

*Below is a courtesy translation of the '2016 Payment of Wages Act' a law enacted by the Myanmar parliament. This law has been translated by SMART Myanmar, an EU funded project.**



2016 The Payment of Wages Act
(2016 Pyidaungsu Hluttaw Law No. 17)
The 1st Waning Day of Pyatho, 1377 M.E.
25th January, 2016
Pyidaungsu Hluttaw enacts this Act.

Chapter (1)

Name and Definition

- 1. This law shall be known as “The Payment of Wages Act”.**

- 2. Definitions in this act have the following meanings:**
 - (a) Wages** means the wage or salary received as an employee working part time, weekly, or monthly for the employer. Overtime fees and bonuses paid based on performance or ethics and other benefits which can be regarded as income are also included in this.

But the following things are excluded...

- (1) Travel allowances or other special allowances for travel
- (2) Expenses based on work requirements that are allowed to be reimbursed later from the Employer.
- (3) Social welfare allowances
- (4) Contributions by the employer according to any existing law
- (5) Lodging and meal allowances, charges for electricity, charges for water and other taxes
- (6) Medical expenses and recreational expenses
- (7) Contribution upon dismissal or in accordance with sympathy

- (8) Pension and reward base on service years upon their retirement
 - (9) Other things set and declared by the Ministry in accordance with the approval of Union Government stated as these do not concern with wages in this Act.
- (b) **Employer** means the person who is responsible to pay upon the employment of one or more persons via verbal or written agreement to carry out his/her duty on trade, manufacturing, services, agriculture and livestock. Contractors, authorized agents in-charge on behalf of an employer, heirs and authorized dealers are also included and considered as employer. But, labor leaders (the head of labor union or workplace coordination committee) are excluded.
- (c) **Employee** means the person who earns his/her living on the wages, whether from part-time work, piece-work or permanent work.
- Persons in internship and scholars, clerks and office staff, labor outside the work, housemaids and drivers, security guards, cleaners, maintenance workers, chef, postman, gardeners and general workers are included.
- (d) **The Ministry** means Ministry of Labor, Employment and Social Security.
- (e) **Department** means Department of Factory and Labor Law Inspection.
- (f) **Chief of Inspector** means Director General, Department of Factory and Labor Law Inspection.
- (g) **Inspector** means any investigating officer from Department of Factory and Labor Law Inspection.

Chapter (2)

Methods of payment and time-frame

3. The employer must...

- (a) Pay in local currency or foreign currency recognized by the Central Bank of Myanmar. This may be in cash, check or deposit into the bank account of Employee.
- (b) Moreover, pay can be in the means of...
 - (1) Totally in cash OR half the cash and half in things set according to the local price to those employees working in trade, manufacturing and service sectors.
 - (2) Totally in cash OR half the cash and half in things set as local price according to local traditions or common agreement to those working in agriculture and livestock sectors.

But, this must be for the sake of the employees and their families. And, it also must be reasonable/fair.

- (3) An employee shall receive the payment for 60 days when he/she is in Alternative Civil Service.

4. An employer must pay for...

- (a) Part-time, daily, weekly or other part-time job, temporary or piecework when the work is done OR at the agreed time.
- (b) According to the Article (a), the time frame shall not exceed one month.
- (c) Wages for the permanent work must pay per monthly basis. If so...
 - (1) Must pay at the end of the payment period when there are not more than 100 workers.
 - (2) If there are 100 workers and above, pay must not be administered later than 5 days after the end of the payment period.
- (d) Upon termination, wages must be paid within 2 days from the date of termination.
- (e) If a resignation letter is submitted, wages must be paid at the ending day of the payment period.
- (f) If an employee dies, wages must be paid to the legally recognized heir within 2 working days after the day he/she has died.
- (g) All wages must be paid during the working day.

5. If the owner encounters difficulty to pay the wages according to Section 4 sub-section (c) because of significant happenings, including natural disaster, the employer must report to the Department with solid evidence that wages will be paid at the mentioned day upon the workers' agreement.

6. The Department shall allow the owner to pay the wages at an appropriate time after the Ministry has investigated and set the rules for that.

Chapter (3)

Deductions

7. The Employer...

- (a) Can deduct from wages for absences except when such absence is during a public holiday or entitled leave, according to the law.

- (b) Accommodation charges and transportation charges, meal allowances, charges for water and electricity, taxes and errors in payment shall be allowed for deduction.
- (c) Can deduct from pre-issued, expensed and saved (or) contributed amount according to the law upon the employee contract.
- (d) The Employer can deduct with the judgment of the Court of Arbitrator Jury Council.

8. The Employer cannot deduct except the deduction in accordance with Section 7 and Section 11.

9. The total amount of other deductions, except when the employee fails to perform their duties, shall not be more than 50% of the employee's wages.

10. The Employer must...

- (a) According to Section 11 of this Act, get permission from the Department concerning "why" and "how" prior to making deductions from wages.
- (b) Permissions stated in sub-section (a) shall be publicly posted.
- (c) Fines must not exceed the value of damage caused by the action or cost of performance failure of the employee.
- (d) According to Section 4 of this Act, when making a specific deduction...
 - (1) Do not deduct without allowing an appeal from the Employee.
 - (2) Do not deduct more than 5% of the monthly wages.
- (e) No deduction is allowed from a worker under 16 years old.
- (f) The timeframe for deductions shall be set upon an agreement from both sides.
- (g) Deductions shall be carried out within the limited timeframe upon the agreement of the Township Arbitration Council set in accordance with Law.
- (h) Every deduction must be well documented.
- (i) You must submit a monthly report to the Department concerning deductions.
- (j) Fines deducted according to Section 11 sub-section (b) must be used for the social welfare of the employees upon discussion with a registered labor organization.

11. Employers shall fine for the following actions or performance failure by the employees...

- (a) Direct damage which is either intentional or due to negligence or due to the failure of the employee concerned with company property to take proper care.

- (b) A breach of the employment contract or breach of any rules for which a fine had been previously set.

12. If a worker...

- (a) Encounters any one of the following situations, he/she shall ask directly or via a registered Labor Organization or by the in-house Workplace Coordination Committee to the Employer:
 - (1) Any unreasonable deduction from wages
 - (2) Payment which is not made by the due date.
- (b) If the Employer takes no action, although asked in accordance with Section 12 Sub-Section (a), the Employee can present this to the Inspector within 6 month from the date of the deduction or from the date of the failure to render payment.

13. (a) The Inspector shall issue a decree after reviewing the case presented in accordance with Section 12 Sub-Section (b).

- (b) Not only the Employee, but also the Employer, has 30 days to appeal to the Chief of Inspector if they are not satisfied with the order.
- (c) The Chief of Inspector shall decree after reviewing the appeal applied in accordance with Sub-Section (b).
- (d) The Chief of Inspector's decision will be the final decision.

Chapter (4)

Overtime Wages

14. If an Employee carries out overtime work, he/she must be allowed the presiding overtime rate as set by the Law.

Chapter (5)

Duties and Responsibilities of Inspector and Chief of Inspector

15. In order to supervise or investigate the implementation of the Terms stated in this Act, the Ministry can appoint Inspectors as needed.

16. A Chief of Inspector

- (a) Can appoint the Inspector depending upon the respective territory.
- (b) Can delegate/instruct the Inspector to sue an accused Employer at the relevant court of law.

17. An Inspector

- (a) Must perform his/her duty completely as Chief of Inspector appointed.
- (b) Has to report to the Chief of Inspector in accordance with the presiding norms.

18. The Inspector and Chief of Inspector has the right to carry out the following actions.

- (a) Can inspect the workplace included in this Act at any time upon showing their government ID. If it is a nighttime inspection, then 2 witnesses must accompany.
- (b) During the inspection, according to Section 18 sub-section (a), may check/inspect the payroll documents, deduction records, and other evidentiary documents of the related/involved persons.
- (c) May copy or keep the original payroll records and other documents related to payroll as evidence, provided this is done with a search warrant and 2 witnesses.

Chapter (6)

Lawsuit

- 19.
 - (a) An Inspector shall sue any person not in accordance with this Act, for breach of any term of this Law, at the respective court under the permission of the Chief of Inspectors.
 - (b) A lawsuit in accordance with the Section 19 Sub-Section (a) shall not affect the right to claim by civil suit.
 - (c) Without presenting to an Inspector according to Section 12 sub-section (b), a worker can claim in accordance with civil law.

- 20. **The Court can decree that payment can be suspended or exempt in the following circumstances.**
 - (a) Emergency cases including natural disaster.
 - (b) In cases of bankruptcy of the Employer.
 - (c) In cases where the employee is absent to accept payment either by himself/herself or by his/her agent.

- 21. **The following circumstances are not included in the lawsuit concerned with deductions or any other claims.**
 - (a) The claim to the Inspector is in ongoing process.

- (b) Already directed to pay for the claim.
- (c) Already confirmed as no need to pay.

Chapter (7)

Prohibitions

- 22. All Employers are not allowed to breach any terms stated in Sections 4,5,8,9 and 11.**
- 23. No person is allowed to breach any Bylaws, Notifications and Orders declared in accordance with this Act.**

Chapter (8)

Offenses and Penalties

- 24. Upon conviction, a jail sentence of not more than 3 months (or) a fine of at least 2 Million Kyats (or) both may be administered to the respective/convicted Employer. Moreover, forfeited wages must be paid to the respective Employee.**
- 25. If an Employer again commits and is convicted of the same offense, there must be a jail sentence up to 6 months (or) a fine of at least 5 Million Kyats (or) both. Moreover, the forfeited wages must be paid to the respective Employee.**
- 26. Upon conviction, the fine must be minimum 100,000 Kyats to maximum 500,000 Kyats to anyone who breaches any prohibition stated in Section 23.**
- 27. Upon conviction, the decree must be the sentence in jail of not more than 3 months (or) fine of not more than 500,000 Kyat (or) both of that for his/her detriment.**

Chapter (9)

General

- 28. Any agreement or contract which is incommensurate with the terms stated in this Act shall be considered null and void.**

29. While implementing the terms stated in this Act,

- (a) The Ministry can enact the Bylaws and also declare the Rules upon the agreement of the Union Government.
- (b) Departments and Ministries can declare the required Orders, Notifications, Instructions and Procedures.

30. The Payment of Wages Act, 1936 is hereby repealed.

I hereby sign in accordance with Constitution of The Republic of the Union of Myanmar.

Sd/- Thein Sein

President

The Republic of the Union of Myanmar

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