

Settlement of Labor Dispute Law
(2012, Pyidaungsu Hluttaw Law No. 5)

1373 6th day of Tagu month

(March 28, 2012)

[Updated: 30.09.2014, 03.06.2019]

Amending Law

The Pyidaungsu Hluttaw enacted this law to ensure fair and expeditious access to rights through fair settlement of employer-employee disputes with the view to protect the rights of workers, good relations between employers and employees and peace of mind in the workplace.

Chapter 1

Title and Definitions

1. This Law shall be called the **Settlement of Labor Dispute Law**.
2. The following expressions contained in this Law shall have the meanings given herein:
 - (a) **Worker** means a person who uses his intellect to earn a living with the physical force to the employer, the term includes internships, workers who were dismissed or dismissed during a probation period of dispute. However, civil servants, soldiers, forces of the Myanmar Police Force; armed groups under the control of the military are not included.
 - (b) **Labor Organization** means a Basic Labor Organization, Township Labor Organization, Region or State Labor Organization, the Federation of

Trade Unions and the All-Myanmar Workers' Union, formed under the labor organization law;

- (c) **Employer** means a person who is responsible for paying the employee to get work force for the business. The term refers to the business heir or his legal representative, authorized representative in the case of a company incorporated under the Myanmar Companies Act, the head of the management and members of the Board of Directors are also included;
- (d) **Employer Organization** means any employer organization formed under this law or any existing law.
- (e) **Business** means a state-owned enterprise, cooperative, private owned, joint venture business, trading, manufacturing, construction, industry, agriculture, service or any other professional business operated in Myanmar.
- (f) **Essential Services** means the following services which may affect the life and property of the public while the disruption of the operations:
 - (i) water distribution service;
 - (ii) electricity distribution service;
 - (iii) firefighting service;
 - (iv) health care service;
 - (v) telecommunications business;
 - (vi) services which are designated as essential services stated in the Notification issued by the Ministry.
- (g) **Public Related Services** means the following businesses:
 - (i) transportation business;

- (ii) port business and loading and unloading business at the port;
 - (iii) post office, telex or fax service;
 - (iv) information and communication technology business;
 - (v) distribution of oil or petroleum products to the public;
 - (vi) waste disposal or sanitation service;
 - (vii) generating and distribution of electricity or fuel energy to the public;
 - (viii) financial services for the public;
 - (ix) businesses which are defined occasionally as a public service by the Union Government.
- (h) **Closure** means the business was temporarily closed for the work place or temporarily suspended the work or workers are not allowed to continue their work under the event of no resolution has been reached for the settlement in a labor dispute;
- (i) **Strike** means the collective action carried out by the some or all of the workers or work place labour associations by deciding to stop the working operation, refuse to work or continuation of working, delaying the jobs or reducing the production or service with the consent of the majority of workers in the event of non-negotiable dispute between the employer and the employee due to the social or work related issues. The term does not cover the exercise of workers' right for leaving the workplace due to the rational belief of extremely threatening their lives or health at the suddenly situation;

- (j) **Employment Agreement** means an agreement set verbally or in writing in accordance with the terms between the employer and the employee in connection with the employment.
- (k) **Collective Bargaining** means the process of agreement for working conditions, work place terms and conditions, treatment to the labour or prevention and resolution of disputes has been done between the employers or employers' organizations and workers or workers' organizations;
- (l) **Collective Agreement** means a written agreement made between employer and workers by determining the work place and working conditions of the workers, relationship terms between employer and workers and their respective organizations, recognizing for the official existence of workers' associations and enhancing the social security guarantees for the workers by the process of collective bargaining;
- (m) **Dispute** means the reaction occurs due to the disagreements between an employer or employers or their respective organizations or a worker or workers or representing association of the workers for the workers relating to the employment of an employer or employer organization and a worker or workers or workers' organization, working, termination of employment, service bonus, achievement bonus and allowances in relation to the employment or services, work place accident, work-related injuries, compensation for the death or disease suffered due to the nature of work, holidays, leave and other labour related issues;
- (n) **Dispute for the Rights** means a dispute for the employers' or workers' rights given under the Labor Law;

- (o) **Conflict of Interest** means a conflict relating to a collective agreement, rights and interests of the majority of workers although those are not covered under the Labor Law and workplace relationship;
- (p) **Coordinating Committee** means the Labor Coordination Committee formed under this Law;
- (q) **Mediation Body** means the Dispute Mediation Body formed under this Law;
- (r) **Arbitration Tribunal** means a dispute arbitration tribunal formed under this Law;
- (s) **Arbitration Council** means the Dispute Resolution Arbitration Council formed under this Law;
- (t) **Tribunal** means the tribunal formed in accordance with the stipulations of the Arbitration Council to decide on each dispute;
- (u) **Decision** means a resolution made by the Arbitration Council or the arbitral tribunal or tribunal in relation to the dispute;
- (v) **Ministry** means the Ministry of Labour, Immigration and Population of the Union Government;
- (w) **Minister** means a Union Minister for Labour, Immigration and Population;
- (x) **Department** means the Department of Labor Relations.

<Revised 03.06.2019>

Chapter (2)

Establishment of Labor Coordination Committee

3. To reach a negotiation for a collective bargaining at a business having more than 30 employees, an employer shall:
 - (a) If there is a labor organization, the Labor Coordination Committee shall be formed as follows within the prescribed period in accordance with the stipulations in order to enable collective bargaining:
 - (i) three representatives each nominated by each and every labor organization;
 - (ii) employers' representatives with the same number of workers' representatives.
 - (b) In the absence of a trade union, the Labor Coordination Committee shall be formed within the prescribed period as follows:
 - (i) three representatives elected by the workers;
 - (ii) three representatives from the employer.

<Revised 03.06.2019>
4.
 - (a) In the Coordination Committee formed under section 3, in case of vacancy either from employer side or workers side, shall be reappointed from the respective party;
 - (b) The term of the Coordinating Committee is two years.

<Revised 03.06.2019>
5. The Coordinating Committee is responsible for improving the relationship between the employer and the employee or the trade union for working conditions, negotiation of terms and conditions for occupational safety, health, workers' welfare and increasing of productivity.

6. (a) The Coordinating Committee shall resolve a grievance, informed from the labor or labor organization or the employer by oneself or a representative, within seven days from the date of receiving of the request;
- (b) The Coordinating Committee shall keep a record of the situation and send a report to the relevant Mediation Committee in accordance with the stipulations.

<Revised 03.06.2019>

7. If a grievance is lodged with the employer in a business where the Coordinating Committee couldn't form due to less than 30 employees, the employer shall negotiate with the workers or their representatives for a grievance within seven days from the receiving date and shall keep a written resolution which shall be submitted upon request by the relevant Mediation Committee.

<Revised 03.06.2019>

8. In the same business, if the union representatives and the workers' elected representatives are co-employed, the employer shall not use the workers' representatives to reduce the status of the workers' union and their representatives.

9. In negotiations under section 6 or section 7:

- (a) Upon settlement, the employer and the employee shall enter into a collective agreement and send a copy to the relevant mediation body;
- (b) The employer or employee may file a complaint with the relevant mediation body if he/she wishes to continue mediation in relation to the dispute that has not been resolved;

- (c) The aggrieved party may file a complaint to the relevant mediation body if the collective agreement is not complied with;
- (d) The term of the collective agreement shall be one year. No further request shall be made in connection with the terms agreed upon during that period.

<Revised 03.06.2019>

Chapter 3

Establishment of a Dispute Mediation Team

- 10. (a) The Region or State Government and the Nay Pyi Taw Council shall form the Dispute Mediation Committee at the township level of the relevant Region or State and the Union territory as follows:
 - (1) A person assigned by the relevant Region or State Government and the Nay Pyi Taw Council or the Self-Administered Division or Self-Administered Area Leading Body; Chairman
 - (2) Three representatives of the basic and township level employers' organizations selected by the basic and township employers' organizations; Member
 - (3) Three representatives of the basic and township level labor organizations selected by the basic and township labor organizations; Member
 - (4) A representative of the relevant township level government department; Member
 - (5) A person assigned by the Ministry. Secretary

- (b) The mediation team, under sub-section (a) shall be formed at the factory, workshops, in the townships where a large number of workers and happening disputes and if necessary more than one group can be formed.

<Revised 03.06.2019>

- 11. (a) If the membership formed under section 10 is vacant, such vacancy shall be filled as required by the relevant party.

- (b) The term of the Mediation Committee is three years.

<Revised 03.06.2019>

- 12. The Mediation Team:

- (a) shall mediate within the prescribed period in accordance with the stipulations in order to settle the dispute lodged or received. In doing so, it shall classify disputes of rights or conflicts of interest in accordance with the provisions of this Law.

- (b) disputes not covered by the duties and responsibilities of the group, rights disputes and complaints that do not comply with the collective bargaining agreement of the Labor Coordinating Committee can be reported to the relevant departments and agencies if they are rights issues under the existing labor law. To apply to a court of competent jurisdiction, the relevant employer and workers must be notified.

<Revised 03.06.2019>

- 13. Relevant Region or State Government and Nay Pyi Taw Council shall reorganize the mediation bodies formed under section 10 to perform other necessary matters, including termination of membership and assignment of duties.

<Revised 30.09.2014, 03.06.2019>

14. In the absence of a separate legal provision for the settlement of disputes in Special Economic Zones established in Myanmar, the relevant Region or State Government and the Nay Pyi Taw Council shall form special mediation bodies under section 10.

<Revised 03.06.2019>

15. During the mediation between the employer and the workers' union, the dispute between the employer and the workers' union is settled by the mediator before the employer mediates. Trade unions can also appoint workers' representatives. In the absence of a trade union, workers must elect their representatives.

Chapter 4

Establishment of a Dispute Resolution Arbitration Panel

16. (a) The Ministry shall form a dispute arbitration tribunal in the Region or State or Union Territory with the approval of the Union Government as follows:

(1) A person assigned by the relevant Region or State Government or Nay Pyi Taw Council; Chairman

(2) Region or State in the relevant Region or State or Union Territory;
Township and basic employers' union members nominated Member
five elected representatives from those organizations;

(3) Region or State in the relevant Region or State or Union Territory;
Township and grassroots labor union members nominated Member
five elected representatives;

- (4) Three representatives from the relevant region or state level government department; Member
- (5) A person assigned by the Ministry. Secretary
- (b) The Ministry may form a Dispute Resolution Arbitration Tribunal in any Union Territory or Self-Administered Division or Self-Administered Area including Nay Pyi Taw with the approval of the Union Government.
<Revised 30.09.2014, 03.06.2019>
17. (a) If the membership formed under section 16 is vacant, such vacancies shall be filled as required by the relevant parties.
- (b) The term of the arbitral tribunal is three years.
<Revised 03.06.2019>
18. The arbitral tribunal shall follow the procedures, regulations and work plans set forth by the Arbitration Council.

Chapter (5)

Establishment of Dispute Resolution Arbitration Council

19. The Ministry shall form a Dispute Resolution Arbitration Council consisting of 15 ethical experts and labor experts with the approval of the Union Government as follows:
- (a) five persons selected by the Ministry;
- (b) five persons elected jointly by the employers' federation at the Region or State or Union Territory, the Self-Administered Division or Self-Administered Areas and the employers' organizations from the Region or State or Township;

- (c) five persons jointly selected by the all Myanmar Labour Organization, Labour Unions, Region or State or Union Territory, Labour Organizations in the Self-Administered Division or Self-Administered Area and the Township Labour Unions.

<Revised 03.06.2019>

- 19-a. The Chairman of the Arbitration Council, formed under section 19, shall be elected by the votes of the members from one of the persons elected by the Ministry.

<Revised 03.06.2019>

- 20. (a) The vacancies in the Arbitration Council shall be filled as required by the relevant parties.

- (b) The term of the Arbitration Council is three years.

<Revised 03.06.2019>

- 21 The responsibilities of the Arbitration Council are as follows:

- (a) standing as an independent and impartial organization based on the social justice in decision making, principles of decent work and equality;
- (b) forming and examining a three-member tribunal consisting of one person from each representative body under section 19 to hear the dispute received in accordance with the stipulations;
- (c) determining the procedures, regulations and work plans to be carried out by the arbitral tribunal and the tribunal.

<Revised 03.06.2019>

- 22. (a) The Ministry shall prescribe the procedures to be carried out by the Arbitration Council in accordance with the existing Labour Laws.

- (b) The Arbitration Council shall act in accordance with the procedures prescribed by the Ministry.

<Revised 03.06.2019>

Chapter (6)

Dispute resolution

23. Either side of the employer or the employee who is dissatisfied with the rights' dispute, can apply to the relevant departments or jurisdiction court by oneself or through an authorized representative.

<Revised 03.06.2019>

24. With regard to the dispute, a complaint submitted by an employer or employee or was informed by the Ministry or the Region or State Government or the Nay Pyi Taw Council, the relevant Arbitral Tribunal shall proceed as follows:

- (a) mediation to settle disputes within seven days from the date of knowing or receiving;
- (b) having the two sides sign an agreement in the presence of the mediation committee if a settlement is reached under sub-section (a);
- (c) in case of breach of bilateral agreement in the presence of the Mediation Committee, the officer assigned by the Department shall prosecute the breach party.

<Revised 03.06.2019>

25. The Arbitral Tribunal shall refer the dispute to the relevant Arbitral Tribunal and notify the parties for the dispute.

<Revised 03.06.2019>

26. The mediation team shall refer the case to the relevant arbitral tribunal within two days, excluding official holidays, together with a detailed report that includes recommendations on the non-settlement of mediations.

<Revised 03.06.2019>

27. The relevant arbitral tribunal shall decide within seven days from the date of receipt of the dispute of interest referred by the mediation body under section 26 and send the decision to the relevant parties within two days, excluding official holidays. A copy shall be sent to the Ministry and the relevant Region or State Government in case of a decision relating to an essential service or public services.

<Revised 03.06.2019>

28. If the parties are dissatisfied with the decision of the arbitral tribunal, except for decisions relating to essential services, the parties may:

- (a) one of the disputing parties shall apply for the decision of the Arbitration Council within seven days from the date of receipt of the decision of the arbitral tribunal;
- (b) Closure or strike in accordance with the relevant law.

<Revised 03.06.2019>

29. A disputing party who is dissatisfied with the decision of the arbitral tribunal regarding essential services shall apply to the Arbitration Council within seven days from the date of receipt of the decision, excluding official holidays.

30. A tribunal shall be formed and assigned to examine and decide on the application under sub-section (a) and section 29 by the Arbitration Council.

31. The tribunal shall:

- (a) Disputes filed under sub-section (a) of Section 28, shall be decided within 14 days from the date of receipt.
 - (b) The decision shall be sent to the relevant parties within two days, excluding the official holidays.
- <Revised 03.06.2019>

32. The tribunal shall:

- (a) decide the dispute filed under section 29 within seven days from the date of receipt;
 - (b) sent the decision to the relevant parties within two days, excluding the official holidays.
- <Revised 03.06.2019>

33. A copy of the decision made by the tribunal under sub-section (a) shall be submitted to the Ministry and the relevant Region or State Government by the Arbitration Council. It must be sent to the Self-Administered Division or Self-Administered Area Leading Bodies, including the Nay Pyi Taw Council.

<Revised 03.06.2019>

Chapter 7

Confirmation of decision; Modifications and effects

34. If the decision of the arbitral tribunal is approved by both parties to the dispute, or if either party does not submit an application to the arbitral tribunal within the stipulated period, such decision shall remain in force.
- <Revised 03.06.2019>
35. The decision of the tribunal shall be deemed to be that of the arbitral tribunal. This decision is valid from the date of issuance.

36. The disputing parties may agree to amend the decision beyond 90 days after the date of final decision of the arbitral tribunal. According to the agreement, the amendment shall influence the relevant part of the arbitration decision.
<Revised 03.06.2019>
37. An approved decision must be followed by the following persons:
- (a) all parties involved in the dispute;
 - (b) legal successors under the law of the employer involved in the dispute;
 - (c) all workers working in the business at the time of the dispute or after the dispute arises.

Chapter (8)

Restrictions

38. No employer or employee shall be allowed to fail to attend on time at the date of appointment of the Mediation Committee to mediate on the claim without a valid reason, either by oneself or a representative.
<Revised 03.06.2019>
- 38-a. No employer or employee shall be allowed for failing to form a coordinating committee in accordance with the provisions of section 3. Failure to do so shall not be repeated within 60 days from the date of conviction by the relevant court.
<Revised 03.06.2019>
39. No employer shall abruptly change the terms and conditions of the employee, as it relates to the employees, before the dispute arises, while the arbitral tribunal or tribunal is examining the dispute.

39-a. No worker shall attempt to reduce productivity or to the detriment of the remaining workers while the dispute is being resolved.

<Revised 03.06.2019>

40. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation.

41. No person shall terminate or strike to amend that decision or agreement while the decision or collective agreement of the arbitral tribunal or the arbitral tribunal is effective.

42. Restricting the freedom of work of workers who do not want to participate in the strike. The right of workers to perform strike should not be compromised.

43. No employer or employee shall fail to comply with or abide by any of the terms of the contract entered into before the mediation in relation to the dispute.

<Revised 03.06.2019>

43-a. No person responsible for compliance under section 37 shall fail to comply with the decision of the arbitral tribunal or Arbitration Council.

<Revised 30.09.2014>

44. No one shall absent to appear as a witness by sending testimony by the arbitral tribunal or tribunal to arrange for the inspection as given pre-informed access to the disputed business to resolve the dispute, to show the mark of the document which the arbitral tribunal or tribunal deems relevant to the dispute and to provide the copies.

45. If any person has received a notice to be examined in the presence of an arbitral tribunal or tribunal, he or she may appear in person or if not, to send an official representative with good reason within the stipulated time.

45-a. No one shall abide by the rules and regulations issued under this law. Notice of Order and instructions shall not be violated.

<Revised 03.06.2019>

Chapter 9

Punishment

46. (a) If any employer or worker is found guilty of violating any prohibition under section 38, he/she shall be fined not less than 300,000 kyats but not more than ten hundred thousand kyats.
- (b) If any employer or worker is convicted of violating the provision of section 38, he/she shall be fined not less than 300,000 kyats but not more than ten hundred thousand kyats.
- (c) If any employer is convicted of violating the provision of section 39, he/she shall be fined not less than one hundred thousand kyats but not more than three hundred thousand kyats.
- (d) If any worker is convicted of violating the provision of section 39, he/she shall be fined not less than one hundred thousand kyats but not more than three hundred thousand kyats.
- (e) If any person is convicted of violating the provision of section 45, he shall be fined not less than one hundred thousand kyats but not more than two hundred thousand kyats.

<Revised 30.09.2014, 03.06.2019>

- 46-a. (a) If a person convicted under sub-section (a) of Section 46 committing another offense, he/she shall be fined not less than one hundred thousand kyats but not more than three hundred thousand kyats.

- (b) If a person convicted under sub-section (b) of Section 46, committing another offense, he/she shall be fined not less than one hundred thousand kyats but not more than three hundred thousand kyats.
- (c) If a person convicted under sub-section (c) of Section 46 committing another offense, he/she shall be fined not less than 3 million kyats but not more than 100,000 kyats.
- (d) If a person convicted under sub-section (d) of Section 46, committing another offense, he/she shall be fined not less than 300,000 kyats but not more than 100,000 kyats.
- (e) If a person convicted under sub-section (e) of Section 46, committing another offense, he/she shall be fined not less than 200,000 kyats but not more than 500,000 kyats.

<Revised 03.06.2019>

47. Whoever violates section 40 and if he/she is convicted of violating any of the prohibitions contained in sections 41 and 42, he/she shall be fined not less than 2 million kyats.

<Revised 30.09.2014, 03.06.2019>

48. Whoever is convicted of violating any of the prohibitions contained in sections 44 and 45 shall be fined not less than one hundred thousand kyats.

<Revised 30.09.2014, 03.06.2019>

- 48-a. (A) If any employer or employee who enters into the agreement in front of the mediation body in relation to the dispute, is found guilty of failing to comply with the provisions of section 43, he/she shall be fined not less than 5 million kyats and not more than 10 million kyats, and shall

be ordered to pay the receivables in terms of financial benefits to the workers.

- (b) If any person responsible for complying with section 37 is found guilty of failing to comply with the provision of section 43, he/she shall be fined not less than one hundred thousand kyats but not more than three hundred thousand kyats and shall be ordered to pay the workers' financial benefits.

<Revised 30.09.2014, 03.06.2019>

Chapter (10)

General

49. The Ministry shall provide official assistance in carrying out the functions of the Arbitration Council and the arbitral tribunal.

49-a. If a member of the Arbitration Council or the relevant arbitral tribunal is found guilty, the Ministry shall terminate that person with the approval of the Union Government.

<Revised 03.06.2019>

50. Coordinating Committee, Mediation team, an Arbitration Panel or Arbitral Tribunal shall hold an election 30 days prior to the expiration of its term and transfer the duties to the elected bodies on the due date. Although the term of office of the Mediation Team, an Arbitration Panel or Arbitration Council shall expire, it shall continue to perform its duties until it is reconstituted in accordance with this Law.

<Revised 03.06.2019>

50-a. According to this law, the newly formed of Coordinating Committee, Mediation Team, an Arbitration Panel and the Arbitral Council shall continue the pending collective bargaining and dispute of the former Coordinating Committee, Mediation Team and the arbitral tribunal in accordance with the provisions of this Law.

<Revised 03.06.2019>

51. If an employer commits an act or omission to reduce the employee's benefits without due process during the settlement of the dispute, the financial benefits decided by the tribunal must be paid in full. This money shall be collected as if it were land tax arrears by an official from the department assigned by the Ministry.

<Revised 03.06.2019>

51-a. The arbitration agreement signed in the presence of the mediation body and failure to comply with the decisions of the tribunal, the arbitral tribunal or arbitral council, failure to comply with any prohibition in this Law and if the absence is occurred to provide the financial benefits more than 30 days, an official assigned by the relevant Department or Ministry shall sue to the aggrieved party.

<Revised 03.06.2019>

52. During the mediation or arbitration of any dispute, no one shall not be restricted for the right to sue in terms of criminal or deviants with the parties in connection with the dispute whether for legal reasons or not.

53. The Ministry may coordinate with the Supreme Court of the Union to establish labor courts to adjudicate labor disputes.

54. A strike is a temporary termination of an employment agreement and the employer is not obligated to pay the striking worker during this period.
- 54-a. Cancel
<Revised 30.09.2014, 03.06.2019>
55. No costs will be charged to the parties involved in the process of mediation, arbitration and tribunal proceedings.
56. The members of the Mediation Committee or the Arbitration Committee or the Arbitration Council are:
 - (a) during the decision-making process of mediation and dispute, he/she shall be considered as a government staff under Section 21 of the Criminal Law.
 - (b) be entitled to receive appropriate allowances and expenses from the Union Government and relevant organizations.
57. When settling a dispute, they must be kept confidential if they are required to keep the identification mark or material submitted by one of the relevant parties as a witness to the arbitral tribunal or tribunal.
58. Rules issued under The Trade Disputes Act, 1929, Procedures, Notifications, Orders and Directives may continue to apply as long as they are not in conflict with this Law.
59. In implementing the provision of this Law, the Ministry shall:
 - (a) issue the necessary rules and regulations with the approval of the Union Government;
 - (b) issue the appropriate Notifications, Orders, Directives and Procedures.
60. The Trade Disputes Act, 1929 is hereby repealed.

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

(S/d) Thein Sein

President

The Republic of the Union of Myanmar