

## **Terms of Reference**

### **Report on the compatibility of Malaysian national legislation with the Social Security (Minimum Standards) Convention, 1952 (No. 102) in view of possible ratification**

#### **► BACKGROUND**

Malaysia has a relatively well-developed system of social security provision covering a number of the life cycle risks that residents face. However, there are some gaps in coverage in respect of certain benefit branches.

The Social Security Organisation of Malaysia (PERKESO) provides a range of benefits through its benefit schemes. The ILO has partnered with PERKESO over several years to provide actuarial, policy, financing and technical support.

The Employees' Social Security Act 1969 (Act 4) stipulates that an actuarial review should be carried out at intervals of at least every five years or at such other times as the Minister of Human Resources may consider necessary. The ILO carried out the 11th actuarial valuation of the Employee's Social security Scheme (the ESSS) as of 31 December 2019 as well as the first actuarial valuation of the Self-Employed Scheme (the SESSS) at the same date. In the valuation reports produced under the project, the provisions of the national legislation pertaining to the following two schemes:

- Employment Injury (EI) scheme
- Invalidity and Survivor's (IS) Scheme

was compared to the minimum requirements of the Social Security (Minimum Standards) Convention, 1952 (No. 102) and a gap analysis was undertaken.

The next actuarial valuations (the 12th of the ESSS and the 2nd of the SESSS) will be undertaken as at 31 December 2024. Preparatory work has already started to that end.

The current project with PERKESO has delivered the actuarial valuation reports plus capacity building and also delivered a number of policy papers and briefs on different social protection issues in Malaysia. One issue discussed with PERKESO, and national counterparts is the possible ratification of Convention No. 102, the ILO flagship convention on the social security.

The project has now, therefore, been tasked to extend the scope of this comparative analysis to all nine branches of social security. These Terms of Reference refer to the work related to this task. The ILO is therefore seeking a consultant with experience in these issues and who can carry out the relevant analytical and reporting work.

To carry out this work, the External Collaborator ('Excoll') will work closely with the ILO Chief Technical Adviser, ILO experts in Malaysia, the legal specialists in ILO Geneva, the Senior Actuary exCOLL and PERKESO staff. In respect of reporting, the consultant will work under the technical supervision of the ILO Geneva legal specialists and overall supervision of the work



will be undertaken by the Chief Technical Adviser ('CTA').

The key element of this work (under Objective 1 below) is the development of a comprehensive situation and gap analysis of the national legislation and its compatibility with the minimum benchmarks and principles set out by the Social Security (Minimum Standards) Convention, 1952 (No. 102).

This review and the report will form the basis of the relevant text included as part of the actuarial valuation reports of the relevant PERKESO schemes. ILO Actuarial Valuation Reports which include a comparison of the relevant system provisions vis-à-vis Convention No. 102 requirements (completed for previous actuarial valuations for the EI and IS branches as referred to above).

► **OBJECTIVES AND EXPECTED PRODUCTS:**

1. A report on the compatibility of Malaysia's social security legislation with the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102), including (1) a description of the social security system and legal framework in Malaysia, (2) an article- b y - a r t i c l e analysis of the compatibility of the provisions of the national legislation with the articles of Convention No. 102, for each branch and (3) conclusions and recommendations in view of a possible future ratification. The report will be produced in English.
2. A brief and concise analysis (consisting of a sub-section and an Appendix) to meet the requirements of the actuarial valuations of the following benefit branches:
  - Employment Injury (EI) scheme to be carried out as at 31 December 2024
  - Invalidity and Survivor's (IS) Scheme to be carried out as at 31 December 2024
  - Employment Insurance (UI) Scheme to be carried out as at 31 December 2025

For this work, the following tasks will need to be conducted:

**I. Report on assessment of national legislation compared to the requirements of ILO Convention No. 102 ('main report')**

- a) Review summary of main legal provisions  
*Timeline: December 2024*
- b) Draft a technical report containing:
  - (A) An overview of the social security system in Malaysia including:
    - i) a detailed account of the branches of social security which are currently in place in the country, including the contingencies covered and the type of scheme (e.g., social insurance, provident fund, employers' liability, social assistance, etc.) through which the respective branches are covered.
    - ii) a general inventory of the legislation under which each branch of social security is provided or, in the absence of legislation, an indication of the mechanism(s) through which protection is provided.



- iii) a mapping and explanation of other types of social protection arrangements (main cash transfer programmes, pilots, schemes, etc) that are not set out in the legislation and are nonetheless relevant for the provision of some level of protection.
- iv) a brief description of the administration of social security (overall and for each scheme) and of the institutional structure in place for the operation of the schemes;

(B) An article by article compatibility analysis, following the structure of Convention No.102, and using the report form for the Convention<sup>1</sup>, and containing:

- i) An assessment of compatibility between the requirements of the Convention and the relevant provisions of national legislation and practice (depending on the information available), for each article of the Convention. This part should include a detailed description of the legal provisions governing each branch of the social security system and an explanation of how they give application —or not— to each parameter and principle set out in Convention No. 102 (e.g., persons covered, level and duration of benefit, Government responsibility, tripartite management, etc.), with detailed reference to the relevant articles (number of the article, paragraph and sub-paragraph) of the national legislation and of the Convention. Under each Part of the Convention, the report should also make, based on all relevant compiled statistical information, the relevant calculations as per the report form with a view to ascertaining whether or not the minimum benefit rate specified therein is achieved in the case of a standard beneficiary determined pursuant to Articles 65, 66 or 67 of the Convention, as the case may be. If the data is unavailable this should also be mentioned. In such a case, the external collaborator should liaise with ILO colleagues with a view to jointly identifying the most adapted solutions for approximating the reference wage of a standard beneficiary based on extrapolated data and most relevant proxies in line with the approach followed by Convention No. 102. The analysis should formulate a clear conclusion, for each article analysed, as to whether the national law and practice comply with the qualitative and quantitative requirements of the Convention.
- ii) Overall conclusions on the compatibility of the national law with the requirements on Convention No. 102, and recommendations as to which Part of the Convention could be accepted, in view of a possible future ratification. Recommendations concerning possible modifications of the legislation and practice to improve compliance with the Convention and

---

<sup>1</sup> The report form for the Social Security (Minimum Standards) Convention, 1952 (No. 102) is available at: [social-protection.org/gimi/Media.action?id=16841](https://social-protection.org/gimi/Media.action?id=16841)



allow for the ratification of additional Parts could also be formulated.

*Timeline: December 2024 – April 2025*

- c) Liaise with the social partners and the relevant Ministries and institutions responsible for the administration of social security in Malaysia to validate the findings of the analysis and to obtain feedback on the application of the legislation in practice.

*Timeline: April - May 2025*

- d) Integrate stakeholders and ILO comments in the draft report, amend when and where necessary the report accordingly, and produce a final draft report.

*Timeline: June 2025*

## **II. Relevant sections of the three actuarial Valuation reports referred to above**

- a) Draft an appendix containing a matrix comparing the relevant branches of the national social protection system against ILO Convention No. 102 for each of the following actuarial valuation reports:

- Employment Injury (EI) scheme carried out as at 31 December 2024
- Invalidity and Survivor's (IS) Scheme carried out as at 31 December 2024
- Employment Insurance (UI) Scheme carried out as at 31 December 2025

Given that the valuation date of the Employment Insurance scheme is at 31 December 2025, the content will be provided in 'final draft' format for this scheme. The Appendix for each scheme will compare PERKESO provisions with the key quantitative and qualitative parameters set out in Convention No. 102 (level of benefits, duration, entitlement and qualifying conditions, minimum and maximum benefits etc.), as well as the relevant principles (e.g., periodical payment, periodicity, and periodic adjustments).

*Timeline: January to February 2025*

- b) Draft a sub-section of the report with an overall review of the legal framework in light of international social security standards and principles, including a summary based on the detailed analysis of the matrix reflecting the prospects for ratification of Convention No. 102 and necessary clarifications and/or reforms, where relevant.

*Timeline: January to March 2025*

- c) Finalise the outputs under II.a. and II.b above (i.e. a finalisation of Appendices for the three schemes referred to above and the sub-section of the actuarial valuation reports).

*Timeline: April to June 2025*

The work will be backstopped by ILO legal experts from SOCPRO in Geneva and the Chief Technical Adviser of the ILO PERKESO project.

## ► SUMMARY OF OUTPUTS

- **Output 1** – Final Version of the Technical Report (in English) -
- **Output 2** – Inputs into the actuarial valuations of the EI, IS and UI schemes covering the issues referred to above under II (three Appendices and three report sub-sections).

## ► TIMEFRAME

**Starting date** 28 November 2024  
**Ending date** 30 June 2025  
**Total working day** 60 days consisting of:

Activity	Estimated number of working days
<b>I. a.</b> Summary of legal provisions	8
<b>I.b</b> Technical report (overview of social security system in Malaysia and gap analysis)	23
<b>I.c. and I.d</b> Liaison and incorporation of feedback into final report	7
<b>II. a.</b> Draft matrix appendix for three actuarial valuation reports	8
<b>II. b.</b> Draft subsections for three actuarial valuation reports	8
<b>II. c.</b> Finalisation of appendices (II.a) and sub-sections (II.b) for three valuation reports	6

*Note that this is an approximate estimation of activity time commitment but may vary by output. Any variation does not affect the overall estimated total of 60 working days of the project work.*

## ► TERMS OF PAYMENT

The total fee amounts to the number of days multiplied by the daily rate of the consultant.

**The first payment** will be made upon delivery of activities I.a. and I.b of Output I and II.a. and II.b of Output II to the satisfaction of the ILO (total of 30 working days).

**The second payment** will be made upon delivery of activities I.c, I,d of Output I and II.c. of Output 2 to the satisfaction of the ILO (total of 30 working days).

Any costs related to a Mission to Malaysia will be contracted separately (if applicable).



International  
Labour  
Organization

### ► **Submission of Proposals**

Interested candidates are requested to submit the following information to [Kualalumpur@ilo.org](mailto:Kualalumpur@ilo.org) by 21 November 2024:

- A short work plan detailing methodology and approach (maximum 3 pages)
- Summary of relevant experience. The ILO is seeking candidates with :
  - A strong legal background (preferably related to social security)
  - A very good level of English. Knowledge of Bahasa would be an advantage
  - Experience of similar work, preferably in the Southeast Asia region
  - An overview knowledge of social security in Malaysia and the work of the ILO would be an advantage
- The daily fee rate for this work
- Any other information deemed relevant.