

LEGAL ALERT

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Occupational Health & Safety Law 2019

Employment and working conditions have powerful effects on the quality of health. A good working condition aims to provide social protection and status, personal development opportunities, and protection from physical and psychosocial hazards. In order to be able to maintain a sustainable household income, productivity and economic development, the health of workers is an essential prerequisite. Thus, an important function of the health services is to restore and maintain working capacity. Enacting a strong domestic legislation for the protection of workplace health and safety is also important for the country as workers are the backbone of any economy and will drive it forward.

In Myanmar, the enactment of the Occupational Health & Safety Law 2019 (“OHSL”) is a major step towards a safer workplace environment. Previously, there was no specific law concerning occupational health and safety and the Factory Act 1951 was used as the principal legislation regarding worksite safety and health measure. The draft law was issued in 2017 with the purpose to effectively implement measures related to safety and health at every industry, prevent by the workplace accidents and occupational diseases and set occupational safety and health standards.

On 15 March 2019, Pyidaungsu Hluttaw enacted the OHSL, however it has yet to come into force pending notification by the President. The new law is set to play a pivotal role in preventing workplace injuries, diseases and deaths with the aim to provide a framework for coordinated action across the different sectors. Anyone who currently carries out or wishes to start establishing a business in any industries provided under the OHSL will need to register with the Factories and General Labour Laws Inspection Department (“the Department”) for the purpose of safety and health. The law applies to government agencies, department and organisations, institutions, co-operatives, both domestic and foreign companies and joint-ventures. This includes the hospitality, transport, construction, retail, services and manufacturing industries.

Offences and penalties under the OHSL


Section	Relevant Person	Offences	Penalties Either imprisonment or fine or both	
			Imprisonment	Fine (MMK)
53	Employer	Failure to: <ul style="list-style-type: none"> • appoint health and safety officer and form workplace health and safety committee; • comply with the obligations of employer; • comply with provisions regarding dismissal or detriment of the worker; and • comply with provisions regarding allowing previous work or any suitable work and arrange healthy environment for pregnant or breastfeeding women. 	Maximum three months	Minimum 1 million to maximum 5 million

57	Employer	Failure to inform of accidents, dangerous occurrences, occupational diseases, occupational poisoning, investigation and reporting	Maximum one month	Minimum 2 million
61 (a)	Employer	Failure to obey the order of Inspectors to temporarily stop work and terms and conditions and instructions issued by the Inspector	Maximum three months	Minimum 3 million to maximum 5 million
61 (b)	Employer	In the case of continuing offence after sentencing under section 61(a)	–	100,000 per day
62	Employer	Violate the provisions regarding working hours in hazardous industries and failure to shoulder any expenditure for occupational health and safety measures	Maximum three months	Minimum 2 million to maximum 5 million
54	Worker	Failure to follow the workers' duties and obligations	–	Maximum 30,000
55	Worker	<p>Failure to:</p> <ul style="list-style-type: none"> take reasonable care for the safety and health of himself and other persons who may be affected by his acts or omissions at work; and immediately report any situations, causes and incidents. 	55	Worker
52	Occupational Health and Safety Officer	Failure to obey regulations, orders, instructions and procedures issued under this law	Maximum three months	Minimum 500,000 to maximum 1 million
56	Manufacturer, Importer, install or demolish and construct or	Failure to follow obligations	Maximum three months	Minimum 1,000,000 to maximum 5 million
58	Registered/ Certified doctor	Failure to submit a report relating to the occupational disease to relevant employer, department and a copy to Ministry of Health and Sport	–	Maximum 500,000

59 (a)	Authorised examiner	Failure to obey the terms and conditions issued by the Department	Maximum three months	Minimum 1 million to maximum 5 million
59 (b)	Training provider	Failure to obey the terms and conditions issued by the Department	–	Minimum 500,000 to maximum 1 million
59 (c)	Founder of Training Institute	Failure to obey the terms and conditions issued by the Department		59 (c)
64	Chief Inspector and Inspectors	Holds any position in the business, plant, factory and industry and failed to disclose any confidential matter which has come to his knowledge while performing duties under this law (except as witness during court proceeding)	Maximum three months	Minimum 500,000 to maximum 1.5 million
60	Whoever	Failure to register with the Department and inform regarding to the construction, installation, expansion and demolition	–	Minimum 1 million to maximum 5 million
60	Whoever	Acting as authorised examiner or training provider and establish a training institute without any certificate of approval issued by the Director General	Maximum three months	Minimum 5 million to maximum 10 million
63	Whoever	Without the consent of the Chief Inspector, remove, destroy, add, replace or alter whole or any part of the machineries, equipment, layout or substances which contributed to the cause of any accident	Maximum three months	Minimum 3 million to maximum 10 million
65	Whoever	Whoever violates any provisions of any regulations and rules made under the OHSL	Maximum three months	Minimum 20 million

One of the key highlights of the OHSL is the establishment of a new tripartite National OSH Council, which is expected to be made up of workers, employers and the government, and will require employers to set up OSH committees at workplace level to help prevent occupational accidents and diseases. It is hoped that this will help to strengthen national and enterprise level social dialogue on occupational health and safety, which ultimately will improve the competitiveness of Myanmar's companies in ASEAN and the world.

The enactment of the OHSL is the latest in a series of labour laws passed by the Parliament, including the Social Security Law 2012, the Minimum Wage Law 2013 and the Employment and Skills Development Law 2013. As there are limited regulations on work safety and health



protection, with no legal establishes safety standards, there will be many challenges ahead in implementing a new national work safety and health protection system. The government will need to promote education and awareness programs to educate the people on the new law and decrees and regulations will need to be drafted and amended in order to support the new law.

The OHSL lays down and establish the duties and responsibilities of those who are responsible under this law, including workers and employers. Previously, inspectors will be appointed for the inspection of the safety of working environment and the Department can give instructions for occupation safety measures. When OHSL comes into force, it will provide for a more effective work on educat millioners and employers on safety, conducting inspections, and providing assistance. The implementation of OHSL will support the prevention of work-related accidents, occupational disease and as well as support the workers with a safe, sound and healthy working environment.

If you have any questions or require any additional information, please contact [Thuzar Tin](#), [Pyae Sone Thein Htike](#) or the ZICO Law Myanmar partner you usually deal with.

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