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GOVERNMENT OF MACAO SAR SOCIAL SECURITY FUND



Law No. 4/2010

SOCIAL SECURITY SYSTEM

Enter into force on 1 January 2011

(The English version of the present law is provided for reference only. Please note that only the Chinese and Portuguese versions published in the Macao SAR Gazette are official and are the sole authority of the law.)

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MACAO SPECIAL ADMINISTRATIVE REGION

Law no. 4/2010 **Social security system**

The Legislative Assembly decrees, pursuant to Article 71 (a) of the Basic Law of the Macao Special Administrative Region, that the following shall be enforced as law:

CHAPTER I **General provisions**

SECTION I **Object and purposes**

Article 1 **Object**

This Law provides for the social security system.

Article 2 **Purposes**

The social security system is designed to provide basic social security to the residents of the Macao Special Administrative Region (Macao SAR), particularly the old-age security, so as to improve their quality of life.

SECTION II **Principles**

Article 3 **Principle of universality**

All residents who meet the qualifying conditions of this Law enjoy equal rights to participate in the social security system.

Article 4

Principle of sustainability

1. The responsibility for financing social security system lies with the beneficiaries, employers and the Macao SAR in accordance with law.
2. The financial resources appropriated for the social security system in accordance with law should be at least equivalent to the social benefits it provides, and the sustainability of the system must be ensured while fixing the amounts for contributions and benefits.
3. The Macao SAR has joint and several liabilities to the benefits of social security.

Article 5

Principle of contribution

In order to receive the benefits of the social security system, the minimum duration requirement of contributions set in the Law must be met.

Article 6

Principle of no renunciation

Any clause in the contract, which waives the rights conferred by this Law, shall be null and void.

SECTION III

Administrative arrangements

Article 7

Executive body

1. The Social Security Fund (FSS) implements the social security system in accordance with this Law and other applicable legislation.
2. The model of the printed materials necessary for implementing this Law is to be approved by the FSS Administrative Committee and to be published in the Macao SAR Gazette.

Article 8
Processing of personal data

In order to deal with all administrative procedures relating to the social security system in this Law, the FSS can, under Law No. 8/2005, present, exchange, check and use the personal data concerned, in any form, including the interconnection of data with other public entities in possession of relevant data for the purposes of this Law.

CHAPTER II
Structure of social security system

SECTION I
Scope of targets

Article 9
Systems

Social security system consists of obligatory system and arbitrary system.

Article 10
Obligatory system

1. The obligatory system applies to the following persons:

(a) In accordance with the general regime of labour relations, any Macao SAR resident who renders service under the authority and direction of the employer on a contract basis and in return for remuneration, includes any Macao SAR resident who is employed to work at overseas branches or agencies registered in the Macao SAR;

(b) Without prejudice to Article 11 (b), public administration staff employed in any form of contract.

2. Without prejudice to subparagraph 1(a), any minor employee who renders service in accordance with the provisions of Article 27 (2) of Law No. 7/2008 is not bound by the social security system.

Article 11
Arbitrary system

The arbitrary system applies to the following persons:

- (a) Employees with labour relations established pursuant to the provisions of Article 3 (2) (b) to (d) of Law No. 7/2008;
- (b) The public administration staff in active employment, who have enrolled in the Retirement, Widow and Orphans' Pensions Scheme, under the general law applicable to public administration staff;
- (c) The other adult Macao SAR residents.

Article 12
Enrollment of beneficiary

1. The following provisions should be observed in order to apply for the enrollment in the social security system:

(a) In the obligatory system, the enrollment is applied by the employer who establishes the first employment relationship with the beneficiary, within the contribution month that immediately follows the commencement of such relationship;

(b) In the arbitrary system, the beneficiary can apply for his or her own enrollment at any time.

2. Enrollment is required to make only once. The enrolled person shall be endowed with the identity of a beneficiary and shall be assigned a number of lifetime beneficiary of the FSS.

3. Enrollment is made by reference to the system, obligatory or arbitrary, to which the beneficiary is subject, notwithstanding the possibility of system conversion during the course of contributions.

4. The application for enrollment is made by filling out an identity form approved by the FSS.

5. In case of approval of the application, the date of entry is:

- (a) the date when employment relationship is established, for those in the obligatory system;
- (b) the date when the application is filed, for those in the arbitrary system.

6. The pay slip issued by the employer for the employee, pursuant to Article 63 (6) of Law No. 7/2008, during the period between the beginning of the labour relations and the expiry of the enrollment referred to in subparagraph 1(a), does not need to be labelled with FSS beneficiary number.

Article 13

Special requirements

1. The Macao SAR residents who intend to enroll in the social security system, under the provisions of Article 11 (c), can only do so if they stay in the Macao SAR for at least 183 days within the 12 months before applying for the enrollment.

2. For the purpose of the preceding paragraph, the applicant is regarded as being in the Macao SAR within the relevant period if he or she is outside the Macao SAR for the following reasons:

(a) He or she is attending middle school or higher level courses recognized by the local authority in charge;

(b) He or she is hospitalized due to injury or illness;

(c) He or she is aged 65 or above, with habitual residence in the Mainland;

(d) He or she works abroad in order to bear the main living expenses of his or her spouse and immediate family in the Macao SAR.

3. The Chief Executive may, for humanitarian or other duly justified reasons, permit, upon hearing opinions of the FSS Administrative Committee, the time spent outside the Macao SAR be regarded as the time spent in the Macao SAR for reasons other than those referred to in the preceding paragraph.

4. When applying for the enrollment, the applicant must declare that he or she meets the duration requirement of being in the Macao SAR as referred to in paragraph 1.

5. If the applicant is outside the Macao SAR for reasons referred to in paragraph 2, relevant evidence has to be presented, which may be replaced by the statements of the applicant and two witnesses when, for duly justified reasons, it is impossible to present such evidence.

6. The FSS can, based on information provided by public entities, verify the information contained in the application for enrollment.

Article 14

Conversion of system

1. Whenever the fact inducing the enrollment of beneficiary changes, causing the beneficiary's original system to change, then his or her enrollment in the social security system changes consequently.

2. Contributions made by the beneficiary remain valid under the conversion of system.

Article 15

Registration of employer

1. Any employer, who establishes labour relations with others, must register in the FSS for the fulfillment of his or her obligation to make contribution.

2. Registration is required to make only once, and the employer shall be assigned a registration number for life.

3. The application for registration is made by filling out an identity form approved by the FSS.

SECTION II

Contributions

Article 16

Obligatory system contributions

1. In the obligatory system, the beneficiary and the employer have an obligation to make contributions to the social security system.

2. The obligation to make contributions commences from the month when employment relationship begins and terminates in the following month after such relationship ends.

3. If the beneficiary renders service for less than 15 days in the month when employment relationship begins, or in the month when such

relationship ends, it is not required to make contributions for that month.

4. The payment of old-age pension does not prevent the beneficiary from making continuous contributions, if the obligation to make contributions still remains, in accordance with the provisions of paragraph 2.

5. Any clause in the contract, which involves the beneficiary to undertake the obligation to pay all or part of the contributions due from the employer, shall be null and void.

6. The proportion of contributions to be paid by the beneficiary and the employer is fixed by the Chief Executive upon hearing opinions of the Standing Committee for the Coordination of Social Affairs and published as an Executive Order in the Macao SAR Gazette.

Article 17

Arbitrary system contributions

1. In the arbitrary system, the beneficiary may contribute to the social security system from the month of enrollment or the month of conversion of system, up to a maximum of 360 months.

2. If the beneficiary is receiving general subsidy from the Social Welfare Bureau (IAS), the amount of contributions that he or she made during this period may be subsidized by the IAS. On this account, the beneficiary needs to file an application to the IAS.

Article 18

Contribution amount

1. The monthly contribution is fixed and of an equal amount for the obligatory system and the arbitrary system, without prejudice to the provisions of paragraph 3.

2. The contribution amount is fixed by the Chief Executive upon hearing opinions of the Standing Committee for the Coordination of Social Affairs and published as an Executive Order in the Macao SAR Gazette.

3. For service provider under term labour contract, contributions are payable in half in the month concerned if the employee has rendered less than 15 days of service in that month.

Article 19
Payment of contributions

1. Contributions should be paid to the FSS according to the respective amount.
2. Contributions should be paid in accordance with the following provisions:
 - (a) In the obligatory system, the employer pays the total sum of contribution for the beneficiary with labour relations. The employer shall deduct, to this end, the share of contribution that should be borne by the beneficiary from his or her remuneration;
 - (b) In the arbitrary system, the beneficiary pays the whole sum of contribution by himself or herself.
3. Contributions for the preceding quarter are paid in January, April, July and October.
4. For service provided under term labour contract, contributions should be made within the month that follows the service month.
5. Contribution is made by completing the contribution advice approved by the FSS.

Article 20
Equivalence to payment of contributions

1. In order to calculate the contribution period required for different types of benefit, the following periods are regarded as having paid the contributions:
 - (a) The period during which disability pension, unemployment allowance or sickness allowance is paid;
 - (b) The period of temporary incapacity due to work accident or occupational disease, for which indemnity has been paid;
 - (c) The period during which the employer has deducted, in accordance with law, the contribution from the employee's remuneration, but without remitting the deducted sum to the FSS.

2. Without prejudice to the preceding paragraph, the period equivalent to payment of contribution due to unemployment or illness shall not be counted in the minimum contribution period required for the relevant unemployment and sickness allowances in the future.

Article 21

Non-payment of contributions

1. In the obligatory system, the non-payment of contributions within the statutory period results in the charging of late payment interest and the enforcement of its compulsory levy.

2. In the arbitrary system, in case of non-payment of contributions within the statutory period, the contributions in arrears cannot be paid, unless:

(a) Contributions are paid with a late payment interest, within 2 months after the statutory period expires;

(b) Force majeure situations accepted by the FSS Administrative Committee.

Article 22

Late payment interest

1. Late payment interest charged on contributions in arrears is calculated based on a monthly rate of 3% on the overdue contributions, where a fraction of a month shall be counted as a full month

2. An interest of \$50 (fifty patacas) shall be levied if the amount calculated according to the preceding paragraph is less than \$50 (fifty patacas).

3. The contribution in arrears should be paid with the related late payment interest.

Article 23

Compulsory levy

In the obligatory system, in case of non-payment of contribution

within the relevant statutory period, Coercive Collection Bureau under Financial Services Bureau (DSF) shall enforce compulsory levy on the contribution in arrears, together with late payment interest. The compulsory levy is enforced with a certificate issued by the President of the FSS Administrative Committee, which states the final contributions in arrears and serves as the name of execution.

Article 24

Prescription of the obligation to make contributions

1. The prescription of the obligation to make contributions is 5 years, from the date on which such obligation should have been met.
2. Prescription shall be interrupted as a result of the implementation of administrative measures with regard to debt settlement or debt collection that is known to the debtors.

CHAPTER III

Social security benefits

SECTION I

General provisions

Article 25

Benefits

1. Social security system includes the following benefits:
 - (a) Old-age pension;
 - (b) Disability pension;
 - (c) Unemployment allowance;
 - (d) Sickness allowance;
 - (e) Birth allowance;
 - (f) Marriage allowance;

(g) Funeral allowance.

2. Social security system may also include other social security measures within the specific assistance programmes approved by the Chief Executive.

3. The payment of old-age pension, disability pension, unemployment allowance and sickness allowance cannot coincide with one another.

4. If the beneficiary is qualified for more than one of the said benefits, the FSS shall inform the beneficiary of the more favourable benefit and pay the benefit according to the choice of the beneficiary.

5. Beneficiaries, who receive old-age pension or disability pension, can receive an additional amount equivalent to the monthly benefit in January each year.

Article 26

Benefit amounts

The social security benefit amounts are fixed by the Chief Executive upon hearing opinions of the Standing Committee for the Coordination of Social Affairs and published as an Executive Order in the Macao SAR Gazette.

Article 27

Unseizability and non-transferability

Social security benefits cannot be seized and transferred, but without prejudice to Articles 28 and 30.

Article 28

Repayment of benefits wrongly received

1. All social security benefits wrongly received should be repaid.

2. The repayment may be offset against the social security benefits subsequently received by the beneficiary, but the amount of the deduction cannot exceed one-third of the amount of benefit paid.

«Social Security System»

3. If there is no social security benefit for deduction, the beneficiary shall repay or apply for repayment by installments within 90 days from the date of notification.

4. The permit for repayment by installments shall specify the number of installments, the amount for each installment and its due dates.

5. In any one of the following situations, the Coercive Collection Bureau under DSF shall enforce compulsory levy, with a certificate issued by the President of the FSS Administrative Committee serving as the name of execution.

(a) In case the beneficiary has not repaid or applied for repayment by installments within the period referred to in paragraph 3;

(b) In case where repayment by installments is permitted, but the beneficiary does not voluntarily repay the amount in arrears for more than 60 days after any one of the due dates.

6. In case where the social security benefits are wrongly received due to reasons liable to the beneficiary, the FSS Administrative Committee may resolve to suspend the right of the beneficiary to any one of the benefits referred to in Article 25 for a maximum period of 2 years, depending on the gravity of the case.

Article 29

Prescription of benefits

The prescription of the due benefits is 5 years, from the date on which the creditor knows about the payment of the related benefit.*

* Please refer to: Corrections.

Article 30

Death of beneficiary

In case of the death of the beneficiary, the old-age pension for the month of death and any other benefits due and unpaid shall, according to Article 489 (2) of the Civil Code, be paid to one of the family members who applies within 90 days from the day following the death, but without prejudice to Article 54 (1).

SECTION II
Pensions

SUB-SECTION I
Old-age pension

Article 31
Qualifying conditions

The old-age pension is paid, through an application, to beneficiaries who meet all the following requirements:

- (a) He or she is aged 65 or above;
- (b) With habitual residence in the Macao SAR for at least 7 years;
- (c) With at least 60 months of contributions to the social security system.

Article 32
Calculation of old-age pension

1. The old-age pension amount received by the beneficiary is calculated based on the number of actual contribution months, and in accordance with the following formula:

$$Pe = \frac{Pm \times Co}{360}$$

where;

Pe: The old-age pension amount actually received by the beneficiary;

Pm: Maximum amount of old-age pension;

Co: The number of actual contribution months, up to a maximum of 360 months.

2. The number of actual contribution months refers to the total number of contribution months accumulated as at the last month of the quarter before the old-age pension starts to pay.

3. If the number of contribution months varies after the old-age pension starts to pay, adjustments on the amount of old-age pension shall be made

in every April thereafter, based on the total number of contribution months accumulated in December of the preceding year.

4. If the old-age pension amount thus calculated according to paragraph 1 is not a multiple of one pataca, such amount shall be rounded to the nearest pataca.

Article 33

Early old-age pension

1. Beneficiaries, who are aged 60 or above and meet the other requirements of Article 31, can apply for partial old-age pension in advance, but without prejudice to the provisions of paragraph 3.

2. Beneficiaries, who opt for early old-age pension, are entitled to receive old-age pension as calculated according to Article 32 (1) when they attain the age of 80.

3. Beneficiaries, who meet the other requirements of Article 31 and are proved to show apparent signs of premature decrepitude by the FSS medical board, can receive old-age pension as calculated according to Article 32 (1) from the age of 60.

Article 34

Calculation of early old-age pension

1. Where the percentage table is attached as a part of this Law, beneficiaries referred to in Article 33 (1) can receive old-age pension according to the percentage that corresponds to the beneficiary's age on the effective date of the old-age pension.

2. The percentage referred to in the preceding paragraph is calculated using the following formula:

$$Pe = \frac{Pm \times CoxPc}{360}$$

where;

Pe: The old-age pension amount actually received by the beneficiary;

Pm: Maximum amount of old-age pension;

Co: The number of actual contribution months, up to a maximum of 360 months;

Pc: Percentage of old-age pension referred to in the attached table.

3. The percentage of old-age pension paid in accordance with the preceding paragraph remains unchanged until the beneficiary attains the age of 80, even if his or her old-age pension is suspended and then resumes again for any reason in the future.

4. The number of actual contribution months of the beneficiary is calculated according to the provisions of Article 32 (2) and (3).

5. If the old-age pension amount thus calculated according to paragraph 2 is not a multiple of one pataca, such amount shall be rounded to the nearest pataca.

Article 35

Payment of old-age pension

1. The old-age pension is a cash benefit on a monthly basis.

2. The old-age pension is paid from the following dates:

(a) The application date on which all necessary documents are submitted, if the beneficiary files an application after all the above-mentioned requirements are met;

(b) The date on which all the above-mentioned requirements are met, if the beneficiary files an application with all the necessary documents before such requirements are met.

3. For the purpose of subparagraph 2(b), the beneficiary can file an application for old-age pension up to one month in advance, before the related condition is expected to meet. Such application is in pending status before the related condition is confirmed by the FSS.

Article 36

Proof of life

1. The continuous payment of old-age pension depends on the beneficiary's proof of life in January each year.

2. The old-age pension payment shall be suspended if the beneficiary

fails to provide any proof within the statutory period.

3. Without prejudice to the prescription deadline provided for in Article 29, old-age pension payment can be resumed in the month when such proof is provided and it has a retrospective effect.

4. Proof of life must be made in person, or by documents of proof if the beneficiary's justified grounds are accepted by the FSS Administrative Committee.

SUB-SECTION II

Disability pension

Article 37

Qualifying conditions

1. The disability pension is paid, through an application, to beneficiaries who meet all the following requirements:

- (a) Proved to be disabled by the FSS medical board;
- (b) The disability referred to in subparagraph (a) appears after he or she is qualified as a beneficiary;
- (c) With habitual residence in the Macao SAR for at least 7 years;
- (d) With at least 36 months of contributions to the social security system.

2. For the purpose of subparagraph 1(a), a beneficiary is regarded as being disabled, in case of absolute and total incapacity or loss of earning capacity, whether temporarily or permanently, due to general disease, accident, occupational disease or occupational accident.

Article 38

First and continuous payment of disability pension

- 1. Disability pension is a cash benefit on a monthly basis.
- 2. Disability pension payment is paid from the following dates:
 - (a) The application date on which all necessary documents are submitted, if the beneficiary files an application after all the requirements in Article 37 are met;

(b) The date on which all the requirements in Article 37 are met, if the beneficiary files an application with all the necessary documents before such requirements are met.

3. For the purpose of subparagraph 2(b), the beneficiary can file an application for disability pension up to one month in advance, before the related condition is expected to meet. Such application is in pending status before the related condition is confirmed by the FSS.

4. The continuous payment of disability pension depends on the proof of life as provided in Article 36. However, in case of temporary disability, the payment depends as well on the review conducted by the medical board within its prescribed period.

SECTION III

Allowances

SUB-SECTION I

Unemployment allowance

Article 39

Qualifying conditions

1. In the obligatory system, the unemployment allowance is paid, through an application, to beneficiaries who meet all the following requirements:

- (a) He or she is involuntarily unemployed;
- (b) He or she has registered in the Employment Promotion Division of the Labour Affairs Bureau (DSAL);
- (c) He or she is ready to accept arrangements of job matching provided by the DSAL and any work that is in line with his or her professional competence;
- (d) He or she has made contributions to the social security system, as beneficiaries of the obligatory system for at least 9 of the 12 months preceding the quarter of registration referred to in subparagraph (b).

2. For the purpose of subparagraph 1(a), a person is regarded as involuntarily unemployed, if he or she is not engaged in any gainful activity,

after his or her labour contract is terminated as a result of the followings:

- (a) The labour contract is terminated by the employer;
- (b) The labour contract is terminated by the employee on reasonable grounds;
- (c) The labour contract becomes invalid;
- (d) The labour contract is annulled in the event of corporate restructuring that results in the downsizing of working staff or cut of sectors.
- (e) The employer terminates the contract during the probation.

3. The beneficiary, who has previously declared to be incapable and his or her working capacity is then concluded to have restored in a medical disability review conducted pursuant to Article 38 (4), and yet he or she remains unemployed, hence, he or she is regarded as being involuntarily unemployed.

4. If the beneficiary, being in the situation described in the preceding paragraph, has registered in the Employment Promotion Division of DSAL within 3 months after the quarter when he or she is considered to be capable of work, then the requirement set in subparagraph 1(d) does not apply.

5. It is not considered to be involuntarily unemployed if the employee refuses to renew the fixed term labour contract.

Article 40

Payment, duration and termination

- 1. The unemployment allowance is a cash benefit on a daily basis.
- 2. The unemployment allowance can be paid to a maximum of 90 days in each period of 12 months, counted from the date of registration of the beneficiary in the Employment Promotion Division of DSAL.
- 3. The unemployment allowance is paid if unemployment continues for at least 15 days from the date of registration in the Employment Promotion Division of DSAL.
- 4. The beneficiary can apply for unemployment allowance from the expiry date of the period referred to in the preceding paragraph until 30 days after the unemployment status ends. If the beneficiary's

unemployment status exceeds the maximum period of entitlement, the application should be filed the latest within 30 days after such maximum period ends.

5. The unemployment allowance is paid to the beneficiary in full when the period of entitlement expires, or upon the beneficiary's application, paid separately for at least 15 days in each term. In the latter case, the beneficiary should file an application form at the end of each term.

6. The application form should be submitted with the DSAL confirmation documents, stating that the beneficiary, who is in a situation of involuntary unemployment, has registered in the Employment Promotion Division, and has not refused to accept any work that is in line with his or her professional competence.

7. The right to unemployment allowance shall cease immediately upon the termination of involuntary unemployment.

Article 41 **Restraints**

Beneficiaries, who are paid with the maximum period of unemployment allowance referred to in Article 40 (2), can only apply for the unemployment allowance again after one year of the last payment.

Article 42 **Obligations of the beneficiary**

1. A beneficiary is obliged to:

- (a) inform the FSS within 2 days after the establishment of new labour relations or the operations of his or her own business;
- (b) attend at times and places determined by the FSS or the DSAL;
- (c) report immediately to the entities referred to in subparagraph (b) any change of residence.

2. If the beneficiary fails to meet the obligations referred to in subparagraph 1(a), the FSS Administrative Committee may resolve to suspend the right to unemployment allowance for a maximum period of 2 years, depending on the gravity of the case.

SUB-SECTION II
Sickness allowance

Article 43
Qualifying conditions

1. The sickness allowance is paid, through an application, to beneficiaries who meet all the following requirements:

(a) He or she is in a state of illness, but without prejudice to paragraph 3;

(b) He or she has made contributions to the social security system for at least 9 of the 12 months preceding the quarter in which there is the onset of the disease;

(c) He or she is not engaged in any gainful activity during the period of illness.

2. For the purpose of subparagraph 1(a), the beneficiary is regarded as in a state of illness if he or she is not engaged in any gainful activity for more than one day due to any health problem.

3. The sickness allowance is not paid in the following cases:

(a) Harm arising from work accidents or occupational diseases;

(b) Diseases resulting from the act of a third party who shall be liable for the indemnity;

(c) Diseases caused deliberately by the beneficiary.

Article 44
Payment of sickness allowance

1. The sickness allowance is a cash benefit on a daily basis.

2. The sickness allowance is paid through the application of the beneficiary, together with a medical certificate confirming the illness or hospitalization.

3. The medical certificate must indicate the onset of illness and the dates of recovery, admission and discharge, in case of illness or hospitalization of not more than 30 days.

4. The medical certificate must be issued and properly signed by a

medical practitioner with license issued by the Macao SAR Government, and must be authenticated by the health institution where the diagnosis was provided or by the hospital in which the beneficiary was admitted.

5. The beneficiary can apply for sickness allowance from the second day of illness and up to 30 days after the situation of illness ends, or file an application within 30 days after the maximum period ends, if the situation of illness of the beneficiary exceeds the maximum period of entitlement.

Article 45

Commencement and duration

1. The right to sickness allowance is from the second day of illness, with that day inclusive in payment.

2. The sickness allowance can be paid for a maximum of:

- (a) 30 days per year, consecutive or not, with no hospitalization;
- (b) 180 days per year, consecutive or not, with hospitalization.

3. If the commencement and termination dates of illness with allowance fall in different calendar years, the number of days in the calendar year that the period of illness ends is not included in that year, when the number of days limited in each year should be observed in accordance with the preceding paragraph.

Article 46

Suspension of the right to sickness allowance

1. The beneficiary's right to sickness allowance is suspended when:

- (a) The disease claimed does not exist;
- (b) The disease is caused deliberately by the beneficiary;
- (c) The beneficiary unjustifiably absent from home or leave the hospital in which he or she is admitted;
- (d) The beneficiary engages in gainful activities during the period of illness.

2. In the situations referred to in the preceding paragraph, the FSS Administrative Committee may resolve to suspend the right to sickness allowance for a maximum period of 2 years.

Article 47

Repayment of sickness allowance wrongly paid

Without prejudice to Article 28, repayment of sickness allowance wrongly paid is made by the entity legally responsible for the disease in cases of:

- (a) Occupational disease or illness caused by work accident;
- (b) A disease caused by an act of a third party who should be liable for the indemnity.

Article 48

Obligations of the beneficiary

A beneficiary is obliged to:

- (a) submit to medical examinations determined by the FSS in the course of illness, in order to verify the relevant illness condition;
- (b) facilitate home healthcare visits;
- (c) stay at home if he or she is sick but not admitted to hospital, and leave home only when duly justified or in adherence to medical advice;
- (d) be truthful in their statements and information.

SUB-SECTION III

Birth allowance

Article 49

Qualifying conditions

If one of the following requirements is met, the beneficiary is entitled to birth allowance when each child is born or adopted:

- (a) He or she has made contributions to the social security system for at least 9 of the 12 months preceding the quarter in which a child is born or adopted;
- (b) Receiving old-age pension or disability pension.

Article 50

Payment

1. The birth allowance is a single cash payment of benefit.
2. The birth allowance is paid through the application of the beneficiary within 60 days from the date of birth or adoption of a child, together with a birth certificate or a court decision about the establishment of adoptive relationship.

SUB-SECTION IV

Marriage allowance

Article 51

Qualifying conditions

If one of the following requirements is met, the beneficiary is entitled to marriage allowance when he or she gets marriage:

- (a) He or she has made contributions to the social security system for at least 9 of the 12 months preceding the quarter in which marriage takes place;
- (b) Receiving old-age pension or disability pension.

Article 52

Payment

1. The marriage allowance is a single cash payment of benefit.
2. The marriage allowance is paid through the application of the beneficiary within 60 days from the date of marriage, together with a marriage certificate.

SUB-SECTION V

Funeral allowance

Article 53

Payment

The funeral allowance is a single cash payment of benefit issued in case of the beneficiary's death.

Article 54

Payout

1. The funeral allowance is paid to the one who applies for it and proves to have borne the funeral expenses of the beneficiary.

2. The prescription of the entitlement to funeral allowance is 1 year, from the date of the beneficiary's death.

CHAPTER IV

Penalty system

SECTION I

General provisions

Article 55

Applicable system

The infractions system for the violations of this Law is laid down in this Chapter. It supplements the Criminal Code and the general system of administrative infractions.

Article 56

Discharge of unfulfilled obligations

Where the infraction is resulted from unfulfilled obligations, the application of penalty and payment of fines shall not exempt the offender from compliance if it is still possible.

Article 57

Liabilities of the legal person

1. Legal persons, although improperly incorporated, associations without legal personality and special committees are liable for the infractions under this Law, when committed by its organs or representatives on their behalf and in the collective interest thereof.

2. The liability referred to in the preceding paragraph shall be waived when the agent has acted against the express orders or instructions of the entitled persons.

3. The liability of the entities referred to in paragraph 1 does not exclude the liability of the respective agents.

Article 58

Liability for the payment of fines

1. If the offender is a legal person, its administrators or who otherwise represents it, they shall have joint and several liabilities for the payment of fines with the legal person, in case the legal person is sentenced to be liable for the infractions.

2. If the fine is imposed to an association without legal personality or to a special committee, it shall be paid through the common assets thereof, and, in case of no or insufficient common assets, through the assets of each of the associates or members, as in the way of joint and several liabilities.

Article 59

Proceeds of fine

The fine for breach of this Law shall accrue to the FSS as its revenue.

SECTION II

Criminal liability

Article 60

Improper appropriation of contributions

1. An employer, who intends to improperly appropriate all or part of the social security system contributions deducted from the employee's remuneration in accordance with law, and fails to remit the deducted sum to the FSS within 60 days after the statutory period ends, shall be liable to imprisonment up to 3 years or a fine.

2. If the offender is a legal person, it shall be liable to a fine of up to 360 days.

SECTION III
Administrative infractions

Article 61
Infractions

1. The employer, who commits the followings, shall be liable to a fine of \$200 (200 patacas) to \$1,000 (1,000 patacas) for each employee in respect of which the infractions occurred:

(a) The employer fails to enroll the employee according to Article 12 (1) (a);

(b) The employer fails to register according to Article 15 (1) and (2).

2. The employer, who fails to fulfill his or her obligation to pay contributions, after 60 days from the expiry of the period referred to in Article 19 (3) and (4), shall be liable to a fine up to half of the value of contributions in arrears, but the minimum sum is \$500 (500 patacas).

Article 62
Recidivism

1. It is regarded as recidivism if the same infraction repeats within one year from the date of judicial or administrative decision that ultimately determined the penalty.

2. In case of recidivism, the minimum penalty is increased by one-third.

Article 63
Competence

1. It is the competence of the FSS Administrative Committee to administer the penalties provided in this section.

2. The FSS Administrative Committee may delegate to its President the power referred to in the preceding paragraph.

Article 64
Procedures

1. When administrative infractions occur or upon receipt of factual record on administrative infractions, the FSS shall assemble a dossier

on the infractions, lodge a complaint and inform the suspect about these.

2. The notification of the charge fixes a time frame of 15 days for the suspect to present his or her defense.

Article 65

Payment of the fine

1. Fines are payable within 15 days from the notification of the penalty decision.

2. If the fine is not paid voluntarily within the period referred to in the preceding paragraph, a compulsory levy shall be enforced through the Coercive Collection Bureau under DSF, with the certificate of instructions on fine serving as the name of execution.

CHAPTER V

Final and transitional provisions

SECTION I

Transitional provisions

Article 66

Conversion of system

1. For beneficiaries enrolled in the FSS before this Law enters into force, the FSS converts, within its competence, according to the method of enrollment after this Law enters into force, into the system of beneficiary under the provisions of Articles 10 and 11.

2. Contributions made before this Law enters into force shall be considered valid for the purposes of this Law.

3. Employers registered in the FSS before this Law enters into force are considered registered under and for the purposes of this Law.

Article 67
Application in time

1. For beneficiaries who are receiving social security benefits in accordance with the provisions of Decree-Law No. 58/93/M of 18 October, their entitlement to the relevant benefits under the said Decree-Law retains.

2. For beneficiaries who have enrolled before this Law enters into force and have met the qualifying conditions of social security benefits according to the provisions of Decree-Law No. 58/93/M of 18 October, even if they have not applied for the relevant benefits when this Law enters into force, the qualifying conditions and methods of payment for the entitlement to social security benefits retain in accordance with the said Decree-Law, but without prejudice to the provisions of the following paragraph.*

3. For beneficiaries who have enrolled before this Law enters into force, the qualifying conditions and methods of payment for the entitlement to old-age pension retain in accordance with the Decree-Law No. 58/93/M of 18 October, even if they have not met the qualifying conditions of old-age pension when this Law enters into force.

4. The system of social security benefits provided for in Decree-Law No. 58/93/M of 18 October, applies to the applications submitted before this Law enters into force but whose decisions are made after that date.

5. The benefit amounts provided under Decree-Law No. 58/93/M of 18 October are equivalent to the amounts of the corresponding benefits provided for in Article 26 of this Law.

* Please refer to: Corrections.

Article 68
Retrospective contributions

1. The beneficiary can make retrospective contributions in the following situations:

(a) He or she, who enrolls after the entry into force of this Law, is aged 35 or above on the Law effective date;

(b) He or she, who enrolled before the entry into force of this Law, is aged 60 but below 65 on the Law effective date, and whose number of accumulated months of contributions is less than the minimum number of contribution months required for the purpose of old-age pension, even with the contributions to be made up to the age of 65;

(c) He or she, who enrolled before the entry into force of this Law, is aged 65 or above on the Law effective date, and whose number of accumulated months of contributions is less than the minimum number of contribution months required for the purpose of old-age pension.

2. The number of retrospective contribution months is equal to the sum of corresponding months of the calendar years in which, within 15 calendar years preceding the entry into force of this Law, the beneficiary stayed in Macao for 183 days or more, which does not exceed the number of months calculated in accordance with the following formula, and in no case shall exceed 180 months:

$$Mcr = \frac{Ib - 420}{2}$$

where;

Mcr: Number of retrospective contribution months;

Ib: Number of months corresponding to the age of the beneficiary on the date of entry into force of this Law.

3. Where the number of months resulting from the above formula is a fraction of a month, it shall be counted as a full month.

4. The provisions of Article 13 (2) to (6), with the appropriate adaptations, are applicable to the period of stay in Macao provided for in paragraph 2.

5. The application for retrospective contribution shall be filed within one year from the date of entry into force of this Law.

6. In circumstances described in subparagraphs 1(b) and (c), the old-age pension is calculated in accordance with the provisions of Article 32.

Article 69

Payment of retrospective contributions

1. The amount of retrospective contributions equals to the total amount of monthly contributions effective before this Law enters into force.
2. The payment of retrospective contribution is the responsibility of the beneficiary, and it is a one-off payment.
3. In exceptional cases, the FSS may authorize the payment of retrospective contribution in monthly installments for a maximum period of 12 months. It shall be stated in the authorization the number of installments, the amount of each installment and its relevant due date.
4. Under the case of the application for retrospective contribution, only when the qualifying conditions for the relevant benefits are met, social security benefits shall be paid out after the beneficiary finishes his or her payment of retrospective contributions. In case of retrospective contribution payment by installments, the benefit payments shall be paid out after the last installment is made.
5. In case of proven economic difficulties of the beneficiary entitled to pay retrospective contributions by installments, the FSS may authorize the relative social security benefits paid at the beginning of the payment of contributions by installments, which is made by offsetting the monthly amount from the social security benefits.
6. If the beneficiary fails to make contributions within 60 days after the expiry of any installment due date, he or she loses the entitlement to make retrospective contributions and the contributions made by installments shall be refunded.
7. The beneficiaries entitled to make retrospective contributions may, through an application, receive subsidy from the IAS to pay such contributions if, in the 12 months preceding the application to make retrospective contributions, have received general subsidies from the IAS.

Article 70

Minimum number of contribution months

1. Without prejudice to the following paragraphs, the retrospective contributions made by the beneficiary according to the provisions of Article

68 (1) are not counted in the minimum number of contribution months required for the social security benefits.

2. In any one of the following situations, the retrospective contributions are counted in the minimum number of contribution months required for the payment of old-age pension referred to in Article 31 (c):

(a) The beneficiary is aged 65 or above on the date of entry into force of this Law;

(b) The beneficiary, with the sum of the minimum number of contribution months calculated according to the following paragraph, and the number of retrospective contribution months paid is less than 60.

3. For beneficiaries who are allowed to make retrospective contribution and are aged 60 or above, but below 65 when this Law enters into force, the minimum number of contribution months referred to in Article 31 (c) works out according to the following formula, except for the situations referred to in subparagraph 2(b).

$$Mmc = 780 - Mib + Mcb$$

where;

Mmc: Minimum number of contribution months;

Mib: Number of months corresponding to the age of the beneficiary on the date of entry into force of this Law;

Mcb: Number of contribution months paid by the beneficiary, if any, when this Law enters into force.

SECTION II

Final provisions

Article 71

Supervision

It is within the competence of FSS and DSAL to monitor the employers in compliance with the obligations under this Law.

Article 72
Medical board

1. The composition of the medical board referred to in this Law, its internal regulations and remuneration of its members are fixed by the Chief Executive upon hearing recommendations of the FSS Administrative Committee and published as an Executive Order in the Macao SAR Gazette.

2. Assistance to the medical board by the Health Bureau (SSM) is the subject of a protocol signed between the FSS and the SSM.

Article 73
Occupational respiratory disease

1. FSS bears the expenses and indemnity incurred from the incapacity or death of employees due to occupational respiratory diseases, with funeral expenses inclusive. The indemnity for such diseases is fixed by the law that applies to the damage caused by work accidents and occupational diseases.

2. The indemnity amount for the damage paid by the FSS is fixed by the law referred to in the preceding paragraph.

Article 74
Public administration staff

1. The public administration staff, who is actively employed and intends to enroll in the social security system according to the provisions of Article 11 (b), should submit the application to his or her department, which shall then pass to the FSS.

2. For public administration staff actively employed and enrolled in the arbitrary system, the payment of contributions is made by his or her department deducting the amount from remuneration, which shall then remit to the FSS.

3. The public administration staff, regardless of the system of enrollment, is not entitled to other social security benefits, except for old-age pension, when he or she is still in actual service for the administrative authority, or before his or her enrollment in the Provident Fund Scheme for civil service is cancelled.

Article 75
Amendment to Law No. 8/2006

Article 22 of Law No. 8/2006 is replaced by the followings:

“Article 22
Social security system

1. Contributors to the Provident Fund Scheme are required to enroll in the social security system.

2. Contributors to the Provident Fund Scheme are not entitled to other social security benefits, except for old-age pension, when their enrollments in the Provident Fund Scheme are not yet cancelled.”

Article 76
Additional provisions to Law No. 21/2009

Paragraph 6 is added to Article 5 of Law No. 21/2009 as follows:

“6. Employers permitted to hire non-resident workers should register in the FSS and pay the employment fee as provided for in this Law.”

Article 77
Amendment to ‘Statutes for Macao public administration staff’

Article 259 of ‘Statutes for Macao public administration staff’ as approved by the Decree-Law No 87/89/M of 21 December is replaced by the followings:

“Article 259
(Enrollment and deduction)

1. (.....)
2. (.....)
3. (.....)
4. (.....)
5. (.....)
6. (.....)

7. (.....)

8. (.....)

9. Staff who, in accordance with the provisions of paragraphs 1 to 3, are not allowed to enroll in the Macao Pension Fund, or those who may enroll but without the power to exercise such right, is required to enroll in the social security system.

10. With regards to the enrollment, deadlines, means of payment and contribution amount in respect of staff referred to in the preceding paragraph, he or she must comply with the provisions of Law No.4/2010.

11. Staff enrolled in the social security system is not entitled to other social security payments, except for old-age pension, when he or she is still in actual service for the administrative authority.”

Article 78

Amendment to Decree-Law No. 25/96/M of 27 May

Article 6 of Decree-Law No. 25/96/M of 27 May is replaced by the followings:

“Article 6 (Benefits)

The staff covered by this Law is not entitled to other social security benefits, except for old-age pension, when he or she is still in actual service for the administrative authority.”

Article 79

References in previous legislation

References to Decree-Law No. 58/93/M of 18 October, deemed to be done, with the necessary adaptations, to the corresponding provisions of this Law.

Article 80 Repeals

Repeal:

(a) Decree-Law No. 58/93/M of 18 October, in the version amended

by Decree-Law No. 41/96/M of 29 July, Decree-Law No. 29/98/M of 6 July, By-law No. 19/2008 and Law No. 21/2009, with the exception of Articles 38 and 39;

- (b) Article 28 of Decree-Law No. 59/93/M of 18 October;
- (c) Decree-Law No. 29/98/M of 6 July;
- (d) Order No. 37/GM/97 of 30 June;
- (e) Order No. 38/GM/97 of 30 June;
- (f) Order No. 39/GM/97 of 30 June;
- (g) Order No. 45/GM/98 of 25 May;
- (h) Order No. 84/GM/99 of 5 July;
- (i) Executive Order No. 234/2004;
- (j) Executive Order No. 192/2006;
- (k) Executive Order No. 229/2007;
- (l) Executive Order No. 93/2008.

Article 81

Entry into force

This Law shall enter into force on 1 January 2011.

Approved on 11 August 2010.

The President of the Legislative Assembly, Lau Cheok Va.

Signed on 17 August 2010.

To be published.

The Chief Executive, Chui Sai On.

(The English version of the present law is provided for reference only. Please note that only the Chinese and Portuguese versions published in the Macao SAR Gazette are official and are the sole authority of the law.)

Annex
(referred to in Article 34 (1))

Percentage table for the calculation of early old-age pension

		Age attained				
		60	61	62	63	64
Months attained	0	75.0%	78.9%	83.3%	88.2%	93.8%
	1	75.3%	79.3%	83.7%	88.7%	94.2%
	2	75.6%	79.6%	84.1%	89.1%	94.7%
	3	75.9%	80.0%	84.5%	89.6%	95.2%
	4	76.3%	80.4%	84.9%	90.0%	95.7%
	5	76.6%	80.7%	85.3%	90.5%	96.3%
	6	76.9%	81.1%	85.7%	90.9%	96.8%
	7	77.3%	81.4%	86.1%	91.4%	97.3%
	8	77.6%	81.8%	86.5%	91.8%	97.8%
	9	77.9%	82.2%	87.0%	92.3%	98.4%
	10	78.3%	82.6%	87.4%	92.8%	98.9%
	11	78.6%	82.9%	87.8%	93.3%	99.4%