**The Employment and Skill Development Law**

**(The Pyidaungsu Hluttaw Law No.29, 2013)**

**The 9th Waning of Wagaung, 1375 M.E.**

**(30 August, 2013)**

The PyidaungsuHluttaw hereby enacts this Law:

**Chapter I**

**Title, Date of Effectiveness and Definition**

1. (a) This Law shall be called **the Employment and Skill Development Law.**

(b) This Law shall come into force commencing from three months after its enactment.

2. The expressions 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 in a Government department, Government organization or at a work owned by the cooperative, private or joint-venture where stipulated number or more of permanent or temporary workers are working or in any organization or company;

(b) **Worker** means a person who performs a work that needs skill or moderate skill or does not need skill for wage at the Government department, Government organization or at a work owned by the cooperative, private or joint-venture or at any organization or at a company. In this expression, an apprentice worker is included;

(c) **Industry and service** means one or more mills or factories, or one or more categories of work, or one or more categories of branch of mill, factory, work, factory department and work department situated at any place stipulated by the Ministry of Labour, Employment and Social Security for the purpose of this Law;

(d) **Wage or salary** includes, if over-time wage and subsistence allowance are obtained, such over-time wage and subsistence allowances in addition to the ordinary wage, salary obtained for work are included. In this expression, the money enjoyed to cover special expenses incurred according to work for worker is not included;

(e) **Training** means the pre-orientation training, on-job training, skill training, skill upgrading training and training relating to change of work opened for the development of intellectual, technical qualification and skill of the employment-seekers and workers;

(f) **Training school** means the school established and opened to train employment-seekers and workers to conform with the skill criteria relating to employment;

(g) **Skill** means the required capacity to enable to do any work in accord with the stipulations;

(h) **Skill criteria** means the stipulation for skill required to do work in conformity with the skill level relating to work stipulated or recognized under this Law by the Skill Development Body for various kinds of work;

(i) **Central Body** means the Central Body for employment and skill development of the workers formed under this Law;

(j) **Registration certificate** means the certificate issued under this Law to the training schools and skill assessment centres by the Skill Development Body;

(k) **Skill assessment centre** means the Centre recognized and empowered by the Skill Development Body as it is in conformity with the stipulated criteria;

(l) **Skill recognition certificate** means a certificate issued by the Skill Assessment Centre with the approval of the Skill Development Body;

(m) **Skill worker** means a person who is issued the skill recognition certificate according to the work by the skill assessment centre with the approval of the Skill Development Body under this Law;

(n) **Fund** means the skill development fund established under this Law;

(o) **Contribution** means the contribution paid by the relevant employer to the skill development fund in accord with this Law;

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

**Chapter II**

**Labour Exchange**

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 suitable for the employment;

(b) The employment seeker shall not lose the opportunities and benefits provided by any labour exchange office 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 take arrangements for causing the employer to inform to the relevant labour exchange office in accord with the stipulations relating to the employment position vacant or to be vacant in his work.

**Chapter III**

**Concluding Employment Agreement**

5. (a) (i) The employer shall conclude an employment agreement within thirty days after appointing a worker to do any work. However, it does not concern with appointment of permanent staff at the Government department, Government organization;

(ii) If the pre-orientation period and probation period are prescribed before the appointment, such trainee shall not concern with stipulation in sub-section (1).

(b) The employment agreement shall include the followings:

(i) category of employment;

(ii) period of probation;

(iii) wage, salary;

(iv) place of employment;

(v) term of agreement;

(vi) workinghour;

(vii) holiday, day-off and leave;

(viii) over-time;

(ix) messing arrangement during working hour;

(x) accommodation;

(xi) medical treatment;

(xii) arrangement for ferry and travelling;

(xiii) terms and conditions to be abided by the workers;

(xiv) term of period agreeded by the worker to continue to work after attending the training if the worker has to attend the training sent by the employer;

(xv) resignation from work and termination of work;

(xvi) termination of agreement;

(xvii) obligation from work and termination of work;

(xviii) termination of employment agreement by mutual consent of employer and worker;

(xix) other matters;

(xx) prescribing, amending and adding the terms and condition of the agreement;

(xxi) miscellaneous.

(c) Workplace terms and conditions included in the employment agreement shall be in conformity with any existing law and benefits of the worker shall not be less than benefits contained in any existing law;

(d) The Ministry shall issue notification to pay stipulated compensation to worker by the employer if the work is completed earlier than the period concluded in the employment agreement or if all or any part of the work is terminated due to unexpected cause or if a matter to terminate the work arises for any other cause;

(e) The employment agreement concluded under sub-section (a) shall apply to daily wage earners and piece-workers temporarily at the Government organization;

(f) The employer and the worker or workers may amend, by mutual agreement, conditions and benefits contained in the employment agreement as may be necessary in accord with the existing law;

(g) The copy of employment agreement concluded between the employer and worker shall be sent to the relevant labour exchange office by the employer within the stipulated time and obtain approval;

(h) The employment agreements concluded before coming into force of this Law shall be valid until the original term terminates.

**Chapter IV**

**Formation of the Employment and Skill Development Bodies and Function and Duties**

6. The Union Government:

(a) shall form the Central Body for employment and skill development with the following persons:

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| --- | --- | --- |
| (i) | Union Minister Ministry of Labour, Employment and Social Security | Chairman |
| (ii) | Union Minister Relevant Ministries | Member |
| (iii) | Mayor Nay Pyi Taw, Yangon and Mandalay City Municipal Committees | Member |
| (iv) | Relevant Minister Region or State Government | Member |
| (v) | President The Republic of the Union of Myanmar Federation of Chamber of Commerce and Industries | Member |
| (vi) | Chairman Myanmar Employers Federations | Member |
| (vii) | Chairman Myanmar Employers Federations | Member |
| (viii) | Deputy Minister Ministry of Labour, Employment and Social Security | Secretary |

(b) in forming under sub-section (a), the Vice Chairman and the Joint Secretary may be appointed and assigned duty.

7. The Central Body shall adopt policies relating to the following functions and duties:

(a) creation of employment opportunities;

(b) carrying out to reduce unemployment;

(c) carrying out to develop discipline and capacity of the workers;

(d) carrying out for the skill development of the workers;

(e) forming and guiding the employment and skill development bodies.

8. The Central Body shall from the Employment Development Body comprising the following persons with the approval of the Union Government;

|  |  |  |
| --- | --- | --- |
| (a) | Deputy Minister Ministry of Labour, Employment and Social Security | Chairman |
| (b) | Deputy Minister Relevant Ministries | Member |
| (c) | Director General or Managing Director Relevant Department or Enterprise | Member |
| (d) | Representative Republic of the Union of Myanmar Federation of Chamber of Commerce and Industries | Member |
| (e) | Representative Myanmar employees Federations | Member |
| (f) | Representative Myanmar Employers Federations | Member |
| (g) | Director General Directorate of Labour | Secretary |

9. The functions and duties of the Employment development body are as follows:

(a) creation of inland employment opportunities;

(b) causing to obtain employment to the persons who are desirous to work;

(c) carrying out to reduce unemployment;

(d) upgrading discipline and capacity of the person who are working.

10. (a) The Central Body shall from the Skill Development body comprising following persons with the approval of the Union Government;

|  |  |  |
| --- | --- | --- |
| (i) | Deputy Minister Union Ministry assigned duty by the Union Government | Chairman |
| (ii) | Director General or Managing Director Relevant Department or Enterprise | Member |
| (iii) | Representative Republic of the Union of Myanmar federation of Chamber of Commerce and Industries | Member |
| (iv) | Chairman Technical associations | Member |
| (v) | Representative Myanmar employees Federations | Member |
| (vi) | Representative Myanmar Employers Bodies | Member |
| (vii) | Deputy Director General Directorate of Laour | Secretary |

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

11. The functions and duties of the Skill Development Body are as follows:

(a) classification, setting and prescribing the skill criteria of the employments;

(b) adopting policies on skill training by prescribing priority for skill development of workers;

(c) prescribing programmes on skill assessment;

(d) issuing registration certificate to the training schools or skill assessment centres;

(e) adopting programmes on issue of skill recognition certificates;

(f) managing by establishing the skill development fund for the workers;

(g) supervising its committees and sub-committees.

12. (a) The Skill Development Body shall form the following committees to enable to carry out the functions and duties:

(i) Skill Criteria Determination and Training Committee;

(ii) Skill Assessment and Recognition Committee.

(b) The Skill Development Body may form sub-committees under the committees contained in sub-section (a) of section 12 as may be necessary.

13. Relating to the duties and powers of each committees formed under sub-section (a) of section 12:

(a) The Skill Criteria Determination and Training Committee and the Skill Assessment and Recognition Committee shall coordinate, draw and determine the organization and processes to carry out according to the relevant committee;

(b) The Skill Criteria Determination and Training Committee shall carry out the followings:

(i) determining precise skill criteria according to category and level of work based on international criteria;

(ii) drawing curriculums, determining training criteria in conformity with skill criteria;

(iii) determining the qualification of training demonstrator;

(iv) determining the criteria of machineries, equipments and teaching aids of the training school;

(v) registration of training schools and training programmes;

(vi) coordinating for the development of skill development relating to technology;

(vii) submitting to the skill Development Body after scrutinizing the application for registration certificate.

(c) The Skill Assessment and Recognition Committee shall carry out the followings.

(i) determining criteria to enable to inspect in accord with criteria stipulation for employment;

(ii) registration of skill assessment centres and skill assessment programmes;

(iii) submitting to the Skill Development Body after scrutinizing application for registration certificate;

(iv) determining the assessment form, determining quality control system and, duties and obligations for guaranteeing quality of assessors and skill assessment centres;

(v) coordinating on technology for skill development;

(vi) conducting competitions for the skill development for employment according to their level;

(vii) issuing recognition certificate as an outstanding person if he is outstanding in competition.

**Chapter V**

**Carrying out Skill Development of Workers and Training programmes**

14. The employer shall carry out training programmes for increasing employment skill of the workers who are intended to appoint or who are working presently in his work in accord with the policy of the Skill Development Body according to the requirement of the work.

15. The employer:

(a) may carry out to cause to train each or group of workers, according to each or combination of works, in opening on-job trainings, training in workplace systematically, sending to external trainings and training by the system applying information technology in managing and carrying out training programmes for increasing employment skill of the workers.

(b) may carry out to cause to train persons who have attained 16 years of age, by appointing them as apprentices, the technologies relating to the employment in accord with regulations and by laws stipulated by the Skill Development Body.

**Chapter VI**

**Registration and Establishment of Training Schools and Skill Assessment Centres**

16. (a) The employer who is desirous to establish or open training school or skill assessment centre or the person who is desirous to provide service shall apply to the Skill Development Body through the relevant committees to obtain registration certification in accord with the stipulation;

(b) The person who is desirous to establish and open training school or any skill assessment centre by coming from abroad in accord with the existing laws, shall apply to the Skill Development Body through the relevant committees to obtain the registration certificate.

17. The Skill Development Body:

(a) may grant or refuse to issue registration certification after scrutinizing whether or not it is in conformity with the stipulations relating to application under section 16 by the relevant Committee formed under section 12;

(b) shall issue registration certificate to the applicant after paying registration fee by him in accord with the stipulated regulations if it is allowed to issue registration certificate;

(c) may allow to reapply within 30 days if it is refused to issue the registration certificate.

18. The training schools and skill assessment centres which obtain the registration certificate, if they are desirous to continue to carry out the relevant business after termination of the term of registration, shall apply to the Skill Development Body through the relevant committee to renew the term of registration in accord with the stipulations.

19. The Skill Development Body may cancel the registration certificate of such training schools and skill assessment centres if it is found that they are not in conformity with the conditions contained in the registration certificate.

20. The duties of the registered training school are as follows:

(a) preparing the following training requirements, submitting them to the Skill Development Body and obtaining approval of it;

(i) skill criteria;

(ii) curriculum;

(iii) statement of the location, building and appliance of the training schools;

(iv) names and qualification of the trainers;

(v) training period;

(vi) training system, training aids to be used in training;

(vii) training completion certificate;

(viii) training fee;

(ix) other facts/requirement stipulated by the Skill Criteria Determination and Training Committee.

(b) conclusion of agreement on training with the trainees;

(c) keeping the personal data of the trainees;

(d)submitting report of the training to the Skill Development Body within 15 days after the completion of a training;

(e) submitting to the Skill Development Body in advance, for a minimum of 30 days before the transfer, if it is desirous to transfer the training school to a person who is establish the another training school;

(f) transferring the trainees to any other training school of same category of work, together with the remaining training costs, if it is desirous to terminate the training school.

21. The founder of the registered training school:

(a) has the right to appoint the foreign experts and demonstrators who obtain work permit issued by the relevant Ministry. The duration of their stay shall be in accord with existing law;

(b) may import training aid materials in accord with existing laws.

22. The duties of the registered skill assessment centre are as follows:

(a) submitting to and obtaining approval of the Skill Development Body on the following skill assessment programmes;

(i) Inspection programme based on the recognized skill criteria;

(ii) Statement of the location, building and appliance of the centre;

(iii) Name sand qualification of the assessors;

(iv) Period to be inspected;

(v) Inspection aid materials to be used in inspection centre;

(vi) Status of question to inspect;

(vii) Skill criteria and method to be used in assessment;

(viii) Rate of fee to be collected from the person inspect;

(ix) Other programmes stipulated by the Skill Assessment and Accreditation Committee.

(b) determining terms and conditions and inspection programme for the persons who accept skill inspection;

(c) keeping personal data of the persons who accept skill inspection;

(d) submitting report to the Skill Development Body within 15 days after skill assessment;

(e) issuing skill recognition certificate to the persons who accept skill assessment and pass it, with the approval of the Skill Development Body;

(f) transferring the persons who accept skill inspection to any other skill assessment centre of the same category of work together with the remaining cost, if it is desirous to terminate the skill assessment centre;

(g) submitting to the Skill Development Body in advance for a minimum of 30 days before transferring the persons who accept skill inspection to the other skill assessment centre.

23. The registered skill assessment centre:

(a) has the right to appoint the foreign experts and demonstrators who obtain work permit issued by the relevant Ministry. The duration of their stay shall be in accord with the existing law;

(b) may import training aid materials in accord with existing laws. It may apply to the relevant skill assessment centre for inspection.

**Chapter VII**

**Holding Skill Competition**

24. The Skill Assessment and Recognition Committee shall implement to emerge various levels of skill competition for the skill development according to the category of work in accord with the stipulations. The researches shall be carried out through the skill results of the competition.

25. The worker who has the skill recognition certificated has the right to participate and compete in the relevant skill competitions held in the local or abroad.

**Chapter VIII**

**Establishment and Expending the Workers’ Skill Development Fund**

26. The Skill Development Body may, after establishment a skill development fun for the workers from industrial and service works, spend for the following matters in accord with the stipulations:

(a) training for the skill development and skill upgrading of the workers;

(b) necessary skill re-training to the workers who are desirous to transfer and work to any other work and termination of work by any case;

(c) funding or taking loan for the matters contained in sub-sections (a) and (b).

27. The Skill Development Body shall form a fund management committee comprising the representatives of Government, employer and employee.

28. The functions and duties of the fund management committee are as follows:

(a) supervising for the regular payment of contribution for the fund;

(b) managing the fund with the approval of the Skill Development Body;

(c) depositing the amount of money which can invest from the fund in any bank in accord with the financial regulation or buying and saving the Government security certificates;

(d) accepting with the approval of the Skill Development Body, if there is donor to fund;

(e) accepting audit in respect of contribution and expenditure of the fund.

29. The fund management committee may allow and expend the fund for any of the following matters in accord with the regulations and by-laws stipulated by the Skill Development Body:

(a) funding or giving loan to the employers who carrys out sending workers to any full-time or part-time training for their skill development, opening training and extension of training programme;

(b) reimbursing after scrutinizing in accord with the stipulations if the employer claims the expenditures in respect of training for such workers;

(c) carrying out other matters stipulated by the Skill Development Body.

30. (a) The employer of the industry and service shall pay money not less below 0.5% of salary, total wages paid to the level of worker supervisor and the workers below such level in such work monthly without fail as the contribution to the fund.

(b) The contribution paid under sub-section (a) shall not be deducted from the wage or salary of the workers.

31. The Skill Development Body:

(a) may determine, in respect of the contribution to be paid to the fund by the employer under sub-section (a) of section 30, depend on the sector of work, category of work, volume of work and number of workers;

(b) may exempt any employer from paying contribution to the fund if the sufficient cause submits.

32. The Skill Development Body shall supervise the financial matters of the training came and opened from abroad in accord with the existing laws.

33. The Skill Development Body may form an advisory committee to obtain advices in respect of matters relating to the management and use of the fund.

**Chapter IX**

**Offences and Penalties**

34. Whoever imitates the recognition certificate shall, on conviction, be punished with imprisonment for a term not exceeding seven years and may also be punished with fine.

35. Whoever carries out the recruitment of the task or obtains the fees from the worker without the permission of the Ministry shall, on conviction, be punished with imprisonment for a term not exceeding three years, or with fine, or with both.

36. Whoever violates any prohibition contained in rules, regulations, bye-laws, notifications, orders and directives issued under this Law shall, on conviction, be punished with imprisonment for a term not exceeding one year, or with fine, or with both.

37. Whoever submits false statement or false word knowingly that it is incorrect to any person who carries out on behalf of the Labour Exchange Office or the matters relating to such office in order to obtain the occupation or worker shall, on conviction, be punished with imprisonment for a term not exceeding one year, or with fine, or with both.

38. Any employer who commits any of the following actions shall, on conviction, be punished with imprisonment for a term not exceeding six months, or with fine, or with both:

(a) failure to conclude the employment agreement under sub-section (a) of section 5;

(b) failure to pay contribution to be paid under sub-section (a) of section 30.

39. Whoever violates any provision contained in employment agreement shall, on conviction, be punished with imprisonment for a term not exceeding three months, or with fine, or with both.

**Chapter X**

**Miscellaneous**

40. If the employer fails to repay the loan borrowed from the fund within stipulated time, it shall be covered as if such loan were arrear of land revenue.

41. In implementing the provisions contained in this Law:

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

(b) Ministry and Department of Labour may issue notifications, orders, directives and procedures as may be necessary.

42. The Employment and Training Act, 1950 is hereby repealed by this Law.

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

Sd/TheinSein

President

Republic of the Union of Myanmar