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Myanmar News

Mandatory Employment Records & Forms under Myanmar Law

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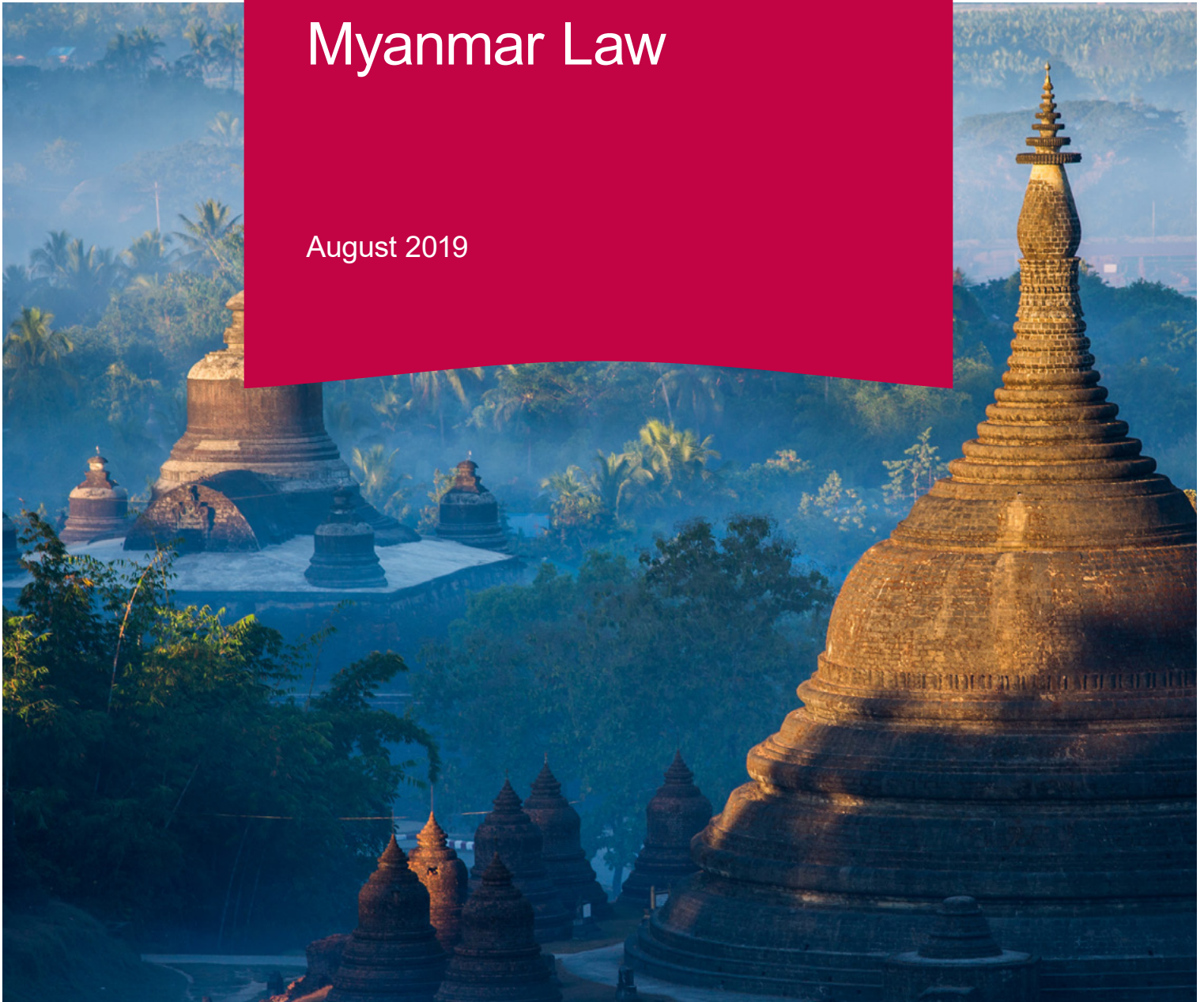


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I. Introduction

Under the current legal framework, employers in Myanmar must maintain employment records and comply with various filing obligations. Forms contained in both the Shops and Establishment Rules (2018) and the Leave and Holidays Rules (2018) shall be completed by the employer and either kept ready for ad hoc inspection by the Factories and General Labour Law Inspection Department (“Inspector”) or be filed with the Inspector.

As employers and managers or supervisors representing the employer may be penalized with fines, imprisonment or both penalties for non-compliance with these statutory obligations, it is crucial to know which records must be maintained and which forms must be kept or filed with the labour authorities.

Please find below an overview of these obligations, including necessary filing deadlines.

II. Shops and Establishment Rules (2018)

1. Notice from Employer (Forms 1 & 2)

Any employer opening a shop/establishment shall, within ten (10) days of such opening, submit a notice with Form 1 (“Notice to be sent by employer”) to the Inspector containing the following particulars (together with a copy of any relevant business license):

- Name, address, phone, fax and email of the shop/establishment;
- Type of shop/establishment;
- Name, ID/passport number, residence address, phone, fax and email of employer;
- Name, ID/passport number, residence address, phone, fax and email of manager or supervisor representing the employer;
- Number of employees; and
- Name, passport number, nationality, immigration documents and residence address of foreign employees.

In case of any subsequent change, the employer shall, within ten (10) days of such change, file Form 2 (“Notice of change of address/type of business/expansion of business/change of owner/change in appointment of employees”) with the Inspector.

2. Closing of Shop or Establishment (Form 3)

Any employer wishing to temporarily or permanently close a shop or establishment shall notify the Inspector at least ten (10) days prior to such closure using Form 3 (“Notice of temporary/permanent closure of shop/establishment”).

In case of re-opening, the employer shall file Form 1 (please see above) again.

3. Operation of Work Place (Forms 4-8)

The employer shall display a notice informing the employees about the working hours at each workplace, and notify the Inspector accordingly.

Working Hours (Form 4)

If employees are required to work fixed working hours, the employer shall file Form 4 (“Notice of working hours”) with the Inspector.

Shift Work (Form 5)

If employees are required to work shifts or on a rotation system, the employer shall file Form 5 (“Notice of Working Hours with Shift System”) with the Inspector.

Overtime (Form 6)

In case of any overtime work, the employer shall submit Form 6 (“Overtime payment records”) to the Inspector within ten (10) days from the pay-day.

Operation Round-the-Clock (Form 7 & 8)

In general, no work shall be carried out beyond midnight. Any enterprise with 15 or more employees which, by nature of business, does not need, but wants to open round-the-clock (i.e. 24 hours per day), shall procure the permission from the Inspector by applying seven (7) days in advance, using Form 7 (“Application for permission to operate round-the-clock”).

The Inspector shall scrutinize the application and grant permission using Form 8 (“Grant of permission to operate round-the-clock”), which shall be valid for a maximum of two (2) months and be displayed near the working hours’ notice.

4. Employee Attendance (Form 9)

Any employer shall maintain Form 9 (“Employees Daily Attendance Record”) for a minimum of twelve (12) months. In practice, the Inspector may request monthly filings.

5. Employment of Children (Form 10)

Any shop/establishment employing minors (i.e. persons below 18 years of age) shall maintain Form 10 (“Child Employee Register”) for a minimum of twelve (12) months.

III. Leave and Holidays Rules (2018)

1. Application for Leave (Form 1)

Under the Leave and Holiday Rules (2018), an employee requesting leave shall fill in and submit Form 1 (“Application for Leave”) to the employer or manager or supervisor during normal working hours. The employer shall maintain this Form for a minimum of twelve (12) months, kept ready for ad hoc inspection by the Inspector.

2. Monetary Entitlement Record on Public Holidays (Form 2)

Pursuant to the Leave and Holidays Act (1951), employees shall be granted paid public holidays as announced by the Government in the Myanmar Gazette.

For such days, the employer shall maintain Form 2 (“Monetary Entitlement Record on Public Holidays”) for a minimum of twelve (12) months.

3. Monetary Entitlement Record of Working Overtime on Public Holidays (Form 3)

For any overtime work on public holidays, the employer shall maintain Form 3 (“Monetary Entitlement Record of Working Overtime on Public Holidays”) for a minimum of twelve (12) months.

4. Monetary Entitlement Record on Weekly Rest Days (Form 4)

Under the Shops and Establishment Law (2016), at least one (1) day per week shall be granted as a paid rest day. Ordinarily, Sunday of each week shall be designated as the rest day. If necessary (e.g. due to the nature of the enterprise), the employer and employee may mutually agree on any other day of the week as the rest day.

The employer shall maintain Form 4 (“Monetary Entitlement Record on Weekly Rest Days”) for a minimum of twelve (12) months and file a copy with the Inspector every month.

IV. Non-Compliance

Non-compliance and preventing Inspectors from examining employee records is punishable with imprisonment or with a fine or with both.

Further, a court may order employers to pay outstanding salaries and/or monetary entitlements for untaken leave days, work on public holidays and overtime work.

5. Monetary Entitlement Record of Working Overtime on Weekly Holidays (Form 5)

For any overtime work on weekly rest days, the employer shall maintain Form 5 ("Monetary Entitlement Record of Working Overtime on Weekly Rest Days") for a minimum of twelve (12) months.

6. Monetary Entitlement Record for Annual Leave (Form 6)

Employees (or their descendants in case of death of an employee) shall be entitled to receive monetary compensation for any untaken annual leave in the event of a closure of the shop/establishment, termination/dismissal or resignation of the employee.

The employer shall maintain Form 6 ("Monetary Entitlement Record for Annual Leave") for a minimum of twelve (12) months

7. Leave Record Table (Form 7)

Within seven (7) days from the beginning of each month, employers shall, file Form 7 ("Leave Record Table") with the Inspector, containing particulars of leave days taken by the employees.

8. Application for Operating a Business on Public Holidays (Form 8)

In general, no work shall be carried out on public holidays. Any employer operating on public holidays shall procure the permission of the Inspector, using Form 8 ("Application for Operating a Business on Public Holidays").

V. Annex

1. Shops and Establishment Rules (2018)

Form	Description	Deadline	Responsible Government Authority
Form 1	Notice to be sent by employer opening shop/establishment	One-time filing within ten (10) days from date of opening	To be filed with Inspector
Form 2	Notice of change of address/type of business/expansion of business/change of owner/change in appointment of employees	Filing within ten (10) days from date of relevant change	To be filed with Inspector
Form 3	Notice of temporary/permanent closure of shop/establishment	One-time filing at least ten (10) days before date of closing	To be filed with Inspector
Form 4	Notice of working hours	No deadline under the law	To be filed with Inspector
Form 5	Notice of working hours with shift system	No deadline under the law	To be filed with Inspector
Form 6	Overtime payment records	In case of overtime work, every month within ten (10) days from pay-day	To be filed with Inspector
Form 7	Application for permission to operate round-the-clock	In case of round-the-clock work, every month at least seven (7) days in advance	To be filed with Inspector
Form 8	Grant of permission to operate round-the-clock	Permission valid for a maximum of two (2) months	To be issued by Inspector
Form 9	Employees daily attendance record	Records of employee attendance must be kept for a minimum of twelve (12) months	No filing required
Form 10	Child employee register	In case of employment of minors, records must be kept for a minimum of twelve (12) months	No filing required

2. Leave and Holidays Rules (2018)

Form	Description	Deadline	Responsible Government Authority
Form 1	Application for leave	Records must be kept for a minimum of twelve (12) months	No filing required
Form 2	Monetary entitlement record on public holidays	Records must be kept for a minimum of twelve (12) months	No filing required
Form 3	Monetary entitlement record of working overtime on public holidays	In case of overtime work on public holidays, records must be kept for a minimum of twelve (12) months	No filing required
Form 4	Monetary entitlement record on weekly rest days	Records must be kept for a minimum of twelve (12) months and submitted to the Inspector (no deadline under the law)	To be filed with Inspector
Form 5	Monetary entitlement record of working overtime on weekly rest days	In case of overtime work on weekly rest days, records must be kept for a minimum of twelve (12) months	No filing required
Form 6	Monetary entitlement record for annual leave	In case of any untaken leave, records must be kept for a minimum of twelve (12) months	No filing required
Form 7	Leave record table	Within seven (7) days from the beginning of each month	To be filed with Inspector
Form 8	Application for operating a business on public holidays	No deadline under the law	To be filed with Inspector

VI. Our Services

We would be happy to guide and assist you with the maintaining of employment records and filing of official forms.



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