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Myanmar Moves to Reform Labor Laws

Attention has been focused on Myanmar as it seeks to liberalize its economy after decades of isolation. Influenced in part by its regional ASEAN commitments, Myanmar has promoted significant change in its foreign investment laws and regulations, resulting in substantial increases in foreign investment. The increased investment has, in turn, created a demand for both low- and high-skilled labor and a need for effective laws to regulate the labor market. In response to these demands, the Thein Sein government has been working to both evaluate existing legislation and pass new labor laws which are representative of current global standards.

There is no single umbrella legislation applicable to all labor sectors. Rather, existing laws are a confluence of many different legal influences, with some laws dating back to the days of colonization. This is an overview of Myanmar's recent labor law developments and the key issues facing employers.

Legislative Development

Myanmar's labor laws span three defined eras. These include the pre-independence era, which dates back to the nineteenth century and is characterized by numerous substantive laws that are mostly still in use; the post-independence era, which is characterized by rigid military rule, a lack of robust development in labor law, and the passage of a few notable laws such as the Factories Act (1951), the Shops and Establishments Act (1951), and the Leave and Holidays Act (1951); and the most recent era of economic liberalization fostered by the current civilian government, which has set out to modernize Myanmar's labor laws as part of the government's objectives to promote investment and align the country with international labor standards. Policymakers understand that Myanmar's labor laws are outdated and are dedicated to changing the system.

One step toward such change is the passage of the Employment and Skill Development Law (2013), a unique piece of legislation which places an obligation on employers to train and develop employees. Employers are expected to provide opportunities for training programs in accordance with guidelines set by a statutory skill development team which oversees these initiatives. Training can be provided on the job, outside the workplace, or through workshops conducted by an employer.

The law also sets out minimum requirements for employment contracts. The Department of Labor has recently hinted that it may become necessary to seek prior approval or to submit a copy of employment contracts for their review—an approach that has garnered much opposition. If the government does indeed issue a ministerial notification to implement such a requirement, it would place a regulatory burden on employers and hinder the fluidity of the labor market.

Other important laws include the Labor Organization Law, the Social Security Law, and the Settlement of Labor Dispute Law & Rules. The Ministry of Labor, Employment, and Social Security has been instrumental in the implementation of these laws. The Social Security Law allows employees to seek to obtain cash benefits for sickness, maternity, confinement, retirement, and for funerals. The social security fund is formed with contributions from both the employer and the employee—the employee contributes 2 percent of monthly wages and the employer is obligated to contribute an amount that equals 3 percent of an employee's monthly wages to the fund. A unique feature of this legislation is that it includes an unemployment benefit insurance scheme which ensures that unemployed persons receive cash benefits.

Labor Law Updates

Recently, the Myanmar government has focused more attention on the effective resolution of labor disputes to avoid a repeat of the disruptive strikes that occurred in the Shwe Pyi Thar Industrial Zone in February and March 2015. This has included a focus on the use of The Settlement of Labor Dispute Law (2012), which mandates parties to consider using negotiation, conciliation, and arbitration as a first step before resorting to lock-outs and strikes.

Unfortunately, many employers and employees have ignored the rules and regulations that are in place to promote the peaceful resolution of disputes. In response to this, the government has recently set out to remedy the problem and promote dispute resolution. In a progressive move, the Ministry of Labor has established a Dispute Settlement Arbitration Council, a quasi-judicial body for resolving labor disputes, to save parties the time and expense of formal litigation in the courts. Participation, however, is not mandatory and parties must agree to amicably settle their disputes with the Council. The government has focused its efforts on communicating the benefits that come from use of the Council to stakeholders.

With regard to the regulation of wages, the Law on Minimum Wages was passed in 2013, but the implementation of legislation establishing an official minimum wage rate remains pending in Parliament. While a government-designated committee is presently conducting extensive research into determining a suitable statutory minimum wage rate, no such rate has yet been established. There is an ongoing consultation meeting to arrive at minimum wage rates at the state and regional level. While statutory guidance is expected soon, employers may refer to these figures to calculate minimum wages.

The Road Forward

As Myanmar focuses on modernizing its labor laws, the changes its government makes will influence the decisions foreign investors make in the future. Employers invest heavily in both the skilled and unskilled labor markets, and therefore, laws that are clear, fair, and in line with global standards are essential for most foreign investors.

For a relatively young economy like that in Myanmar, the standardization of labor laws is important to continue to attract foreign investment, particularly in the labor-intensive manufacturing and retail sectors. Myanmar's labor laws and regulatory framework must continue to evolve and balance the needs of both employers and employees in creating an environment for productive employment and economic advancement. 🏡