

[REPUBLIC ACT NO. 11199, February 07, 2019]

AN ACT RATIONALIZING AND EXPANDING THE POWERS AND DUTIES OF THE SOCIAL SECURITY COMMISSION TO ENSURE THE LONG-TERM VIABILITY OF THE SOCIAL SECURITY SYSTEM, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 1161, AS AMENDED BY REPUBLIC ACT NO, 8282, OTHERWISE KNOWN AS THE "SOCIAL SECURITY ACT OF 1997"

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* - This Act shall be known as the "Social Security Act of 2018".

SEC. 2. *Declaration of Policy.* - It is the policy of the State to establish, develop, promote and perfect a sound and viable tax-exempt social security system suitable to the needs of the people throughout the Philippines which shall promote social justice through savings, and ensure meaningful social security protection to members and their beneficiaries against the hazards of disability, sickness, maternity, old age, death, and other contingencies resulting in loss of income or financial burden. Towards this end, the State shall endeavor to extend social security protection to Filipino workers, local or overseas, and their beneficiaries.

In the pursuit of this policy, a social security program shall be developed emphasizing the value of "work, save, invest and prosper". The maximum profitability of investible funds and resources of the program shall be ensured through a culture of excellence in management grounded upon sound and efficient policies employing internationally recognized best practices.

SEC. 3. *Social Security System.* — (a) To carry out the purposes of this Act, the Social Security System, hereinafter referred to as "SSS", a corporate body, with principal place of business in Metro Manila, Philippines, is hereby created. In the discharge of its mandated responsibilities under this Act, the SSS shall function and operate as an independent and accountable government-owned and -controlled corporation (GOCC) within the corporate governance standards and principles of Republic Act No. 10149 (GCG Law), except as otherwise provided herein.

The SSS shall be directed and controlled by a Social Security Commission, hereinafter referred to as "Commission", composed of the Secretary of Finance as *ex officio* Chairperson, the SSS President and Chief Executive Officer as Vice-Chairperson who shall automatically act as the Commission Chairperson in the absence of the Finance Secretary, the Secretary of Labor and Employment, as *ex officio* member, and six (6) appointive members, three (3) of whom shall represent the workers' group, at least one (1) of whom shall be a woman; three (3), the employers' group, at least one (1) of whom shall be a woman; all of whom shall be appointed by the President of the Philippines and shall be of known competence, probity, integrity and recognized expertise in any of the fields of social security, pension fund, insurance, investment, banking and finance, economics, management, law or actuarial science and with at least ten (10) years of managerial or leadership experience. The six (6) members representing workers and employers groups shall be chosen from among the nominees of workers' and employers' organizations respectively, as endorsed by the Governance Commission for GOCCs following the fit and proper rule and competence. The term of office of the regular appointive members of the Commission shall be three (3) years, which can be extended for another term of three (3) years: *Provided, That the terms of the first six*

(6) appointive members shall be one (1), two (2), and three (3) years for every two (2) members., respectively, notwithstanding Section 17 of the GCG Law: *Provided, further;* That they shall continue to hold office until their successors shall have been appointed and duly qualified. AH vacancies, prior to the expiration of the term, shall be filled for the unexpired term only.

The fiduciary duties of a member of the Commission include the following:

- (1) Act with utmost and undivided loyalty to the SSS;
- (2) Act with due care, extraordinary diligence and skill in the conduct of business and exercise utmost good faith in all transactions relating to his/her duties to the SSS and its properties, and in his/her dealings with and for the SSS he/she is held to the same strict rule of honesty and fair dealing between himself/herself and his/her principal as other agent;
- (3) Act for the benefit of the SSS and not for his/her own benefit;
- (4) Not to profit as individual by virtue of his/her position and ensure that profits received by him/her from the SSS' properties or businesses revert to the SSS and to hold the same as trustee for the benefit of the SSS and its members;
- (5) Avoid conflicts of interest and not to acquire an interest adverse to or in conflict with that of the SSS, while acting for the SSS or when dealing individually with third persons and declare any interest he/she may have in any particular matter before the Commission; and
- (6) Apply sound business principles to ensure the financial soundness of the SSS.

The compensation, *per diems*, allowances and incentives of the appointive members of the Commission shall be in accordance with and subject to GCG Law.

(b) The general conduct of the operations and management functions of the SSS shall be vested in the SSS President who shall serve as the Chief Executive Officer immediately responsible for carrying out the program of the SSS and the policies of the Commission. The SSS President shall be appointed by the President of *the Philippines and shall be a person of known competence, probity, integrity and recognized expertise in social security, pension fund, insurance, investment, banking and finance, economics, management, law or actuarial science.

The SSS President may be removed for a valid cause or any of the following reasons in accordance with the requirement of due process:

- (1) If he or she becomes physically or mentally incapacitated from discharging the duties and responsibilities of the office, and such incapacity has lasted for more than six (6) months;
- (2) If he or she is guilty of acts or omissions which are of fraudulent or illegal character or which are manifestly opposed to the aims and interests of the SSS;
- (3) If he or she no longer possess the qualifications specified in this Act:
- (4) If he or she does not meet the standards of performance based on the evaluation by the Governance Commission for GOCCs under the GCG Law.

(c) An Office of the Actuary shall be created to conduct the necessary actuarial studies and present recommendations on premiums, investments and other related matters. The Commission, upon the recommendation of the SSS President, shall appoint the Chief Actuary and such other personnel as may be deemed necessary; prescribe their duties and establish such methods and procedures as may be necessary to ensure the efficient, honest and economical administration of the provisions and purposes of this Act:

Provided, however; That the personnel of the SSS below the rank of Vice-President shall be appointed by the SSS President: *Provided, further;* That the personnel appointed by the SSS President, except those below the rank of assistant manager, shall be subject to the confirmation by the Commission: *Provided, further;* That the personnel of the SSS shall be selected only from civil service eligibles and be subject to civil service rules and regulations: *Provided, finally;* That the SSS shall be exempt from the provisions of Republic Act No. 6758 and Republic Act No. 7430.

The Chief Actuary of the SSS can only be removed by just causes which include among others gross incompetence, gross inefficiency, disloyalty, conflict of interest, dishonesty "and serious misconduct.

(d) The Commission shall fix the reasonable compensation, allowances and other benefits of all positions in the SSS, including its President and Chief Executive Officer, based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plan in the Government Service Insurance System (GSIS), the Bangko Sentral ng Pilipinas (BSP) and other government financial institutions and shall be subject to periodic review by the Commission no more than once every four (4) years without prejudice to merit reviews or increases based on productivity and efficiency.

SEC. 4. *Powers and Duties of the Commission and SSS.* -

(a) *The Commission.* - For the attainment of its main objectives as set forth in Section 2 hereof, the Commission shall have the following powers and duties:

(1) To formulate, adopt, amend and/or rescind such rules and regulations as may be necessary to carry out the provisions and purposes of this Act;

(2) To establish a Provident Fund for the members which will consist of contributions of employers and employees, self-employed, OFW and voluntary members based on (i) the SSS contribution rate in excess of twelve percent (12%), or (ii) monthly salary credit in excess of Twenty thousand pesos (P20,000.00) up to the prescribed maximum monthly salary credit and their earnings, for the payment of benefits to such members or their beneficiaries in addition to the benefits provided for under this Act: *Provided,* That a member may contribute voluntarily in excess of the prescribed SSS contribution rate and/or the maximum monthly salary credit, subject to such rules and regulations as the Commission may promulgate;

(3) To maintain a Provident Fund which consists of contributions made by both the SSS and its officials and employees and their earnings, for the payment of benefits to such officials and employees or their heirs under such terms and conditions as it may prescribe;

(4) To conduct continuing actuarial and statistical studies and valuations to determine the financial condition of the SSS and taking into consideration such studies and valuations and the limitations herein provided, to readjust the benefits, contributions, premium rates, interest rates or the allocation or reallocation of the funds to the contingencies covered;

(5) To approve restructuring proposals for the payment of due but unremitted contributions and unpaid loan amortizations under such terms and conditions as it may prescribe;

(6) To authorize cooperatives registered with the Cooperative Development Authority or associations registered with the appropriate government agency to act as collecting agents of the SSS with respect to their members: *Provided,* That the SSS shall accredit the cooperative or association: *Provided, further.* That the persons authorized to collect are bonded;

(7) To compromise or release, in whole or in part, any interest, penalty or any civil liability to SSS in connection with the investments authorized under Section 26 hereof, under such terms and conditions as it may prescribe;

(8) Any law to the contrary notwithstanding, to condone, enter into a compromise or release, in whole or in part, such penalties imposed upon delinquent social security contributions regardless of the amount involved under such valid terms and conditions it may prescribe through rules and regulations when the financial position of the employer demonstrates a clear inability to pay the assessed delinquency arising from economic crisis, serious business losses or financial reverses, or resulting from natural calamity or man-made disaster without fault on the part of the employer.

Provided, That the Social Security Commission shall, immediately after the passage of this Act, institute a condonation of penalties of delinquent employers under Republic Act No. 10361, subject to such rules and regulations as the Social Security Commission may provide.

The Commission shall submit to the Office of the President of the Philippines, the Senate and the House of Representatives an annual report on the exercise of the powers under this provision, stating therein the following facts and information, among others: names and addresses of employers whose penalty delinquencies have been subjected to compromise or condonation; amount involved; amount compromised or condoned and the underlying reasons and justifications thereon, to determine that said powers are reasonably exercised and that the SSS is not unduly prejudiced;

(9) To implement the rate of contributions as well as the minimum and maximum monthly salary credits in accordance with the following schedule effective January of the year of implementation as follows:

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

Provided, That the domestic workers or "kasambahays" as defined under Republic Act No, 10361 or the Batas Kasambahay who are receiving a monthly income lower than minimum monthly salary credit prescribed under this Act shall pay contributions based on their actual monthly salary: *Provided, further*; That members, who are subject to compulsory coverage and receiving a monthly income lower than the minimum monthly salary credit or more than the maximum monthly salary credit, and their employers, shall pay the SSS contributions based on the current minimum monthly salary credit or the maximum monthly salary credit, respectively, as provided in this Act.

The rate of penalty on unpaid loan amortizations shall be determined and fixed by the Commission from time to time through rules and regulations on the basis of applicable actuarial studies, rate of benefits, inflation, and other relevant socioeconomic data;

(10) To develop and administer a special social security program for workers, with unique economic, social, and geographic situations, as determined by the Commission: *Provided*, That the program may have different contributions and benefits that are proportionately calculated which must be fair, equitable, actuarially sound and viable: *Provided, further*; That the special program shall enjoy the same legal privileges as the regular social security program; and

(11) To approve, confirm, pass upon or review any and all actions of the SSS in the proper and necessary exercise of its powers and duties hereinafter enumerated.

(b) *The Social Security System.* - Subject to the provision of Section 4, Subsection (a)(II) hereof, the SSS shall have the following powers and duties:

(1) To submit annually not later than April 30, a public report to the President of the Philippines and to the Congress of the Philippines covering its activities in the administration and enforcement of this Act during the preceding year including information and recommendations on broad policies for the development and perfection of the program of the SSS;

(2) To require the Chief Actuary to submit a valuation report on the SSS benefit program every three (3) years, or more frequently as may be necessary, to undertake the necessary actuarial studies and calculations concerning increases in benefits taking into account inflation and the financial stability of the SSS, the individual income gap and poverty threshold for the elderly, similar benefits provided by other social protection programs of the government: and to provide for feasible increases in benefits every four (4) years, including the addition of new ones, under such rules and regulations as the Commission may adopt: *Provided, That* the actuarial soundness of the reserve fund shall be guaranteed;

(3) To establish offices of the SSS to cover as many provinces, cities and congressional districts, including foreign countries whenever and wherever it may be expedient, necessary and feasible, and to inspect or cause to be inspected periodically such offices;

(4) To enter into agreements or contracts for such service and aid, as may be needed for the proper, efficient and stable administration of the SSS;

(5) To adopt or approve the annual and supplemental budget of receipts and expenditures including salaries and allowances of the SSS personnel, against all funds available to the SSS under this Act, and to authorize such capital and operating expenditures and disbursements of the SSS as may be necessary and proper for the effective management and operation of the SSS;

(6) To set up its accounting system and provide the necessary personnel therefor;

(7) To require reports, compilations and analyses of statistical and economic data and to make investigations as may be needed for the proper administration and development of the SSS;

(8) To acquire, develop and dispose of property, real or personal, on its own, or through a Joint venture arrangement with the public and/or private sector, which may be necessary or expedient for the attainment of the purposes of this Act;

No injunction or restraining order issued by any court, tribunal or office shall bar, impede or delay the sale, development or disposition by the SSS of its property except on questions of ownership and national or public interest;

(9) To acquire, receive, or hold, by way of purchase, expropriation or otherwise, public or private property for the purpose of undertaking housing projects preferably for the benefit of low-income members and for the maintenance of hospitals and institutions for the sick, aged and disabled, as well as schools for the members and their immediate families;

(10) To enter into agreement with the GSIS or any other entity, enterprise, corporation or partnership for the benefit of members transferring from one system to another subject to the provision of Republic Act No. 7699, otherwise known as the Portability Law;

(11) To sue and be sued in court; and

(12) To perform such other corporate acts as it may deem appropriate for the proper enforcement of this Act.