



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED

Government of the Republic of the Union of Myanmar

Ministry of Labour, Immigration and Population

Notification No. 193/2018

5th Waxing Day of Nattaw, 1380

12th December 2018

The Ministry of Labour, Immigration and Population hereby issues the following rules according to the authority conferred by section 29, sub-section (a) Payment of Wages Law 2016.

Chapter 1

Name and definitions

1. These rules shall be called the Payment of Wages Rules.
2. The terms included in these rules shall have the same meanings as in the Payment of Wages Law 2016; the following terms shall have the meanings given hereunder -
 - (a) **“Law”** means the Payment of Wages Law 2016.
 - (b) **“Daily paid worker”** means a worker who works for a specified period of time within a day and whose wages are paid as agreed by the employer.
 - (c) **“Monthly paid worker”** means a worker whose wages are paid monthly as a fixed amount for working during a period in the calendar month.
 - (d) **“Lump-sum paid worker”** means a worker whose wages are paid as agreed by the employer for achieving a specific quantity in manufacturing or services.
 - (e) **“Specified working hours”** means daily working hours or weekly working hours specified by the relevant labour laws with regard to the types of workers.
 - (f) **“Week”** means a period of 7 consecutive days starting on Saturday midnight.
 - (g) **“Overtime pay”** means a payment made for working in addition to the specified working hours during a working day or week according to the relevant law.
 - (h) **“Township coordination team”** means a team formed under the Settlement of Labour Disputes Law.
 - (i) **“Coordination committee”** means a committee formed under the Settlement of Labour Disputes Law.



- (j) **“Grassroot labour organisation”** means an organisation formed under the Labour Organisation Law.
- (k) **“Order”** means an order passed by the inspector general or inspection officer under a law.
- (l) **“Form”** means a form contained in these rules.

Chapter 2

Postponing the payment time

- 3. If the employer is facing difficulties paying the payable wages due to a natural disaster or other unforeseen causes, he or she shall notify the Department with form 1 with sufficient reason as agreed between the employer and the worker through the relevant Township, District or Industrial Zone Factories and General Labour Laws Inspection Department seven days prior to the payment day.
- 4. With regard to the submission according to Rule 3, the employer shall submit the agreement made between the employer and the worker or between the employer and the coordination committee with form 2.
- 5. The inspection officer from the relevant department shall review form 1 and form 2 within 3 days exclusive of public holidays and report to the department.
- 6. The department shall review the report made by the inspection officer and shall grant or reject the application for postponing the payment time (by not more than 10 days from the due date) with form 3 with the consent of the Ministry.

Chapter 3

Deduction from wages

- 7. The employer shall obtain approval from the Department, 7 days prior to the payment date, with form 4 with regard to the deduction from wages of the worker in any of the following cases after having entered into an agreement with the worker, the grassroot labour organisation or coordination committee -
 - (a) Fines payable by the worker for loss or damages to property or money entrusted by the employer due to his or her negligence or omission of care, dishonest act or failure to perform as instructed;
 - (b) fines payable by the worker according to the employment contract.



8. (a) The department shall, within 3 days exclusive of public holidays from the receipt of form 4 according to Rule 7, grant or reject the application for deduction from wages; the order shall be forwarded to the relevant township, district or industrial zone inspection officer with form 5.
(b) The relevant township, district or industrial zone inspection officer shall, within 3 days exclusive of public holidays from the receipt of the order, inform the relevant employer.
9. The employer shall make a record of payment of wages with form 6, a record of the deduction from wages with form 7 and a record of the usage of the deducted wages with form 8, and maintain these records for at least 12 months for inspection by the inspection officer at any time.
10. The employer may, with regard to the deduction according to Rule 7, claim under a law in force if the worker resigned from work, was terminated or died before the full deduction is made.

Chapter 4

Deduction from wages without sufficient reason; failure to pay wages and appeal

11. The worker may request the employer to resolve the matter in any of the following cases by himself or herself or through a registered labour organisation or the coordination committee -
 - (a) Wages were deducted without sufficient reason;
 - (b) failure to pay wages on due date.
12. The worker, registered labour organisation or coordination committee, shall notify the inspection officer only after an attempt at solving the matter according to Rule 11 was made.
13. The worker may notify the relevant township, district or industrial zone inspection officer with form 9 within 6 months from the date of the deduction from wages or failure to pay wages.
14. The inspection officer from the township, district or industrial zone Factories and General Labour Law Inspection Department may review the notification made under Rule 13 and pass an appropriate order with form 10.
15. If the employer or worker is not satisfied with the order passed by the inspection officer, he or she may file an appeal with the inspector general with form 11 within 30 days from the date of the order.
16. The inspector general may form an appeal review team and instruct it to examine the appeal.



17. The appeal review team shall report the findings and its suggestions to the inspector general within 5 days exclusive of public holidays.
18. The inspector general may pass an order with form 12 after having reviewed the report made according to Rule 17; the order shall be final.
19. The worker may sue the employer in civil court with regard to the deduction or failure to pay if the employer fails to resolve the matter requested according to Rule 11 without notifying the inspection officer according to Rule 13.

Chapter 5 Overtime pay

20. If a worker has to work more, during a day or week, than the working hours specified by the relevant law for the type of work, the worker shall be paid for the overtime according to the following formula -
 - (a) 1 hour of overtime of a monthly paid worker = $((\text{basic salary} \times 12 \text{ months}) / 44 \text{ hours or } 48 \text{ hours} \times 52 \text{ weeks})) \times 2$
 - (b) 1 hour of overtime of a daily paid worker = $(\text{daily rate} \times 6 \text{ days}) / (44 \text{ hours or } 48 \text{ hours}) \times 2$
 - (c) 1 hour of overtime of a lumpsum paid worker = $(\text{average daily rate} \times 6 \text{ days}) / (44 \text{ hours or } 48 \text{ hours}) \times 2$

- Exceptions:
- (a) A worker paid according to the Minimum Wages Order shall be paid twice the hourly minimum wage specified in this Order.
 - (b) 48 hours shall be used as working time in a week for workers working at electricity distribution stations, ice mills, petroleum refineries, wood desiccation plants, water or oil pumping stations, wind or gas power stations, chemical industry, oil factories and sugar mills. Furthermore, if the weekly working time is specified for a specific type of work in a law, the working hours shall be calculated as specified in this law.

Chapter 6 Miscellaneous

21. The Payment of Wages Rules 1937 are repealed by these Rules.



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

Thein Swe
Union Minister
Government of the Republic of the Union of Myanmar
Ministry of Labour, Immigration and Population

About Lincoln Legal Services (Myanmar) Limited

Lincoln Legal Services (Myanmar) Limited provides the full range of legal and tax advisory and compliance work required by investors. We pride ourselves in offering result-oriented work, high dependability and a fast response time at very competitive prices. Please do not hesitate to contact us:

- Sebastian Pawlita, Managing Director
Phone: +95-9-262546284 (English)
E-Mail: sebastian@lincolnmyanmar.com
- Nyein Chan Zaw, Director
Phone: +95-9-790488268 (Myanmar)
E-Mail: nyeinchanzaw@lincolnmyanmar.com

Office address: La Pyi Wun Plaza, Room 409 (4th Floor), 37 Alan Pya Pagoda Road, Dagon Township, Yangon

Web: www.lincolnmyanmar.com