

## Employment and Skill Development Law

(Pyidaungsu Hluttaw Law No. 29/2013)

9<sup>th</sup> Waning of Wargoung 1375 M.E

30<sup>th</sup> August 2013

The Pyidaungsu Hluttaw hereby enacts this Law.

### Chapter 1

#### Title and Definitions

1. (a) This Law shall be called **the Employment and Skill Development Law**.  
(b) This Law shall enter into effect 3 months after its promulgation.
2. The expressions contained in this law shall have the meanings given hereunder:
  - (a) **Employer** means any person who has the right to hire an employee or who is delegated to hire an employee in a government department or organization, any co-operative society in which more than the minimum number of permanent or temporary employees are working, any private or joint-venture business, any organization, any company.
  - (b) **Employee** means any person who works for remuneration in a job requiring skills, some skills or no skills in a government department or organization, a co-operative society, a private or a joint-venture business, an organization, or a company. In this expression apprentices are also included.
  - (c) **Industry and service** means any factory, any type of workshop, any type of works, mills, branches and sub-branches in any location as stipulated by the Ministry of Labour, Employment and Social Security for the matters under this law.
  - (d) **Wage, salary** means the normal wage and salary earned for working and overtime allowances if there is an entitlement to work overtime. Remuneration to cover special expenses due to the nature of the work is not included in this expression.
  - (e) **Training** means pre-hiring training, on-the-job training, skill training, high-skilled job training, training related to job transfers for employment seekers and employees in order to enhance their knowledge, technical ability and skills.
  - (f) **Training school** means any school established and opened to provide training to employees and employment seekers in order for them to meet technical skill standards.

- (g) **Skill** means the technical capability required to work in accordance with the stipulations.
- (h) **Technical skill standards** means the technical capability required to work in accordance with the recognized or specified technical skills as defined by the skill development body for all kinds of work under this law.
- (i) **Central body** means the technical skill development central body formed under this law.
- (j) **Registration certificate** means the certificate issued to the training school and technical skill assessment institute by the technical skill development committee under this law.
- (k) **Technical skill assessment institute** means an institute recognized by the technical skill development committee.
- (l) **Technical skill certificate** means a certificate issued by a technical skill assessment institute with the approval of technical skill development committee.
- (m) **Skilled employee** means an employee who received a technical skill certificate issued by the technical skill assessment institute with the approval of the technical skill development committee.
- (n) **Fund** means the technical skill development fund established under this law.
- (o) **Contribution** means the money paid to the technical skill development fund by the relevant employer under this law.
- (p) **Ministry** means the Ministry of Labour, Employment and Social Security.

## Chapter 2

### Seeking Employment and Employees

- 3. The Ministry shall assist job seekers in selecting a job suitable to their age and capability, in finding a job, in keeping the job and in developing their skills, and assist employers in finding employees who are suitable for, and compatible with, the job.
- 4. (a) For the tasks under section 3, the Ministry:
  - (1) shall set up employment exchange offices as necessary;
  - (2) shall make necessary arrangements to reveal employment opportunities, assist employment seekers, assist employers in finding employees who are suitable for and compatible with the job, open state-operated employment exchange offices, allow local private employment agencies which provide free services free of charge to employment seekers, and employ other means.

(b) If an employment seeker refuses to accept an employment offered by the employment exchange office on the grounds that there is a dispute between the employee and employer or he could earn more in a different employment, he shall have the right to enjoy the other benefits and opportunities available in the said employment exchange office.

(c) The Ministry shall make arrangements to require employers to notify present or future vacancies to the relevant employment exchange office in accordance with the stipulations.

### **Chapter 3**

#### **Signing the Employment Agreement**

5. (a) (1) If an employer has hired an employee to work in a job, the employment agreement shall be signed within 30 days. However, this shall not apply to permanent employment in government departments and organizations.

(2) If there is a pre-hiring period or a probation period before the hiring, the stipulations in sub-section (1) shall not cover the trainee.

(b) The following particulars shall be included in the employment agreement:

(1) type of employment;

(2) probation period;

(3) wage, salary;

(4) location of the employment;

(5) term of the agreement;

(6) working hours;

(7) days off, holidays and leave;

(8) overtime;

(9) meal arrangements at work;

(10) accommodation;

(11) medical treatment;

(12) shuttling to the worksite and travels;

(13) regulations to be followed by the employees;

(14) if the employee is sent to attend training, the bond period after the training for which the employee agrees to continue to work;

(15) resignation and termination of service;

(16) termination of the agreement;

- (17) the obligations in accordance with the stipulations of the agreement;
  - (18) cancellation of the employment agreement by mutual consent of the employer and the employee;
  - (19) other matters;
  - (20) specifying the regulations of the agreement, amendments and supplements;
  - (21) miscellaneous.
- (c) The regulations for the work area contained in the employment agreement shall be in compliance with any existing law and the benefits of the employee shall not be less than those stipulated in any existing law.
- (d) The Ministry shall issue notifications specifying compensations to be paid by the employer to the employee if the work is completed earlier than the stipulated period or the whole work or any part of it have to be terminated due to unexpected reasons or the work has to be terminated due to various reasons.
- (e) The stipulations in sub-section a concerning employment agreements shall also cover day labourers and workers receiving a one-off payment for a specific job who are appointed temporarily in a government department or organization.
- (f) The regulations for the work area and benefits contained in the employment agreement mutually agreed by the employer and employee or amongst the employees shall be amended as necessary, in accordance with the existing law.
- (g) The employer shall send a copy of the employment agreement entered into by the employer and employee to the relevant employment exchange office within the stipulated period and shall obtain its approval.
- (h) An employment agreement concluded before the entering into force of this law shall continue to be valid until the end of the term of the original agreement.

#### **Chapter 4**

#### **Formation of Employment and Skill Development Teams and Their Duties and Responsibilities**

6. The Union government -
- (a) shall form the central body for employment and skill development consisting of the following persons:
    - (1) Union minister Chairman

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- |   |           |
|---|-----------|
| Union Ministry of Labour, Employment and Social Security        |           |
| (2) Union minister  | Member    |
| The relevant ministries   |           |
| (3) City mayor  | Member    |
| Nay Pyi Taw, Yangon and Mandalay City Development Committees    |           |
| (4) Relevant minister   | Member    |
| Regional or State government                                    |           |
| (5) Chairman  | Member    |
| Union of Myanmar Federation of Chamber of Commerce and Industry |           |
| (6) Chairman  | Member    |
| Union of Myanmar Labour Organization                            |           |
| (7) Chairman  | Member    |
| Union of Myanmar Employers' Organization                        |           |
| (8) Deputy minister   | Secretary |
| The Union Ministry of Labour, Employment and Social Security.   |           |
- (b) Vice chairman and joint secretary shall be appointed when forming the central body under sub-section (a).
7. The central body shall lay down the policies in respect of the following tasks –
- (a) creating employment opportunities;
  - (b) reducing unemployment;
  - (c) promoting the ability of employees;
  - (d) promoting the skill development of employees;
  - (e) forming an employment and skill development team and directing it.
8. The central body shall form an employment development team consisting of the following persons with the approval of the Union Government –
- |  |          |
|--|----------|
| (a) Deputy minister                                      | Chairman |
| Union Ministry of Labour, Employment and Social Security |          |
| (b) Deputy minister                                      | Member   |
| The relevant Union Ministries                            |          |
| (c) Director general or managing director                | Member   |
| The relevant department or enterprise                    |          |

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| (d) Representative<br>Union of Myanmar Federation of Chamber of Commerce and Industry | Member    |
| (e) Representative<br>Union of Myanmar Labour Organization                            | Member    |
| (f) Representative<br>Union of Myanmar Employers' Organization                        | Member    |
| (g) Director general<br>Labour Directorate  | Secretary |
9. The duties and responsibilities of the employment development team are as follows:
- (a) creating employment opportunities in the country;
  - (b) finding employment for those who want to work;
  - (c) reducing unemployment;
  - (d) promoting the ability of workers.
10. (a) the central body shall form a skill development team consisting of the following persons with the consent of the Union Government –
- |   |           |
|---|-----------|
| (1) Deputy minister<br>The Union ministry which is empowered by the Union government  | Chairman  |
| (2) Director general or managing director<br>Relevant Department or Enterprise        | Member    |
| (3) Representative<br>Union of Myanmar Federation of Chamber of Commerce and Industry | Member    |
| (4) Chairman<br>Technical organizations   | Member    |
| (5) Representative<br>Myanmar labour organizations                                    | Member    |
| (6) Representative<br>Myanmar employers' organizations                                | Member    |
| (7) Deputy director general<br>Labour Directorate                                     | Secretary |

- (b) When forming the skill development team according to sub-section (a), technical experts in skill development of workers shall be appointed as members.
11. The duties and responsibilities of the skill development team are as follows:
- (a) classification of employment skill norms, drawing them up and enacting them;
  - (b) priority classification of skill development and laying down the policies relating to skill training;
  - (c) prescribing the arrangements for skill assessment;
  - (d) issuing registration certificates to training schools and skill assessment institutes;
  - (e) laying down the arrangements for the issuance of skill assessment certificates;
  - (f) establishing and managing the skill development fund;
  - (g) supervising the committees and sub-committees formed by it.
12. (a) the skill development team shall form the following committees to perform the duties –
- (1) The committee for specification of skill norms and training;
  - (2) The committee for skill norm assessment and acknowledgement.
- (b) The skill development team shall, as necessary, form sub-committees under the committees established according to section 12 sub-section (a).
13. In connection with the duties and powers of the respective committees formed under section 12 sub-sections (a) –
- (a) The committee for specification of skill norms and training and the committee for skill norm assessment and acknowledgement shall coordinate and draw up the work programme.
  - (b) The committee for specification of skill norms and training shall perform the following:
    - (1) drawing up skill norms on the basis of international norms;
    - (2) drawing up syllabi in accordance with the skill norms, specifying training norms;
    - (3) specifying the quality of training instructors;
    - (4) specifying equipment, apparatus and teaching aid norms;
    - (5) training school registration and registration of the type of training;
    - (6) coordinating efforts to improve technical skill development;
    - (7) after scrutinizing, submitting the application for a registration certificate to the skill development team.
  - (c) The committee for skill norm assessment and acknowledgement shall perform the following:
    - (1) specifying the assessment norm in accordance with the employment skill norm;

- (2) registration of skill assessment institutes and registration of skill assessment programmes;
- (3) after scrutinizing, submitting the application for the issuance of a registration certificate to the skill development team;
- (4) specifying assessment methods, specifying quality control systems and duties of the assessors, specifying quality warranty of the skill assessment institute;
- (5) technological coordination of the efforts to improve skill development;
- (6) specifying grades and organizing competitions;
- (7) issuing acknowledgement certificates to outstanding persons who made a significant performance at a competition.

## Chapter 5

### Employee Skill Development and Training Program

14. An employer shall, in order to develop the skill of workers who are selected to be hired or who presently work for the employer, implement training programmes in accordance with the work requirements and in line with the policy of the skill development team.

The Employer:

- (a) Shall, in order to enhance the job skills of the workers, implement, for each job or for a group of jobs and for each employee individually or collectively for a group of employees, training in the shape of on-the-job training, systematic training at the worksite, external training and training through information technology systems;
- (b) shall hire juveniles who are at least 16 years of age as apprentice and arrange training in technology relevant for the employment in accordance with the regulations prescribed by the skill development team.

## Chapter 6

### Registration and Establishment of Training Schools and Skill Assessment Institutes

15. (a) An employer or service provider shall apply, through the relevant committees, to the skill development team in order to acquire a registration certificate in accordance with the stipulations.



(b) A foreigner desirous to open a training school or skill assessment institute shall apply, through the relevant committees, to the skill development team in order to acquire a registration certificate in accordance with the existing laws.

16. The skill development team:

- (a) shall issue or refuse to issue the registration certificate after having asked the relevant committees formed under section 12 to scrutinize whether the application filed according to section 16 is in compliance with the stipulations or not;
- (b) shall, if it has decided to issue the registration certificate, issue it after the applicant has paid the registration fees in accordance with the stipulated regulations;
- (c) shall allow the applicant to apply again within 30 days if it has refused to issue the registration certificate.

17. Training schools and skill assessment institutes with a registration certificate shall apply, through the relevant committee, to the skill development team in order to extend the term of the registration in accordance with the stipulations if they want to continue their services after the expiry of term of registration has expired.

18. The skill development team may revoke the registration certificate of a training school or skill assessment institute found to be in non-compliance with the stipulations contained in the registration certificate.

19. The obligations of a registered training school are as follows:

- (a) Drawing up a training programme containing the following items, submitting it to the skill development team and obtaining its consent:
  - (1) skill norm,
  - (2) syllabus,
  - (3) statement as to the location of the training school, the building and equipment,
  - (4) name of the instructor and his qualification,
  - (5) training period,
  - (6) systems used in the training, training aids,
  - (7) training certificate,
  - (8) training fee,
  - (9) other particulars prescribed by the committee for the specification of skill norms and training.
- (b) signing the training agreement;
- (c) keeping filed the curriculum vitae of the trainees;

- (d) submitting a training report to the skill development team within 15 days after completion of the training;
  - (e) submitting an application to the skill development team at least 30 days in advance if the training school is to be transferred to another person;
  - (f) transferring the trainees and the remaining training fees to a similar training school if the training school is required to close.
20. The founder of a registered training school:
- (a) shall have the right to appoint foreign experts and instructors who have a work permit issued by the relevant ministry. Their stay period shall be in accordance with the existing law;
  - (b) shall have the right to import teaching aids in accordance with the existing laws.
21. The obligations of a registered skill assessment institute are as follows:
- (a) Submitting a skill assessment programme covering the following items to the skill development team and obtaining its consent:
    - (1) assessment programme based on the recognized skill norm,
    - (2) statement as to the location of the institute, the building and the equipment,
    - (3) names of the assessors and their qualification,
    - (4) assessment period,
    - (5) assessment aids used by the assessment institute,
    - (6) the status of the questions to be assessed,
    - (7) the skill norms and methods used in the assessment,
    - (8) the fees to be collected from the assessed persons,
    - (9) other particulars prescribed by the committee for skill assessment.
  - (b) Fixing the regulations of the assessment and specifying the assessment programme;
  - (c) Keeping filed the curriculum vitae of the assessed persons;
  - (d) Submitting a report to the skill development team within 15 days after the skill assessment was done;
  - (e) Issuing, with the approval of the skill development team, a certificate of recognizance to the persons who passed the skill assessment;
  - (f) Transferring the assessed persons and the remaining fees to a similar skill assessment institute if the skill assessment institute is required to close;

- (g) submitting an application to the skill development team at least 30 days in advance if the skill assessment institute is to be transferred to another person
22. A registered skill assessment institute:
- (a) shall have the right to appoint foreign experts and assessors who have a work permit issued by the relevant ministry. Their stay period shall be in accordance with the existing law;
  - (b) shall have the right to import assessment aids in accordance with the existing laws.

## **Chapter 7**

### **Conducting skill competitions**

23. The committee for skill assessment and recognition shall, in accordance with the stipulations, provide for the creation of skill competitions for the various types of work, and conduct research based on the results of the skill competition.
24. An employee having received a certificate of skill recognition is entitled to participate in the relevant skill competition held in the country and abroad.

## **Chapter 8**

### **Establishment and Use of the Employee Skill Development Fund**

25. The skill development team shall establish a fund for the development of skills of employees in industry and services sectors and have the right to use it, in accordance with the stipulations, for the following purposes:
- (a) training in order to develop and enhance the skills of employees;
  - (b) re-training for employees who are terminated from their jobs for whatever reason and wish to change their job, in order for them to acquire the required skills;
  - (c) loan or financial support for matters specified in sub-sections (a) and (b).
26. The skill development team shall form a fund management committee consisting of representatives of the government, employers and employees.
27. The duties and responsibilities of the fund management committee are as follows:
- (a) Regular supervision of the contributions to the fund;
  - (b) management of the fund with the consent of the skill development team;
  - (c) placement of deposits out of the money of the fund with any bank in accordance with the financial regulations and buying debentures;

- (d) receipt of donations with the approval of skill development committee if there is a donor;
  - (e) audit of the contributions and the use of the fund.
28. The fund management committee shall have the right to use the fund for any of the following purposes in accordance with the regulation stipulated by the skill development team:
- (a) Sending employees to full time or part-time skill development training, providing training, supporting or granting loans to employers offering training programmes;
  - (b) [not translated];
  - (c) performing other matters stipulated by the skill development team;
29. (a) Employers in industry and services sectors shall, without fail, pay monthly contributions to the fund amounting to not less than 0.5% of the total wages and salaries of subordinates and supervisors;
- (b) The contributions to be paid under sub-section (a) shall not be deducted from the wages and salaries of the employees.
31. The skill development team:
- (a) shall specify the amount of the contributions to be paid to the fund by the employers according to section 30, sub-section (a) based on the work sector, type of work, size of work and number of employees;
  - (b) shall have the right to exempt any employer from the requirement to pay contributions if the employer submits sufficient reasons.
32. The skill development team shall supervise, in accordance with the existing laws, the financing of training provided by foreigners.
33. The skill development team shall form an advisory committee charged with advising on the management and use of the fund.

## Chapter 9

### Offences and Penalties

34. Anyone convicted of having imitated a certificate of skill recognition shall be punished with imprisonment for not more than 7 years and with a fine.

35. Anyone convicted of having provided placing services without the permission of the ministry or of having received fees from employees shall be punished with imprisonment for not more than three years or with a fine or with both.
36. Anyone is convicted of having violated any prohibition contained in the rules, regulations, by-laws, notifications, orders or directives issued under this law shall be punished with imprisonment for not more than one year or with a fine or with both.
37. Anyone convicted of knowingly having submitted, in order to obtain employment or to fill a vacancy, a false statement to an employment exchange office or any representative performing work for such an office shall be punished with imprisonment for not more than one year or with a fine or with both.
38. Any employer convicted of having committed any of the following offences shall be punished with imprisonment for not more than six months or with a fine or with both:
  - (a) failing to sign an employment agreement according to section 5, sub-section (a);
  - (b) failing to pay contributions according to section 30, sub-section (a).
39. Anyone convicted of having violated any matter contained in an employment agreement shall be punished with imprisonment for not more than three months or with a fine or with both.

## **Chapter 10**

### **Miscellaneous**

40. If an employer fails to pay back a loan from the fund within the specified period, the loan shall be collected as arrears of land revenue.
41. In implementing the stipulations under this law:
  - (a) the Ministry shall issue the necessary rules, regulations and by-laws with the consent of the Union Government;
  - (b) the Ministry and the labour directorate shall issue the necessary notifications, orders, directives and procedures.
42. The Employment and Training Act, 1950, is repealed by this law.

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information, contact [info@pwplegal.com](mailto:info@pwplegal.com)*



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I hereby sign according to the Constitution of the Republic of the Union of Myanmar.

Sd. Thein Sein  
The President  
The Republic of the Union of Myanmar