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GUIDE TO RESTRUCTURING A CROSS-BORDER WORKFORCE

MYANMAR

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Reduction in workforce

01. Is there a concept of redundancy - based on a shortage of work or other economic reasons - as a justified reason to dismiss employees in your jurisdiction? If so, how is it defined?

Although there are no legislative provisions regarding (or defining) redundancy in Myanmar, the concept is recognised. In this regard, clause 15(b)(4) of the Employment Contract Template (EC) provides for redundancies and termination of employment. The EC is a standard form issued by the Ministry of Labour (MOL) and contains mandatory provisions to be included in all employment contracts.

Section 15(b)(1) of the EC states that an employer may dismiss an employee only with justified reasons. However, no mention is made of what is considered to be a justified reason.

As per our discussions with labour officials, dismissal of employees due to a shortage of work or for other economic reasons may be considered a justified reason. However, it will not be considered justified if it affects only a singular employee or is based on biased decision-making. In such cases, the Labour Disputes Settlement Arbitration Body (LDSAB) and Labour Disputes Settlement Arbitration Council (LDSAC) have the power to order reinstatement of the employee.

02. In brief, what is the required process for making someone redundant?

Pursuant to clause 15(b)(4) of the EC, an employer shall cooperate and negotiate with the workplace coordinating committee (WCC) if there is no labour organisation. A WCC must be formed if there are more than 30 employees. If there is a labour organisation, the employer must cooperate and negotiate with representatives of the labour organisation, the WCC, the employee, and the representative of the employee jointly, as applicable. In addition, according to labour officers, if there is no labour organisation or WCC, the employer should consult and negotiate with employees or their representatives before terminating employment on the basis of redundancy. In addition, the employer must inform the Department of Labour (DOL) or the Department of Labour Relations about redundancies and termination of employment.

03. Does this process change where there is a "collective redundancy"? If so, what is the employee number threshold that triggers a collective redundancy?

As stated, there are no legal provisions on redundancy. The EC also does not distinguish between collective and individual redundancy. Accordingly, there is no prescribed number for a collective redundancy. However, the officers of the DOL have informed us that if a redundancy was caused by a shortage of work, economic crisis, or business closure, the redundancy should not affect only one employee.

04. Do employers need to consult with unions or employee representatives at any stage of the redundancy process? If there is a requirement to consult, does agreement need to be reached with the union/employee representatives at the end of the consultation?

An employer must follow the consultation process set out in question 2 above, i.e. consult with the employee, WCC, and/or labour organisation. No further consultations are required.

Sections 6(a) and 7 of the Settlement of Labour Dispute Law (SLDL) require that settlement be reached within seven days, failing which, either of the parties can submit a complaint to the township Labour Disputes Settlement Conciliation Body (LDSCB), according to Section 9(b) of the SLDL.

05. If agreement is not reached, can the restructure be delayed or prevented? If so, by whom?

There are no legal provisions that speak to restructuring being delayed or prevented by virtue of settlement not being reached.

In practice, employers tend to await the resolution of redundancy disputes for mainly logistical reasons.

06. What does any required consultation process involve (i.e. when should it commence, how long should it last, what needs to be covered)? If an employer fails to comply with its consultation obligations, what remedies are available?

Consultations should commence prior to the employee being made redundant, and as set out in more detail in question 2, an employer must consult with the employee, the WCC, and/or the labour organisation.

If settlement cannot be reached within seven days, the employer or employees may lodge a complaint with the LDSCB. If no settlement is reached at the LDSCB, the case should be referred to the LDSAB and either party (or both parties) can file a further claim with the LDSAC if dissatisfied with the decision of the LDSAB. Although the nationwide state of emergency was revoked on July 31, 2025, the filing of writs with the Union Supreme Court remains temporarily suspended, and no announcement has yet been made regarding the acceptance of writ submissions. As a result, the final appeal previously available to a party dissatisfied with a LDSAC decision is not currently available.

As per the advice of the SLDL and labour officials, the employer must discuss any matter relating to the employee's benefits with the employee before making them redundant.

Remedies for failure to consult will only be discussed at the LDSCB if either party submits a complaint. According to Sections 46(b) and (c) of the SLDL, if the employer or employee fail to comply with their consultation obligations without proper reason on the date and time set by the WCC or LDSCB, the defaulting party shall be fined between 300,000 and 1 million kyats.

07. Do employers need to present an economic business rationale as part of the consultation with unions/employee representatives? If so, can this be challenged and how would such a challenge normally be made?

There is no law in Myanmar requiring an employer to present an economic business rationale as part of consultation. However, insofar as an employer would like to explain the economic business rationale for redundancy, it may do so.

08. Is there a requirement or is it best practice to consult employees individually (whether or not the employer is also legally required to collectively consult employees)?

There are no requirements or best practices to consult with employees either individually or collectively. The consultation process as set out in question 2 must be followed, which includes consultation with the WCC, labour organisation, and employee representative, as applicable.

09. Are there rules on the selection of individual employees for redundancy?

While there are no laws or regulations on the selection of individual employees for redundancy, redundancy may not only affect a singular employee, but must be implemented for a group of employees, as stated in question 3.

10. Are there any specific categories of employees who an employer is prohibited from making redundant?

Section 27 of Leave and Holiday Rules states that an employee shall not be transferred, suspended, or dismissed during a leave period. Redundancy, as a form of dismissal, is then also prohibited during a leave period. Notably, in disputes referred to the LDSAB and LDSAC, employers have been ordered to reinstate dismissed employees to their former designations according to Section 25(a) of the Settlement of Labour Dispute Rules (SDLR), on the basis that the employers were discriminatory or biased in making the employees redundant.

11. Are there categories of employees with enhanced protection (e.g., union officials, employees on sick leave or maternity/parental leave, etc)?

As stated above, employees on leave may not be made redundant. In this regard, employees are entitled to six days of casual leave with full pay in every 12-month cycle, ten days of earned leave per year, 30 days of medical leave per a year, maternity leave of six weeks before delivery of child and eight weeks after delivery of child, and 15 days of paid paternity leave.

12. What payments are employees entitled to when made redundant? Do these payments need to be made within a specified period? Are there any other requirements, such as giving contractual notice, payments into a central fund, etc.

All terminated employees, whether due to redundancy or otherwise, except in the case of dismissal for an act of gross misconduct, are entitled to severance and must be provided with one month's notice as prescribed in the EC. Section 35 of the SDLR further specifically provides that employees have a right to severance when an employer terminates its business. As a result, if employees are made redundant due to a business closure, they are entitled to a severance payment by virtue of Notification 84/2015 by the MOL. In addition, if the employer would like to make redundancy effective immediately, the employee is entitled to one month's salary in lieu of notice. No other payment is required by law, except for those (i) agreed to between the employers and employees in the employment contract; or (ii) set out in the company's policies or rules.

Although there are no periods specified in law for severance payments, the employer must pay due wages within two working days, pursuant to Section 4(d) of the Payment of Wages Law 2016, if the employee is terminated. No provision is made for when severance must be paid. In addition, if a dispute has been referred to the LDSAC or LDSAB, the employer must pay to the employee any amounts ordered within 30 days from the date of the decision.

13. If employees are entitled to redundancy/severance payments, are there eligibility criteria and how is the payment calculated?

Notification 84/2015 stipulates that severance payment rates are based on the employee's length of service as follows:

- less than six months of service: no severance payment is due;
- six months to one year of service: half of one month's salary;
- one to two years of service: one month's salary;
- two to three years of service: one and a half months' salary;
- three to four years of service: three months' salary;
- four to six years of service: four months' salary;
- six to eight years of service: five months' salary;
- eight to ten years of service: six months' salary;
- ten to 20 years of service: eight months' salary;
- 20 to 25 years of service: ten months' salary; and
- over 25 years of service: 13 months' salary.

14. Do employers need to notify local/regional/national government and/or regulators before making redundancies? If so, by when and what information needs to be provided?

There is no legal requirement for employers to notify local, regional, or national governments or regulators before making redundancies.

15. Is there any obligation on employers to consider alternatives to redundancy, including suitable alternative employment?

There is no formal provision in law that an employer has an obligation to consider alternatives to redundancy. However, as the unemployment rate in Myanmar is high, labour officers and the officials of the LDSAB and LDSAC have previously requested that employers consider suitable alternative employment for their employees.

16. Do employers need to notify local/regional/national government and/or regulators after making redundancies, e.g. immigration department, labour department, pension authority, inland revenue, social security department? If so, by when and what information needs to be provided?

As redundancy is a form of termination of an employment contract, the employer must inform the DOL of the redundancy. Additionally, if the matter is settled through the WCC, the WCC will require the employer to submit a report to the LDSCB.

17. If an employee is not satisfied with the decision to make them redundant, do they have any potential claims against the employer? If so, what are they and in what forum should they be brought, e.g. tribunal, arbitration, court? Could a union or employee representative bring a claim on behalf of an employee/employees and if so, what claim/s and where should they be brought?

As mentioned in question 6, an employee who has been made redundant may lodge a complaint with the township LDSCB. If a resolution cannot be reached at the LDSCB, the case should be transferred to the LDSAB. Either party (or both parties) can then submit a subsequent claim with the LDSAC if they are dissatisfied with the LDSAB's ruling. In addition, the labour laws allow a representative of the labour organisation, or the representative of the employee, to claim on their behalf.

In proceedings at the LDSAB and LDSAC, a dissatisfied employee terminated on the basis of redundancy can claim reinstatement to their former position or to another suitable position, and damages for the period of unemployment.

18. Is it common to use settlement agreements when making employees redundant?

In practice, settlement agreements are not commonly used when making employees redundant. However, once an employer and employee reach agreement regarding redundancy, it is typically reduced to writing.

19. In your experience, how long does it normally take to complete an individual or collective redundancy process?

The duration of the redundancy process can vary greatly depending on the specific circumstances of each case, largely due to a lack of laws and regulations governing redundancy. It may take several weeks or even months to complete, depending on the level of cooperation between the employer and employee, the complexity of the issue, and whether or not disputes arise that require the involvement of labour dispute resolution bodies such as LDSCB, LDSAB, or LDSAC. If agreement is reached quickly, the process may be shorter, while a failure to reach a settlement and subsequent pursuit of legal remedies can significantly prolong the process. Additionally, the possibility of a lock-out or strike can

also impact the timeline. Therefore, it is difficult to provide a precise timeframe for completing the redundancy process.

20. Are there any limitations on operating a business for a period following a redundancy, like a prohibition on hiring or priority for re-hire being given to previous employees?

There are no statutory limitations on operating a business after a redundancy, and employers are generally free to hire new employees or rehire previous employees at their discretion.

21. Is employee consultation or consent required for major transactions (such as business transfer, mergers, acquisitions, disposals or joint ventures)?

While there is no explicit requirement for employee consultation or consent in relation to major transactions such as business transfers, mergers, acquisitions, disposals, or joint ventures, even where a WCC exists, the officers of the DOL recommend that employers discuss business operations with their employees after a major transaction, particularly regarding their willingness to continue working for the company. It is important to note that the WCC is established to discuss and negotiate matters concerning employee benefits, but it does not have the authority to intervene in the employer's management or business matters.

22. What are the remedies that are available if an employer fails to comply with its consultation duties? Can employees take action to prevent any proposals going ahead?

If an employer fails to comply with its consultation duties, employees can submit a complaint to the LDSCB. The LDSCB may then summon the parties to appear before it and attempt to settle the dispute.

According to Sections 46(b) and (c) of SLDL, if either of the parties fail to comply with their consultation obligations on the date and time set by the WCC or LDSCB without proper reason, the defaulting party shall be liable to a fine ranging from 300,000 to 1 million kyats.

There are no legal provisions enabling employees to prevent business operations from proceeding.

23. Is there any statutory protection of employees on a business transfer? Are employees automatically transferred with the business? Are employees protected against dismissal (before or after the transfer of employment)?

There is limited protection of employees on a business transfer, and a transferring employer can dismiss employees as a result of a business transfer, provided that the employer complies with the usual provisions concerning notice periods and severance pay. Accordingly, an employment contract will remain valid after the business transfer, unless it is terminated with severance by the employer.

In practice, the DOL suggests that an employer discusses an intended transfer with its employees to determine whether they would like to continue employment after the business transfer. Employees who wish to continue working after a business transfer will keep their original appointment date and be eligible for severance pay based on their continuous service with the employer. If the employer terminates employment due to the transfer, the employee is entitled to severance pay based on their length of service as at the date of the termination. If the employer offers re-employment and the employee accepts, a new appointment date will be set.

24. What is the procedure for a transfer of employment (upon a business transfer or within group companies)?

There is no prescribed procedure for a transfer of employment. According to labour officials, the employer should inform the DOL with a cover letter containing the number of employees who remain

employed and the number of employees who were terminated with severance. In addition, if the employer and employee enter into a new employment contract, it must be registered at the DOL.

25. Are there any statutory rules on harmonising the transferring employees' terms of employment with the existing employees' terms of employment?

There are no statutory rules or guidelines on harmonising the transferring employees' terms of employment with the existing employees' terms of employment. Although the Labour Law does not specifically address this issue, it does provide that employers must treat all employees fairly and equally. This means that employers should not discriminate against transferring employees by offering them less favourable terms of employment than existing employees.

In practice, it is common for employers to harmonise the terms of employment of transferring employees with the terms of employment of existing employees to avoid disputes.

26. Can an employer reduce the hours, pay and/or benefits of an employee?

An employer is permitted to reduce working hours due to a lack of work. Ordinary working hours are normally set at eight hours per day, or 44 or 48 hours per week, according to the nature of the work. Ordinary weekly working hours must not exceed 48 hours.

An employer is not permitted to unilaterally reduce salaries. An employer can, however, reduce salaries with the consent of the employee, and due to crisis or economic hardships.

An employer may not reduce statutory benefits under Myanmar labour laws, such as paid leave, overtime payment, and severance payment. However, if there is a valid reason, the employer may reduce non-statutory employee benefits.

27. Can an employer rely on an express contractual provision to vary an employment term?

In Myanmar, the standard EC terms mandated by the MOL can only be changed with the authorisation of the Directorate of Labour, save for the employee designation, salary, period of employment, etc. An employer may also implement workplace rules and regulations (subject to applicable laws), which shall be deemed an integral part of the EC. Further, once an employment contract has been entered into, the terms open to modification may only be changed by agreement between the employer and employee.

28. Can an employment term be varied by implied conduct?

Changes to employee benefits may only be made in consultation with the WCC. And while there are no legal provisions in Myanmar expressly prohibiting or permitting changes to employment terms by implied conduct, in practice, such changes are uncommon.

29. If agreement is required to vary an employment term, what are the company's options if employees refuse to agree to the proposed change?

If the employer wishes to amend a term and the parties cannot reach agreement, either party may lodge a complaint with the LDSCB, LDSAB, or LDSAC, pursuant to the SLDL and SLDR.

Further, clause 21(b) of the EC states that, if it is required by the nature of the work, the employer may unilaterally implement the template workplace rules and regulations as provided by the MOL, which comply with the applicable laws and shall be deemed an integral part of the EC. Accordingly, terms related to workplace conduct may be altered by the employer by way of these rules and regulations. Any proposed amendment to the template workplace rules and regulations must remain compliant with relevant laws and must be agreed to between the employer and employee.

If a dispute relating to the workplace rules and regulations arises, both parties have the right to lodge a complaint with the LDSCB, LDSAB, and LDSAC.

30. What are the potential legal consequences if an employer varies an employment term unilaterally?

Other than by way of implementing workplace rules and regulations, which may not contravene any applicable laws, an employer is prohibited from amending an employment term unilaterally, and failure to comply will be considered a violation of the EC, punishable by imprisonment of not more than three months, a fine, or both, according to Section 39 of the Employment and Skill Development Law. If an employee is dissatisfied with the workplace rules and regulations unilaterally implemented by the employer, the employee may lodge a complaint with the LDSCB. If there is no settlement between the parties at the LDSCB, then the matter may be referred to the LDSAB, who will consider whether the rules and/or regulations are in accord with existing labour laws.

Areas to Watch

The nationwide state of emergency was revoked on July 31, 2025, but there have been no modifications to the underlying laws, and the legal framework that was in place prior to the declaration of the state of emergency continues to be in place.

According to a report by the International Labour Organization published in 2020, the MOL has been reviewing the Employment and Skill Development Law to align it with international labour standards and address the changing needs of the labour market. The proposed amendments aim to improve the protection of workers' rights, promote equal opportunities, and enhance the enforcement mechanism of the law.

The amendments are expected to introduce provisions related to the maximum duration of employment contracts, which would provide greater job security for workers. Additionally, the amendments would seek to strengthen the protection afforded to pregnant women and breastfeeding mothers, including measures to prevent discrimination against them in the workplace. In addition, since 2017, the MOL has been preparing the draft Employment and Skill Development Rules, but these have not yet been published.

In addition, Myanmar's Military Service Law (2010) was first enforced on February 10, 2024. Under this law, men aged 18–35 and women aged 18–27 are subject to compulsory military service. Employers are required to grant leave for the two-year service period and must re-employ the worker upon completion of military duty.