

LAW OF MONGOLIA ON SOCIAL INSURANCE

14 may 1994

Ulaanbaatar

CHAPTER ONE

General provisions

Article 1. Purpose of the law

The purpose of this law is to define the types and forms of social insurance, and the scope of its effect, to define the legal basis for social insurance registration and payment of insurance premiums, the formation of the social insurance fund and its administration, the legal basis for insurance institutions and the activities of social insurance inspectors, and to regulate relations related to their implementation.

Article 2. Legislation on social insurance

1. The legislation on social insurance consists of the Constitution, this law and other legislation made in conformity with them.

2. If an international agreement to which Mongolia is a party provides other than this law, the provisions of the international agreement shall be followed.

Article 3. Social insurance and its types

1. Social insurance is a socioeconomic measure including the payment of insurance premiums by citizens (hereinafter referred to as insured), state and business entities and organizations in accordance with the prescribed procedure, the formation of social insurance funds and payment of pensions, benefits and payments, as provided by law to an insured directly in the case of retirement, loss of the ability to work, sickness, or unemployment, and to his or her dependents in the case of death.

2. There shall be the following types of social insurance:

- 1) pension insurance;
- 2) benefit insurance;
- 3) health insurance;
- 4) industrial accident and occupational disease insurance;
- 5) unemployment insurance.

Article 4. Social insurance forms and scope of cover

1. Social insurance shall be either compulsory or voluntary.

2. Persons employed on a contract basis by business entities, organizations, or individuals (hereinafter referred to as employers), and government servants are subject to compulsory insurance, unless otherwise provided by law. Herdsmen employed by business entities,

organizations or individuals on a contract basis shall be considered as contracted employees.

3. Citizens engaged in any production or services not included in provision 2 of this Article shall decide themselves whether to register with social insurance in accordance with the conditions and procedures provided in this law, and which types of insurance to choose.

4. Foreigners and stateless persons residing in Mongolia and employed by any Mongolian organization, and citizens of Mongolia employed by foreign organizations or business entities carrying out their activities in the territory of Mongolia, shall register with the social insurance legislation, unless otherwise provided in an international agreement to which Mongolia is a party.

5. Compulsory social insurance terms and procedures for self employees, herders and private businesses might be described by relevant legislation. */This paragraph was added by Law of January 16, 1997/*

Article 5. Social insurance policy

An insured, as defined in article 4(3), shall conclude a policy with an insurer in accordance with the conditions and procedures of this law.

Article 6. Entitlement to pensions and benefits from the social insurance fund

1. Citizens who have registered for social insurance and who have paid insurance premiums in accordance with the conditions and procedure provided by this law shall be entitled to receive the pensions and benefits provided in this law.

2. Non-payment of social insurance premiums as a result of fault of the employer shall not serve as a reason for non-payment of pensions and benefits to an insured or members of his or her family.

3. Conditions for non-payment of certain types of pensions, benefits and payments from the social insurance fund may be determined by law.

Article 7. Choosing pensions and benefits from the social insurance funds

Insurees shall not receive both pensions and benefits from the same social insurance fund. If there is such a possibility, he is entitled to choose one of them.

Article 8. Decision on paying pensions, benefits and making payments

1. Decisions on whether to pay pensions, benefits and payments to an insured shall be made by a social insurance authority on the basis of an application by the insured and other documents required by law.

2. The period for considering requests shall be determined by law.

CHAPTER TWO

Social insurance funds

Article 9. Types of social insurance funds

Each type of social insurance shall have the following independent monetary funds */This paragraph was amended by Law of January 17, 1997/*:

- 1) pension insurance fund;
- 2) benefit insurance fund;
- 3) health insurance fund;
- 4) industrial accident and occupational disease insurance fund;
- 5) unemployment insurance fund.

Article 10. Social insurance fund sources of income

1. Income for the social insurance fund shall come from the following sources:

- 1) social insurance premiums paid by insurees;
- 2) social insurance premiums paid by employers;
- 3) bank interest on deposits of the uncommitted balance;
- 4) penalties imposed for delay in paying social insurance premiums;
- 5) contributions from the state central budget;
- 6) other sources.

2. */This paragraph was annulled by Law of January 15, 1998/*

Article 11. Social insurance fund spending

1. The social insurance fund shall be spent in accordance with the conditions and procedures provided by law for the following purposes:

- 1) paying pensions and benefits;
- 2) financing the cost of social insurance activity;
- 3) financing other payments and costs provided by law.

2. It is prohibited to transfer money from one type of social insurance fund to another or to spend them or use or deposit them improperly, unless otherwise provided by law. */This paragraph was changed by Law of January 16, 1997/*

Article 12. Approval of the social insurance fund expenditure and revenue budget

1. Each social insurance fund expenditure and revenue budget shall be elaborated annually by the social insurance central authority taking into consideration the proposal of local

social insurance authorities, and shall be approved by the Social Insurance National Council. */This paragraph was re-edited by Law of June 10, 1999/*

2. The contribution from the state centralized budget to special types of social insurance funds for paying pensions and benefits in accordance with obligations assumed prior to the adoption of this law, shall be determined annually in the Budget.

3. The contribution referred to in paragraph 2 of this article shall be distributed by the Ministry of Finance to the relevant funds according to the monthly schedule within the first ten days of each month.

Article 13. Social insurance fund balance statement preparation and reporting

1. The social insurance central authority shall supervise the expenditure and revenue of each social insurance fund, prepare quarterly and annual overall balance statement within the time limits given below, and report to the National Council:

1) Soum and district social insurance authorities shall submit revenue and expenditure statements for each social insurance fund to the aimag and capital city social insurance authorities each quarter by the tenth of the following month, and the aimag and capital city social insurance authorities shall submit those statements to the central social insurance authority each quarter by the twentieth of the following month.

2) The central social insurance authority shall submit quarterly overall statements of each social insurance fund to the National Council by the fifth of the second month of the following quarter, and the annual final overall statement by 20 February of the following year.

3) The National Council shall revise and discuss the quarterly overall statements by the 10th of the last month of the following quarter, and the annual statements by the end of the first quarter of the next year.

2. If necessary, excess money in the social insurance funds, may be centralized once each quarter in the relevant fund of the appropriate higher level social insurance authority. If transfer of this excess to and use of in the next month or quarter is necessary, permission shall be obtained from the appropriate higher level social insurance authority.

Article 14. Social insurance fund registration and report

1. Local social insurance authorities shall record the insurance premiums paid by each employer and insured to all types of funds according to the social insurance booklets and certificates issued to each of them.

2. The primary recording form for collecting money in social insurance funds and its spending, and the procedures for keeping it and preparing statements shall be approved by the Government member in charge of social insurance matters.

CHAPTER THREE

Social insurance premium

Article 15. Social insurance premium amount and payment schedule

1. Insurees and employers as referred to in article 4 (2) of this law shall pay monthly social insurance premiums in the following amounts:

Insurance type	premium amount (as a percentage)	
	employer's payroll and similar revenue	insured's salary and similar income
1) pension insurance	13.5	5.5
2) benefit insurance	1.0	1.0
3) industrial accident and occupational disease insurance	1.0, 2.0 & 3.0	-
<i>/This subparagraph was amended by Law of January 16, 1997/</i>		
4) unemployment insurance	0.5	0.5

2. The minimum amount of social insurance premium to be paid monthly by an insured as defined in article 4 (3) of this law shall be not less than amount calculated in relation to the minimum salary level fixed by the Government and followed at that time:

- 1) pension insurance 3.5%
- 2) benefit insurance 1.0%
- 3) industrial accident and
occupational disease insurance 1 .0%

3. The premium for health insurance shall be defined by the Citizens' Health Insurance Law.

4. Employers shall pay in the full amount for industrial accident and occupational disease insurance on behalf of insurees as referred to in article 4 (2) of this law.

5. Based on the proposals of the Social Insurance National Council, the Government shall approve a list of employers who must pay industrial accident and occupational disease insurance at the different rate stated in the paragraph 1 of this article depending on how they met the requirements for labor security and hygiene. */This paragraph was re-edited by Law of January 16, 1997/*

6. Based on the proposal of the Social Insurance National Council, the Government shall describe a list of professions and specifications where the factors of work condition that negatively effect employees' health are not able to be decided within the labor protection and security requirements and those professions that require to work in the higher temperature or under the land. */This paragraph was added by Law of January 16, 1997/*

Article 16. Procedure for payment of social insurance premiums

1. Employers shall retain social insurance premium due to be paid by insurees from their wages and other similar income at each pay, calculated in the amounts and in the proportions stated in article 15 (1) of this law, and shall transfer it to the central bank account of the insurance authority in the same month.
2. Premiums shall be calculated according to the premium report or the employer's payroll and similar revenue, the insurees' wages and similar income, and premium identifying sheet, and shall be paid by means of a bank. An insured referred to in article 4 (3) of this law may pay his or her premiums in cash.
3. The monthly premiums to be paid by insurees and employers, as referred to in article 4 (2) of this law, shall be paid by the 5th of the following month. The deadline for paying premiums and reporting is the same for all types of social insurance. If this deadline coincides with a weekend or public holiday, the premium shall be paid and the report submitted on the next working day.
4. The calculation of the premium to be paid by an insured referred to in article 4 (2) of this law, shall be done by the accountant of the relevant business entity or organization, and for an insured referred to in article 4(3) of this law by an employee of the social insurance authority.
5. A foreign entity, foreign business entity and international institutions carrying out any activity in the territory of Mongolia shall pay the premiums of its Mongolian employees to the social insurance organization within that territory at the rate stated in the paragraph 1 of article 15 and paragraphs 1,2,3,4 of article 16 of this Law. */This paragraph was re-edited by Law of July 4, 1997*
6. An insured referred to in article 4 (3) of this law shall pay premiums in accordance with the policy concluded with the insurer.

Article 17. The duty of the employer and employee to pay insurance premiums

1. Employers and insurees as defined in article 4 (2) of this law shall assume the following duties:
 - 1) to honestly and correctly calculate the payroll and similar income and the premium levied on them, and to pay it by the due date;
 - 2) to submit information and reports in respect of imposing and paying premiums to the insurance authority;
 - 3) to keep primary and accounting records related to social insurance in proper order and to prepare balance statements;
 - 4) to meet the legitimate demands of the competent authority or official to eliminate any violation of social insurance legislation.
2. An insured as defined in article 4 (3) of this law shall discharge the duties in respect of paying the social insurance premiums provided in the insurance policy concluded with the insurer.

Article 18 Termination of the duty to pay premiums or transfer of this duty to another or suspension of this duty

1. The duty to pay premiums shall terminate in following cases:

- 1) on the death of an insured or if an insured is declared to be deceased;
- 2) on the employer's dissolution or bankruptcy;
- 3) on expiry of the term of the insurance policy;
- 4) on termination of a labor contract.

2. If an employer merges, splits or undergoes any other form of reorganization, the duty to pay premiums shall be assigned to the newly formed entity.

3. As provided in article 19 (5) of this law, complaints of an insured shall not form a basis for halting or terminating the duty to pay premiums. Only a decision of the appropriate level court considering a complaint may lead to suspension of the payment of premiums.

4. If an employer becomes bankrupt or dissolves for other reasons, the dissolution commission or the creditors' council shall transfer any unpaid premium from the employer's property to the appropriate social insurance fund in accordance with the procedure stipulated by law.

Article 19. Rights of employers and insureds in respect of the payment of premiums

Employers and insureds shall enjoy the following rights in respect of payment of premiums:

1) to familiarize themselves with the audit reports or deeds of the social insurance authority or inspector, and if necessary to make comments;

2) to receive or give comments on the imposition or payment of premiums, and to audit results;

3) to be compensated for damage caused by the fault of the social insurance authority or its employees in accordance with the procedures provided in law;

4) to recover excesses of premiums paid or to have them deducted from the next premium;

5) to make complaints about unlawful actions of the social insurance authority or its employees to their higher authorities or officials, and if in disagreement with their decision, to take court action.

Article 20. Liability

1. If breach of the social insurance legislation does not involve criminal responsibility the social insurance premium payer shall incur the following liabilities:

1) if an employer has willfully concealed or reduced the payroll and similar income on which premiums are imposed, the premium that would have been imposed on the

concealed or reduced revenue shall be paid and a penalty equal to the revenue will be imposed; */This subparagraph was re-edited by Law of January 16, 1997/*

2) a penalty at the rate of 0.3 % of the total amount of underpaid or outstanding premium shall be imposed for each day the premium is in arrears; */This subparagraph was re-edited by Law of January 16, 1997/*

3) if underpayment of the premium is due to errors in calculation, the underpaid premium shall be paid and a penalty imposed at the rate of 0.1% for each day after the calculation error, but the total amount of the penalty shall not exceed 30% of the underpaid premium;

4) other liabilities provided by the legislation.

2. If pensions, benefits or payments are made without justification or paid in an excessive amount as a result of compiling false documents or providing wrong information, the unjustified pensions, benefits or payments shall be returned and a fine in the amount of 5,000-25,000 tugriks imposed.

3. If pensions and benefits are not paid at the due time a penalty shall be paid for each day of delay in the amount calculated at the current interest rate in deposits of the bank issuing the pension or benefit, based on the total amount of pension or benefit and the guilty employee will be imposed a penalty equal to 25000-50000 tugriks. */This paragraph was re-edited by Law of January 16, 1997/*

4. Paragraphs 1 (2), 2 and 3 of this article apply to insurees as defined in article 4 (3) of this law.

CHAPTER FOUR

Social insurance authority

Article 21. Social insurance authority system

1. The structure of the social insurance institutions shall consist of the social insurance central authority (General Board of National Social Insurance), and local branches and units (inspectors and representatives) . */This paragraph was re-edited by Law of July 4, 1997/*

2. A dispute settlement council (non-staff) designed to resolve disputes arising between employers and insurees on the one side, and social insurance authorities on the other, shall be established and attached to the central and local social insurance authorities.

3. The charters of the social insurance authorities and of the Council referred to in paragraph 2 of this article, shall be approved by the Government.

Article 22. Governance of the social insurance authority

1. The central social insurance authority shall function under the authority of the Government member in charge of social insurance matters, and local authorities shall function under the authority of the relevant level Governors and higher level social insurance authorities.

2. The central social insurance authority shall provide local authorities with technical and methodological guidance.

3. The head of the central social insurance authority shall be nominated by the Government member in charge of social insurance matters in consultation with the social insurance national council, and the heads of local social insurance authorities shall be nominated by the chairman of higher level social insurance authorities in consultation with appropriate level Governors. */This paragraph was amended by Law of January 16, 1997/*

Article 23. Principles of the activities of social insurance authorities and social insurance inspectors

Social insurance authorities shall uphold the principle of self-financing and social insurance inspectors shall uphold the principle of respect for law, not being influenced by others, respect for and protection of the legitimate rights and interests of insurees.

Article 24. Functions of social insurance authorities

Social insurance authorities shall discharge the following functions:

- 1) to organize the enforcement of social insurance legislation;
- 2) to form social insurance funds and ensure the management of their expenditure and revenue;
- 3) to organize timely payment of the relevant types of pensions and benefits from social insurance funds, and to improve the service;
- 4) to conduct studies with regard to perfecting the national social insurance system, activities and their forms, and to prepare proposals and to decide on them, or to submit them to the relevant authorities for decision;
- 5) to control the activities of lower level authorities;
- 6) to discharge other functions provided by legislation.

Article 25. Rights of social insurance authorities

1. Social insurance authorities shall enjoy the following rights:

- 1) to impose premiums on employers whose payroll and similar revenue cannot be determined as a result of lack of primary and accounting records, according to those imposed on other employers engaged in similar production or services;
- 2) to stop withdrawals from the bank accounts of employers who fail to pay premiums at the due time until payment is made;
- 3) to receive the appropriate amount in accordance with law from the property of employers who fail to pay overdue premiums, arrears, penalties and fines set out in an account presented by a social insurance inspector.

4) to deduct excess premiums from the premium payable in the following month, quarter or year or if the premium payer wishes the excess may be repaid within 30 days after the calculation is made;

5) to oblige an employer who avoids paying premiums, arrears, penalties and fines, or who fails to send premium information and reports in time, to undertake measures to eliminate violations discovered by a social insurance authority control and audit and to bear the responsibility provided by law;

6) to revoke or amend decisions made by lower level social insurance authorities, if they are found to be unreasonable;

7) to obtain free of charge from employers and insurees any information, studies, and other relevant documents required for auditing.

Article 26. Rights and liabilities of social insurance inspectors

1. Social insurance employees who have worked for a social insurance authority for not less than 3 years and who have gained high qualification and a professional degree, shall enjoy the rights of social insurance inspectors on the recommendation of the central social insurance authority and the decision of the Government member in charge of social insurance matters. The charter of social insurance inspectors shall be approved by the Government.

2. Social insurance inspectors shall enjoy the following rights:

1) to control and audit the imposition and payment of premiums, accounting records, balance statements and other financial documents, and to obtain statements and reference documents;

2) to obtain copies of documents exclusively required for social insurance audit and control free of charge from the employer's correspondent bank and financial organizations;

3) to temporarily take away from an employer or insured documents that prove the concealing of income on which premiums could be imposed and copy them;

4) to oblige an employer to pay the appropriate premium due to be paid to the social insurance fund by deducting it from another's wages or similar income from his or her own property in case of failure to do so;

5) to oblige employers and insurees to meet their liabilities provided by this law;

6) to inform relevant organization about unlawful actions of employers and insurees, discovered while discharging their own official functions.

3. Social insurance inspectors who fail to discharge their own official duties by concealing unlawful actions related to premium payment, using premium revenue for private purposes, being bribed or exceeding their own rights, shall bear disciplinary, administrative, material and criminal responsibilities.

Article 27. Social Insurance National Council

1. The Parliament will establish the Social Insurance National Council (hereinafter referred to as "National Council") consisting of equal number of non staff members representing Government, insurees and employers and put it into operation. The National Council shall report to the Parliament of Mongolia.

2. The Parliament shall appoint the head and members of the National Council for six years as offered by the relevant parties. The National Council shall consist of the following:

1. As a government representative, one person each from the state central administrative organizations in charge of finance, justice and labor issues.
2. As an insuree representative, 3 people from the Trade Unions that can legally represent and protect rights and interests of absolute majority of total employees.
3. three people representing insurer.

Chairman of the Central Social Insurance Organization will be as an independent member of the National Council.

Chairman of the National Council shall appoint the deputy chairman of the National Council for two years from the representatives, in consultation with the three parties.

3. The National Council shall exercise the following powers:

1) to develop proposals on the strengthening of social insurance legislation, system and operation and on salary increase and to get the proposals solved by relevant institutions;

2) Discuss and approve revenue plan and expenditure execution of the social insurance fund;

3) Monitoring the implementation of social insurance legislation and the revenue and expenditure matters of the social insurance fund;

4) To discuss reports of the social insurance organization on the social insurance operation, human resource provision and financial issues, make a conclusion and to take relevant measures;

5) To monitor computer service, database, technology and equipment of social insurance organizations and evaluate their work;

6) Approve structure, operational and investment cost budget of the central social insurance organization and to monitor their implementation;

7) Submit recommendations and procedures on social insurance issues;

8) Monitor and strengthen operation of Medical and Labor Accreditation Commission and Complaint Requirement Council;

9) Discuss and decide on taking corrective action on the petitions and complaints of citizens on the social insurance, medical and labor accreditation issues;

10) Other particular powers stated in the legislation.

4. The relevant Standing Committee of the Parliament shall approve the charter of the National Council. */The paragraphs 1-4 were re-edited by Law of June 10, 1999/*

5 Additions to the salary of members of the National Council may be paid each quarter depending on their participation in its work. The maximum addition to salary shall be determined by the Government based on the proposal of the central public administrative organization in charge of social insurance matters.

CHAPTER FIVE

Medical labor examinations

Article 28. Notion about medical labor examination

A medical labor examination is a professional process to establish a reason for losing normal physical ability and for becoming disabled /losing completely or partially working abilities/, the degree and duration of disability.

Article 29. Organization in charge of medical labor examination

1. Medical labor examinations shall be carried out by a medical labor examination commission consisting of professional physicians and representatives of institutions protecting the rights and interests of social insurance employers and insurees.
2. The medical labor examination commission shall determine the whether the working disability is due to the normal disease, general injuries, industrial accidents or occupational diseases and the degree and duration of disability.
3. The medical and labor examination central commission shall operate attached to the social insurance central authority, and local medical labor examination commissions shall operate attached to the aimag, capital city and district social insurance authorities.
4. Medical labor examination commissions may be set up in soums.
5. The charters of medical labor examination commissions shall be approved by the Government.

CHAPTER SIX

Other provisions

Article 30. Social insurance documents

1. Each insured shall have a social insurance booklet with a state registration number.
2. Employers registered with the central and local tax administrations in accordance with law and paying premiums shall have a social insurance certificate with a state number.

Article 30¹. Individual contribution account for pension insurance

1. **An insuree who was born on and after the January 1, 1960 shall have the individual contribution account for pension insurance.**
2. Relation of the individual contribution account of pension insurance shall be regulated by a Law. */This article was added by Law of June 17, 1999/*

Article 31. Financing the cost of social insurance activity

1. The cost of social insurance activity shall be financed from social insurance premium revenue.

2. The norms of financing the social insurance activity from the social insurance premium revenue shall be determined by the State Great Khural.

Article 32. Defining the average of salaries and similar income

The Government shall establish procedures on describing average and highest amount of premiums by insured, labor wage for setting pensions and benefits, other identical revenue composition. */This article was re-edited by Law of January 22, 1996/*

Article 33. Control over the implementation of social insurance legislation

Control of the implementation of social insurance legislation shall be carried out by the Government, all levels of Governor, and other institutions and officials empowered by legislation.

Chairman of the State Ih Hural of Mongolia

N. BAGABANDI