

Labor and Employment Regulatory Framework in Myanmar

Written by: William D. Greenlee, Jr.

Of the many employment and labor laws in Myanmar, many are technically still in force, but are no longer relevant or are merely broad pronouncements that give the government the right to enact laws and regulations related to labor and employment. However, new labor laws are being drafted.

The new foreign investment law of 2012 ("FIL") contains certain labor related requirements. This article provides an overview of some key provisions of Myanmar's Labor law regime that may be relevant to foreign investors.

EMPLOYMENT AGREEMENTS

In Myanmar, a company must enter into written employment contracts with Myanmar citizens and foreign staff within 30 days of employment. The Myanmar Ministry of Labor has issued a Standard Employment Contract, which is applicable to all employees, public and private, and shall be deemed to apply in all cases where the employee's written contract is silent. The Standard Employment Contract is largely provided for convenience. Myanmar allows employers and employees to vary the terms of the Standard Employment Contract so long as the variation is not in contravention of Myanmar's labor and employment laws.

Furthermore, an employment agreement may address issues such as job description, place of employment, working hours, wages and benefits, probation period, termination, and duration of the contract. Employee performance and work standards may be inserted into the employment contract too.

MINIMUM WAGES, OVERTIME AND BONUSES

The Minimum Wage Act was passed recently, but to-date no minimum wages



Garment factory outside Yangon

apply to private-sector employers and employees. However, the Myanmar government will be implementing a minimum wage index for different industries, which will be updated every two years.

Overtime pay is required for work in excess of normal working hours and for work on holidays. Shops and Establishments Act of 1951 states that no person employed in a shop or commercial establishment shall work more than 8 hours per day or 48 hours per week (with limited exceptions). The law further states that any person working in excess of the aforementioned limits is to be paid double their normal wage for that time.

Though not required by law, a common practice is to provide employees with a yearly bonus equal to one month's salary.

TERMINATION OF EMPLOYMENT AGREEMENT

Regarding employee termination, according to standard practices, if an employee has been formally warned three times and the employee is at fault and not in compliance with work obligations, then the employee may be discharged without the payment of termination severances.

In the event of a not for cause termination, the employer is obligated to pay the below termination severances, as follows:

- If employed less than three months: one month basic salary (i.e. one month notice pay)
- If employed for three months to one year: two months basic salary (i.e. one

- month plus one month notice pay);
- If employed for 12 to 36 months: three months basic salary (i.e. two months plus one month notice pay);
- If employed for more than 36 months: five months basic salary (i.e. four months plus one month notice pay).

RECRUITMENT OF EXPATRIATES

For the employment of foreign staff, Myanmar does not yet have a work permit system in place. Foreign nationals who need to reside and work in Myanmar for long periods of time must obtain both a Stay Permit and a multiple-entry special re-entry visa, which are readily available for employees of companies that are

in receipt of an investment permit from the Myanmar Investment Commission ("MIC").

In the investment application form submitted to the MIC, investors must include the number of foreign experts/technicians to be employed.

ADDITIONAL FIL INVESTOR REQUIREMENTS

For investments under the FIL in Myanmar, additional obligations must be met. The FIL requires the investor to state the number of skilled workers, technicians and staff for skilled business, as well as the number of unskilled workers that

the project will require. Furthermore, for skilled positions, the FIL provides an obligation to increase over time the use of local Myanmar staff. The investor is to achieve at least 25% of its workforce to be Myanmar nationals during the first two years, at least 50% during the second two years, and at least 75% during the third two years. Also annually, on or before January 31, the investor must submit a report to the MIC which details the practices and training methods that have been adopted to improve the skills of Myanmar citizens. ■

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The Labor Market in Myanmar

■ Written by: Sai Tip

The labor market in Myanmar is still in the process of developing. It is important to keep the following information in mind when hiring in the country.

As part of its efforts to establish and encourage fair labor practices, the Ministry of Labour requires all job seekers to register with them. Because so few people have reliable internet access, most job seekers in Myanmar utilize local journals, newspapers and agencies rather than job search websites and tools. Online job postings are however expected to gain more popularity in the future as internet use spreads.

Employee turnover, especially at the entry level is quite high in Myanmar. Pay is low and these positions require long hours. Some are dissatisfied with management or the ambiguous nature of their responsibilities. In an effort to reduce turnover some companies have begun offering long term employee recognition programs and subsidizing meals or transportation, as well as ongoing training programs. Some companies rely on their HR personnel to give lectures, while some bring in local or foreign university professors or outside training firms. Few companies however are

considering pension, loan programs, or health insurance.

A lack of formal education and English language skills have left many young people unqualified to hold jobs. Many of the qualified and experienced workers have found more attractive jobs abroad. As a result, Myanmar is facing a severe shortage of skilled workers. Qualified workers who remain in the country

therefore command high salaries. Aung San Suu Kyi has called for skilled workers to return to the country to help with the country's development. It will, however, take time to establish a better education systems needed to create a robust, skilled, workforce. ■

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POSITION	AVERAGE MONTHLY PAY
Unskilled Laborer (no experience)	U.S.\$70-U.S.\$120
Unskilled Laborer (experienced)	U.S.\$120-U.S.\$320
Office Staff (no experience)	U.S.\$120-U.S.\$320
Office Staff (experienced)	U.S.\$200-U.S.\$500
Junior Professionals (e.g. Accountant)	U.S.\$250-U.S.\$500
Middle Management	U.S.\$300-U.S.\$500
Senior Professionals (e.g. Chief Accountant)	U.S.\$600-U.S.\$1200