

# THE EMPLOYEES' SOCIAL SECURITY ACT (SOCSO) 1969

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# INTRODUCTION

- The Employees' Social Security Act was first introduced in 1969 and now, it applies throughout all of Malaysia in all industries in the private sector.
- All Malaysian employees who earn less than RM3,000 are required to become members of Social Security Organisation.



# INTRODUCTION

## continued...

This Act aims to provide protection for employees (as defined under the Act) and their families against economic and social distress in situations where the employees sustain injury or death.

# INTRODUCTION

## continued...

- Under some of the schemes of payment, it is unnecessary for the accident in question to arise from the course of work.



- However, in other cases, the injury must be an “employment injury” before the benefits are payable.

# IMPORTANT DEFINITIONS

- Immediate Employer
  - A person who has undertaken the work of the trade, business or profession of the principal employer, under the principal employer's supervision or on the principal employer's premises.
  - Includes a person who lets on hire his employee temporarily to the principal employer.

# IMPORTANT DEFINITIONS

## continued...

- **Principal Employer**
  - The owner of an industry, or the person with whom an employee has entered into a contract of service or apprenticeship.
  - Includes amongst others, manager, agent, or person responsible for payment of salary or wages to employee and occupier of factory.

# IMPORTANT DEFINITIONS

## continued...

- Industry
  - Any business, trade, undertaking, manufacture or calling of employers, and includes any calling, service, employment, handicraft or industrial occupation or a vocation of employees.

# IMPORTANT DEFINITIONS

## continued...

- Insured Person
  - A person who is or was an employee in respect of whom contributions are, were or could be payable under the Act.

# APPLICABILITY OF THE ACT

## WHO ARE COVERED BY THE ACT?

- Generally, the Act is applicable to all industries with one or more employees. All employees of such industries must be insured.



# APPLICABILITY OF THE ACT continued...

- However, note that 'employee' in this case does not include a person who is described in the First Schedule, as follows:
  - A person whose wages exceed RM3,000 a month. (But once an employee has made a contribution, he remains liable to make contribution always, even if his wages exceed RM3,000 later.)

# APPLICABILITY OF THE ACT

## continued...

- A person whose employment is of casual nature (e.g. temporary, part-time workers).
- Domestic servants.
  - that is, a person employed exclusively in the work or in connection with work of a private dwelling house and not of any trade, business or profession carried on by the employer in such dwelling house and includes a cook, house servant (including bedroom and kitchen servants), waiter, butler, child's or baby's nurse, valet, footman, gardener, washerman or washerwoman, watchman, groom and driver or cleaner of any vehicle licensed for private use.

# APPLICABILITY OF THE ACT

## continued...

- A tributer
  - a person who is permitted to win minerals or produce of any kind from or on the land of another and who, in consideration of such permission, gives a proportion of the minerals or produce so won to that other person or pays to him the value of such proportion.
- The spouse of the employer.
- A member of the Malaysian Armed Forces and police officer.

# APPLICABILITY OF THE ACT continued...

- A person detained in prison, Henry Gurney School, approved school, detention camp, mental hospital or leper settlement.
- Provisions of the Act relating to invalidity pension are inapplicable to:
  - An employee who has attained the age of 50 years, and of whom no contributions were payable before he attained that age;
  - A person who has attained the age of 55.
  - A certified invalid who is in receipt of invalidity pension.

# CONTRIBUTIONS

## continued...

- The contributions that should be paid to SOCSO in respect of an employee comprise:
  - Contribution payable by the employer ('the employer's contribution'); and
  - Contribution payable by the employee ('the employee's contribution')

(Section 6(2) and (6))

# CONTRIBUTIONS

## continued...

- The difference between the first and the second categories of contributions to SOCSO is:
  - The first category of contributions insured the employees against the contingency of invalidity and employment injury. The contributions are shared by the employer and the employee.

# CONTRIBUTIONS

## continued...

- The second category of contributions only insured the employee against the contingency of employment injury. The contributions of this category are paid wholly by the employer, at the rate specified in the Third Schedule.

# CONTRIBUTIONS

## continued...

**Who are responsible to pay the employer's and the employee's contributions in the first instance?**

- The principal employer is responsible to pay both the employer's contributions of every employee, whether directly employed by him, or through an immediate employer.
- In the case of employees directly employed by him, the principal employer is entitled to deduct the employee's contribution from his wages.
- In the case of immediate employers, the principal employer could recover the amount of contributions (i.e. the employer's and the employee's contributions) from the immediate employer.

(Section 7 and 8)

# BENEFITS

## continued...

- The main benefits provided by SOCSO are as follows:
  - Invalidity pension;
  - Disablement benefit (temporary and permanent);
  - Dependants' benefit;
  - Funeral benefit/ expenses;
  - Constant-attendance allowance;
  - Medical treatment; and
  - Survivor's pension.

# BENEFITS

## Invalidity Pension

- An invalidity pension comprises periodical payments to an insured person in the case he is certified invalid by a duly constituted medical board.
- It is stated in Section 15(a) of the Employees' Social Security Act 1969.



# BENEFITS

## Invalidity Pension – continued...

- By virtue of Section 16 of the Act, an insured person shall be considered as suffering from invalidity, if because of a specific morbid condition of permanent nature, he is incapable of engaging in any substantially gainful activity.

# BENEFITS

## Invalidity Pension – continued...

- In addition, a person is deemed to be incapable of engaging in substantially gainful activity, if he is no longer capable of earning  $\frac{1}{3}$  of the customary earnings of a mentally and physically sound person with similar qualifications and training.
- Basically, invalidity is determined by a medical board constituted by SOCSO.

# BENEFITS

## Invalidity Pension – continued...

Generally, to be eligible for invalidity pension, an insured person must fulfil the following conditions:  
He must be suffering from invalidity as defined above;  
He must be below 55 years old; and  
He must have completed either a full or a reduced qualifying period.

# BENEFITS

## Invalidity Pension – continued...

There are 2 contribution qualifying conditions:

- ❖ full qualifying condition;
- ❖ reduced qualifying condition.



# BENEFITS

## Invalidity Pension – continued...

- An employee is deemed to have fulfilled the conditions of full contribution qualification if:
  - before the month in which the notice of invalidity is received, an employee's monthly contributions within a period of 40 consecutive months must be at least 24 months;

# BENEFITS

## Invalidity Pension – continued...

- an employee has made monthly contributions for at least  $\frac{2}{3}$  of the number of full months in the period between the date of first coverage under the Invalidity Pension Scheme and the date the notice of invalidity is received by SOCSO. This is subject to the condition that the total number of monthly contributions made during the stated period is at least 24.

# BENEFITS

## Invalidity Pension – continued...

- *Mary Pushpam Savarimuthu v Ketua Pengarah Pertubuhan Keselamatan Sosial* [2006] 7 CLJ 511
  - It was decided that the Social Security Appellate Board has no jurisdiction to hear or determine the question of invalidity or disablement. The jurisdiction is with the Medical Board and the Appellate Medical Board. The Social Security Appellate Board has no power to review or entertain any appeal by an aggrieved party over the decision of the Medical Board or the Appellate Medical Board

# BENEFITS

## Invalidity Grant

- Section 21 of the Act provides for an outright payment to be paid to the worker or employee who does not qualify for the Invalidity Pension, as he does not meet any of the contribution qualifying conditions stated, but has made at least 12 monthly contributions.
- The Invalidity Grant is equivalent to the total amount of contributions paid by the employee and the employer for the Invalidity Pension Scheme including the interest thereof.

# BENEFITS

## Invalidity Grant - continued...

- If an employee is severely incapacitated and requires constant personal attendance, the recipient of Invalidity Pension is also entitled to Constant Attendance Allowance. The Medical Board or an Appellate Medical Board will decide on the eligibility to receive this allowance and will pay the recipient of the benefit directly. Subject to a maximum of RM500 per month, the benefit is 40% of the rate of Invalidity Pension.

# BENEFITS

## Disablement Benefits

- Disablement benefits may be divided into two: temporary and permanent.
- The definitions of these two disablement benefits are highlighted in Section 2 of the Act.
- By virtue of Section 2(23), temporary disablement means a condition resulting from an employment injury which:
  - Requires medical treatment; and
  - Causes an employee temporarily incapable of doing the work he was doing.

# BENEFITS

## Disablement Benefits - continued

- On the other hand, permanent disablement, which is defined in Section 2, includes:
  - Permanent partial disablement
    - Disablement of a permanent nature which reduces the earning capacity of an employee, in respect of employment that he was able to undertake.
  - Permanent total disablement
    - Disablement of a permanent nature which disables an employee of all work he was capable of performing.

# BENEFITS

## Employment Injury

- Section 2(6) defines 'employment injury' to mean a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment in an industry to which the Act applies.

# BENEFITS

## Employment Injury-continued

An accident occurs when an employee is travelling. Would it be presumed to be arising in the course of employment?

# BENEFITS

## Employment Injury-continued

- By virtue of Section 24, an accident happening to an insured person shall be deemed to arise in the course of his employment if it happens while the employee is travelling:
  - On a route between his residence and his place of work;
  - On a journey made for any reason which is directly connected to his employment; or
  - On a journey between his place of work and the place where he takes his meal during authorised recess.

# BENEFITS

## Dependants' Benefit

- Section 26 provides that if an insured person dies as a result of an employment injury sustained as an employee under the Act, his dependants as follows will be entitled to dependants' benefit at the rate as specified in the [Fourth Schedule](#).

# BENEFITS

## Dependants' Benefit - continued...

- *Koay Tuan & Anor. v Eng Chong How & Anor.* [1988] 1 CLJ 673
  - The first plaintiff was the widow of the deceased and she received dependants' benefit under Section 26 of the SOCSO Act.

# BENEFITS

## Occupational Diseases

- If an employee is employed in any occupation listed under the Fifth Schedule, and he contracts a disease shown in the Schedule to be related to that occupation while at work or within 60 months after ceasing to be so employed, he is deemed to have sustained an employment injury and is therefore entitled to claim benefit under the Act.

(Section 28)

# BENEFITS

## Funeral Benefit

- A funeral benefit of an amount as prescribed by the Minister from time to time by regulations (currently RM1,500) is payable to the family of an insured person who dies:
  - As a result of an employment injury;
  - While he is in receipt of disablement benefit under the Act;
  - While he is in receipt of invalidity pension; or
  - After completing a full or reduced qualifying period, even if he has not attained 55 years old.

# THE EMPLOYEES SOCIAL SECURITY ACT (SOCSO) 1969

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# BENEFITS

## Constant-Attendance Allowance

- Section 30 of the Employees' Social Security Act 1969 provides for the constant-attendance allowance which is equivalent to 40% of the rate of the invalidity pension or permanent total disablement benefit as the case may be, subject to a maximum sum as may be prescribed by the Minister from time to time.

# BENEFITS

## Constant-Attendance Allowance

An insured person who is entitled to invalidity pension or permanent total disablement benefit is also entitled to constant attendance allowance, as long as he is severely incapacitated as to constantly require the personal attendance of another person.

# BENEFITS

## Medical Benefit

**WHO IS ENTITLED TO MEDICAL BENEFIT  
UNDER THE ACT?**



# BENEFITS

## Medical Benefit - continued...

- An insured person whose condition requires medical treatment and attendance as a result of employment injury.

(Section 37)

# BENEFITS

## Medical Benefit - continued...

- The medical benefit may be given either in the form of:
  - Outpatient treatment;
  - Attendance in a hospital, dispensary, clinic or other institutions;
  - Visits to the insider's home;
  - Treatment as in-patient in hospital or other institutions.

# BENEFITS

## Medical Benefit - continued...

However, the medical benefit must be in accordance with such type and scale as provided by SOCSO, or the insured would not be able to claim reimbursement. SOCSO has its own list of panel clinics.

# FACILITIES FOR REHABILITATION

Who are entitled to use the facilities free of charge for rehabilitation as may be provided by SOCSO?

# FACILITIES FOR REHABILITATION- continued...

- An insured person suffering from or claiming to suffer from:
  - Invalidity; or
  - Permanent disablement.
- SOCSO may also arrange and provide artificial aids and appliances as recommended by the medical board and pay for the same.

# FACILITIES FOR REHABILITATION- continued...

- Such items include glasses, hearing aids, wheel chairs, crutches, etc.
- Repairs and replacement of such worn-out appliances are also claimable.
- The claims may also include relevant travel expenses to fit these aids and appliances with SOCSO making all administrative arrangements.

# BENEFITS

## Education Benefit

- Section 57A of the Act provides that education benefit is available in the form of loans or scholarship.
- It may be provided to a dependant child of an insured person who:
  - Dies from an employment injury;
  - Dies whilst in receipt of invalidity pension;

# BENEFITS

## Education Benefit - continued...

- Dies before attaining 55 years of age but has completed a full or a reduced qualifying period;
- Is in receipt of invalidity pension;
- Is in receipt of periodical payments of permanent disablement benefit.

# BENEFITS

## Education Benefit - continued...

- Children who are eligible for the education loan are:
  - Dependant children of an employee receiving Invalidity Pension or periodic permanent disablement who are below 21 years of age and unmarried at the time of the application;

# BENEFITS

## Education Benefit - continued...

- Dependant children of an insured person, who has died as a result of an employment injury or while receiving invalidity pension or before reaching age 55 and who fulfils the contribution qualifying conditions, should be below 21 years of age and unmarried. If the child exceeds age 21 and is receiving a monthly benefit and is continuing his education in an institution of higher learning and is unmarried at the time of the application.

# BENEFITS

## Education Benefit - continued...

- Has been offered a place and has registered in any university or college or Local Institution of Higher Learning including institution that has a twinning program on condition the degree is completed locally, which is registered with the Ministry of Education, to acquire a degree, diploma or a certificate which is awarded by the National Vocational Training Council, Ministry of Human Resources;

# BENEFITS

## Education Benefit - continued...

- Has not been given any other scholarship or loan by any other authority;
- The family finances are insufficient to support the cost of the education.

# BENEFITS

## Survivor's Pension

WHO ARE ENTITLED TO SURVIVORS' PENSION?



# BENEFITS

## Survivor's Pension- continued...

- The dependants of an insured person who:
  - Dies while in receipt of invalidity pension; or
  - An insured person who has not attained 55 years old, but has completed a full or reduced qualifying period.

(Section 20A)

# CLAIMING MORE THAN ONE BENEFIT

IS AN INSURED PERSON ENTITLED TO CLAIM  
MORE THAN ONE BENEFIT FOR THE SAME  
DISABLEMENT FOR THE SAME PERIOD?

# CLAIMING MORE THAN ONE BENEFIT - continued...

- Section 96 of the Act states that an insured person could not receive for the same period and for the same disablement, both invalidity pension and permanent disablement benefit. He could only choose one benefit.

# SCHEMES

- SOCSO has two schemes:
  - The Employment Injury Insurance;
  - The Invalidity Pension Schemes.



# SCHEMES

## Employment Injury Insurance

- This scheme entitles the worker to treatment at a clinic on the SOCSO panel or at any government hospital.
- The bills are paid by SOCSO.
- If the worker is certified unfit for work for not less than 4 days, he will be paid a temporary disablement benefit while he is on medical leave.

# SCHEMES

## Invalidity Pension Scheme

- Under this scheme, workers are entitled to a pension or a grant and other benefits if they become invalid from whatever cause, providing they have contributed to the organisation for a minimum period of time.
- SOCSO Scheme also covers accidents incurred when workers travel to and from work or travel on a journey for any reason directly related to their work.

# DISPUTES

- An insured who is dissatisfied with any decision of SOCSO or the medical board may apply to the Social Security Appellate Board to decide on his case.
- The employee can be represented by a lawyer or trade union authorised by the appellate board.

(Section 84)

# LIABILITIES OF EMPLOYER

- Section 31 of the same Act provides that:
  - “An insured person or his dependants shall not be entitled to receive or recover from the employer of the insured person or from any other person who is the servant of the employer, any compensation or damages under any other law for the time being in force in respect of an employment injury sustained as an employee under this Act”.

# LIABILITIES OF EMPLOYER

- CASE: *Liang Jee Keng v Yik Kee Restaurant Sdn Bhd* [2002] 2 CLJ 750
  - Based on several considerations, the Court decided that the plaintiff was an "insured person" under s. 2(11) of the SOCSO Act and therefore he is precluded from making this claim against the defendant by virtue of s. 31 of the same Act. That being the case, the court is also of the opinion that the other issues regarding the defendant's liability and quantum of damages need not be considered. Therefore the plaintiff's claim is dismissed with costs.

# SOCIAL SECURITY ORGANISATION

The Social Security Organisation plays a part in trying to prevent industrial accidents and in encouraging employers to establish a safe and healthy working environment.

# SOCIAL SECURITY ORGANISATION – continued...

- The organisation works with various bodies to promote awareness of the importance of safety at work and ways to reduce accidents.
- It has produced a number of video tapes which are available to organisations and can be used in their training programmes.

# SOCIAL SECURITY ORGANISATION - Criticisms

- There are too few officers to check on all employees.
- It should increase the quantum of the benefits.
- There should be a loan for the contributors to continue their studies.
- There is a delay for payments.

# CONCLUSIONS

Therefore, there is a need to revise the Employees' Social Security Act 1969, in line with its quality policy to strive in order to provide an excellent and fair service to all clients through the development and advancement of SOCSO's staff.