



The Employment and Skills Development Law

The Republic of the Union of Myanmar

Pyidaungsu Hluttaw

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(The Pyidaungsu Hluttaw Law No. 29/2013)
The 9th Waning of Wagaung, 1375 M.E.
(30th August, 2013)

The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter 1

Title, Date of Effectiveness and Definition

1. (a) This Law shall be called the Employment and Skills Development Law.
 - (b) This Law shall come into force commencing from three months after its enactment.
2. The definitions contained in this Law shall have the meanings given hereunder:
- (a) **Employer** means a person who has the right to appoint the worker or a person who is delegated to appoint the worker at a government department, government organization or at a work owned by the co-operative, private or joint-venture or at any organization or company where stipulated number or more of permanent or temporary workers are working;
 - (b) **Worker** means a person who performs a work that requires skills or moderate skills or no skills for wages at a government department, government organization or at a work owned by the co-operative, private or joint-venture or at any organization or at a company. In this definition, an apprentice worker is included;

- (c) **Industrial and Service Enterprise** means, for the purposes of this Law, one or more workshops or factories or, one or more categories of work or, one or more categories of branch of workshop, factory, work, factory department and work department located in any geographical area stipulated by the Ministry of Labour, Employment and Social Security.
- (d) **Wages, Salary** includes normal wages or salary and, additional payment for overtime work as well as allowance and benefits if any, but does not include any payment to cover expenses incurred in the course of performing work.
- (e) **Training** means courses conducted for imparting knowledge and skills to those seeking employment as well as to workers and includes pre-employment training, during - employment training for acquiring skills, skills upgrading training and retraining for changing of the nature of work.
- (f) **Training Centre** means the centre established for the purpose of training job seekers and workers, in accordance with occupational skills standards.
- (g) **Skills** means the required capacity to enable to do any work in accordance with the specifications;
- (h) **Occupational Competency Standard** means performance standards in accordance with levels of skills for the various occupations prescribed or recognized by the Skills Development Agency under the law;

- (i) **Authority** means the organization for employment and skills development formed under this Law;
- (j) **Registration Certificate** means the certificate issued under this Law to the Training Centers and Skills Assessment Centres by the Skills Development Agency;
- (k) **Skills Assessment Centre** means the centre authorized by the Skill Development Agency to undertake skills assessment in conformity with the stipulated criteria;
- (l) **Skills Recognition Certificate** means a certificate issued by the Skill Assessment Centre with the approval of the Skills Development Agency;
- (m) **Skilled worker** means a person who has been issued any type of occupational skills recognition certificate by the Skill Assessment Centre with the approval of the Skills Development Agency under this Law;
- (n) **Fund** means the skills development fund established under this Law;
- (o) **Contribution** means the contribution to be paid by the relevant employer to the skills development fund in accord with this Law;
- (p) **Ministry** means the Ministry of Labour, Employment and Social Security of the Union Government.

Chapter (2)

Employment and Employment Seeking

3. The Ministry shall manage the facilities and measures to help for selection of employment, obtaining employment for employment seeker suitable according to the age and strength; tenure in employment and skill development, and to help employers for obtaining workers suitable for the employment.
4. (a) The Ministry, for any matters contained in section 3:
 - (i) may establish labour exchange offices as may be necessary;
 - (ii) may carry out necessary arrangements by opening government labour exchange offices, by permitting the private internal recruitment agencies serving with free of charge to employment seeker or by any other means, to explore employment opportunities, help the employment seekers and to help employers for obtaining suitable worker for the employment;
- (b) The employment seeker shall not lose the opportunities and benefits provided by any labour exchange offices due to his refusal to accept the employment sought by it on the reasons that labour dispute is being occurred at the work he intends to work, the wage of employment searched

is less than the wage obtained by other persons of the same employment;

- (c) The Ministry may make arrangements for causing the employer to inform to the relevant labour exchange office in accord with the stipulations relating to the employments position vacant or to be vacant in his work.

Chapter (3) **Making Contract of Employment**

- 5. (a) (1) After the employer has employed a worker for any job, he shall within 30 days of so doing, sign a Contract of Employment with the worker. This clause however shall not apply to permanent workers of government departments and organizations.
- (2) If prior to employment, the worker is required to attend any pr-employment training for a period or appointed on probation for a period, sub-section(1) shall not apply for that period.
- (b) The Contract of Employment shall include the matters mentioned below:-
 - (1) Title of Job
 - (2) Probation period
 - (3) Wages/Salary
 - (4) Place of work
 - (5) Duration of the Contract
 - (6) Working Hours

- (7) Rest days, Holidays and Leave
 - (8) Overtime work
 - (9) Arrangements for meals during the period of work
 - (10) Accommodation
 - (11) Medical Treatment
 - (12) Ferry service and travel
 - (13) Rules to be followed by employee
 - (14) Agreement by worker regarding the duration he shall work after attending any training course arranged by the employer.
 - (15) Resigning and being discharged.
 - (16) Termination of Contract
 - (17) Responsibilities according to rules in the Contract
 - (18) Annulment of the Contract by mutual agreement of employer and worker
 - (19) Other matters
 - (20) Adding, changing or amending the rules of the Contract
 - (21) Miscellaneous
- (c) The workplace rules in the Employment Contract shall conform to the rules made under existing laws and the rights of the workers in the Contract shall not be less than those in existing laws.
- (d) In the event that the work is completed before the duration of the Contract or if due to unforeseen circumstances the work or part of it is stopped, or for any reason the worker is discharged,

the employer shall pay compensation according to the rates fixed in the Order issued by the Ministry.

- (e) Employment Contract to be made under subsection (a) shall apply to temporary workers on a daily wage or piece rate basis of government departments and organizations.
- (f) Employer and worker or workers may, by mutual consent, change the rules or the rights of workers in accordance with existing laws as required.
- (g) The employer shall submit a copy of the Employment Contract to the concerned Labour Exchange Office for confirmation.\
- (h) Employment Contracts made prior to the coming into force of this law shall be valid up to the date of expiry of the said Employment Contract.

Chapter (4)

Forming of the Employment and Skills Development Authority and related Functions

6. The Union Government shall-

- (a) form the Employment and Skills Development Authority with the following persons:-
 - (1) Union Minister Chairman
Ministry of Labour, Employment and Social Security
 - (2) Union Minister Members
Concerned Union Ministries
 - (3) Mayors Members
Nay Pyi Taw, Yangon and Mandalay Municipalities

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| (4) Concerned Ministers
Regional and State Government | Members |
| (5) Chairman
The Republic of the Union of
Myanmar Federation of
Chambers of Commerce and
Industry | Member |
| (6) Chairman
Confederation of Myanmar
Labour Organisations | Member |
| (7) Chairman
Confederation of Myanmar
Employers Organizations | Member |
| (8) Deputy Minister
Ministry of Labour, Employment
and Social Security | Secretary |

(b) In forming the above Authority, under sub- section (a), the Vice Chairman and Joint Secretary may be appointed and assigned duties.

7. The Authority shall lay down policies relating to the following duties and functions:-

- (a) Creation of employment opportunities
- (b) Implementing measures to reduce unemployment
- (c) Carrying out to enhance discipline and capacity of the workers
- (d) Carrying out for the skills development of the workers
- (e) Forming and guiding the Employment and Skills Development Agencies

8. The Authority shall form, with the approval of the Union Government, the Employment Promotion Agency comprising the following persons:-

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| (a) Deputy Minister
Ministry of Labour, Employment and
Social Security | Chairman |
| (b) Deputy Ministers
Concerned Union Ministries | Members |
| (c) Director Generals or Managing Directors
Concerned Departments or Corporations | Members |
| (d) Representative
The Republic of the Union of Myanmar
Federation of Chambers of Commerce
and Industry | Member |
| (e) Representative
Confederation of Myanmar Labour
Organisations | Member |
| (f) Representative
Confederation of Myanmar Employers
Organizations | Member |
| (g) Director General
Department of Labour | Secretary |

9. The duties and functions of the Employment Promotion Agency are as follows:-

- (a) Creation of Local employment opportunities
- (b) Enabling those who seek employment to be employed
- (c) Implementing measures to reduce unemployment
- (d) Carrying out to enhance discipline and capacity of those in employment

10. (a) The Authority shall form, with the approval of the Union Government, the Skills Development Agency comprising the following persons:-

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| (1) Deputy Minister
Ministry designated by the Union
Government | Chairman |
| (2) Director Generals or
Managing Directors
Concerned Departments or
Corporations | Members |
| (3) Representative
The Republic of the Union of
Myanmar Federation of Chambers
of Commerce and Industry | Member |
| (4) Chairman
Technical Organisations Concerned | Member |
| (5) Representative
Confederation of Myanmar
Labour Organisations | Member |
| (6) Representative
Confederation of Myanmar
Employers Organizations | Member |
| (7) Deputy Director General
Department of Labour | Secretary |

(b) In forming the Agency under sub-section (a), the experts relating to the skills development may be appointed and assigned duties as members.

11. The duties and functions of the Skills Development Agency are as follows:-

- (a) Drawing up and prescribing Occupational Competency Standards for the various categories of occupations.

- (b) Making policy regarding skills development of workers taking into consideration priority of different skills areas.
 - (c) Prescribing procedures for the assessment of skills.
 - (d) Registering Training Centres or Skills Assessment Centres.
 - (e) Prescribing procedures for assessment and certification of skills.
 - (f) Managing by establishing the Skills Development Fund for the workers.
 - (g) Supervising its committees and sub-committees.
12. (a) The Skills Development Agency shall form the following committees for the performance of its duties and functions:-
- (1) Occupational Competency Standards and Training Committee
 - (2) Skills Assessment and Certification Committee
- (b) The Skills Development Agency may form sub-committees as required under the committees formed according to Section 12(a).
13. Regarding the duties and functions, and authority of the Committees formed under Section 12 section (a)-
- (a) Occupational Competency Standards and Training Committee and Skills Assessment and Certification Committee shall according to each Committee organize, coordinate and draw up their work programs.
 - (b) Occupational Competency Standards and Training Committee shall undertake the following:-
 - (1) Drawing up precise occupational competency standard based on international standards, according to types of occupations and levels of skills.

- (2) Developing curricula and standards of training in line with the occupational competency standards.
 - (3) Prescribing the qualification of instructors.
 - (4) Prescribing the standards of machinery, equipment and training aids of the training centres.
 - (5) Registering of training centres and training programs.
 - (6) Coordinating for the skills development on technology.
 - (7) Checking the application for registration of training centres and submitting the applications to the Skills Development Agency.
- (c) Skills Assessment and Certification Committee shall undertake the following:-
- (1) Drawing up assessment standards based on occupational skills standards for skills assessment.
 - (2) Registering of skills assessment centres and skills assessment programs.
 - (3) Checking the application for registration of skills assessment centres and submitting the applications to the Skills Development Agency.
 - (4) Prescribing quality assurance mechanisms and functions for developing the assessment plan, assessors qualification and assessment center.
 - (5) Coordinating for the skills development on technology.
 - (6) Holding skills competitions by prescribing level of skills for occupational skills development.
 - (7) Awarding certificates to those who excel in the skills competitions.

Chapter (5)
**Implementing Training Programs and Skills Development
of Workers**

14. Employer shall conduct occupational training to enhance the skills of workers who are to be employed as well as workers who are presently employed in accordance with the requirements of the enterprise and the policy of the Skills Development Agency.

15. Employer may:-

- (a) in implementing programs of training to enhance the skills of workers, conduct in- house/ in-plant training, systematic on-the-job training, send his workers to outside training courses, conduct training by means of information technology either individually or in groups of employers for individual or groups of workers.
- (b) employ young persons who have completed (16) years of age as apprentices in accordance with the regulations made by the Skills Development Agency and train them in the various skilled occupations.

Chapter (6)**Establishment and Registration of Training Centres and Skills Assessment Centres**

16. (a) Employers or Service Providers who wish to establish Training Centres or Skills Assessment Centres shall apply for registration of such centres to the Skills Development Agency through the concerned committees in accordance with prescribed procedures.
- (b) In accordance with existing laws, foreigners who wish to establish Training Centres or Skills Assessment Centres shall apply for registration of such centres to the Skills Development Agency through the concerned committees in accordance with prescribed procedures.
17. The Skills Development Agency shall:-
- (a) Allow or reject to issue registration certificate after scrutinizing whether or not it is in conformity with the stipulation relating to the application under Section 16 by the concerned committee formed under Section 12.
- (b) If the application for registration is allowed, require the applicant to pay the prescribed fee and issue the Registration Certificate.
- (c) If the application for registration is rejected, allow the applicant to reapply within (30) days.
18. If the registered Training Centre or the Skills Assessment Centre wishes to continue operation after the expiry of its certificate of registration, application shall be made as prescribed, to the Skills Development Agency through the committee concerned for extension of the Registration Certificate.

19. If the Skills Development Agency finds that the registered Training Centre or the Skills Assessment Centre is not in compliance with the regulations of certification, it may revoke the certificate of registration.

20. The duties of the Registered Training Centre are as follows:-

- (a) Documenting the training program matters described below and submitting the same to the Skills Development Agency for approval:-
 - (1) Occupational Competency Standards
 - (2) Curriculum
 - (3) Location of the Training Centre, buildings and facilities.
 - (4) Names of the Instructors and their qualifications
 - (5) Duration of the training course
 - (6) Training Methodology and Training Aids
 - (7) Certificates to be awarded
 - (8) Training Fee
 - (9) Other matters prescribed by the Occupational Competency Standards and Training Committee
- (b) Making Training Contract with the trainee
- (c) Maintaining the personal data of the trainees
- (d) Within 15 days of completion of the training program, submitting a report of the training program to the Skills Development Agency.
- (e) If the Training Centre is to be handed over to another person who wants to establish a training centre, to inform the Skills Development Agency at least 30 days in advance prior to such transfer.
- (f) If it is desirous to terminate the training centre, to transfer the trainees together with the remaining

training costs to another centre offering the same training course.

21. The person who establishes the Registered Training Centre may:-

- (a) Employ in his centre, foreign experts and foreign instructors who have, under the laws concerned, work permits issued by the concerned Ministry. The duration of their stay shall be in accordance with existing laws.
- (b) Import training aids in accordance with existing laws.

22. The duties of the Registered Skills Assessment Centre are as follows:-

- (a) Documenting the skills assessment program matter described below and submitting the same to the Skills Development Agency for approval:-
 - (1) Assessment programs based on recognized Occupational Competency Standards
 - (2) Location of the Skills Assessment Centre, buildings and facilities
 - (3) Name of assessors and their qualifications
 - (4) Duration of Assessment
 - (5) Assessment equipment and aids to be used in the Skills Assessment Centre
 - (6) Nature of the assessment questions
 - (7) Standards and method to be used in skills assessment
 - (8) Assessment fee to be collected from the person whose skills is assessed
 - (9) Other matters prescribed by the Skills Assessment and Certification Committee

- (b) Prescribing terms and conditions and skills assessment program for the persons whose skills is assessed to obtain skills recognition certificate;
 - (c) Maintaining personal data of the persons whose skills is assessed;
 - (d) Submitting report to the Skills Development Agency within 15 days after skills assessment;
 - (e) Issuing skills recognition certificate to the persons who pass skills assessment with the approval of the Skills Development Agency;
 - (f) If it is desirous to terminate skills assessment centre, to transfer the persons whose skills is assessed together with the remaining costs to another centre offering the same assessment programmes;
 - (g) Submitting to the Skills Development Agency in advance for a minimum of 30 days before transferring the persons whose skills is assessed to the other skills assessment centre.
23. The registered Skills Assessment Centre may:-
- (a) Employ foreign experts and foreign assessors who have, under the laws concerned, work permits issued by the concerned Ministry. The duration of their stay shall be in accordance with existing laws.
 - (b) Import skills assessment equipment and aids in accordance with existing laws. It may apply to the relevant skills assessment center for inspection.

Chapter (7)

Holding Skills Competitions

24. Skills Assessment and Certification Committee shall hold skills competitions for the skilled occupations at various levels in accordance with stipulations. Research shall be made based on the results of the skills competitions.

25. The worker who has skills recognition certificate is eligible for participation in the relevant local and international skills competitions.

Chapter (8)

Establishing and Utilizing Workers' Skills Development Fund

26. The Skills Development Agency shall establish, for the workers of Industrial and Service Enterprises, a Skills Development Fund and utilize it, in accordance with stipulations for the following purposes:-

(a) Training of workers for development and upgrading of occupational skills.

(b) Retraining for occupational skills development of workers who have been retrenched for some reason and who want to change their occupation.

(c) Providing grants or loans for the purpose mentioned in sub-section (a) and (b).

27. The Skills Development Agency shall form, with representatives of government, employers and workers, a Skills Development Fund Management Committee.

28. The duties and functions of the Skills Development Fund Management Committee are as follows:-

- (a) Supervising regular payment of contributions to the fund.
- (b) Managing the fund with the approval of the Skills Development Agency.
- (c) Depositing in a bank account or purchasing Government Saving Certificates with the part of the fund that can be invested in accordance with the financial regulations.
- (d) Accepting, with the approval of the Skills Development Agency, donations if there is donor to the fund.
- (e) Accepting audit in respect of contribution and expenditure of the fund.

29. The Skills Development Fund Management Committee may, in accordance with the regulations stipulated by the Skills Development Agency, allow the utilization of the fund for the purposes mentioned below:-

- (a) grants or loans to employers who send workers to any full time or part time training course or for conducting courses or extending the programs of their training courses for the development of skills of workers.
- (b) reimbursing employers who claim cost of training his workers for the development of their skills.
- (c) other matters stipulated by the Skills Development Agency.

30. (a) The employers of Industrial and Service Enterprises shall pay contribution to the fund every month without fail amounting to not less than below 0.5% of the payroll of his workers up to the level of supervisors of the workers.
- (b) The employer shall not deduct the contribution paid under sub- section (a) to the fund from the wages of the workers.

31. The Skills Development Agency may:-

- (a) determine, in accordance with section 30 sub-section (a) regarding the contribution, the amount payable based on the category of the enterprise, the type of the enterprise, the size of the enterprise and the number of workers employed.
- (b) exempt an employer from paying contribution to the fund if there is a valid reason for doing so.

32. The Skills Development Agency shall supervise, in accordance with existing laws, the financial matters of training programs which are undertaken by persons who are from abroad.

33. The Skills Development Agency may form an Advisory Committee to obtain advices on matters relating to the management and utilization of the fund.

Chapter (9)

Offences and Penalties

34. Whosoever makes false Skills Recognition Certificates shall, on conviction of the offence, be punishable with imprisonment not exceeding (7) years and may also be punishable with a fine.

35. Whosoever, without the permission of the Ministry, undertakes recruitment for employment, or takes money from the worker for recruitment services, shall on conviction of the offence, be punishable with imprisonment not exceeding (3) years or a fine or both.

36. Whosoever violates any rules, regulations, orders or directives issued under this law shall, on conviction of the offence, be punishable with imprisonment not exceeding (1) year or a fine or both.

37. Whosoever, for the purpose of obtaining employment or workers, gives false statements or makes false representations to an Employment Exchange Office or any person legally representing an Employment Exchange Office shall, on conviction of the offence, be punishable with imprisonment not exceeding (1) year or a fine or both.

38. Any employer who commits the acts mentioned below shall, on conviction of the offence, be punishable with imprisonment not exceeding (6) months or with a fine or both:-

(a) Failure to make Employment Contract as per Section 5 Sub-section (b).

(b) Failure to pay contribution as per Section 30 Sub-section (a).

39. Whosoever contravenes any clause of the Employment Contract shall on conviction of the offence, be punishable with imprisonment not exceeding (3) months or with a fine or both.

Chapter (10)
Miscellaneous

40. If the employer who took a loan from the fund fails to pay back the loan within the stipulated period, the loan shall be recovered as if it was land revenue.

41. In implementing the provisions of this law-

(a) The Ministry, with the approval of the Union Government shall issue rules, regulations and by-laws as may be necessary.

(b) The Ministry and the Department of Labour may issue notifications Orders, Directives and Procedures as may be necessary.

42. The 1950 Employment and Training Act is hereby repealed with the enactment of this law.

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

Sgd. (Thein Sein)
President
The Republic of the Union of
Myanmar