



Shops and Establishments Law, 2016

(2016, Pyidaungsu Hluttaw Law No. 18)

1st Waning of Pya-tho, 1377

(25 January 2016)

The Pyidaungsu Hluttaw hereby enacts this law.

Chapter (I)

Title and definition

1. This law shall be called the Shops and Establishments Law, 2016.
2. Expressions contained in this law shall have meanings given hereunder -
 - (a) “**Shop**” means any premises where goods or objects are either entirely sold or partly sold against cash payment or on credit or against payment in installments or as a wholesale or retail business. This expression includes barber-shops, beauty salons, services for the health and beautification of the body, goldsmiths, radio, television and phone services, book-binding services, copying services, photo shops, pawn shops, upholstery sewing shops, laundries, cobbler shops, tailor’s shops, commercial services consisting in the repair and installation of computers and electronic devices, and any place so specified by a notification promulgated by the ministry under this law. However, this expression excludes commercial establishments, public entertainment establishments, workshops and industrial establishments.
 - (b) “**Commercial establishment**” means advertisement services, commission services, goods transportation agency services and the establishments of commercial agency services. This expression includes industrial establishments and commercial establishments, insurance companies, companies, private banks, service agencies, advertisement services, private job searching services, servicing businesses, private schools, private clinics, hotels, motels, guest-houses and tour services, places for doing sports, toll gates which collect town admission fees, road using fees or bridge admission fees, and any place so specified by a notification promulgated by the ministry under this law. However, this expression excludes shops and public entertainment establishments.
 - (c) “**Public entertainment establishment**” means cinemas, theatres, clubs, entertainment halls [*translator’s note: e.g. ballrooms, wedding halls*], video rooms, karaoke rooms, amusement arcades, recreational places [*translator’s note: e.g. a water park*], parks, gardens and playgrounds.



- (d) “**Industrial establishment**” means any industrial business which is not covered by the Factories Act, 1951.
- (e) “**Establishment**” means commercial establishments, entertainment establishments, industrial establishments and any other establishment so specified by a notification promulgated by the ministry under this law.
- (f) “**Employer**” means the owner of a shop or establishment, or the administrator or official representative of the employer managing that shop or establishment, or the heir if the owner passed away, or anyone to whom shares were officially transferred.
- (g) “**Manager**” means a person who is officially employed to decide and perform according to this law on behalf of the employer of the shop or establishment and whose name has been notified to the inspector.
- (h) “**Employee**” means a worker who works either entirely or primarily for a business if the business is a shop or establishment. This expression includes clerks, postmen, treasurers, watchmen, security personnel, cleaners, drivers, motor vehicle assistants and cooks. However, the expression excludes the employer and the employer’s husband, wife, son, daughter, parent, brother and sister.
- (i) “**Ministry**” means the Ministry of Labour, Employment and Social Security.
- (j) “**Department**” means the Factories and Labour Law Inspection Department.
- (k) “**Inspector General**” means the Director General of the Factories and Labour Law Inspection Department.
- (l) “**Inspector**” means any inspector who is appointed by the Factories and Labour Law Inspection Department.

Chapter II

Objectives

- 3. The objectives of this law are as follows.
 - (a) To fix the working hours of the employees of shops and establishments;
 - (b) to assure that wages are paid correctly [*literally: “to receive wages correctly”*];
 - (c) to have a safe workplace;
 - (d) to protect the right to stay healthy.



Chapter III

Duties and powers of the Inspector General and the Inspectors

4. The ministry may appoint inspectors to implement the objectives of this law in accordance with the composition of the employees [*“composition of the employees” = literal translation; probably means the number and functions of the officers of the Factories and Labour Law Inspection Department*].
5. The Inspector General may use the following vested powers as well as the powers of the inspector [*i.e., the Inspector General may also do what the simple inspectors are allowed to do*] throughout the Union of Myanmar.
 - (a) Ability to assign the relevant area to the inspectors
 - (b) Giving permission to shops, establishments and public entertainment establishments which need to open 24 hours per day.
 - (c) Giving permission to prosecute, and instructing any inspector to prosecute, a person who violated the provisions of this law.
6. Any inspector -
 - (a) May enter a place believed to be a shop or establishment within his district for cases under this law, showing the inspector identity card. The inspector shall enter with two witnesses if it is night. In addition to inspecting the records and documents, electronic records and notices, he may take and copy picture and video records regarding the work procedures, and may make other necessary enquiries.
 - (b) May, with a warrant and two witnesses, seize the documents of a, and evidence and other technology-based evidence at, a shop or establishment as exhibit in court.
 - (c) However, nobody shall, according to this section, be required to give an answer or evidence which may cause him to be accused of a crime.

Chapter (IV)

Provisions on working hours

7. The employer -
 - (a) Shops and commercial establishments shall be closed from 11:00 pm to 5:00 am in general. However, it is, during the 30 minutes that follow, possible to sell to, or serve, a customer who is waiting to purchase, or to be served, at 11:00 pm.



- (b) Shall violate no provision of sub-section (a).
8. The employer -
- (a) Public entertainments excluding theatres, entertainment shows and free entertainments shall be closed from 1:00 am to 5:00 am.
 - (b) Shall violate no provision of sub-section (a).
9. The employer -
- (a) Shall request in advance permission from the ministry for a shop, establishment or public entertainment establishment which has to open for 24 hours according to the nature of the business type, but shall observe section (11).
 - (b) Shall not open for 24 hours without permission under sub-section (a).
10. The employer may inform the ministry in advance and act accordingly if it is necessary to open for 24 hours according to the nature of the business type of the following shops, commercial establishments and publish entertainment establishments.
- (a) Shops, toll gates, hotels, motels, guest-houses, lodging houses and clubs in the area of an airport, harbor, bus-station or railway station
 - (b) Hospitals, clinics, shops which sell medicine and pharmaceutical products
 - (c) Services consisting in the distribution of electricity, liquefied gas [*“liquefied gas” = literal translation*] or water to the public, communication services, and services, shops and establishments essential to the public which are exempt by notification of the ministry
11. (a) No worker working at a shop or establishment shall be requested to work more than 8 hours per day and 48 hours per week. Nevertheless, with the agreement of the worker, he may work more than 8 hours per day or 48 hours per week under the law.
- (b) Total hours for overtime shall not be more than 12 hours in any week. However, the total overtime shall not be more than 16 hours within a week where required in special cases. Furthermore, an employee shall not work past 12 o'clock midnight.
12. (a) No worker working at a shop or establishment shall be required or allowed to work for more than 4 consecutive hours without a rest of at least 30 minutes. Furthermore, the total of the break time and the working hours shall not be more than 11 hours per day including overtime and 1 hour of break time at a shop or commercial establishment or public entertainment establishment.



- (c) A person who works as watchman or security guard may not be given break time to take rest under sub-section (a).
13. (a) Nobody under the age of 14 shall be allowed or required to work at a shop or at an establishment.
- (b) Nobody under the age of 16 shall be allowed to work more than the designated work time at a shop or at an establishment.
14. (a) Anyone who is over 14 and under 16 may work with the permission of a doctor stating in a recommendation letter that the person is fit to work. However, this person shall not be allowed to work more than 4 hours per day.
- (b) Nobody over 14 and under 16 shall be allowed or required to work from 6:00 pm to 6:00 am.
- (c) Nobody over 14 and under 16 shall be allowed or required to work at another shop or establishment on the same day after working at a shop or establishment.
- (d) No worker under 18 shall be allowed or required to perform work of a dangerous type or work at a dangerous workplace.
- (e) Anyone between 16 and 18 shall, with the recommendation of a doctor, be allowed to work at workplaces where it is safe and there is no impact on the mental and physical development, provided that this person has finished proficiency training for the relevant job, is able to understand and follow the directives for health and safety at the workplace, and is fit and healthy.
15. The employer -
- (a) Shall designate at least one day per week as off-day for the worker at the respective shop or establishment.
- (b) Shall not deduct the rightful salary of the worker for the off-day under sub-section (a).
16. The employer shall pay the salary not later than 7 consecutive days after the salary payment period of the worker at the shop or establishment.
17. The employer -
- (a) Shall calculate and pay the overtime fees in compliance with the agreed overtime payments based on the worked overtime hours.
- (b) Shall not request overtime work without paying overtime fees according to sub-section (a).

Chapter V

Duties of employees



18. The employee -
- (a) Shall comply with the employment contract which was concluded according to the Employment and Skill Development Law.
 - (b) Shall maintain the goods and the facilities in a way that they do not break, get lost or get wasted.
19. The employee -
- (a) Shall work with full effort in order to fulfill the specified function and in order to improve *[performance]*.
 - (b) Shall systematically claim his rights and entitlements under the law from the employer.

Chapter VI

Duties of the employer

20. The employer shall send a notice in the specified form to the inspector together with a copy of the permit from the relevant department or committees within 10 days from the date of opening the shop or establishment, moving and opening the shop or establishment at another place, changing the type of business, enlarging the business, changing the owner, closing down the shop or establishment, employing an employee or making changes to the employment.
21. In the cases of this law, the employer -
- (a) Shall arrange the respective documents, lists, contracts, evidence, forms and samples to be inspected by the inspector.
 - (b) Shall, upon request, submit the registration book kept under this law and the rules, evidence of being the owner or documents regarding the business of any shop or establishment to the inspector.
22. The employer shall post a notice of the different work times at a visible space in the workplace.
23. The employer shall inform the employees of their rights and entitlements.

Chapter VII

Safety of the workplace and health

24. The employer shall comply with the following at every shop and establishment.
- (a) Shall arrange for cleaning, good ventilation, and health.



- (b) Shall arrange for fresh air and sufficient light.
- (c) Shall arrange for it not being louder than the specified noise level.
- (d) Shall arrange for the prevention of overheating [*literal translation*] and the prevention of fire hazards.
- (e) Shall arrange for sufficient first aid boxes and medicine for the employees according to the provisions.

Chapter VIII

Offences and penalties

- 25. Any employer convicted of having violated any provision of section (7) or (8) shall be punished with a fine of least Ks. 100,000 and at most Ks. 500,000.
- 26. Any employer convicted of having violated any provision of section (9), (10) or subsection (a) of section (12) shall be punished with imprisonment of not more than 3 months or with a fine of at least Ks. 1,000,000 and at most Ks. 3,000,000 or with both.
- 27. Any employer convicted of having violated any provision of section (13) or (14) shall be punished with imprisonment of not more than 6 months or with a fine of at least Ks. 5,000,000 and at most Ks. 10,000,000 or with both.
- 28. Any employer convicted of having violated any provision of section (15), (16) or (17) shall be punished with imprisonment of not more than 3 months or with a fine of at least Ks. 3,000,000 and at most Ks. 7,500,000 or with both.
- 29. Any employee convicted of having failed to comply with the provisions of subsection (b) of section (18) shall be punished with not more than 3 months imprisonment or with a fine or with both.
- 30. Any employer convicted of having failed to comply with any provisions of section (21), (22) or (23) shall be punished with imprisonment of not more than 3 months or with a fine of at least Ks. 300,000 and at most Ks. 500,000 or with both.
- 31. Any employer or employee convicted of recidivism after having been convicted of a violation of any provision of this law or a failure to comply with an obligation shall be punished with twice the specified highest penalty.

Chapter (9)

Miscellaneous



32. (a) The employee may complain to the inspector by sending, within 3 months from the date of the violation of a provision of this law, a report to the inspector.
- (b) When the inspector receives a report according to subsection (a), he shall check it as required and if it is correct, the inspector shall sue the employer with the permission of the Inspector General.
- (c) No court of law shall take action except when there is a suit by the inspector with regard to a penalized offence according to this law.
33. The inspector may sue the employer or manager with the permission of the Inspector General if the employer or manager is found to have violated, or failed to comply with, a provision of this law, of the rules, or the issued directives.
34. This law shall not apply to the following -
- (a) Street shops;
- (b) shops which sell at occasional public entertainments or public shows;
- (c) entertainment shops or establishments which stage temporary public events.
35. (a) Any partner of a joint venture, any owner of a personally owned shop or establishment, and any officially registered shareholder is considered to be an employer and may be sued under this law. However, this person shall only be considered to be an employer according to the provisions of this law until the joint venture or establishment has finalized the appointment of a person as an employer for the matters *[under this law]*, sent a notice to the inspector and received a notice from the inspector stating that the name was erased.
- (b) Any director of the company if the shop or establishment is a publicly owned company, any member of the board of directors of the company if it is a non-publicly owned company, and any shareholder may be sued as employer under this law. Furthermore, any member of the board of directors may be considered to be an employer for cases under this law before the inspector has received notice erasing the proposed name, or before termination as shareholder *[literal translation]*.
36. If, on the day of this law coming into force, the entitlement of the employee at the shop or establishment is, according to the current law, according to contract or according to custom, better than the entitlement given to him under this law, the employee shall have the original entitlement.
37. By-laws, notifications, orders, directives and procedures which were issued under to the Shops and Establishments Act, 1951 shall continue to be in force if they are not against the provisions of this law.



38. When implementing the provisions of this law -
- (a) The ministry may issue by-laws, rules and regulations with the agreement of the Union Government.
 - (b) The ministry and the department may issue notifications, orders, directives and procedures.
39. The Shops and Establishments Act, 1951 is repealed by this law.

I have hereby signed under the Constitution of the Republic of the Union of Myanmar.

Thein Sein

President of the State

The Republic of the Union of Myanmar