

Government of the Republic of the Union of Myanmar

Ministry of Labour and Social Welfare

Minimum Wage Rules

Notification No. 64/2013

5th day of Waso lunar month. 1375 M.E

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[Updated: 28.08.2015]

Amending Law

(Minimum wage rules)

[12.07.2013] [28.08.2015] [Notification No. 64/2013] <Amended 28.08.2015>

Ministry of Labour and Social Welfare is exercising the power conferred under Section 36, sub-section (a) of the Minimum Wage Law, the following rules are promulgated with the approval of the Union Government.

Chapter 1

Name and definition

1. These rules shall be called the **Minimum Wage Rules**.
2. The minimum wage shall be defined as in the Minimum Wage Law. In addition, the following expressions shall have the following meanings:
 - (a) **Law** means the 2013 the Minimum Wage Law .
 - (b) **The Minimum Wage Scrutiny Committee** means a Committee which is set up to review and scrutinize the minimum wage for workers in the manufacturing and service industries.
 - (c) **Agriculture and Livestock Minimum Wage Scrutiny Working Committee** means the Minimum Wage Scrutiny Working Committee formed by the

National Committee to set and review the minimum wage for workers working in agriculture and livestock industry.

- (d) **Working Committees** are Manufacturing and Services Minimum Wage Scrutiny Working Committee, Agriculture and Livestock Minimum Wage Scrutiny Working Committee and Other working committees formed by the National Committee under the Section 5, sub-section (i) of the Law.
- (e) **Tripartite Representatives** means the government representative and representatives of the employer and the employee.

Chapter (2)

Establishment and responsibilities of the National Committee

- 3. The Ministry shall form the National Committee and reorganize the following departments. The list of representatives and persons from the organizations shall be submitted to the President:
 - (a) Representatives from the relevant government department who should be assigned by the government agencies;
 - (b) Workers' representatives of the manufacturing and service industry organizations and commercial business;
 - (c) Employers' representatives of manufacturing and service organizations and Commercial business;
 - (d) Workers' representatives of the Agriculture and Livestock Organization;
 - (e) Employers' representatives of the Agriculture and Livestock Organization;
 - (f) An person or persons who are having skills and fair for setting the wages of the business.
- 4. According to Rule 3, in submitting to the President:

- (a) The number of workers' representatives and employers' representatives must be the same;
 - (b) If the President requests the list of representatives, the list of representatives shall be submitted again.
- 5. Proposed by the Ministry under Rule 3:
 - (a) The representatives of the workers and the employers shall, for the benefit of their organization in relation to the determination of the minimum wage or must be willing to work for the benefit of the employee or employer;
 - (b) Professionals must have work experience in the relevant field and be stipulate fairness between the employee and the employer.
- 6. The National Committee:
 - (a) Relevant Union Territory Council or Regional Committees or State Committees shall be formed with the representatives from Council of the relevant Union Territory, Government representatives from the list submitted by the Region and State Governments, representatives of trade unions or workers, representatives of employers' organizations or employers who are skillful and having fairness in setting of wages;
 - (b) The number of representatives of workers and employers shall be equally appointed;
 - (c) The Chairman and the Secretary shall be assigned while the formation is carried out under sub-rule (a). If it is required, the Vice-Chairman and the Joint Secretary may be appointed.
 - (d) The said Union Territorial Committee or Region committees or state committees may be restructured or, if necessary, replaced with any member.

7. Regular meetings of the National Committee shall be held twice a year to determine the minimum wage and to revise it. Special meetings can be held if needed. In doing so:
 - (a) All members of the National Committee shall be invited;
 - (b) The Chairman of the National Committee shall chair the meeting. If the Chairman is unable to attend, the Vice-Chairman shall act as the Chairman;
 - (c) The meeting is successful when attended more than half of the persons who are entitled to attend the meeting;
 - (d) Two-thirds of all members of the National Committee must attend if an important decision is to be made.
 - (e) The decision of the meeting shall be made by a majority vote of all the participants in the meeting.
 - (f) It can be used either way of secret ballot or standing or raising the hand in relation to any matter.

8.
 - (a) The relevant Union Area Committee or the Region Committee or State Committee shall be managed to inform to the National Committee when the operation of a factory is been stopped due to natural disaster;
 - (b) In accordance with the sub-rule (a), the National Committee, taking into account the facts submitted by the Regional or State Committee, shall be determined the wages of the workers during the pause period of the factory.

Chapter 3

Formation of Union Territorial Committee, Region Committees or State Committees

9. Council of the relevant Union Territory or the Region or State Government shall submit the list of the representative from the Government Agencies, Workers' and employers' representatives who are skillful and having fairness with regard to setting the wages while forming the Union Area Committee or Region Committees or State Committees to the National Committee.
10. The National Committee, under Rule 9, shall be composed of representatives submitted by The Region Committee or State Committee and formed as follows:

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| (A) | Member of the council assigned by the council of the relevant Union territory or the Minister of Labor in the relevant Region or State | Chairman |
| (B) | The Council of the relevant Union Territory and the person assigned by the relevant Region or State Government | Vice Chairman |
| (C) | Five representatives from relevant Government Agencies | Members |
| (D) | Five workers' representatives from the Agriculture and Livestock Organization, trading, manufacturing and services; | Members |
| (E) | Five employers' representatives of the Agriculture and Livestock Organization, trading, manufacturing and services; | Members |
| (F) | Two persons who are skillful and having fairness in setting the wages | Members |
| (G) | The person assigned by the council of the relevant Union | Secretary |

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| | territory; Region or State Director of the Labor Directorate in the relevant Region or State | |
| (H) | The person assigned by the council of the relevant Union territory or Region or State and Head of the department from the Workshop and Labor Law Inspection Department in the respective Region or State | Joint Secretary |

Chapter 4

Establishment of minimum wage working committees and their responsibilities

11. The National Committee may form the following working committees to work effectively on the type of work for minimum wage setting and review and to support the functions of the National Committee:
 - (a) Minimum Wage Scrutiny Committee for the workers from the trading, manufacturing and services industries;
 - (b) Minimum Wage Scrutiny Working Committee for Agriculture and Livestock Workers;
 - (c) Minimum Wage Research and Advisory Working Committee;
 - (d) Other relevant Working Committees.

12. The National Committee shall form the Minimum Wage Scrutinizing Working Committee by consisting of representatives from Government Departments and Organizations, workers and employers' representatives from trading, manufacturing and service industries.

13. The Working Committee formed under Rule 12 shall submit to the National Committee, the recommendations based on the scrutinized facts for the setting of minimum wages which are advised by the Union Territorial Committee, Commercial affairs of Region Committees or State Committees.

14. The National Committee shall form the Minimum Wage Scrutiny Working Committee consisting of the representatives from Government Departments and Organizations and the workers employers' representatives of the Agriculture and Livestock Organization.
15. The Working Committee formed under Rule 14 shall submit to the National Committee, the scrutinized facts for the setting of minimum wages based on the recommendations made by the Union Territorial Committee, the Region Committee or State Committees.
16. The National Committee shall form a Minimum Wage Research and Advisory Committee consisting of minimum wage experts and specialists for each type of business industries.
17. The Working Committee formed under Rule 16 shall:
 - (A) conduct the surveys on the basis of minimum wages set by the Region or State and studies the minimum wage collection methods to make recommendations to the National Committee on the minimum wage rates which should be set or amended In accordance with the type of businesses.
 - (B) have the right to attend and consult at the regular and special meetings of the National Committee.
18. Minimum Wage Working Committees, if necessary, shall conduct the field inspections to the Regions and States.

Chapter (5)

Relevant types of business

19. The National Committee shall issue the relevant Notifications concerning to the minimum wage provisions for the businesses having more than 16 employees for trading, manufacturing, services, agriculture and livestock

industries for the whole country or the relevant Union Territory or the Region or the State. (Revised 28.08.2015)

20. According to the Rule 19, the issuance of a notification determines the commercial business with regard to the manufacturing and services, the following types of businesses can be defined:
- (a) textile and garment industries;
 - (b) factory, workshop and general engineering;
 - (c) metals, mining and gems;
 - (d) food industries;
 - (e) chemical and related industries;
 - (f) paper and printing business;
 - (g) timber and wood based industries;
 - (h) porcelain, earth wares, ceramic and brick making;
 - (i) consumer goods industries;
 - (j) electrical and related industries;
 - (k) telecommunications, information and technology services;
 - (l) fisheries and fishery related products;
 - (m) general enterprises and services;
 - (n) groceries, commercial and public entertainment departments;
 - (o) transport business;
 - (p) businesses engaged in loading and unloading workers;
 - (q) services related to hotel and tourism business;
 - (r) other businesses under trading, manufacturing and services prescribed from time to time by the notification issued by the National Committee;
21. Pursuant to the Rule 19, the notification shall be issued by the following types of business under the agriculture and livestock industries:
- (a) Farming, perennial plantation and related activities under the agriculture industry;

- (b) Livestock farming and aquaculture, beekeeping, poultry farming and related businesses;
- (c) Other activities related to agriculture and livestock industries as prescribed from time to time by the notification issued by the National Committee.

Chapter (6)

Basic facts for setting the minimum wage

- 22. The findings from the research and study based on the fundamental facts set out in the Chapter 5, Section 7 of the Law submitted by the Minimum Wage Working Committees and the recommendations and suggestions provided by the Union Territorial Committee or the Region Committee or the State Committees shall be taken into consideration and scrutinized by the National Committee for the determination of the minimum wages and reviewing upon it.
- 23. In addition to the basic points mentioned at the Section 7 under Chapter 5 of the Law, the following points must be considered and taken into account for the setting a minimum wage:
 - (a) consumer price rate;
 - (b) commodity prices and service charges;
 - (c) inflation rate;
 - (d) requirements for industrial investment in rural areas;
 - (e) production costs and other costs;
 - (f) productivity of workers;
 - (g) employer's ability to pay wages;
 - (h) socio-economic conditions of the union;

- (i) Other factors determined from time to time by the Ministry with the approval of the Union Government in accordance with the changed circumstances.

Chapter 7

Submission of recommendations for setting a minimum wage

- 24. Union Territorial Committee; The Region Committee or State Committee shall, in accordance with the guidelines of the National Committee:
 - (a) census data should be taken at least once a year to assess the social conditions and fundamentals of the current economic situation for the determination of the minimum wage;
 - (b) the recommendations for trading, manufacturing, services, agriculture and livestock industries, shall be submitted to the national committee for the considerations of the minimum wage setting;
 - (c) according to the above sub-rule (b), suggestion of the working time for one day or one week or one month or any other part-time job should be examined according to the work skills and occupational hazards with the view to set the minimum wage.
 - (d) in relation to the prescribed minimum wage order relevant to the types of industries, such as, trading, manufacturing, services, agriculture and livestock industries, the minimum wage should be reviewed and revised at least every two years for the revision and adjustment if the minimum wage is inconsistent by the National Committee.
- 25. If there is a reasonable objection to the proposed minimum wage rate of the National Committee, the minimum wage rate should be set by the objecting person or organization and the Union Territorial Committee or the representatives of the relevant Region Committee or State Committee shall submit to the National Committee.

26. Proposals and recommendations of the trading, manufacturing and service organizations can be submitted to the relevant Union Territorial Committee, or the Region Committee or the State Committee.
27. Union Territorial Committee, the Region Committee or the State Committee shall, in accordance with Rule 26, be in charge of trading, manufacturing, service and agriculture and livestock organizations, the revised minimum wage rates should be consulted to the National Committee.
28. Regarding the determination of the minimum wage for workers in special economic zones established in the Region or State:
 - (a) the relevant special economic zone management committee shall propose the minimum wage rates to the national committee to be determined according to the type of investment business in consultation with the relevant Region or State Committee.
 - (b) the National Committee shall act in accordance with the provisions of this rule in respect of the determination of the minimum wage on the recommendation under sub-rule (a) and with the approval of the Union Government.
29. The SEZ Management Committee may review the minimum wage rate at least every two years and review with the relevant Regional or State Committee in accordance with the changing circumstances with regard to the minimum wage rates for workers within the SEZ.

Chapter (8)

Minimum wage

30. The National Committee:
 - (a) making plans and setting the national level policies regarding the basis on conducting the research and survey for setting of the minimum wage; .

- (b) in accordance with the national policies adopted, after reviewing and conducting research and surveys for setting the minimum wage based on the current economic and social situation, instruct to the Union Territorial Committee or the Region Committees or State Committees.
- 31. The National Committee and the Working Committees are responsible for the setting of the minimum wage. The following points should be taken into account based on the recommendations of the Region or State Committees:
 - (a) Findings on job skills and occupational hazards by type of business by the Region or State;
 - (b) rising of problems and complaints with regard to the minimum wages.
- 32. The recommendations of the Minimum Wage Scrutinizing Working Committee shall be submitted to the National Committee by the comparison with the facts finding from the research and surveys conducted by the Region or State Committees for the workers from the trading, manufacturing and service industries. Comments on the minimum wage rates determined by the Region or State should also be submitted.
- 33. The recommendations based on research and surveys on the basis for setting the minimum wage for agricultural and livestock workers submitted by the Region or State Committees to the Minimum Wage Scrutiny Working Committee. The Comments should be submitted to the National Committee on the minimum wage rates to be determined by Region.
- 34. The National Committee:
 - (a) shall announce the minimum wage for agriculture and livestock industry for the whole country, at least 60 days in advance into the action based on the recommendations submitted by the Union Territorial Committee, the Region or State Committees and the SEZ Management Committee in consultation with the relevant Region Committee or State Committee

regarding the issue of minimum wage for the opinion of the public either accepted or objected;

(b) In the proclamation under sub-rule (a), the Department of the relevant organizations is responsible for informing and publishing in the State Gazette in accordance with the stipulations with the view to aware by the employers and employees.

35. The Department:

(a) shall publish at least 60 days in advance the proposed minimum wage rates prescribed by the assignment of the National Committee so that the public may aware to accept and object.

(b) shall declare, under the sub-rule (a), the proposed minimum wage rates at the relevant workplaces and at the relevant trading, manufacturing and service organizations, agricultural and livestock organizations with the view to aware by the employers and workers. In addition, it should be instructed to make announcements or distribute leaflets.

36. The National Committee:

(a) shall determine the relevant minimum wage rate with the approval of the Union Government when there is no objection within 60 days after the announcement to the public;

(b) The Department shall be responsible for publishing the notification letter in the State Gazette and in the newspaper so that the public may know the minimum wage rate prescribed under sub-rule (a).

37. According to Rule 36, the person who wants to object or object to the proposed minimum wage rate announced to the public shall fill in the attached form and submit it to the Union Territorial Committee within two weeks. A copy must be submitted to the relevant Region Committee or State Committee and a copy shall be sent to the National Committee and the Department.

38. The relevant Union Territorial Committee or the Regional Committee or State Committee needs to conduct a field inspection on the proposed minimum wage rate in accordance with Rule 37 and can decide whether or not field inspections are required:
 - (a) Set the date, time and the place and gather the necessary information for field inspection of the proponent of objection or amendment under Rule 37;
 - (b) The information and evidence obtained under sub-rule (a) shall be recorded.
 - (c) Such information shall be completed within 30 days from the date of the objection or the date on which the amendment is proposed.
 - (d) The person objecting or proposing the amendment in the field inspection shall either himself or herself may be allowed to follow through with a representative.
39. The relevant Union Territorial Committee or the Regional Committee or State Committee shall review the objections or amendments submitted under Rule 37 in relation to the proposed minimum wage rate and submit field proposals under Rule 38 together with the case file and supporting documents.
40. The National Committee:
 - (a) shall be determined the minimum wage rate for the relevant workers with the approval of the Union Government within 60 days after the announcement to the public, in the case of any objection or proposal to amend, the submission of the objector or the objecting party or the proposer of the amendment or the organization proposing to amend according to Rule 39, after submitting case file and evidence by the Union Territorial Committee or the relevant Regional Committee or State Committee;

(b) The Department shall be responsible for issuing the Notification in the State Gazette and in the newspaper so that the public may know the minimum wage rate prescribed under sub-rule (a).

41. The National Committee:

(a) shall confirm to amend the minimum wage rate from time to time every two years with the approval of the Union Government, taking into account the review and recommendations of the Regional Committee or State Committee and relevant Department's suggestions from organizations together with the comments of the working committees on those recommendations submitted in consultation with the relevant Union Territorial Committee or Regional Committee or State Committee or the relevant SEZ Management Committee for the workers in the SEZs in accordance with the changing circumstances in relation to the prescribed minimum wage;

(b) The Department shall be responsible for issuing the Notification amended from time to time in accordance with sub-rule (a) in the State Gazette and in the newspaper so that the public can know the further approved minimum wage rate.

(c) in joint ventures with foreigners in setting the minimum wage and reviewing and amending, the minimum wage for citizens working in foreign-invested industries should be the same as that of foreign workers in terms of skills.

(d) any existing law in determining the minimum wage by issuing an order, salaries or wages or leave shall not be affected with any privilege granted to the employee in connection with the holiday.

42. The Department shall notify the minimum wage notices issued under these Rules:

- (a) The Union Territorial Committee shall be published in the State Gazette and newspaper for public information. The notice shall be sent to the Regional Committee or State Committee and the Special Economic Zone Management Committee.
- (b) In accordance with the Rule 35, sub-rule (b), for the acknowledgement of employers and workers from the trading, manufacturing, services, agricultural and livestock industries, must be notified to carry out.

Chapter 9

Employers' Rights and Responsibilities

- 43. The employer:
 - (a) must raise the level of professional skills of the workers and increase the salary according to the skills to increase the productivity of the business;
 - (b) shall prepare the minimum wage schedule and document markers in accordance with the list of workers under section 13 (b) of the Law, Workshops Act (1951) and shall be done in accordance with the Leave and Holidays Act (1951);
 - (c) when the worker is unable to work due to work-related injuries:
 - (1) the fund has been contributed to the Health and Social Welfare Fund, health and social care insurance under the Social Security Act 2012;
 - (2) If the worker is not covered by the Social Security Act 2012 , shall be allowed in accordance with the Leave and Holidays Act 1951;
 - (d) without deduction from the wages owed by the worker in the case of the family or parents of the worker. This shall be done in accordance with the Leave and Holidays Act 1951;

- (e) If the wages received by the workers are less than the stipulations before the National Committee sets the minimum wage under this Law, it shall be paid until the stipulations are met.
- (f) An employee who works part-time must be paid the minimum wage for working hours.
- (g) One day off per week shall be allowed for the salaried worker. If the worker need to work on that day, the employer must pay overtime in accordance with the existing law.
- (h) if the worker has to work less than the prescribed working hours, if doing so is not at the will of the worker, if the employer is unable to provide employment and ask to take work off, the employer must pay as full time working;
- (i) the prescribed minimum wage shall be paid without discrimination in gender;
- (j) The benefits shall be paid in accordance with the terms and conditions of the workers in terms of special benefits but liable to pay the minimum wage in cash. According to the wishes of the majority of workers by collective agreement or in cash, half the cash and the local price, it can be given according to local custom.
- (k) Overtime may be arranged in consultation with the workers in accordance with the Law.
- (l) In the factory or workshop, if it is necessary before the probationary period to train a worker who has not yet been able to meet the required skill or production standard set by the Department of Labor, the relevant factory, workshop employers have required to pay not less than 50% of the minimum wage within three months. Salary must be paid at least 75% of the minimum wage during the trial period.

Chapter (10)

Rights and responsibilities of the workers

44. Workers:

- (a) must work to achieve productivity in accordance with the respective professional skill levels;
- (b) are required to attend the skills training sent by the employer, it is responsible for continuing to work in accordance with the skill level after attending the training;
- (c) are unable to work due to work-related injuries or illness:
 - (1) fund has been contributed to the Health and Social Care Fund, Health and social care insurance under the Social Security Act 2012;
 - (2) If a worker is not covered by the Social Security Act 2012 , it is entitled to benefits under the Leave and Holidays Act 1951;
- (d) are entitled to benefits under the Holidays and Holidays Act 1951 without deduction from the minimum wage in case of family or parent funeral;
- (e) Unemployed workers are entitled to enjoy salary, leave and public holidays.
- (f) If the wage paid to a skilled and competent worker is more than the minimum wage, that wage shall continue to be valid.
- (g) in accordance with the employment contract, If the wage agreed upon under any other contract is less than the minimum wage, the wage stipulation in that employment contract or contract shall be annulled;

45. The Department is:

- (a) responsible to request to the employer, under Section 19 of the Law, if the Union Area Committee or Regional Committee or State Committee

decides to pay the minimum wage, the employer shall pay the wages within 30 days;

- (b) If the employer pays the wages as requested, the money shall be paid to the employee.
46. The Department may assign an inspector, in accordance with Rule 45, if the employer fails to pay the minimum wage within the stipulated time by the Union Territorial Committee, to sue the employer in the relevant court with the approval of the Regional Committee or the State Committee.
47. The inspecting officer may file a lawsuit in the relevant court against the employer who fails to pay the minimum wage as assigned by the Department. According to section 16 of the law, if a worker does not receive the full amount of benefits and other benefits, the right to sue for such benefits and benefits shall not be affected.
48. In the case of Rule 45, 46 and 47, the SEZ Management Committee shall follow the guidelines of the National Committee.

(Sdn)

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Union Minister

Ministry of Labour and Social Welfare

Government of the Republic of the Union of Myanmar