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# Myanmar News: Ministry of Labour Notice

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# Ministry of Labour, Employment and Social Security announces compulsory use of official contract forms

In a recent announcement, the Ministry of Labour, Employment and Social Security stated that all employees in Myanmar must be employed under a prescribed employment contract. The Notification 1/2015 was published on the same day Myanmar's first minimum wage came into force.

Please find an unofficial translation below:

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## **Republic of the Union of Myanmar Ministry of Labour, Employment and Social Security Notification 1/2015, August 31, 2015 Notice to prepare and execute employment contracts**

1. Pursuant to Chapter (3) Section 5a(1) of the Employment and Skills Development Law, issued on August 30, 2013 as Union Parliament Law Number 29/2013, an employer is required to execute an employment contract within 30-days of appointment of an employee at any post.
2. The Ministry of Labour, Employment and Social Security has, under Minimum Wage law of 2013, published the minimum wage on August 28, 2015, with Notification No. 2/2015 of the National Committee for Stipulation of Minimum Wage. Hence owners of factories, workshops and workplaces are required, effective from September 2015, to negotiate and execute employment contracts with employees already appointed and employees to be appointed.
3. Furthermore, in disbursing of salaries to employees appointed by them, employers are required to do so using the salary payment record book shown as attachment to the employment contract.
4. Therefore, it is hereby notified that, with effect from September 2015, employers and employees are required without fail to execute employment

*contracts and disburse salaries using the prescribed employment contract template and the salary payment record book already distributed to factories, workshops and workplaces through relevant Township Labour Offices; and that small enterprises and family-owned self-managed enterprises with 15 or less employees not subject to the stipulated minimum wage are also required to execute employment contracts with the rate of wages/salaries agreed between employer and employee.*

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### *Ministry of Labour, Employment and Social Security*

While the requirement of having a written employment contract has been in place since 2013 when the Employment and Skill Development Law had been passed, the comments relating to a "prescribed employment contract template" came as a surprise.

Pursuant to sec. 5 of the Employment and Skill Development Law, a written employment contract shall be made within 30 days and contain certain minimum terms such as the type of employment, probation period, salary, working hours, leave and termination. Sec. 5 does however also provide for "other matters", which leaves room for the implementation of additional provisions such as confidentiality and compliance clauses or company policies.

Official rules to the Employment and Skills Development Law, which provide for further clarification and even a sample contract, have been in a drafting stage since 2013, but not yet been issued.

Notification 1/2015 stipulates September 2015 as deadline for implementation even though the "prescribed employment contract template" has yet to be officially published by the Ministry of Labour, Employment and Social Security. That being said, the Department of Labour is in practice already applying a similar policy and refuses the registration of employment contracts which do not follow their unofficial templates.

Since the registration of employment contracts is compulsory under the law, it may particularly in urgent cases be prudent for the time being to use the sample contract of the Department of Labour.

As the current templates of the Township Labour Offices are however not always suitable to meet the requirements of internationally active enterprises and the Employment and Skill Development Law allows for more flexible contract terms, we

are meanwhile trying to clarify the actual requirements with the Ministry of Labour, Employment and Social Security.

Should you require further clarification or assistance, please do not hesitate to contact us.



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