

The Law Amending the Factories Act, 1951
(The Pyidaungsu Hluttaw Law No. 12, 2016)
(The 11th Waxing of Pyatho, 1377 M.E.)

20th January, 2016

The Pyidaungsu Hluttaw hereby enacts this Law.

1. This Law shall be called the **Law Amending the Factories Act, 1951**.
2. In the Factories Act, 1951:
 - (a) the expression **“Chief Inspector”** shall be substituted by the expression “the Director-General of the Factories and General Labour Laws Inspection Department”;
 - (b) the expression **“Inspector”** shall be substituted by the expression “Inspecting Officer”;
 - (c) the expressions **“fit certificate for employment”** and **“certificate”** shall be substituted by the expression “fit certificate for employment by a registered medical practitioner”;
 - (d) the expression **“listed medical practitioner”** shall be substituted by the expression “registered medical practitioner”;
 - (e) the expression **“the Myanmar Traditional Medicine Act”** shall be substituted by the expression “the Traditional Medical Council Law”;
 - (f) the expression **“Assessor”** shall be substituted by the expression “Appraiser”;
 - (g) the expression **“Municipal”** shall be substituted by the expression “Development Committee or Development Board”.
3. In section 2 of the Factories Act, 1951:
 - (a) the expression “a person who has not attained fifteen years of age” in subsection (a) shall be substituted by the expression “a person who has attained fourteen years of age but not sixteen years of age permitted for employment by a registered medical practitioner”;
 - (b) the expression “a person who has attained fifteen years of age but not eighteen years of age” in subsection (b) shall be substituted by the expression “a person who has attained sixteen years of age but not eighteen years of age”;
 - (c) the expression “letter printing” in clause (dd) of subsection (k) shall be substituted by the expression “printing process” and after that expression, the expression “copy business” shall be inserted;

- (d) after the expression “vessel” in clause (ee) of subsection (k), the expression “any other kind of vehicles” shall be inserted;
- (e) after clause (ee) of subsection (k), clause (ff) and clause (gg) shall be inserted as follows:
- “(ff) construction, reconstruction, repair, refitting, finishing or managing to reuse of electrical and electronic technological appliances;
- (gg) testing, manufacturing, mixing, packaging, and transferring of chemicals and its related business”;
- (f) the expression “but does not include any person solely employed in a clerical capacity in any room or place where no manufacturing process is being carried out” in subsection (l) shall be substituted by the expression “In this expression, supervisor, security, driver, cleaner, cook, postman, gardener and general worker employed in a place whether or not where manufacturing process is concerned are also included”.
- (g) subsection (m) shall be substituted as follows:
- “(m) **Factory** means any premises and any building therein, on which five or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on. And it includes premises and any building therein, on which ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried on. Moreover, it also includes motorcar repair service, motorcar painting service, and press and oil mill employing more than one worker. If necessary, Ministry of Labour, Employment and Social Security may stipulate other work site as a factory by issuing a notification. A mine under the Myanmar Mines Law is, however, not included.
4. The expression “the President” in subsection (o) of section 2, subsection (1) of section 4, subsection (1) of section 6, section 9, subsections (1), (5) and (6) of section 10, section 11, subsection (2) of section 12, subsection (2) of section 13, subsection (2) of section 14, subsection (1) of section 17, subsection (4) of section 18, subsection (2) of section 23, subsection (3) of section 24, subsection (2) of section 25, subsection (3) of section 28, subsection (8) of section 30, subsection (2) of section 31, subsection (2) of section 33, subsection (2) of section 36, subsection (5) of section 39, section 43, subsection (3) of section 46, subsection (1) of section 51, section 52, subsections (1), (3), (4) and (5) of section 55, subsections (1), (3) of section 57, subsection (2) of section 61, sections 64 and 65, subsection (2) of section 66, subsections

- (1), (2), (3), (4) and (6) of section 70, subsections (1), (2) and (4) of section 71, subsection (4) of section 80, sections 84, 103 and 105 of the Factories Act, 1951 ” shall be substituted by the expression “the Ministry of Labour, Employment and Social Security”.
5. The subsection (q) of section 2, section 5, subsection (4) of section 10, subsection (2) of section 48, subsections (2), (3) of section 50 and section 100 of the Factories Act, 1951 shall be deleted.
6. The expression “being sent to the Chief Inspector by registered post, no order is communicated to the applicant within three months from the date on which it is so sent, the permission applied for in the said application shall be deemed to have been granted” in subsection (2) of section 6 of the Factories Act, 1951 shall be substituted by the expression “being sent to the Director-General of the Factories and General Labour Laws Inspection Department by personally or by registered post or other appropriate methods, the Director-General of the Factories and General Labour Laws Inspection Department shall grant permission or rejection by showing reasons within 30 days from the date of receipt of the application”.
7. The expression “Government” in subsection (3) of section 6 of the Factories Act, 1951 shall be substituted by the expression “the Ministry of Labour, Employment and Social Security .”
8. In section 8 of the Factories Act, 1951:
- (a) after the expression “full address” in clause (c) of subsection (1)”, the expression “contact address, phone number, facsimile number, and email address” shall be inserted.
 - (b) the expression “the nature and amount of power to be used” in clause (e) of subsection (1) shall be substituted by the expression “kind of business, the amount of electrical power and mechanical power to be used”.
 - (c) the expression “If the factory, which closes down, is a factory employing not more than fifteen workers, it shall be informed to the Chief Inspector within seven days after closing down” contained in subsection (6) shall be deleted.
 - (d) the expression “Provided that the notice of resumption of work shall be sent to the Chief Inspector within seven days of such resumption of work, if the factory employs not more than fifteen workers” in subsection (7) shall be deleted.
9. In the Factories Act, 1951:
- (a) the expression “Government” in subsection (a) of section 11, subsection (3) of section 93 and section 102 shall be substituted by the expression “Union Government”.

(b) the expression “any local or other public authority” in subsection (a) of section 11 and the expression “any other local authority” contained in subsection(3) of section 93 and section 102 shall be substituted by the expression “relevant Region Government, State Government, Nay Pyi Taw Council, Leading Bodies of Self-Administered Division and Leading Bodies of Self- Administered Zone.”

10. Subsection (1) of section 12 of the Factories Act, 1951 shall be substituted as follows:

(1) It shall be deemed to be registered medical practitioners who are appointed by the Ministry of Health, and served under the Social Security Board of the Ministry of Labour, Employment and Social Security to issue fit certificate for employment for the matter of this Law”.

11. The expression, “the President” in clause (e) of subsection (1) of section 13, subsections (2) and (3) of section 15, subsection (4) of section 19, subsection (4)of section 20, subsection (3) of section 21, subsection (2) of section 22, subsection (7) of section 40, subsection (2) of section 44, section 45, subsection (1) of section (48), subsection (3) of section 49, subsection (8) of section 67, subsection (2) of section 68, subsection (3) of section 73, and subsection (2) of section 81 of the Factories Act, 1951” shall be substituted by the expression “the Factories and General Labour Laws Inspection Department”.

12. In the Factories Act, 1951:

- (a) the expression “prescribed” in clause (e) of subsection (1) of section 13 shall be substituted by the expression “stipulated;”
- (b) the expression “may prescribe” in subsection (3) of section 15, subsection (4) of section 20, subsection (2) of section 68, subsection (3) of section 73 and subsection (2) of section 81 shall be substituted by the expression “may stipulate”;
- (c) the expression “may prescribe” in subsection (4) of section 18 shall be substituted by the expression “may issue orders and directives”;
- (d) the expressions “may prescribe” and “may prescribe and” contained in subsection (3) of section 21 shall be substituted by the expressions “may issue directives” and “may issue directives and” respectively;
- (e) the expression “may make rules” in subsection (2) of section 22 shall be substituted by the expression “may issue directives”;
- (f) the expression “prescribed” in subsection (2) of section 25 shall be substituted by the expression “stipulated”;

- (g) the expression “may prescribe” in clause (a) of subsection (3) of section 49 shall be substituted by the expression “may issue directives”;
- (h) the expression “may prescribe” in subsection (8) of section 67 shall be substituted by the expression “may issue”.

13. In section 14 of the Factories Act, 1951:

- (a) the expression “effective arrangements shall be made for the disposal of waste and effluent from the manufacturing process” in subsection (1) shall be substituted by the expression “the disposal of waste, effluent and fume, dust and smell from the manufacturing process shall be arranged not to harm the environment”.
- (b) the expression “it shall take the approval of the designated authority” in subsection (2) shall be substituted by the expression “it shall take the approval of relevant Departments.”

14. The expression “a thermometer” in subsection (2) of section 15 of the Factories Act, 1951 shall be substituted by the expression “thermometer and other necessary instruments”.

15. The expression “internal combustion” in subsection (2) of section 16 and the expression “means of examination by Public Health Authorities” in subsection (4) of section 20 of the Factories Act, 1951 shall be deleted.

16. The expression, “spittoons” in subsections (1), (2) and (3) of section 22 of the Factories Act, 1951 shall be substituted by the expression “spit bin and dustbin”.

17. After subsection (2) of section 36 of the Factories Act, 1951, subsections (3) and (4) shall be inserted as follows:

“(3) if woman workers submit that they are unable to perform their duty in their menstrual period with the medical certificate of the registered medical practitioner, the employer shall arrange in accordance with the stipulations.

(4) pregnant woman workers shall not be instructed to work at night. In addition, they shall be instructed to perform light duties without prejudice their ordinary wages and entitlements.”

18. The expression “the President may prescribe rules” contained in section 37 of the Factories Act, 1951 shall be substituted by the expression “the Director-General of the Factories and General Labour Laws Inspection Department may issue orders and directives”.

19. After section 37 of the Factories Act, 1951, section 37-A shall be inserted as follows:

“37-A.The employer shall arrange in accordance with the stipulations in order not to hurt the sense of hearing and health of workers due to the noise level from the manufacturing process and in order not to cause any accidents in the factory.”

20. The subsection (6) of section 38 of the Factories Act, 1951 shall be substituted as follows:

“(6) The Director-General of the Factories and General Labour Laws Inspection Department may issue orders and directives stipulating the minimum dimensions of the manholes referred to in subsection (1). And imposing the conditions as he may think fit, he may grant the exemption to any factory or a category of factories from any of the provisions of this section.”

21. The expression “may make rules prescribing” in subsection (7) of section 40, subsection (2) of section 44, section 45 and subsection (1) of section 48 of the Factories Act, 1951 shall be substituted by the expression “may issue directives”.

22. After section 43 of the Factories Act, 1951, section 43-A shall be inserted as follows:

“43-A.The employer shall instruct safety and health personnel, supervisors and workers, as may be necessary, attend the workplace safety and health training courses recognized by the Ministry of Labour, Employment and Social Security , for eliminating and reducing occupational accidents and occupational diseases.”

23. The expression “nurse room or dispensary” in subsection (3) of section 47 of the Factories Act, 1951 shall be substituted by the expression “clinic”.

24. The expression “rest houses or rest rooms” and “eating room” contained in the side note of section 49 and in the provision of section 49 of the Factories Act, 1951 shall be substituted by the expression “recreation room” and “dining room” respectively.

25. Subsection (1) of section 50 of the Factories Act, 1951 shall be substituted as follows:

“(1) The employer of the factory in which more than 100 mother workers are working shall provide a child care center for the children under the age of five by taking the assistance of the Ministry of Social Welfare Relief and Resettlement. The employer of the factory in which less than 100 mother workers are working shall make arrangement as suitable for a child care room.”

26. The expression “not less than one hundred persons are employed” in subsection (1) of section 58 of the Factories Act, 1951 shall be substituted by the expression “not less than twenty workers are working”.

27. The subclause (aa) of clause (b) of subsection (1) of section 60 of the Factories Act, 1951 shall be substituted as follows:

“(aa) the employer or manager, if required for work to perform duty on weekly holiday, with the consent of the workers, may apply permission at least 3 days in advance to the Factories and General Labour Laws Inspection Department or to an inspector assigned by the Department, and shall allow the workers to perform duty only after receiving such permission. In addition”

28. The expression “other than proviso and the provisions of clause (b) of subsection (1) of section 72” in subsection (1) of section 70 of the Factories Act, 1951 shall be deleted.

29. After subsection (3) of section 73 of the Factories Act, 1951, subsection (4) shall be inserted as follows:

“(4) The court shall order the responsible person to pay overtime wage entitled to the employee if it is arisen that such overtime wage is entitled to be paid in subsection (1), which is failed to pay him under sections 59 and 62.”

30. The expression “who has not attained thirteen years of age” in section 75 of the Factories Act, 1951 shall be substituted by the expression “who has not attained fourteen years of age”.

31. After section 75 of the Factories Act, 1951, section 75-A shall be inserted as follows:

“75- A. No youth shall be instructed to work by means which cause danger, health impacts, hindrance the right to education, hurt to the character and dignity.”

32. The expression “after attaining thirteen years of age” in section 76 of the Factories Act, 1951 shall be substituted by the expression “after attaining fourteen years of age.”

33. The expressions “after attaining thirteen years of age” in clause (a) and “after attaining fifteen years of age” in clause (b) of subsection (2) of section 77 of the Factories Act, 1951 shall be substituted by the expression “after attaining fourteen years of age” and “after attaining sixteen years of age” respectively.

34. After subsection (2) of section 78 of the Factories Act, 1951, subsection (3) shall be inserted as follows:

“(3) Any youth who has not got the fit certificate for employment by a registered medical practitioner shall not be employed or allowed to employ at a factory between 6 p.m. and 6 a.m.”

35. The expression “if the court thinks that” in section 92 of the Factories Act, 1951 shall be substituted by the expression “if it is convicted by the Court that”.

36. The expression “No Court below a Magistrate of the first class shall try” in subsection (2) of section 97 of the Factories Act, 1951, shall be substituted by the expression “the court which has the competent jurisdiction shall adjudicate”.

37. In the Factories Act, 1951:

- (a) the expression “five kyats” contained in subsection (4) of section 22 shall be substituted by the expression “one thousand kyats.”
- (b) the expression “a fine not exceeding five hundred kyats” in subsection (2) of section 28 and subsection (6) of section 56 shall be substituted by the expression “a fine not less than five hundred thousand kyats”.
- (c) the expression “fifty kyats” in subsection (4) of section 54 shall be substituted by the expression “one hundred thousand kyats”.
- (d) the expressions “a fine not exceeding five hundred kyats” and “a fine not exceeding seventy five kyats” in section 85 and the expression “a fine of five hundred kyats only” in proviso (1) of section 85 shall be substituted by the expressions “a fine not less than two million kyats”, “a fine not exceeding one hundred thousand kyats” and “a fine not less than two million kyats” respectively.
- (e) the expression “a fine from a minimum of two hundred kyats to a maximum of one thousand kyats” in section 86 shall be substituted by the expression “a fine from a minimum of three million kyats to a maximum of five million kyats”.
- (f) the expression “a fine not exceeding twenty kyats” in subsection (1) of section 87 shall be substituted by the expression “a fine not exceeding one hundred thousand kyats”.
- (g) the expression “a fine not exceeding five hundred kyats” in section 88 shall be substituted by the expression “a fine not exceeding two million kyats”.
- (h) the expression “with a fine not exceeding one thousand kyats” in subsection (3) of section 107 shall be substituted by the expression “a fine not exceeding one million kyats”.
- (i) the expression “a fine not exceeding one hundred kyats” in subsection (2) of section 89 shall be substituted by the expression “a fine not exceeding one hundred thousand kyats per day”.
- (j) the expression “with a fine not exceeding twenty kyats” in section 91 shall be substituted by the expression “with a fine not exceeding one hundred thousand kyats”.
- (k) the expression “with a fine not exceeding twenty kyats” in section 92 shall be substituted by the expression “with a fine not exceeding thirty thousand kyats”.

I hereby sign under the Constitution of the Republic of the Union of Myanmar.

Sd. Thein Sein
President

----- Footnote -----

- (1) Sec 3(g)(m) Ministry of Labour, Employment and Social Security = The Ministry of Labour, Immigration, and Population
- (2) Sec 4 the Ministry of Labour, Employment and Social Security = The Ministry of Labour, Immigration, and Population
- (3) Sec 7 the Ministry of Labour, Employment and Social Security = The Ministry of Labour, Immigration, and Population
- (4) Sec 10(1) the Ministry of Health = The Ministry of Health and Sports
- (5) Sec 10(1) the Ministry of Labour, Employment and Social Security = The Ministry of Labour, Immigration, and Population
- (6) Sec 22 (43-A) the Ministry of Labour, Employment and Social Security = The Ministry of Labour, Immigration, and Population