

The Payment of Wages Law, 2016
(The Pyidaungsu Hluttaw Law No. 17, 2016)

1st Waxing of Pyatho, 1377 M.E.

25th January, 2016

The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter I

Title and Definition

1. This Law shall be called **the Payment of Wages Law, 2016**.
2. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) **Wage** means the fee and salary entitled to be obtained by the worker for carrying out the hourly work, daily work, weekly work, monthly work or any other part time work of the employer. This expression includes overtime or bonus given by the employer to the worker to his best work or character or other remunerations and benefits which may be determined as income. However, the followings are not included in this expression:
 - (i) travelling allowances or special allowances for travelling;
 - (ii) temporary expenses given in advance by virtue of prior agreement, according to the nature of business;
 - (iii) cash benefit under Social Security Scheme;
 - (iv) contribution paid for employee under any existing law;
 - (v) allowances for accommodation and meal, electricity charges, water service charges and taxes;
 - (vi) medical treatment allowance and recreation allowance;
 - (vii) compensation for dismissal and gratuities;
 - (viii) pension and retirement gratuities;
 - (ix) other fees stipulated by the notification issued by the Ministry with the approval of the Union Government, which are not considered as wage contained in this Law.
 - (b) **Employer** means a person who is responsible to pay wages to at least one or more workers employed in any commerce, production and service businesses and agriculture and livestock breeding businesses under an employment agreement or verbal agreement. This expression includes contractors, legal

representatives of the employer, manager of an employer, and if the employer is deceased, his heir and a legal representative. The head of the workers is, however, not included in this expression;

- (c) **Worker** means a person who earns by wages obtained by carrying out permanent work, temporary work, or piece work by using his or her physical or intellectual work in commerce, production and service business and agriculture and livestock breeding business under an employment agreement or verbal agreement. This expression includes an apprentice and training worker who receives wages, clerk and staff, outside worker, housemaid and driver, security, sanitary worker, renovation worker, cook, postman, gardener and general worker;
- (d) **Ministry** means the Ministry of Labour, Employment and Social Security of the Union Government;
- (e) **Department** means the Factories and General Labour Laws Inspection Department;
- (f) **Chief Inspector** means the Director General of the Factories and General Labour Laws Inspection Department;
- (g) **Inspector** means any inspector of the Factories and General Labour Laws Inspection Department.

Chapter II

Methods and Time of Payment of Wages

3. The employer:

- (a) shall pay wages to the workers employing in his business in local currency or foreign currencies stipulated by the Central Bank of Myanmar. Such payment may be paid in cash or cheque or deposit into the bank account of the worker with the agreement between the employer and the worker.
- (b) In paying such wages:
 - (i) if it is necessary to pay particular benefit, profits and opportunities for workers working in commerce, production and service businesses, it may be paid in cash or some in cash and some in things set up by local price on own volition of workers in accordance with the stipulations;
 - (ii) for workers employing in agriculture and livestock breeding business, it may be paid some wage in cash and something set up by local price according to custom, or on the volition of majority of worker or by collective agreement. In paying so, it shall be for personal use and the interest of his family, and shall be appropriate and equitable.
- (c) If any worker is conscripted under the Public Military Service Law, the (60) days of wages shall be paid as a special right.

4. The employer:

- (a) shall pay wages at the end of the work or at the time agreed to pay to the worker for hourly, daily, weekly or other part time work, or temporary or piece work;
- (b) shall not exceed one month than the period agreed with the worker under sub-section (a) to pay wages;
- (c) shall pay the wages for the permanent work monthly. In making such payment:
 - (i) if workers are not more than 100, wages shall be paid at the end of the period for payment of wage;
 - (ii) if workers are more than 100, it shall be paid no later than five days after the end of the period for payment of wage;
- (d) shall pay the due wages within two working days from the date of termination, if a worker is terminated;
- (e) shall pay the wages at the end of the period for payment of wages, if a worker resigns on his own volition by sending prior written notice of resignation;
- (f) shall pay the due wages to a legal heir within two working days after the decease, if a worker is deceased;
- (g) shall pay all wages on a working day.

5. If an employer encounters difficulties to make payment under sub-section (c) of the Section 4 due to any unexpected condition, including natural disaster, the employer shall submit that which date has been altered for the payment of wages with the consent of the workers to the Department on reasonable ground.

6. The Department may, with the approval of the Ministry, allow the employers to postpone payment within the appropriate time under stipulated conditions, if it is scrutinized that the submission under Section 5 should be allowed.

Chapter III

Deduction from Wages

7. The employer:

- (a) may deduct from wages, except leaves which are entitled wages under the relevant law and public holidays, for the absent period from work;

- (b) may deduct expenses which are allowance for accommodation and ferry service arranged by the employer, meal allowance, electricity charges, water service charges and income taxes liable to be paid by worker and cash paid in excess under a mistake, which are not included in the expression of wages under this Law;
 - (c) may deduct advance payment or reimburse or savings for the worker or any contribution under any law demanded by a worker from wages;
 - (d) may deduct from the wages of the worker under a decision of a Court or Arbitration Council or Arbitration Body.
8. The employer shall not deduct from the wages of the worker except deduction from wages in accordance with provisions of Section 7 and Section 11.
9. In deducting from wages under Section 7, all deductions made by the employer shall not exceed 50 percent of the wages of a worker except deduction from wages for the failure of a worker to perform his duty.
10. The employer:
- (a) shall obtain prior approval of the Department for what deduction can be made from wage and how much can be deducted before deducting anything stipulated as a fine under section 11.
 - (b) shall post the approval contained in sub-section (a) in conspicuous places at relevant factory and work;
 - (c) shall not exceed fine deducted for compensation than the value of damage or loss by action or omission of a worker;
 - (d) in deducting from wages under Section 11:
 - (i) shall not deduct from wages without giving right to defence of the worker;
 - (ii) shall not deduct more than 5 percent of the monthly wages of the worker;
 - (e) shall not absolutely deduct as the fine from a worker under 16 years of age;
 - (f) may carry out the date of payment of passing fine in accordance with the agreement between the employer and the worker;
 - (g) shall deduct from wages for compensation due to loss of property within a limited period by an agreement of the relevant Township Conciliation Body;
 - (h) shall enter the deducting cash from wages into the register and systematically maintain it;
 - (i) shall submit a report of the deduction from wages to the Department;

- (j) shall use fines of deduction from wages under sub-section (b) of Section 11 for the worker benefit in coordination with legally registered Labour Organization in the factory.
11. The employer may designate as fine to compensate for the following acts and omissions of a worker and deduct from his wages:
- (a) any loss of property and cash expressly entrusted to the worker by the employer due to intentional negligence and carelessness or dishonest acts or omissions of the worker, which is caused directly by the carelessness and mistake of such worker;
 - (b) violation of any terms or conditions stipulated as fines in the employment agreement.
12. The worker:
- (a) may request to the employer to be settled by himself or legally registered labour organization or the Workplace Coordination Committee in the factory if the following conditions occur:
 - (i) deduction from wages obtainable without credible reason;
 - (ii) failure to pay overdue payment of wages.
 - (b) may submit to the inspector to solve the problem, if the employer fails to solve the problem asked under sub-section (a), within six months from the date of deduction or failure to pay.
13. (a) The inspector may scrutinize such submission under sub-section (b) of the Section 12 and, if necessary, interrogate the relevant persons and make an appropriate order.
- (b) The worker or employer may file an appeal to the chief inspector, if he does not satisfy the order made under sub-Section (a), within 30 days from the date of such order.
- (c) The chief inspector may make an appropriate order after scrutinizing the appeal under sub-section (b) and hearing the employer and the worker.
- (d) The order of the Chief Inspector is final.

Chapter IV

Overtime Wages

14. The worker has the right to enjoy overtime wages stipulated by the law if he works over time.

Chapter V

Duties of Chief Inspector and Inspector

15. The Ministry may appoint inspectors as necessary in order to conduct the necessary inspection and supervision in implementing the provisions concerning the payment of wages contained in this Law.
16. The chief inspector:
- (a) may demarcate the area and delegate duties to the inspectors;
 - (b) may delegate duties to an inspector for the prosecution of an employer who violates the provision in this Law in a relevant Court.
17. The inspector:
- (a) shall carry out the function and duties delegated by the chief inspector;
 - (b) shall submit the finding reports to the chief inspector in accord with the stipulations.
18. The chief inspector and inspector have the right to perform the following:
- (a) may enter and inspect any workplace at any time, if he thinks fit, by showing his identity card, for carrying out the matters contained in this Law. If it is night time inspection, two witnesses shall accompany;
 - (b) may, in entering under sub-section (a), inspect registered books, record books, accounts, documentary evidences in respective of payment of wages and deduction from wages and interrogate the necessary persons;
 - (c) may copy the statistics and documentary evidences necessary for payment of wages, and original documents may, if necessary, be confiscated by a search form with two witnesses.

Chapter VI

Prosecution

19. (a) An inspector shall prosecute any person who violates any provision contained in this Law at a relevant Court with the sanction of chief inspector.
- (b) The prosecution under sub-section (a) shall not prejudice the civil action for the wages obtainable claimed by the worker.
- (c) A worker may prosecute civil action to the relevant Court for payment of the deducting wages and damages, without submitting to settle problem to an inspector under sub-Section (b) of Section 12.
20. If the Court decides that the omission or delay to pay the wages is due to the following reasons, the payment of wages may be suspended or exempted:
- (a) inability to pay wages, arisen in unexpected emergency condition including natural disaster;

- (b) being an employer who is insolvent declared by the Court of Law;
 - (c) failure to withdraw or accept the payment of wages by the relevant worker himself or his agent.
21. The following matters relating to the redemanding wages or the deducting wages shall not be prosecuted:
- (a) pending of application to the inspector;
 - (b) being wages that order for payment is already directed to the applicant;
 - (c) being wage that is confirmed unnecessary to pay the applicant.

Chapter VII

Prohibitions

22. No employer shall violate any provision contained in Sections 4,5,8,9 and 11.
23. Whoever shall not violate any prohibition contained in the rules, notifications and orders issued under this Law.

Chapter VIII

Offences and Penalties

24. Any employer who violates any prohibition provided in Section 22 shall, on conviction, be punished with imprisonment for a term not more than three months or with a fine at least two million Kyats or with both and shall be ordered to pay wages obtainable of workers.
25. Any employer is guilty under Section 24 shall, on conviction, after a prior conviction for the same offence, be punished with imprisonment for a term up to six months or with a fine at least fifty hundred thousand Kyats.
26. Whoever violates any prohibition provided in Section 23 shall, on conviction, be punished with fine from a minimum of one hundred thousand Kyats to a maximum of five hundred thousand Kyats.
27. Whoever complains falsely the payment of wages or deduction of wages with the intention to harm a worker or an employer, on conviction, shall be punished with imprisonment for a term not more than three months or with a fine not more than five hundred thousand Kyats or with both.

Chapter IX

Miscellaneous

28. Any agreement or contract executed in derogation of any right in the provisions of this Law shall be void.
29. In implementing the provisions provided in this Law:
- (a) the Ministry may, with the approval of the Government, issue rules and by-laws;
 - (b) the Ministry and Department may issue notifications, orders, directives and procedures.
30. The Payment of Wages Act, 1936 is repealed by this Law.

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

SD/ Thein Sein

President

The Republic of the Union of Myanmar