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Overview of Key Employer Obligations in Myanmar

Employers should be familiar with their obligations under Myanmar's rapidly evolving labor laws. These laws often impose unique restrictions and procedural requirements on employers which could result in disastrous consequences if not complied with. In this article, we provide an overview of foreign investors' significant obligations when hiring employees in Myanmar.

Minimum Wage Laws

Since the implementation of the Minimum Wages Law of 2012, there has been extensive debate regarding the actual minimum wage rates. Until recently, there was no officially prescribed minimum wage rate in Myanmar. However, after conducting research to quantify a base minimum wage rate, the National Minimum Wage Committee of Myanmar released a notification on June 29, 2015, proposing a minimum wage.

According to Notification (1/2015) of the National Minimum Wages Fixation Committee of Myanmar, the proposed minimum wage—regardless of place and type of work—is set at MMK 3,600 (about USD 2.80) for an eight-hour day and MMK 450 (about USD 0.35) per hour as a basic hourly wage for all workers across the country. The proposed minimum wages, however, do not apply to small businesses with less than 15 workers and those which are classified as family-run businesses.

The National Minimum Wage Committee has invited organizations and individuals to propose amendments to the Notification. After considering the proposed changes, the National Minimum Wage Committee will fix the minimum wage rate. Investors and employers should consider the proposed rates and use the proposed rate structure until the rates are finalized.

Working Hours

The prescribed working hours for employees of companies, entertainment houses, service enterprises, shops, and trading centers are 8 hours a day and six working days a week. For employees of factories, working hours are no more than 48 hours a week. For oil field and mine employees, it is 8 hours a day. In addition, mandatory overtime payments need to be paid for every hour or day worked beyond the prescribed limits.

Severance Obligations

Employment contracts in Myanmar are not at will. Therefore, when an employer terminates an employee, the employer must provide clear notice and fulfill any statutory severance obligations. The amount of compensation depends on the employee's length of service. The Ministry of Labor, Employment, and Social Security published Notification No. 84/2015 on July 3, 2015, which details the minimum severance rates based on years of service. They are as follows.

Severance Obligations in Myanmar

Years of Service	Severance Rate
6 months – 1 year of service	½ of monthly salary
1 year – 2 years of service	1 month's salary
2 years – 3 years of service	1 ½ month's salary
3 years – 4 years of service	3 months' salary
4 years – 6 years of service	4 months' salary
6 years – 8 years of service	5 months' salary
8 years – 10 years of service	6 months' salary
10 years – 20 years of service	8 months' salary
20 years – 25 years of service	10 months' salary
25 years +	13 months' salary

There are exceptions to statutory severance obligations in cases of fair dismissal, such as dismissal for criminal acts and wrongful conduct. The distinction of what constitutes fair and unfair dismissal depends on the individual facts of each case.

Work Permit Rules

There are currently no explicit work permit rules for expatriate employees. The common practice is to apply for a business visa either in advance of or upon arrival. Business visas are usually granted for single entry, 70-day stays. They can be renewed, and normally, an application for a multiple-entry business visa can be made after obtaining three single-entry visas. However, this is at the absolute discretion of the authorities. A multiple-entry business visa may be granted for six months per time and may eventually be extended to a one-year multiple entry visa.

Specific work permit rules govern certain business classifications. As a requirement under the Foreign Investment Law, foreigners in companies that have applied for a permit from the Myanmar Investment Commission to operate their businesses must obtain specific work permits and stay permits. A normal business visa would be insufficient in this case. To date, however, the procedures to obtain these work permits have not been fully implemented. Therefore, the requirements are not practically enforced. Employers should still contact the Myanmar Investment Commission to clarify the process and status of the work permit program.

Social Security Contributions

Investors must register under the Social Security Law and contribute toward an established social security fund. The fund is formed with contributions from both the employer and the employee. An employee contributes 2 percent of his or her wages and the employer is obligated to contribute 3 percent of an employee's wages to the fund. Employers who have registered a social security fund are exempt from provisions of the Workmen's Compensation Act of 1923.

Employment Contracts

The Ministry of Labor has played an active participatory role in the review and formation of employee contracts. While employers are free to contract directly with employees in accordance with terms agreed to by the parties, employers should set out the minimum terms required under Myanmar law in an employment contract with the employee. The Ministry of Labor has issued an employment contract template, and it will review and vet such contracts prior to execution.

Foreign investors should be mindful of the various employment regulations in Myanmar and the evolving regulatory environment. They should also adopt policies to reflect the standards mandated by law. Failure to observe the requirements or to adequately understand employer and employee obligations could create additional risk for investors and to companies employing both foreign and local employees. ⚖️