

Shops and Establishments Law (2016)
(The Pyidaungsu Hluttaw Law No. 18)
The 1st Waning.....Day of Month Pyartha..... 1377, M.E.
(.....25th January, 2016)

The Pyidaungsu Hluttaw hereby enacts this law.

Chapter (1)
Title and Definitions

Article 1

(a) This law shall be called **Shops and Establishments Law (2016)**.

Article 2

The following expressions contained in this law shall have the meanings given hereunder:

(l) **Ministry** means the Ministry of Labour, Employment and Social Security of the Union Government.

(j) **Department** means the Factories and General Labour Laws Inspection Department.

(k) **Chief Inspector** means the Director General of the Factories and General Labour Laws Inspection Department.

(l) **Labour Inspector** means any inspector assigned duty in the Factories and General Labour Laws Inspection Department.

(a) **Shop** means any premises used wholly or partly for the wholesale or retail sale of commodities or articles either for cash or on credit or on installment. This expression includes hair dressing, beauty culture, body fitness and beauty, goldsmith, radio or television or telephone repairing, book binding or photo shop, pawn shop, laundry, footwear repairing shop, photo copy shop, wrapping and packing material, sewing shop, tailor, and a commercial establishment or establishments for desktop publishing service computer and consumer electronic products repairing service.

(b) **Commercial establishment** means an establishment in which there is conducted the business of an advertising, commission, forwarding or commercial agency. This expression includes a clerical department of a factory or of any industrial commercial undertaking, an insurance company, joint stock company, bank or broker's office, an advertising, or employment agency or service agency or private education institution, or private hospital and clinic, hotel, motel, inn, and travelling agency, gates for collection toll fee.

(c) **Establishment for public entertainment** means a cinema or theatre or any hall for entertainment, club, or video house, or karaoke lounge, or game stations with the help of computer and electronic equipment, or amusement parks or public garden and park, or health fitness center, or and any child playground.

(d) **Cottage industry** means certain kind of industry which is not covered by Shops and Establishments Law (1951).

(e) **Establishment** means not only the commercial establishment and establishment for public entertainment but also the other establishments which are announced by notification, by the Ministry as the establishments covered by this law.

(f) **Employer** means a person owing or having charge of the business of a shop or establishment, or a legal managerial agent of the employer, or if the employer passed away / is deceased, his/her heir and legal successor of share of such shop or establishment.

(g) **Manager** means any person officially appointed, delivering a notice to the department, by and sent a notice by the employer to the labour inspector in order the manager to make a decision and carry out the matter contained in this law on behalf of the employer.

(h) **Employee** means, in the case of a shop or an establishment, a person wholly or principally employed in the shop in connection with the business of the establishment, and includes a person who is employed in a clerical capacity or as a cashier, messenger, caretaker, watchman or sweeper, driver or car-attendance and cook in such establishment. The term employee does not include husband or wife, son or daughter, parents, own brother or sister. In case they live together with and rely on such employer.

Chapter (2)

Purposes

Article 3 The purposes of this law are as follows-

- (a)- To fix working hours for the workers working in shops and establishments.
- (b)- For the workers to receive rightful wages.
- (c) -To have occupational safety
- (d)- To protect rights for health

Chapter (3)

The duties and powers of Chief Inspector and Inspectors

Article 4

The Ministry may appoint such number of persons as inspectors as required to implement the purpose of this law.

Article 5- The Chief Inspector may, in addition to the powers conferred to him/her under this law, exercise the powers of the inspectors throughout the Union of Myanmar.

The Chief Inspector –

- (a) may assign duty to inspectors to local limits.
- (b) may issue permissions to the shops or to the establishments or to the establishments for public entertainment which needs to be opened 24 hours a day.
- (c) may assign duty and give sanction or authority to an inspector to prosecute any person violating any provision under this law.

Article 6

An appointed inspector -

(a) may, within the local limits for which he/she is appointed, identifying himself /herself enter any place which is, or which he/she has reason to believe is, a shop or an establishment, for the purpose of this law and make such examination of the that place and of any prescribed record, register or document, electronic record or notice maintained therein and to take such photographs or video recording as he/she thinks necessary to record the conditions in a workplace and the processes carried on therein and make such interrogations as he/she thinks fits to do so.

(b) may examine and inspect all records and documents, or documents recorded by the modern technology of a shop or an establishment and , in the presence of respective witnesses, seize any of them as evidences if he/she thinks necessary to.

(c) Provided that no person shall be required under this Section to answer any question or give any evidence tending to incriminate himself or herself.

Chapter (4)

Provisions related to Working Hours

Working hours and closed hours of work

Article 7

(a)- Every shop and commercial establishment shall remain closed between 11 pm and 5 am but any customer who was buying, or is waiting in the shop to be served at 11 pm may be served during the period of 30 minutes immediately following such hour.

(b)- The provision under sub-section (a) shall not be violated.

Article 8-

Every establishment except the establishment for public entertainment including theater, entertainment and free-show shall remain closed between 1 am and 5 am.

(a)-The provision under sub-section (a) shall not be violated.

Article 9 -

Employer -

(a) shall ,except for the provision contained in Article 11,and for shops or establishments or establishments for public entertainment which need to be opened 24 hours because of the nature of the business, receive/ obtain the permission from the department.

(b) Shall not open his / her shop or establishment 24 hour without permission as provided in the above sub-section (a).

Article 10

Employer, due to the nature of business, desires to open any of the following shops, commercial establishments and establishment for public entertainment for 24 hour a day, may do so by delivering a prior notice to the department.

(a) shops in the airport, harbour, high-way bus terminus, rail-way stations, toll-gates , hotels, motels, guest-houses, lodging houses and clubs.

(b) hospitals, clinics, shops dealing mainly in medicines, and related appliances. .

(c) Services which provide public with electricity, gas or water supply or with telecommunication, and the essential services, shops and establishments exempted by order issued by the ministry.

Article 11

(a) No person employed in a shop or establishment shall be required or permitted to work in such shop or establishment for more than 8 hours in any one day and for more than 48 hours in any one week, provided with their own consent, any person can work overtime for more than 8 hours in any day and for 48 hours in any one week under this law.

(b) The total number of hours so worked overtime by such persons shall not exceed 12 hours for any one week. But, if there is a special matter to do overtime work, it should not exceed 16 hours for any one week. Moreover, overtime work shall not extend beyond the 12 midnight.

Article 12

(a) No person employed in a shop or establishment shall be required or permitted to continuously work in such shop or establishment for more than 4 hours any one day unless he/she has been allowed an interval for rest of at least 30 minutes. Moreover, the period of work and intervals for rest of each person employed in a shop, commercial establishment or establishment for public entertainment shall not extend over more than 11 hours in any one day.

(b) No interval for rest contained in sub-section (a) may be needed to be provided for persons employed as caretakers or watchmen.

Article 13

(a) No person under the age of 14 shall be required or permitted to be employed in a shop or establishment.

(b) No person who has not attained the age of 16 shall be required to work overtime exceeding the working hours in any shop, commercial establishment or establishment for public entertainment.

Article 14

(a) Any person who has attained the age of 14 but not attained the age of 16 certified by the registered medical practitioner, may be employed to work for not more than 4 hours in any one day. The periods of work and interval for rest shall not exceed 5 hours.

(b) Such person shall not be required or allowed to work between 6 pm and 6 am.

(c) Such person who has already worked in a shop or establishment shall not be required or allowed to work in another shop or establishment in the same day.

(d) No person who has attained the age of 18 shall be required or allowed to work the prescribed dangerous work or in the dangerous workplace.

(e) The persons who have not attained the age of 18 but already attained the age of 16, and completed the relevant vocational trainings, and know and abide by the directives relating to the occupational safety and health, are fit to work may, certified by the registered medical practitioner, be allowed to work in the trades which are safe and do not affect the development and morale of such persons.

Article 15

(a) Every shop and establishment shall fix at least a holiday in each week for the employers, and employee thereof shall be allowed holiday on that day.

(b) No deduction shall be made from his/her wage for his/her being granted holiday for that day contained in the above sub-section (a).

Article 16

All wages payable to any person employed in any shop or establishment shall be paid by employer not later than the seventh day of the month immediately succeeding that in respect of which such wages are payable.

Article 17

Employer -

(a) shall calculate the wage payable to any person in respect of overtime work at the rate prescribed in this law.

(b) shall, under the above sub-section (a), not ask any person to work overtime without providing the calculated overtime wages.

Chapter (5)

The General Duties of the Workers

Article 18

The workers shall -

(a) follow and observe any terms and conditions prescribed in his/her employment contract under the Employment and Skill Development Law.

(b) try to keep or maintain the goods or any tools in good conditions.

Article 19

The workers shall -

(a) try to meet the work-load and to thrive the business within such manner to his/her best of abilities.

(b) request to relevant employer systematically with respect to his/her legal rights and benefits under the law.

Chapter (6)
The General Duties of the Employer

Article 20

Any employer of shop or establishment shall, with the copy of the license granted and issued by the relevant department and committee, notify to the concerned inspector under the prescribed conditions before the start of operation, changing location, changing another type of business or production, extension of current business or production, changing of ownership or termination or termination of business and hiring or changing of staff.

Article 21

For the purpose of this law, any employer -

(a) shall arrange documents, registers, agreement contract, testimonials, forms and sample prescribed for the necessary examination of the inspector.

(b) shall, under this law or rule made under this law, produce the registration book, evidence of employer or the instruments relating to the business when the inspector asks to do so.

Article 22

For the purpose of this law, any employer shall display a notice of work periods in a place where anyone can see easily/ a place easily visible.

Article 23

Any employer shall inform workers regarding the rights and benefits entitled to workers.

Chapter (7)
Occupational Safety and Health

Article 24

Employer shall carry out the followings:

(a) The premises of any shop or establishment shall be kept clean, healthful and free from any smell.

(b) Any shop or establishment shall be kept well-ventilated and provided adequate light.

(c) No excessive noise shall be maintained at any shop or establishment.

(d) No excessive temperature shall be maintained at any shop or establishment and fire prevention procedures shall be laid down.

(e) For workers, first aid kit with adequate medicines in it shall be kept at any shop or establishment.

Chapter (8)
Offences and Penalties

Article 25 – Any employer who violates any provision contained in Section 7 and 8 shall, on conviction, be punished with a fine which may extend from a minimum of one hundred thousand kyats to a maximum of five hundred thousand kyats.

Article 26- Any employer who violates any provision contained in section 9, 10, and sub-section (a) of Section 12, shall , on conviction, be punished with imprisonment for a term not exceeding 3 months or with a fine which may extend from a minimum of one million kyats to a maximum of three million kyats or with both.

Article 27 – Any employer who violates any provision contained in Section 13 and 14, shall, on conviction, be punished with imprisonment for a term not exceeding six months or with a fine which may extend from a minimum of five million kyats to ten million kyats or with both.

Article 28- Any employer who violates any provision contained in Section 15, 16 and c17 shall, on conviction, be punished with imprisonment of a term not exceeding three months or with a fine which may extend from three million kyats to a maximum of 7.5 million kyats or with both.

Article 29

Any worker who fails to follow the provision contained in the sub-section (b) of Section 18 shall, on conviction, be punished with imprisonment for a term not exceeding three month or with a fine or with both.

Article 30

Any employer who fails to follow any duties contained in the Sections 21, 22and 23 shall, on conviction, be punished with imprisonment for a term not exceeding three months or with a fine which may extend from a minimum of three hundred thousand Kyats to a maximum of five hundred thousand Kyats or with both.

Article 31

Any person either an employer or a worker who violates again any prohibition contained in this law or fails to follow any duty contained in this law shall, on conviction, be punished with twice of the prescribed maximum penalty for his repeated infringement of the same offence.

Chapter (9)

General Provision

Article 32

- (a) Worker may, if employer violates any provisions contained in this law, submit the complaint to the inspector within 3 months from the date of infringement.
- (b) If the inspector receives the said complaint and if it is true by examining, he may prosecute the employer through the permission of the Chief Inspector.
- (c) No law court shall have a right to take an action over the offence except to the complaint submitted by the inspector appointed under this law.

Article 33- If found through examination any violation or failure to follow any of the provision or rule made under this law, the inspector may, with the approval of the Chief Inspector, prosecute the employer or the manager.

Article 34

This law shall not apply to the followings:

- (a) roadside stalls
- (b) refreshment stalls and other shop in any public exhibition
- (c) funfairs, refreshment stalls and other shops in shows or entertainments held for short duration

Article 35

(a) Where the employer is joint-venture or private shop or establishment, anyone of the individual partners or officially registered shareholders or members thereof may be prosecuted and punished under this law for any offence for which the employer is punishable. Provided that joint-venture or association shall give notice to the inspector that it has nominated of its members to be the employer for the purpose of this law, and such individual shall be deemed to be the employer for the purpose of this law until further notice cancelling his/her nomination is received by the inspector.

(b) Where the employer of the shop or establishment is public company or private company, anyone of the board of directors, or directors or shareholders thereof, may be prosecuted and punished under this law for any offence for which the employer is punishable. Moreover, such director or shareholder shall be deemed to be the employer for the purpose of this law until further notice cancelling his/her nomination is received by the inspector.

Article 36

Nothing in this law shall affect any right or privileges to which any person employed in any shop or establishment is entitled at the date of the commencement of this law under any other law for the time being in force or any contract, custom or usage which is in force on that date, if such right or privilege is more favorable him/her than any other right or privilege conferred upon him/her by this law.

Article 37

Rules and regulations, practices, notices, orders and directions and instructions made under the provisions of the Shops and Establishments Law (1951) shall be applied unless there is any contradiction to this law.

Article 38

In implementing the provisions of this Law,

(a) The Ministry may issue necessary rules, regulations or by-laws with the approval or the Union Government;

(b) The Ministry and Department may issue necessary notification, orders, directives and procedures.

Section 39-

The Shops and Establishments Law (1951) is hereby repealed by this Law.

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

Sd/ Thein Sein

The President of the Republic of the Union of Myanmar