

The State Peace and Development Council

Law Relating to Overseas Employment

(The State Peace and Development Council Law No 3/99)

The 12th Waning Day of First Waso, 1361 M.E.

(9th July, 1999)

The State Peace and Development Council hereby enacts the following Law: –

Chapter I

Title and Definition

1. This Law shall be called the Law Relating to Overseas Employment.

2. The following expressions contained in this Law shall have the meanings given hereunder:

(a) "Overseas Employment" means employment in any foreign country for a limited period of time other than the following employments. The said expression also includes employment in the United Nations Organization and any of its Specialized Agencies;

(i) employment of seafarers:

(ii) employment in a foreign country of any Government servants or experts assigned by any Government department or organization:

(b) "Worker" means a worker in any overseas employment or a worker appointed to join overseas employment or a person appointed as an apprentice;

(c) "Service Agent" means a person or organization, who /which for a prescribed service fee, acts an agent in securing employment for those who seek overseas employment;

(d) " Central Committee " means the Overseas Employment Central Committee formed under section 4 of this Law.

(e) 'Supervisory Committee " means the Overseas Employment Supervisory Committee formed under section 7 of this Law.

(f) " Department" means the Department of Labour under the Ministry of Labour.

Chapter II Objectives

3. The objectives of this Law are as follows;-

- (a) to enable the beneficial and systematic utilization of human resources of the State for building a modern and developed State;
- (b) to enable those seeking overseas employment to get employment opportunities and to secure such employment systematically;
- (c) to ensure that there is no loss of the rights and privileges of workers and that they receive the rights they are entitled to;
- (d) to enable the systematic utilization within the country of the knowledge experience and skills gained abroad, according to the type of overseas employment undertaken,

Chapter III Formation of the Central Committee and the Functions and Duties thereof

4. The Ministry of Labour-

(a) shall, with the approval of the Government, form the Overseas Employment Central Committee comprising the following persons :

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|--|-----------------|
| (1) Minister
Ministry of Labour | Chairman |
| (2) Deputy Minister
Ministry of Labour | Vice - Chairman |
| (3) Deputy Ministers
from the relevant Ministries | Members |
| (4) Heads of Government Departments
and Organizations related to Labour Affairs | Members |
| (5) Luminaries in respect of
Labour Affairs | Members |
| (6) Suitable Citizens | Members |

(7) Director General
Department of Labour

Secretary

(b) may reconstitute the Central Committee formed under sub – section (a) as may be necessary.

5. A non – government Central Committee member is entitled to receive such remuneration as may be prescribed by the Ministry of Labour.

6. The duties and functions of the Central Committee are as follows –

(a) laying down policy relating to Overseas Employment for the systematic and beneficial utilization of human resources of the State.

(b) communicating and coordinating with local and foreign government departments, organizations and persons concerned, to implement the policy laid down in respect of securing overseas employment opportunities and obtaining employment;

(c) communicating and coordinating with Government departments, organizations and persons concerned to ensure that there is no loss of the rights and privileges of workers and that they receive the rights they are entitled to.

(d) giving guidance and supervision for the systematic utilization within the country of the knowledge, experience and skills gained abroad according to the type of overseas employment undertaken.

(e) determining and declaring the countries, employment organizations and types of work for which overseas employment is not allowed;

(f) giving guidance on matters relating to the issuance; cancellation or revocation subject to a time limit of the licence of Service Agents;

(g) prescribing, in accordance with the type of overseas employment the amount of service fee which the Department may collect and the amount of service fee the Service Agent is entitled to;

(h) performing other duties and functions which the Government may assign from time to time.

Chapter IV

Formation of the Supervisory Committee and Functions and Duties thereof

7. The Ministry of Labour –

- (a) shall form the Overseas Employment Supervisory Committee with the Director General of the Department of Labour as the Chairman, suitable persons from the relevant Government departments and organizations as well as persons who are expert in labour matters as members to supervise the systematic functions of overseas employment;**
- (b) in forming under sub – section (a), may determine a Vice – Chairman and a Secretary as may be necessary;**
- (c) may reconstitute the Supervisory Committee as may be necessary;**
- (d) may prescribe the honorarium which a Supervisory Committee member who is a non – government servant may receive.**

8. The duties and functions of the Supervisory Committee are as follows: –

- (a) implementing in accordance with the policy laid down by the Central Committee in respect of overseas employment;**
- (b) communicating with local and foreign government departments, organizations and persons, in order to avoid difficulties regarding access to overseas employment opportunities, securing of overseas employment and ensuring rights and privileges of the workers and damages arising out of employment.**
- (c) recruiting and selecting workers for overseas employment under arrangements of the Department and providing them with skill and training with the assistance of the Government departments and organizations and other persons;**
- (d) coordinating and correlating job proficiency training for overseas employment conducted by Government departments and organizations or any Service Agent and if necessary conducting such training under arrangements of the Department;**
- (e) giving decisions on matters relating to the issuance, cancellation or revocation subject to a time limit, the licence of Service Agents;**
- (f) forming and assigning duties to sub – committees for inspecting the functions of Service Agencies or Workers who are about to undertake overseas employment;**

- (g) communicating and coordinating with the relevant Government departments and organizations to prevent workers from taking up overseas employment without having registered under this Law;
- (h) coordinating with the relevant Government departments and organizations to facilitate the obtaining of passports and entry visas for workers;
- (i) preventing workers who are found unsuitable for overseas employment by the Inspections Sub – Committees, from departing to take up such employment;
- (j) giving assistance for facilitating the systematic utilization within the country of the experience, knowledge and skill gained in the respective overseas employment;
- (k) informing the relevant Government departments, organizations and Service Agents of overseas employment opportunities;
- (l) supervising the collection of service fees prescribed by the Central Committee;
- (m) performing the functions and duties assigned by the Ministry of Labour from time to time.

Chapter V

Registration

9. (a) Overseas employment seekers shall register themselves as overseas employment seekers at the Department for the type of overseas employment for which compulsory registration is required by the Department.
- (b) The Department shall communicate with local and foreign governments, organizations and persons to seek overseas employment opportunities for persons registered as overseas employment seekers.
- (c) If a person registered as an overseas employment seeker obtains overseas employment, he shall be registered as a worker with the Department.
10. An overseas employment seeker who obtains overseas employment other than those for which the Department requires compulsory registration as overseas employment seeker, shall register as worker with the Department.
11. A person who, prior to coming into operation of this Law, has been in any overseas employment, after temporarily returning home, continues with the overseas

employment, shall be registered as a worker with the Department, in accordance with the stipulations.

12. The Department shall ;

(a) open separately the Overseas Employment Seekers Register and the Workers Register and effect registration in accordance with the stipulations.

(b) issue a certificate of registration to a worker prior to his departure.

Chapter VI Service Agent Licence

13. A person who wishes to carry out service agency business shall apply to the Department for issue of Service Agent Licence in accordance with the stipulations.

14. The Department–

(a) may, after scrutinizing the application for Service Agent Licence, issue a Service Agent Licence or refuse to issue the said licence with the confirmation of the Supervisory Committee.

(b) shall, prior to issue of the Service Agent Licence, cause the prescribed Service Agent Licence fee to be paid, and after stipulating the conditions, issue the licence to the applicant.

(c) may form, if necessary an investigation committee, or may appoint any appropriate officer to make the necessary investigations with regard to application for Agent Licence.

15. If a Service Agent Licence holder is found to have infringed any of the following, the Department may, with the confirmation of the Supervisory Committee, cancel the licence or revoke it subject to a time limit:

(a) violation of any condition of the Service Agent Licence;

(b) failure to perform as promised by the Service Agent for the employment seeker or for the worker;

(c) transferring the Service Agent Licence without the permission of the Department;

(d) charging service fees in excess of the prescribed amount;

(e) failure to submit to the Department the accounts and information regarding overseas employment in accordance with the stipulations.

16. The Supervisory Committee may, with regard to cancellation of the Service Agent Licence or revocation subject to a time limit, form if necessary, an investigation committee or appoint a suitable officer to make the necessary investigation.

17. The Ministry of Labour shall determine by notification the Service Agent Licence tenure, licence fee, late fee, penalty and insurance premium.

Chapter VII Appeal

18. A person who is not satisfied with the following order or decision may appeal to the Minister of the Ministry of Labour within 60 days from the date of the order or the decision –

(a) the order or decision of the Department made with the confirmation of the Supervisory Committee issuing or refusing to issue the Service Agent Licence.

(b) the order or decision of the Supervisory Committee cancelling the Service Agent Licence or revoking the Service Agent Licence subject to a time limit or prohibiting a worker from going abroad.

19. The decision of the Minister for Labour shall be final and conclusive.

Chapter VIII The Duties and Rights of Workers

20. A worker before going abroad:–

(a) shall undergo a medical examination as directed by the Supervisory Committee, and obtain a health certificate;

(b) shall have obtained a certificate of registration issued by the Department as supporting evidence.

21. A registered worker who has gone abroad and has been working there shall report any unusual condition of work to the Service Agent in accordance with the stipulations. If it is not a case of working there after communicating with the Service Agent he shall

report to the Myanmar Embassy or to the Consular Office in accordance with the stipulations. If there are no such offices he shall report to the Department.

22. A worker who has returned to Myanmar and is about to go abroad to join overseas employment other than the present one he has been working in, shall depart only after complying with the provisions of section 20.

23. A worker shall pay the service fees determined by the Central Committee either to the Department or to the Service Agent.

24. A Worker-

(a) has the right to claim through the Service Agent full compensation or damages to which he is entitled for injury sustained at a foreign worksite

(b) has the right to take civil or criminal action for loss of his rights and privileges relating to overseas employment.

**Chapter IX
Duties and Rights of Service Agent Licence Holder**

25. A Service Agent Licence holder -

(a) shall observe the conditions of the Service Agent Licence;

(b) shall pay the Service Agent Licence fees in accordance with the stipulations;

(c) shall, where there is a written agreement, carry out his duties, as agreed upon in the document, for the worker;

(d) shall communicate with the overseas employer concerned and undertake responsibility for obtaining in full the rights and privileges in the case of loss of rights and privileges of workers;

(e) shall submit to the examination by the investigation committee or a person assigned by the Supervisory Committee or by the Department;

(f) shall submit the accounts and information relating to overseas employment to the Department in accordance with the stipulations;

(g) shall inform in writing to the Department of any change of address of place of work or any change of his deputed administrative manager;

(h) shall work for obtaining enhanced overseas employment opportunities;

29. Any Service Agent Licence holder who violates any of the rules, procedures, orders or directives issued under this Law shall, on conviction be punished with imprisonment for a term which may extend to 1 year or with fine of Kyats 5,000 or with both.

Chapter XI Miscellaneous

30. (a) The Certificate of Registration, permitting the holder to do Service Agency business, issued under the Registration of Business Agency Order (Order No 2/98) published on the 13th October 1989, by the former Trade Ministry under section 3 of the Control of Imports and Exports (Temporary) Act, 1947 shall be invalidated on the date this Law comes into force.

(b) If the holder of the Certificate of Registration, that has been invalidated under sub – section (a) wishes to carry on Service Agency business, he shall apply for Service Agent Licence within 30 days from the date of enactment of this Law, in accordance with provisions of the this Law.

31. In order to carry out the provisions of this Law –

(a) the Ministry of Labour may, with the approval of the Government issue such rules, procedures as may be necessary;

(b) the Ministry of Labour, the Central Committee and the Department may issue such orders, notifications and directives as may be necessary.