based on their actual monthly salary

Social Security Law

Lower than minimum; Higher than maximum: members, who are subject to compulsory coverage and receiving a monthly income lower than the minimum monthly salary credit or more than the maximum monthly salary credit, and their employers, shall pay the SSS contributions current minimum monthly salary credit or the maximum monthly salary credit, respectively, as provided above.

CONTRIBUTIONS OF THE SELF-EMPLOYED

The contributions to the SSS of the self-employed member shall be determined in accordance the schedule above for employees.

Basis: the **monthly earnings** declared by the self-employed member at the time of his registration with the SSS **shall be considered as his monthly compensation.**

The monthly earnings declared by the self-employed member at the time of his registration shall remain the basis of his monthly salary credit, unless he makes another declaration of his monthly earnings, in which case such latest declaration becomes the new basis of his monthly salary credit.

Amount to pay: The self-employed member shall **pay both the employer and employee contributions.**

GOVERNMENT CONTRIBUTION

As the contribution of the Government to the operation of the SSS, the Congress shall **annually appropriate** out of any funds in the National Treasury not otherwise appropriated, the necessary sum or sums to meet the **estimated expenses of the SSS** for each ensuing year. In addition to this contribution, the Congress shall appropriate from time to time such sum or sums as **may be needed to assure the maintenance of an adequate working balance of the funds** of the SSS as disclosed by suitable periodic actuarial studies to be made of the operations of the SSS.

GOVERNMENT GUARANTEE: The benefits prescribed in this Act shall not be diminished and to guarantee said benefits the Government of the Republic of the Philippines accepts general responsibility for the solvency of the SSS.

REMITTANCE OF CONTRIBUTIONS

- a) The contribution shall be remitted to the SSS **within the ten days of each calendar month** following the month for which they are applicable or within such time as the Commission may prescribe.

Every employer required to deduct and to remit such contributions shall be **liable for their payment and if any contribution is not paid to the SSS** as herein prescribed, he shall pay besides the contribution a **penalty thereon of 2% per month** from the date the contribution falls due until paid.

If deemed expedient and advisable by the Commission, the collection and remittance of contributions shall be made **quarterly or semi-annually in advance**, the contributions payable by the employees to be advanced by their respective employers: Provided, That upon separation of an employee, any contribution so paid in advance but not due shall be credited or refunded to his employer.

- b) In cases where an **employer refuses or neglects** to pay the same shall be **collected by the SSS in the same manner as taxes** are made collectible under the National Internal Revenue Code, as amended. Failure or refusal of the employer to pay or remit the contributions herein prescribed shall not prejudice the right of the covered employee to the benefits of the coverage.

Prescription of action: The right to institute the necessary action against the employer may be commenced within **twenty years from the time the delinquency is known or the assessment is made** by the SSS, or from the time the benefit accrues, as the case may be.

- c) Should **any person**, natural or juridical, **default** in any payment of contributions, the Commission may also collect the same in either of the following ways:

1. By an action in court, which shall hear and dispose of the case in preference to any other civil action, or
2. By issuing a warrant to the Sheriff of any province or city commanding him to levy upon and sell any real and personal property of the debtor. The Sheriff's sale by virtue of said warrant

shall be governed by the same procedure prescribed against property upon judgments by a court of record.

- d) The **last complete record of monthly contributions** paid by the employer or the **average of the monthly contributions paid during the past three years** as of the date of filing of the action for collection shall be **presumed to be the monthly contributions payable by and due** from the employer to the SSS for each of the unpaid month, unless contradicted and overcome by other evidence: Provided, That the SSS shall not be barred from determining and collecting the true and correct contributions due the SSS even after full payment pursuant to this paragraph, nor shall the employer be relieved of his liability under section twenty-eight of this Act.

REMITTANCE OF CONTRIBUTIONS OF SELF-EMPLOYED: Self-employed members shall remit their monthly contributions quarterly on such dates and schedules, as the Commission may specify through rules and regulations.

METHOD OF COLLECTION AND PAYMENT: The SSS shall require a complete and proper collection and payment of contributions and proper identification of the employer and the employee. Payment may be made in cash, checks, stamp, coupons, tickets, or other reasonable devices that the Commission may adopt.

EMPLOYMENT RECORDS AND REPORTS

- a) Each employer shall immediately report to the SSS the names, ages, civil status, occupations, salaries and dependents of all his employees who are subject to compulsory coverage.

If an employee subject to compulsory coverage should die or become sick or disabled or reach the age of 60 without the SSS having previously received any report or written communication about him from his employer or a contribution paid in his name by his employer, the said employer shall pay to the SSS the damages equivalent to the benefits to which said employee would have been entitled had his name been reported on time by the employer to the SSS

In case of pension benefits, the employer shall be liable to pay the SSS damages equivalent to the higher between:

1. The accumulated pension due as of the date of settlement of the claim; or
2. Five year's pension, including dependents' pension.

If the contingency occurs within thirty days from the date of employment, the employer shall be relieved of his liability for damages.

Contractor: any person or entity engaging the services of an independent contractor shall be subsidiarily liable with such contractor for any civil liability incurred by the latter under this act. Provided, that the same person or entity engaging the services of an independent contractor shall require such contractor to post a surety bond to guarantee the payment of the worker's benefits.

- b) Should the employer misrepresent the true date of employment of his employees or remit to the SSS contributions which are less than those required in this Act, resulting in a reduction of benefits, the employer shall pay to the SSS damages to the extent of such reduction.

In addition to the liability mentioned in paragraphs (a) and (b) above, the employer shall also be liable for the payment of the corresponding unremitted contributions and penalties thereon.

- c) The records and reports duly accomplished and submitted to the SSS by the employee or the employer, as the case may be shall be kept confidential by the SSS.

Except in compliance with a subpoena duces tecum issued by the Courts, subject to the following conditions:

1. It shall not be divulged without the consent of the SSS President or any official of the SSS duly authorized by him
2. It shall be presumed correct as to the data and other matters stated therein, unless the necessary corrections to such records and reports have been properly made by the parties concerned before the right to the benefit being claimed accrues, and
3. It shall be made the basis for the adjudication of the claim.

If as a result of such adjudication the SSS in good faith pays a monthly pension to a beneficiary who is inferior in right to another beneficiary

or with whom another beneficiary is entitled to share, such payments shall discharge the SSS from liability, unless and until such other beneficiary notifies the SSS of his claim prior to the payments.

d) Every employer shall **keep true and accurate work records** for such period and containing such information as the Commission may prescribe, **in addition to an "Annual Register of New and Separated Employees"** which shall be secured from the SSS wherein the employer shall enter on the first day of employment or on the effective date of separation, the names of the persons employed or separated from employment, their SSS numbers, and such other data that the Commission may require and said annual register shall be submitted to the SSS in the month of January of each year. Such records shall be open for inspection by the SSS or its authorized representatives quarterly or as often as the SSS may require.

The SSS may also require each employer to submit, with respect to the persons in his employ, reports needed for the effective administration of this Act.

e) Each employer shall require as a condition to employment, the presentation of a registration number secured by the prospective employee from the SSS in accordance with such procedure as the SSS may adopt.

In case of employees who have earlier been assigned registration numbers by virtue of a previous employment, such numbers originally assigned to them should be used.

The issuance of such registration numbers by the SSS shall not exempt the employer from complying with the provisions of paragraph (a) above.

f) Notwithstanding any law to the contrary, microfilm or non-erasable optical disk and other similar archival media copies of original SSS records and reports, duly certified by the official custodian thereof, shall have evidentiary value as the originals and be admissible as evidence in all legal proceedings.

g) Notwithstanding any law to the contrary, local government units shall, prior to issuing any annual business license or permit, require submission of certificate of SSS coverage and compliance with the provisions of this Act: Provided, That the certification or clearance shall be issued by the SSS within five (5) working days from receipt of the request

REPORT AND REGISTRATION OF THE SELF-EMPLOYED: Each covered self-employed person shall, within thirty days from the effective date of coverage, report to the SSS his name, age, civil status, and occupation, average monthly net income and his dependents.

If after said period of thirty days, he should die or become sick, or disabled or reach the age of sixty without the SSS having previously received such report, the SSS shall not pay him the corresponding benefit.

PENAL CLAUSES

Offense	Penalty
Whoever, for the purpose of causing any payment to be made under this Act, or under an agreement thereunder, where none is authorized to be paid, shall make or cause to be made any false statement or representation as to any compensation paid or received or whoever makes or causes to be made any false statement of a material fact in any claim for any benefit payable under this Act, or application for loan with the SSS, or whoever makes or causes to be made any false statement, representation, affidavit, or document in connection with such claim or loan	Falsification by private individuals and use of falsified documents (Art. 172, Revised Penal Code) - Prision Correccional in its medium and maximum periods and a fine of not more than P5,000.
Whoever shall obtain or receive any money or check under this Act or any agreement thereunder, without being entitled thereto with intent to defraud any covered employee, employer or the SSS,	Fine: P5,000 - P20,000; and Imprisonment: 6 years and 1 day - 12 years

compensation and remit the same to the

Juridical Persons: If the act or omission penalized by this Act be committed by an association, partnership, corporation or any other institution, its **managing head, directors or partners** shall be liable to the penalties provided in this Act for the offense.

Malversation of Public Funds: Any employee of the System who receives or keeps funds or property belonging, payable or deliverable to the System and who shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence shall permit any other person to take such property or funds, wholly or partially, or shall otherwise be guilty of misappropriation of such funds or property, shall suffer the penalties provided in Art. 217 of the Revised Penal Code (Malversation of Public Funds), which are as follows:

Amount involved	Penalty
Does not exceed P40,000	Prision correccional in its medium and maximum periods
More than P40,000 – P1,200,000	Prision mayor in its minimum and medium periods
More than P1,200,000 – P2,400,000	Prision mayor in its maximum period to reclusion temporal in its minimum period
More than P2,400,000 – P4,400,000	Reclusion temporal, in its medium and maximum periods
More than P4,400,000 – P8,800,000	Reclusion temporal in its maximum period
More than P8,800,000	Reclusion perpetua

In all cases, persons guilty of malversation shall also suffer the penalty of **perpetual special disqualification** and a **fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.** (as amended by RA No. 10951)

Employer's failure to remit; presumption: Any employer who after deducting the **monthly contributions or loan amortizations** from his employee's compensation; **fails to remit** the said deductions to the SSS within thirty days from the date they became due shall be **presumed to have misappropriated**

Whoever buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in this Act or in regulations made pursuant thereto, any stamp, coupon, ticket, book or other device, prescribed pursuant to section twenty-three hereof by the Commission for the collection or payment of contributions required herein

Fine: P5,000 – P20,000
Imprisonment: 6 years and 1 day – 12 years,
Or both at the discretion of the court

Whoever, with intent to defraud, alters, forges, makes or counterfeits any stamp, coupon, ticket, book or other device prescribed by the Commission for the collection or payment of any contribution required herein, or uses, sells, lends, or has in his possession any such altered, forged, or counterfeited materials or makes, uses, sells, or has in his possession any such altered, forged material in imitation of the material used in the manufacture of such stamp, coupon, ticket, book, or other device

Fine: P5,000 – P20,000
Imprisonment: 6 years and 1 day – 12 years
Or both at the discretion of the court

Whoever fails or refuses to comply with the provisions of this Act or with the rules and regulations promulgated by the Commission, shall be punished by a fine of not less than five hundred pesos nor more than five thousand pesos, imprisonment for not less than six months nor more than one year, or both, at the discretion of the court.

Fine: P5,000-P20,000;
Imprisonment: 6 years and 1 day – 12 years,
Or both at the discretion of the court

Fine: P5,000-P20,000 and
Imprisonment: 6 years and 1 day – 12 years,

Provided, That where the violation consists in failure or refusal to register employees or himself, in case of the covered self-employed or to deduct contributions from employee's

such contributions or loan amortizations and shall suffer the penalties provided in for Estafa/Swindling (Art. 315, Revised Penal Code), which shall be as follows:

Amount involved	Penalty
Does not exceed P40,000	Arresto mayor in its medium maximum period
More than P40,000 – P1,200,000	Arresto mayor in its maximum period to prison correccional in its minimum period
More than P1,200,000 – P2,400,000	Prision correccional in its minimum and medium periods
More than P2,400,000 – P4,400,000	Prision correccional in its maximum period to prison mayor in its minimum period
More than P4,400,000	Prision mayor its maximum period, adding one year for each additional P2,000,000; but the total penalty which may be imposed shall not exceed twenty years.

(as amended by RA No. 10951)

Commencement of criminal actions: Criminal action arising from a violation of the provisions of this Act may be commenced by the SSS or the employee concerned either:

1. under this Act or
2. In appropriate cases under the Revised Penal Code.

Such criminal action may be filed by the SSS in the city or municipality where the SSS provincial or regional office is located if the violation was committed within its territorial jurisdiction or in Metro Manila, at the option of the SSS (As amended by Sec. 15, P.D. No. 24, S-1972; Sec. 19, P.D. No. 735, S-1975; and Sec. 13, P.D. No. 1202, S-1977)

MULTIPLE CHOICE QUESTIONS

1. For purposes of the Social Security Act, which of the following may be considered as a dependent?
 - I. Legally adopted child
 - II. Illegitimate child
 - a. I only.
 - b. II only.
 - c. Both I and II.
 - d. Neither I nor II.
2. Under the Social Security Act, a sole proprietor is considered as:
 - a. An employer
 - b. An employee
 - c. Both an employer and an employee
 - d. Neither an employer nor an employee
3. Assuming that the child is not permanently incapacitated and incapable of self-support, what is the age limit within which a child may be considered as a dependent?
 - a. Fifteen (15) years old
 - b. Sixteen (16) years old
 - c. Eighteen (18) years old
 - d. Twenty-one (21) years old
4. For purposes of the Social Security Act, employment does not include:
 - a. Service performed in the employ of the Philippine Government or instrumentality or agency
 - b. Services where there is employer-employee relationship
 - c. Services performed by probationary employees whose employment have not reached six (6) months
 - d. Services performed by employees in the top management.