

FOR MIGRANT WORKERS

SOCIAL PROTECTION FOR MIGRANT WORKERS AND THEIR FAMILIES IN ECOWAS STATES



#RIGHTSMIGRATETOO

THE ECOWAS GENERAL CONVENTION ON SOCIAL SECURITY

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BACKGROUND

Social security is a basic human right. However, in reality, migrants face huge challenges in exercising their rights to social security, compared to nationals working their entire lives in one country. Migrant workers can be denied access or have limited effective access to social security coverage in their host country because of their status, nationality or the insufficient duration of their employment and residence. At the same time, they can lose their entitlements to social security benefits in their country of origin because of their temporary absence. Thus, it is essential they have the knowledge and awareness of their rights to social security and the various provisions protecting and promoting these rights.

To overcome these barriers, the ECOWAS General Convention on Social Security was drafted in 1993. It was subsequently adopted by the ECOWAS Ministers of Labour and of Social Affairs in December 2012, and by the Authority of Heads of State as a Supplementary Act to the Revised ECOWAS Treaty in 2013. The Convention is based on the principles of equal treatment between migrant workers and nationals of the host country and largely inspired by ILO Conventions, in particular: Social Security (minimum standards) Convention, 1952 (n° 102); Equality of Treatment (social security) Convention, 1962 (n° 118); and Maintenance of Social Security Rights Convention, 1982 (n° 157). It is applicable to the key branches of social security and covers all workers who are nationals of an ECOWAS Member State, as well as members of their family and their survivors. The Convention guarantees the portability of social security rights of migrant workers, the accumulation of acquired rights through totalling periods of employment or contribution, and the payment of benefits abroad.

To enhance social security for migrant workers and their families in ECOWAS, the ECOWAS Commission is working with partners, notably the ILO, to increase awareness and knowledge of the Convention and support its implementation by ECOWAS Member States.



THE ECOWAS GENERAL CONVENTION ON SOCIAL SECURITY IS BASED ON THE PRINCIPLE OF EQUALITY OF TREATMENT BETWEEN MIGRANT WORKERS AND CITIZENS OF THE HOST COUNTRY.

IT GUARANTEES THE PORTABILITY OF RIGHTS FOR MIGRANT WORKERS.

IS THIS CONVENTION FOR YOU?

Are you a national of one of these ECOWAS countries?

- | | |
|------------------|------------------|
| 1. Benin | 9. Liberia |
| 2. Burkina Faso | 10. Mali |
| 3. Cabo Verde | 11. Niger |
| 4. Cote d'Ivoire | 12. Nigeria |
| 5. The Gambia | 13. Senegal |
| 6. Ghana | 14. Sierra Leone |
| 7. Guinea | 15. Togo |
| 8. Guinea-Bissau | |

If you are...

1. Going to, are or have been employed for paid work in another ECOWAS country,
2. A family member and/or beneficiary of the workers mentioned above,
3. Or a refugee or stateless person living in an ECOWAS country and have paid contributions to a social security fund,

And are not a career diplomatic or consular staff,

Please join and contribute to a social security agency in the host ECOWAS country first, so your social security rights can be protected under this convention.

HOW CAN YOU BENEFIT FROM THIS CONVENTION AND PROTECT AND MAINTAIN YOUR SOCIAL SECURITY RIGHTS?

- 1. Before leaving your country of origin**
Find out what is the social security situation in your potential host country and how you can affiliate to a social security institution.
- 2. While employed in host country**
Join and contribute to a social security agency in the host country. Make sure your employer has duly registered you to the appropriate social security institution and that payments of benefits are made accordingly
- 3. Before leaving the host country**
Make sure you have completed the appropriate forms for departure regarding your social security contributions and are well informed of the steps for their recognition in your country of origin

SOCIAL SECURITY BENEFITS

The ECOWAS Convention on Social Security outlines your rights and obligations as a migrant worker, and the entitlements of your family.

The Convention applies to the following **Social Security benefits**:



DISABILITY



FAMILY



SURVIVORS



UNEMPLOYMENT



MATERNITY



OCCUPATIONAL
DISEASES AND
WORK-RELATED
ACCIDENTS



OLD AGE



HEALTH CARE
AND SICKNESS

In practice, the actual benefits covered may depend on the social security system in the host country.

Besides the ECOWAS Convention, existing relationships between ECOWAS countries through bilateral or multilateral agreements, will also determine how these social security benefits are provided to you.

This convention replaces previous conventions between ECOWAS countries. However, if a previous Convention is more favorable, countries may continue to apply it.

ARTICLES TO KNOW

The articles of this Convention may not apply automatically. Please join and contribute to a social security agency in the host country to enjoy the provisions of this Convention.

YOUR RIGHTS

Equality of treatment



You will have the same legal rights as nationals, even if you are not a national of the ECOWAS country you are working or residing in (6). Thus, if an ECOWAS country passes laws and/or policies that provide better benefits, these benefits should apply to you if you are working and/or covered in that country (9).

ECOWAS countries may set up agreements, between each other, that may make the specific rules about insurance more favorable for you (14).

Your Family

Your family would still be entitled to benefits from your employment (e.g. invalidity, sickness, pensions) even if they are not residing in your country of work/country issuing these benefits (8).



Working in non-ECOWAS countries

If you are a national of an ECOWAS country and work in a non-ECOWAS country, and are in some way entitled to benefits, please refer to agreements between the countries to determine the benefits you are entitled to (8).

Accumulation insurance periods and portability

Your previous insurance period(s) completed in any ECOWAS countries will be taken into account when to fulfill conditions for a voluntary insurance scheme you may be applying for in another ECOWAS country (7).

Insurance periods can be accumulated across ECOWAS countries to help you qualify for benefits. Therefore, if the laws of a country require minimum insurance periods in order to qualify for a certain benefit, any previous insurance period acquired in other ECOWAS countries are and can be accumulated (16).



For periods less than 12 months, if laws state that workers are not entitled to benefits, the member state is not expected to grant benefits for the period. However, this period should be taken into account by other member states pro-rating benefits (17).

If you move to a different country and are no longer subjected to the laws of the previous ECOWAS country, you can request to withdraw or transfer the total amount payable in your provident fund to the new institution issuing your benefits. This also applies to pension rights. If you choose to transfer the amount, you will be able to buy back insurance periods to acquire or improve your benefits, as according the laws of the new host/resident country (42–43).

WHICH STATE'S LAWS APPLY TO YOUR SOCIAL SECURITY?

Generally, you are subject to only one country's law at a given time. The law that applies would be of the country where you are working in, regardless of your country of residence or country of your employer's headquarters (11).

If you work at sea, the flag of the vessel generally indicates the governing laws.

If you work in a diplomatic mission you are subject to the law of the sending/employing Member State,

The laws of the country you are residing in apply, if you are working in more than one country, including your country of residence (12).

The laws of the country where your employer has its headquarters apply, if you are (12):

- A. An international transport worker (e.g. rail or flight personnel) and may spend significant working hours on the move and in different ECOWAS countries.
- B. A temporary worker (expected to be employed for less than six months).

INVALIDITY, OLD AGE AND SURVIVORS'

Accumulation of benefits

You may be entitled to several benefits of the same kind for the same period of compulsory insurance (10).

Note: You can only claim benefits from either your home country or country of work, even if you are entitled to benefits in both.

Degree of invalidity:

Previous injuries and incapacities recognized in an ECOWAS country will be taken into account by other ECOWAS countries, as if the injuries and incapacities occurred there (30).



If an institution in any ECOWAS country decides on the degree of invalidity of a worker which could affect benefits, this decision will be valid in all countries (22).

Calculation of benefits

Based on the (applicable) governing laws, the institutions in charge of granting benefits will determine if you satisfy the conditions necessary and the amount of benefits).

In calculating benefits (acquired), the institution will take into account all periods of insurance completed as if they were fulfilled under the laws in that country (17). The actual amount payable by the institution concerned will be based on the period of contribution or insurance completed under that institution.



Different countries may have different laws/rules on calculating benefits (18). If you meet the conditions outlined in one country's laws only, but not in another, then payable benefits will be calculated according to that country's laws. In some cases, there may be no need to accumulate previous insurance periods.

However, if you meet the conditions of at least two countries without having to accumulate periods from another country, then the payable benefits will solely be calculated based on the provisions in the national laws of that country. The method detailed in article 17 will not be applied.

If you are entitled to a higher amount than what is stipulated by a country's laws, a proportional supplement will be paid to you by the country institutions (21).

OCCUPATIONAL INJURY AND DISEASES

Residence in another ECOWAS country

Generally, the laws of country where the institution providing the benefits is located will apply, regardless of your residential status in that country. This goes for accidents in ECOWAS member states and accidents on the way to work at an ECOWAS member state (26). However, victims of a work accident or professional illness who are residing at an ECOWAS member state will receive benefits according to that country's laws.

If you migrate to the country of the institution providing benefits, you will continue receiving benefits according to its laws, subject to any agreements you may have with the institution.

If you have suffered an occupational accident or disease and are receiving benefits in the country of work, you may be able to go back to their home country and continue to receive those benefits for a limited period, depending on the specific laws of those countries (27).



Calculation of benefits

Major benefits, other than cash, such as prosthetic appliances, may be provided by an institution in a different country (e.g. the worker's home country) if this is authorized (28).

To calculate cash benefits, the institution issuing the benefits will refer to records of previous earnings and/or the number of members of the family who may be residing in another ECOWAS member state. These family members will be treated equally as nationals of the country issuing these benefits (31).

Types of Occupational Injuries:

An accident at work is an accident arising because of or during the work, in any capacity and any location, with or without your fault as an employee.

A commuting accident is an accident occurring on your usual way to work from your residence, and vice versa.

An occupational disease is a work-related disease recognized in social security laws. It may include morbid manifestations of acute or chronic intoxication from regular exposure to toxic agents, and microbial or parasitic infections contracted because of work.

Who pays for the benefits?

If you contract an occupational disease after working in several ECOWAS member states, your benefits will be awarded by your last country of work.

Any laws from ECOWAS member states on conditions such as the time of diagnosis after the job termination, the total periods of work for that occupation, and the country where you were first diagnosed, will be treated as if the diagnosis occurred in the country issuing your benefits (32).

If you are already receiving benefits as a result of an occupational disease and your conditions worsens, you will be able to receive additional benefits from either ECOWAS member state. The original institution will continue to provide benefits if you have not worked in another liable occupation. An institution from the country of work that aggravated your illness will provide supplementary benefits (33).

If you are seriously injured or die and need to be transported back to your home country, the country of work or your home country will bear these costs (29).

Accumulation of benefits

You may be entitled to several benefits of the same kind for the same period of compulsory insurance (10). However, you can only claim benefits from either your home country or country of work, even if you are entitled to benefits in both.

FAMILY AND MATERNITY BENEFITS

Accumulation of Insurance periods

When it comes to maternity and family benefits, if the laws of a country require a certain period of coverage to be eligible for a certain entitlement, the time accrued in other ECOWAS countries is valid (35).

Residence in another ECOWAS country

You will still receive maternity benefits while you reside in an ECOWAS country, even temporarily, that isn't the country providing your benefits. If the institution at the country of residence is paying the benefits, mothers will receive medical services under the laws of that country (36). If your family is living in a different ECOWAS country, they can still claim family benefits as if they were all in the same country as you are.



Members of the family refer persons recognized by laws applied by the institution issuing your benefits.

HEALTH CARE AND SICKNESS BENEFITS

In kind benefits (e.g. services) will be provided by the institution issuing your benefits at your country of residence (38). The rules for in kind benefits (Article 38 and 39) also extend to your family (40).

Cash benefits issued by the institution will be as if you are a national of that country (38).

Residence in another ECOWAS country

You will be entitled to these sickness (cash) benefits, even if you move to another ECOWAS country, if:

- You satisfy the conditions in the laws of the country issuing the benefits
- Your condition immediately requires benefits during your stay in the other country
- You are authorized by the institution issuing your benefits to move to the other ECOWAS country to be given appropriate care for your condition

Note: the institution paying your benefits is subject to any agreements between its country and your country of residence.

However, the authorization for your move may be rejected if the move could compromise your health or medical treatment (39).

UNEMPLOYMENT INSURANCE BENEFITS

What are unemployment benefits?

Unemployment benefits are benefits paid temporarily during the suspension of earnings when you are unable due to gain new employment, if you are insured.



Residence in another ECOWAS country

If you are entitled to unemployment benefits in an ECOWAS country and move to a different ECOWAS country, you will have to satisfy the conditions of your new country of residence to qualify for benefits there (41). The benefits will then be provided by an institution in your place of residence, according to the country's laws, but paid for by the original institution issuing your benefits.

ADMINISTRATION MATTERS

Tax exemptions or reductions that are valid in one ECOWAS country for producing necessary certificates or documents is valid in the other ECOWAS countries as well (47).

If you are residing in an ECOWAS country that is not the one issuing your benefits, you can submit a **claim or appeal** through an institution at that country to forward it to the one issuing your benefits (48).

Medical examinations that may be requested in one country for certain coverage and benefits may also be performed in another ECOWAS country where you are residing (49).



Supported by:



Extending access to social protection and portability of benefits to migrant workers and their families

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