



**THE SETTLEMENT OF LABOUR DISPUTE LAW
(2012)**

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Contents

No.	Particular	Page
The Settlement of Labour Dispute Law		
1.	Chapter I Title and Definition	1
2.	Chapter II Formation of the Workplace Coordinating Committee	7
3.	Chapter III Formation of the Conciliation Body	9
4.	Chapter IV Formation of the Dispute Settlement Arbitration Body	10
5.	Chapter V Formation of Dispute Settlement Arbitration Council	12
6.	Chapter VI Settlement of Dispute	13
7.	Chapter VII Confirmation, Amendment and Effectiveness of Decision	15
8.	Chapter VIII Prohibitions	16
9.	Chapter IX Penalties	17
10.	Chapter X Miscellaneous	18

Contents

No.	Particular	Page
	The Settlement of Labour Disputes Rules	
1.	Chapter I Title and Definition	20
2.	Chapter II The Workplace Coordinating Committee	21
3.	Chapter III The Conciliation Body	23
4.	Chapter IV The Dispute Settlement Arbitration Body	24
5.	Chapter V The Dispute Settlement Arbitration Council	28
6.	Chapter VI Decision	30
7.	Chapter VII Cash Benefit	31
8.	Chapter VIII Miscellaneous	32
9.	Form (1) Sending the list of the Coordinating Committee Members	34
10.	Form (2) Sending the settlement record of the Coordinating Committee	35
11.	Form (2-A) Sending the record of settlement	36

No.	Particular	Page
12.	Form (3) Complaint	37
13.	Form (4) Mutual Agreement	38
14.	Form (5) Collective Dispute Report	40
15.	Form (6) Register Relating to the Settlement of Dispute	42
16.	Form (7) To send claim, written statement	43
17.	Form (8) Summoning for hearing	44
18.	Form (9) Decision of the Arbitration Body	45
19.	Form (10) Application	47
20.	Form (11) Decision of the Tribunal	48
21.	Form (12) Affirmation	50
22.	Form (13) Affirmation	51

The Republic of the Union of Myanmar
Pyidaungsu Hluttaw
The Settlement of Labour Dispute Law
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The Republic of the Union of Myanmar
Pyidaungsu Hluttaw
The Settlement of Labour Dispute Law
(The Pyidaungsu Hluttaw Law No. 5/2012)
The 6th Waxing day of Tagu 1373, M.E.
(28th March, 2012)

Preamble

The Pyidaungsu Hluttaw hereby enacts this Law for safeguarding the right of workers or having good relationship between employer and workers and making peaceful workplace or obtaining the rights fairly, rightfully and quickly by settling the dispute of employer and worker justly.

Chapter I
Title and Definition

1. This Law shall be called **the Settlement of Labour Dispute Law**.
2. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) **Worker** means a person who relies on his labour to engage in economic activity or to generate a livelihood, including a daily wage earner, temporary worker, worker engaged in agriculture, domestic worker, government employee and apprentice. Moreover, it also includes a worker terminated or dismissed from work during the dispute. This expression does not include the Defence Services personnel, member of the Myanmar Police Force or member of the armed organizations under the control of the Defence Services;
 - (b) **Labour Organization** means the Basic Labour Organization, Township Labour Organization,

Region or State Labour Organization, Labour Federation and Myanmar Labour Confederation formed under the Labour Organization Law;

- (c) **Employer** means a person who carries out by hiring one or more worker on wages of mutual consent in any trade under the relevant employment agreement, including a person who manages, supervises and administers directly or indirectly and is responsible to pay wages to the worker and responsible for employing and terminating the employment of the worker. This expression includes the legal managerial agent of the employer and in private business if the employer passed away, his heir and the legal successor of share are also included;
- (d) **Employer Organization** means the employer organization formed under this Law or any existing law;
- (e) **Trade** means any business, trade, production, construction, industry, agriculture, service or any other vocational works owned by the State, cooperative, private or joint venture within the Republic of the Union of Myanmar;
- (f) **Essential Services** means the following essential services, those whose interruption are liable to endanger the life, health or security of the public:
 - (i) water supply services;
 - (ii) electricity services;
 - (iii) fire services;
 - (iv) health services;

- (v) telecommunication services;
 - (vi) services changed from a non-essential service to an essential service;
- (g) **Public Utility Service** means the following businesses;
- (i) transportation business;
 - (ii) port business and port cargo handling business;
 - (iii) postal, telex or fax business;
 - (iv) business relating to information and communication technology;
 - (v) petroleum or petroleum products distribution business for the public;
 - (vi) night soil disposal or sanitation business;
 - (vii) business of production, transmission and distribution of electricity or fuel energy to the public;
 - (viii) business of public financial service;
 - (ix) business which is stipulated by the Union Government as the public utility service, from time to time;
- (h) **Lock-out** means the temporary closing of the workplace of any trade, suspension of work or refusal by the employer to allow the workers at the work site to continue to work in consequence of the situation of any dispute of the employer and workers which remains in dispute;
- (i) **Strike** means collective action taken by decision of some or all workers resulting in a suspension of work, a refusal to work or to continue to work, or a slow-down or other

collective actions that are designed to limit production or services relating to social or occupational matters in any dispute. This expression does not include workers' exercise of their right to remove themselves, having reasonable justification to believe that the work situation presents a sudden and serious danger to their life or health;

- (j) **Employment Agreement** means the bilateral written or oral agreement concluded by employer and worker in respect of employment and working in accord with the stipulations;
- (k) **Collective Bargaining** means the process carried out to enable negotiation and conclusion of collective agreement by employer or employer organizations and labour organizations for the determination on conditions of employment and the terms and conditions, their labour relations or the measures for the prevention and settlement of disputes;
- (l) **Collective Agreement** means the bilateral written agreement concluded relating to the provisions on the workplace and employment conditions of workers prescribing terms and conditions relating to the relations between employers and workers as well as among their respective organizations, recognition and carrying out the legal entity of labour organizations and promoting the guarantees for protecting workers against social risks;

- (m) **Dispute** means the labour dispute or disagreement between an employer or employers or employer organization which represents them and a worker or workers or the labour organization which represents them in respect of employment, working, termination of a worker or workers and in respect of working or service including pension, gratuity, bonus and allowances or compensation for work related grievance, injuries, accidents, deaths or occupational diseases or in respect of any other matters of worker including worker's holiday, leave.
- (n) **Individual Dispute** means a rights dispute between the employer and one or more workers relating to the existing law, rules, regulation and bye-law; collective agreement or employment agreement.
- (o) **Collective Dispute** means the dispute between one or more employer or employer organization and one or more labour organization over working conditions, the recognition of their organizations within the workplace, the exercise of the recognized right of their organizations, relations between employer and workers, and this dispute could jeopardize the operation of the work for social peace. This expression includes a dispute on rights in the existing labour law or interest dispute.

- (p) **Coordinating Committee** means the Workplace Coordinating Committee formed under this Law.
- (q) **Conciliation Body** means the Conciliation Body formed under this Law.
- (r) **Arbitration Body** means the Dispute Settlement Arbitration Body formed under this law.
- (s) **Arbitration Council** means the Dispute Settlement Arbitration Council formed under this Law.
- (t) **Tribunal** means the Tribunal formed by the Arbitration Council in accord with the stipulation to make decision on each of the disputes.
- (u) **Decision** means the decision made by the Arbitration Council or Arbitration Body or the Tribunal in respect of the dispute.
- (v) **Ministry** means the Ministry of Labour of the Union Government.
- (w) **Minister** means the Union Minister for Ministry of Labour.

Chapter II

Formation of the Workplace Coordinating Committee

3. In any trade in which more than 30 workers are employed, the employer, with the view to negotiating and concluding collective agreement, shall:

- (a) if there is any labour organization, form the Workplace Coordinating Committee with the view to make a collective bargaining as follows:
 - (i) two representatives of workers nominated by each of the labour organizations;
 - (ii) an equivalent number of representatives of employer;
- (b) if there is no labour organization, form the Workplace Coordinating Committee as follows:
 - (i) two representatives of workers elected by them;
 - (ii) two representatives of employer.

4. (a) In the Coordinating Committee formed under section 3, if vacancy of representative occurs from the side of employer or worker, it shall be filled as required by the concerned party.

- (b) The term of the Coordinating Committee is one year.

5. The Coordinating Committee shall promote the good relationship between the employer and worker or labour organization, negotiation and coordination on the conditions of employment, terms and conditions and occupational safety, health, welfare and productivity.

6. (a) If the worker or labour organization or the employer, by themselves or by representative, request and complain their grievances to the Coordinating Committee, it shall be negotiated and settled by the Coordinating Committee within five days, not including the official holidays, from the day of the receipt of the request.
- (b) The Coordinating Committee shall keep the record of settlement and shall send report on the situation of performance in accord with the stipulation to the relevant Conciliation Body.

7. In trades that is not forming the Coordinating Committee because of the number of worker is less than 30, if the grievance is requested to the employer, the employer shall negotiate, coordinate and settle with the workers or with their representatives within five days, not including official holidays, from the day of receipt of request, and keep the record of settlement and send it to the relevant Conciliation Body if requested.

8. Where there exists in the same undertaking both labour organization representatives and elected representatives, the employer shall not use the existence of elected representatives to undermine the position of the labour organization concerned or their representatives.

9. In negotiating and coordinating under sections 6 or 7, if it is desirous to continue to carry out the conciliation in respect of the dispute which has not been settled, the employer or worker may complain to the relevant Conciliation Body.

Chapter III

Formation of the Conciliation Body

10. The Region or State Government shall form the Conciliation Body in the townships within the Region or State as follows:

- | | |
|---|-------------|
| (a) a person assigned duty by the relevant Region or State Government | Chairperson |
| (b) three representatives elected by the employers or employer organizations | Member |
| (c) three representatives elected by workers or the labour organizations | Member |
| (d) a departmental representative of the relevant township level | Member |
| (e) two distinguished persons trusted and accepted by employer and the labour organizations | Member |
| (f) a person assigned duty by the Ministry | Secretary |

11. (a) If the office of the member formed under section 10 becomes vacant, such vacancies shall be filled as required by the concerned party.

(b) The term of the Conciliation Body is two years.

12. The Conciliation Body shall determine the type of dispute whether it is individual or collective dispute which is complained or received and conciliate within the stipulated period in accord with the stipulations so as to settle the dispute.

13. The relevant Region or State Government shall carry out other necessary measures including the formation of the Conciliation Bodies, prescribing functions and duties, and amending thereof.

14. If there is no particular provision of law for carrying out conciliation of disputes in the special economic zone established within the Republic of the Union of Myanmar, the relevant Region or State Government shall form the special Conciliation Bodies according to section 10.

15. The dispute of interest that cannot be settled by negotiating and coordination between employer and the labour organizations, the employer may appoint the representative of the employer or the labour organizations may appoint the representatives of the workers before the period of conciliation. Where no labour organization exists, the workers shall elect their representatives.

Chapter IV

Formation of the Dispute Settlement Arbitration Body

16. (a) The Ministry shall, with the approval of the Union Government, form the Dispute Settlement Arbitration Body in the Regions or States as follows:
- | | |
|---|-------------|
| (i) a person assigned duty
by the relevant Region
or State Government | Chairperson |
| (ii) three persons selected
from the nomination list
submitted by the employer
organizations | Member |
| (iii) three persons selected
from the nomination list
submitted by the labour
organizations | Member |

- (iv) a departmental representative Member
selected by the relevant
Region or State Government
 - (v) two distinguished persons Member
trusted and accepted by the
employers or relevant
employer organizations and
the labour organizations
 - (vi) a person assigned duty Secretary
by the Ministry
- (b) The Ministry may form the Dispute Settlement Arbitration Body in the Self-administered Division or Self-administered Zone with the approval of the Union Government.
17. (a) If the office of the member formed under section 16 becomes vacant, the vacancies shall be filled as required by the concerned party.
- (b) The term of the Arbitration Body is two years.
18. The Arbitration Body shall carry out in accord with the working methods, procedures and programmes stipulated by the Arbitration Council.

Chapter V

Formation of Dispute Settlement Arbitration Council

19. The Ministry shall, with the approval of the Union Government, form the Dispute Settlement Arbitration Council with 15 qualified persons of good standing from legal experts and experts in labour affairs as follows:

- (a) five persons selected by the Ministry;
- (b) five persons selected from the nomination list submitted by the employer organizations;
- (c) five persons selected from the nomination list submitted by the labour organizations.

20. (a) The vacancies in the Arbitration Council shall be filled as required by the concerned party.
(b) The term of the Arbitration Council is two years.

21. The duties of the Arbitration Council are as follows:

- (a) standing and carrying out as the organization which is independent and impartial based on social justice, decent work and principles of equity in making decisions;
- (b) forming the Tribunal, in accord with the stipulations, consisting of three persons from among the persons contained in section 19 for hearing the accepted disputes and cause to decide;
- (c) prescribing the working methods, procedures and programmes to be performed by the Arbitration Body and Tribunal.

22. (a) The Ministry shall stipulate the procedures to be performed by the Arbitration Council.
- (b) The Arbitration Council shall carry out in accord with the procedures stipulated by the Ministry.

Chapter VI

Settlement of Dispute

23. A party, employer or worker, may complain individual dispute relating to his grievance to the Conciliation Body and if he is not satisfied with the conciliation of such body in accord with stipulated manners, may apply to the competent court in person or by the legal representative.

24. The relevant Conciliation Body shall, in respect of the collective dispute known or received by the complaint of either party, employer or worker, in respect of the dispute; information sent by the Minister or the Region or State Government or any other means, carry out as follows:

- (a) conciliating so as to be settled within three days, not including the official holidays, from the day of knowing or receipt of such dispute;
- (b) concluding mutual agreement if the settlement is reached in conciliating under sub-section (a), before the Conciliation Body.

25. The Conciliation Body shall refer the collective dispute which does not reach settlement to the relevant Arbitration Body and inform the persons relating to the dispute.

26. The Conciliation Body shall handover the case file to the relevant Arbitration Body within two days, not including the official holidays, with detailed report including opinion on the facts which cannot be settled in carrying out conciliation and also submit the summary report in respect of the collective dispute to the relevant Region or State Government.

27. The relevant Arbitration Body shall make decision on the collective dispute handed over by the Conciliation Body under section 26, within seven days, not including the official holidays, from the day of receipt of such dispute and send the decision to the relevant parties within two days, not including official holidays. If it is a decision which concerns with an essential services or public utility service, the copy shall be sent to the Minister and relevant Region or State Government.

28. If either party is not satisfied with the decision of the Arbitration Body, except for a decision in respect of essential services, the following options may be exercised;

- (a) applying by both parties to the Arbitration Council for its decision within seven days, not including the official holidays, from the day of receipt of the decision of the Arbitration Body; or
- (b) carrying out a lock-out or strike in accordance with the relevant law.

29. Any relevant party who is not satisfied with the decision of the Arbitration Body in respect of the essential services shall apply to the Arbitration Council within seven days, not including the official holidays, from the day of receipt of such decision.

30. The Arbitration Council shall form and assign duty to a Tribunal to try the case and make decision in respect of the application made under sub-section (a) of section 28 and section 29.

31. The Tribunal shall:

- (a) make decision on the collective dispute applied under sub-section (a) of section 28 within 14 days, not including the official holidays, from the day of receipt of collective dispute;
- (b) send the decision to the relevant parties within two days, not including the official holidays.

32. The Tribunal shall:

- (a) make decision on the collective dispute applied under section 29 within seven days, not including the official holidays, from the day of receipt of such dispute;
- (b) send the decision to the relevant parties within two days, not including the official holidays.

33. The Arbitration Council shall send the copy of decision passed by the Tribunal under sub-section (a) of section 32 to the Minister and the relevant Region or State Governments.

Chapter VII

Confirmation, Amendment and Effectiveness of Decision

34. The decision of the Arbitration Body shall come into force on the day of decision if both parties agree with the decision of the Arbitration Body.

35. The decision of the Tribunal shall be deemed as the decision of the Arbitration Council. Such decision shall come into force on the day of its decision.

36. The relevant parties may agree to amend the decision of the Arbitration Body or Arbitration Council after three months from the day of coming into force. In such circumstances, the new agreement shall supersede the relevant part of the Arbitration decision.

37. The following persons shall be complied with the decision which had been come into force:

- (a) all of the persons relevant to the dispute;
- (b) legal successors of the employer involved in the dispute;
- (c) all of the workers working in the trade at the time of the dispute or thereafter.

Chapter VIII

Prohibitions

38. No employer shall fail to negotiate and coordinate in respect of the complaint within the prescribed period without sufficient cause.

39. No employer shall alter the conditions of service relating to workers concerned in such dispute at the consecutive period before commencing the dispute within the period under investigation of the dispute before the Arbitration Body or Tribunal, to affect the interest of such workers immediately.

40. No party shall proceed to lock-out or strike without accepting negotiation, conciliation and arbitration by Arbitration Body in accord with this law in respect of a dispute.

41. No person shall carry out lock-out or strike to amend such decision or agreement within the effective period of the decision of the Arbitration Body or the Arbitration Council or any collective agreement.

42. No person shall prohibit the right to work independently of the workers who are not desirous to participate in the strike nor impede the right of a worker to strike.

43. No person shall fail to abide by or carry out any condition contained in agreement concluded before the Conciliation Body in respect of individual dispute or collective dispute.

44. No person, after having informed in advance by the Arbitration Body or Tribunal for settling the dispute, shall fail to arrange to enable to examine the trade under dispute or to produce the documents which is considered by the Arbitration Body or Tribunal that it concerns with the dispute or to appear as a witness when he is so summoned.

45. No person, if he is sent notice for examination before the Arbitration Body or Tribunal, shall fail without sufficient cause to appear in person or to send legal representative within the stipulated period.

Chapter IX

Penalties

46. Any employer who violates any prohibition contained in sections 38 and 39 shall, on conviction, be punished with a fine for a minimum of one lakh kyats.

47. Any person who violates any prohibition contained in sections 41 and 42 may, on conviction, be punished with a fine not exceeding thirty thousand kyats.

48. Any person who violates any prohibition contained in sections 40, 43, 44 and 45 shall, on conviction, be punished with a fine for a minimum of one lakh kyats.

Chapter X

Miscellaneous

49. In carrying out the works of the Arbitration Council, Tribunal and Arbitration Body, the Ministry shall support in carrying out office works.

50. The Coordinating Committee, Conciliation Body, Arbitration Body and Arbitration Council newly reconstituted under this Law shall continue to carry out unfinished collective bargaining and disputes of the Coordinating Committee, Conciliation Body, Arbitration Body and Arbitration Council which expires its term in accord with the provisions of this Law.

51. If any employer, in the course of settlement of dispute, commits any act or omission, without sufficient cause, which by causing a reduction in production resulting so as to reduce the workers' benefits shall be liable to pay full compensation in the amount determined by the Arbitration Body or Tribunal. Such money shall be recovered as the arrear of land revenue.

52. No party shall be barred to proceed with the right to institute criminal or civil proceedings in respect of such dispute during conciliation or arbitration.

53. The Ministry may coordinate with the Supreme Court of the Union and carry out to establish Labour Courts to try the labour disputes.

54. As a strike suspends the employment agreement temporarily, the employer shall not be liable to pay salary or allowance during such period to the worker who go on strike.

55. No charges shall be collected from the parties in respect of the processes of negotiation, conciliation and arbitration of the dispute.

56. Members of the Conciliation Body or the Arbitration Body or the Arbitration Council:

- (a) shall be deemed as public servant under section 21 of the Penal Code during the conciliation and decision of dispute is being carried out;
- (b) has the right to enjoy the suitable subsidy and allowances from the Union Government and the relevant organizations.

57. If any party submits, to keep confidential of the document or property produced as exhibit in making decision and carrying out the dispute, to the Arbitration Body or Tribunal, they shall be kept confidential.

58. The rules, procedures, notifications, orders and directives issued under the Trade Disputes Act, 1929 may be applied continuously unless and until they are not contrary to this Law.

59. In implementing the provisions of this Law, the Ministry may:

- (a) issue necessary rules, regulations or bye-laws with the approval of the Union Government;
- (b) issue necessary notifications, orders, directives and procedures.

60. The Trade Disputes Act, 1929 is hereby repealed by this law.

I hereby sign according to the Constitution of the Republic of the Union of Myanmar.

Sd / Thein Sein
President
The Republic of the Union of Myanmar

The Government of the Republic of the Union of Myanmar
The Ministry of Labour
The Settlement of Labour Dispute Rules
(2012)

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(၂၀၁၂ ခုနှစ်)

The Government of the Republic of the Union of Myanmar

The Ministry of Labour

Notification No. 2/2012

The 6th Waxing Day of Kason, 1374 M.E.

(26th April, 2012)

The Ministry of Labour, in exercising the power conferred under sub-section (a) of section 59 of the Settlement of Labour Dispute Law, hereby issues the following rules with the approval of the Union Government.

Chapter I

Title and Definition

1. These rules shall be called **the Settlement of Labour Dispute Rules**.

2. The expressions contained in these rules shall have the same meaning as contained in the Settlement of Labour Dispute Law. Moreover, the following expressions shall have the meaning as follows:

- (a) **Law** means the Settlement of Labour Dispute Law;
- (b) **Damages** means the money liable to be paid by the employer to the worker for workforce reduction or lock-out due to economic, financial or raw material difficulty etc. or termination from employment or dismissal which is not in conformity with existing labour law, rules, procedures including violation of employment agreement or collective agreement by the employer;
- (c) **Cash benefit** includes the money which is liable to be paid by the employer to the worker under the existing labour laws, rules, orders, directives, decision of the Arbitration Body or

- Tribunal and mutual agreement;
- (d) **Member of the Conciliation Body** means the Chairperson, Secretary and Members contained in the Conciliation Body;
 - (e) **Member of the Arbitration Body** means the Chairperson, Secretary and Members contained in the Arbitration Body;
 - (f) **Form** means the form contained in these rules.

Chapter II

The Workplace Coordinating Committee

3. The member of a Coordinating Committee :
 - (a) shall have attained 21 years of age;
 - (b) if he were a worker's representative, shall be permanent worker at the relevant work and shall have a minimum of six months service;
 - (c) if he were a employer's representative, shall be the person who takes responsibility and carry out the management at the respective work.

4. The number of worker's representatives to be included in forming the Coordinating Committee:
 - (a) if it is a trade which all of its workers are members of the labour organization or a trade having the workers who are not the members of the labour organization of 50 percent or less of total number of workers, it shall be two representatives each from labour organization of such trade;
 - (b) if it is a trade having the persons who are not the members of the labour organization of 50 percent or more of total workers, the total of the number of labour organization in such trade and

the same number of the representatives of the persons who are not the members of the labour organization;

- (c) if it is a trade which has no labour organization, it shall be two representatives elected by the workers of such trade.

5. The number of the employer's representatives to be included in forming the Coordinating Committee:

- (a) if it is a trade which have labour organization, it shall be as the number of worker's representatives entitled to such trade;
- (b) if it is a trade which have no labour organization, it shall be two.

6. In a trade where 30 or more workers are working, the employer shall form a Coordinating Committee to negotiate on the collective agreement, compile the name list of Coordinating Committee in **Form (1)** and send it to the relevant Conciliation Body within 14 days. When the change of the list of Coordinating Committee occurs, it shall be amended and sent as above.

7. The Coordinating Committee shall, in negotiating and settling in respect of the claim submitted by the side of worker or labour organization or by the side of employer, compile the record of settlement in **Form (2)** and send such record of settlement to the relevant Conciliation Body within seven days.

8. In respect of the claim submitted by the workers for grievance, even though the Coordinating Committee is not formed in a trade which has less than 30 workers, the employer shall negotiate with the representatives of the workers and compile the record of settlement in **Form (2-A)**. The employer shall send the said record of settlement to the relevant Conciliation Body when so requested.

9. In negotiating and settling in respect of a claim submitted by a worker or labour organization or by the employer at the Coordinating Committee, if the settlement cannot be reached, the employer or worker may complain to the relevant Conciliation Body in **Form (3)**.

Chapter III

The Conciliation Body

10. The member of a Conciliation Body:
- (a) shall have attained 21 years of age;
 - (b) shall have experience in labour affairs;
 - (c) shall have good character.
11. The Conciliation Body:
- (a) shall conciliate until the settlement is reached within three days, not including the official holidays, after knowing or receiving the dispute;
 - (b) if it cannot be conciliated until the settlement is reached within three days in accord with sub-rule (a), may conciliate until the settlement is reached if both sides request to continue the conciliation;
 - (c) shall conciliate the dispute in accord with the existing labour law including the employment agreement or collective agreement. If there is no employment agreement, it shall be conciliated in accord with the existing labour law;
 - (d) if the settlement is reached, shall cause both sides to sign in the mutual agreement as mentioned in **Form (4)** and send such agreement to the parties in dispute and the Township Factories and General Labour Laws Inspection Department.

12. The Conciliation Body shall, in conciliating the dispute:
- (a) inform the parties in dispute that they can apply to the competent court relating to an individual dispute which cannot be reached settlement;
 - (b) refer the report on collective dispute in **Form (5)** as mentioned together with the proceedings relating to the collective dispute which cannot be reached settlement to the relevant Arbitration Body within two days, not including the official holidays.
13. The Conciliation Body shall keep the record relating to settlement of dispute in registration **Form (6)**.

Chapter IV

The Dispute Settlement Arbitration Body

14. The member of an Arbitration Body:
- (a) shall have attained 25 years of age;
 - (b)
 - (i) if he is a Chairperson, shall have experience in work of legal affairs or labour affairs;
 - (ii) if he is a person selected from the nomination list submitted by the employer organizations and labour organizations, shall have work experience;
 - (c) shall have good character.
15. The Arbitration Body, relating to the dispute:
- (a) shall hear and decide the disputes referred by the Conciliation Body within the stipulated time contained in the Law. If not enable to pass the decision within the stipulated time, it shall submit and request to the Arbitration Council to extend the time;

- (b) shall form the branch-bodies with three members including a person each contained in clauses (ii) and (iii) of sub-section (a) of section 16 of the Law to hear the dispute when received it;
 - (c) shall intimate with **Form (7)** for sending claim or written statement to submit claim, written statement relating to the dispute by the parties in dispute on the stipulated date and to send the claim, written statement which they will submit to each other in advance before submitting them;
 - (d) shall intimate the summons for hearing with **Form (8)**, by expressing that the original agreements, documents which he is desirous to submit shall be submitted accompanied with the claim, written statement of the parties in dispute.
16. The branch-body formed under sub-rule (b) of Rule 15;
- (a) may close the dispute with the approval of the Arbitration Body after dismissing the claim if the claimant fails to appear for three times on the appointed day to hear the dispute although the summon is duly served or if the summon is not served as the claimant cannot be found at the address;
 - (b) may hear the dispute ex parte if the claimant fails to appear for three times on the appointed day to hear the dispute although the summon is duly served or if the summon is not served as the claimant cannot be found at the address;
 - (c) may allow the lawyers of parties in dispute to conduct the case in accord with the stipulated terms and conditions;

- (d) may carry out the following matters relating to the dispute:
 - (i) accepting and inspection of the case referred by the Conciliation Body;
 - (ii) summons of witnesses to appear;
 - (iii) summons to produce documents and materials;
 - (iv) examination of the witnesses;
 - (v) admission of exhibit documents and materials;
 - (vi) adjournment of the date of hearing the dispute;
 - (vii) if it is necessary, going to and inspecting the relevant place and establishment;
 - (e) may allow a person from the side of workers and a person from the side of employer to deliver argument if the parties in dispute are desirous to deliver closing argument when the examination of parties in dispute and witnesses is concluded;
 - (f) if both parties in dispute submit to settle by mutual consent before passing the decision, may close the dispute, with the approval of the Arbitration Body, by causing to conclude the mutual agreement with **Form (4)** before the relevant Conciliation Body;
 - (g) shall submit the case to the Arbitration Body after hearing.
17. The Arbitration Body:
- (a) shall decide, in deciding the dispute, by basing primarily on the evidence examined by the branch-body, questions of law arisen in the dispute and studying and considering decisions and precedents passed in the former disputes;

- (b) shall not decide beyond the issues approved in deciding the dispute. The decision shall be made by the agreement of the majority of the members of Arbitration Body;
- (c) in deciding the dispute, the decision shall be signed by all members of the Arbitration Body including the Chairperson. After having signed as such, no addition or amendment shall be made;
- (d) shall send the decision of the Arbitration Body with **Form (9)** to the parties in dispute within two days from the date of decision not including the official holidays.

18. If the Chairperson or any member is not enable to continue to hear the dispute for any cause, a member shall be substituted under sub-section (a) of section 17 of the Law. The member so appointed may continue to hear the dispute as if he were appointed since the commencement of the hearing of the dispute.

19. If the decision of the Arbitration Body is the decision that does not concern with the essential services, a disputant who is not desirous to make lock-out or strike in accord with law although he is not satisfied with the decision, after receiving the decision, may apply with **Form (10)** to accept the decision of the Arbitration Council. If it is applied as such by a party, the remaining party shall accept the decision of the Arbitration Council.

Chapter V

The Dispute Settlement Arbitration Council

20. A member of the Arbitration Council:
- (a) shall have attained 35 years of age;
 - (b) shall be a person who has experience in work relating to legal affairs or labour affairs or relevant work;
 - (c) shall be a person who may carry out the benefit of employer and worker fairly;
 - (d) shall be a person who has good character.
21. The following persons shall not include in the Arbitration Council:
- (a) government servants who are still in service;
 - (b) owner of any trade who is a member of an employer organization or manager or a person who is serving as an executive committee member at a employer organization or a person who served in such employer organization within 12 months before the formation of the Arbitration Council;
 - (c) a member of a labour organization or a person who is serving as an executive committee member at a labour organization or a person who served in such labour organization within 12 months before the formation of the Arbitration Council.
22. The Arbitration Council, to hear the dispute accepted:
- (a) shall form a Tribunal in two days with three members comprising a person selected by the side of employer in dispute, among the persons contained in sub-section (b) of section 19 of the Law as a member, and a person selected by the side of worker in dispute, among the persons contained in sub-section (c) of section 19 of the Law as a member, and a person selected by

both members selected under sub-section (b) and sub-section (c) among the persons contained in sub-section (a) of section 19 of the Law as the Chairperson;

- (b) shall form a Tribunal with three members comprising a suitable person among the persons contained in sub-section (a) of section 19 of the Law as the Chairperson, and relevant suitable persons among the persons contained in sub-section (b) and sub-section (c) as the members if the name list of member may not be selected by the relevant employer side or worker side within the stipulated time under sub-rule (a).

23. The Tribunal, when received the dispute:

- (a) may decide the dispute after hearing the parties in dispute if desirous to hear them or without hearing;
- (b) may recall the witnesses if it is necessary to hear and adjourn the hearing date of the dispute;
- (c) may inspect the relevant place and establishment if it is necessary;
- (d) shall hear and decide the dispute within the stipulated time contained in the Law;
- (e) may approve or repeal or amend the decision of the Arbitration Body when the hearing of the dispute is complete or in deciding the dispute without hearing;
- (f) shall submit the decision under sub-rule (e) to the Arbitration Council with **Form (11)**;

- (g) may close the dispute, if both parties in dispute submit that the settlement is reached between them before passing the decision, by causing to conclude an agreement, **Form (4)**, in the presence of the relevant Conciliation Body.

24. The Arbitration Council shall substitute and appoint any person from the relevant side if the Chairperson or any member of the Tribunal is not able to continue to hear the dispute for any cause. The person so appointed may continue to hear the dispute as if he were appointed from the commencement of hearing of the dispute.

Chapter VI Decision

25. The Arbitration Body or Tribunal may carry out as follows in passing decision in accord with the provisions of existing labour law by quoting the decisions and precedents to be fair for the employer and worker:

- (a) cause to reinstate the worker by the employer at the former designation or at any other suitable designation;
- (b) cause to pay damages for the suitable interval period relating to the matter of reinstatement decision;
- (c) cause to enjoy cash benefit including wages and salary which the workers are entitled;
- (d) to determine and set the period of effectiveness of a decision or collective agreement.

26. In the decision, the means and amounts of the damages for termination of employment or damages for dismissal or damages for lock-out shall be mentioned and such cash benefits shall be paid by the employer to the worker within 30 days from the date of decision.

27. The parties in dispute may apply and request the Arbitration Body or Tribunal within seven days from the date of decision to re-explain the unclear facts relating to the particulars contained in the decision. Such explanation, being the integral part of the decision, shall be attached to the decision.

28. The Arbitration Council shall issue and publish the decisions passed by the Tribunal in order to be known by the relevant employer, worker, labour organization, employer organization and the public by suitable manners.

Chapter VII

Cash Benefit

29. If a responsible person fails to pay money according to the mutual agreement concluded in the presence of Conciliation Body or the decision of the Arbitration Body or Tribunal, such money shall be recovered as if it were the arrear of land revenue.

30. (a) If the employer fails to pay the money which he is responsible to pay according to the mutual agreement or decision of the Arbitration Body or Tribunal although stipulated time for the payment of cash benefit has elapsed, he shall pay 20 percent of the money for which he is liable to pay for each month of default in addition to the original money liable to pay;

(b) The relevant worker shall be entitled to enjoy all money collected under sub-rule (a).

31. In the case where the employer who is responsible to pay under sub-rule (a) of Rule 30 becomes a pauper under existing law or dissolve the enterprise by liquidation, the cash benefit payable to the workers, among the debts payable, shall be carried out preferentially.

32. The employer shall be prosecuted if the defaulting period to pay cash benefit is over three months. However, the employer may apply to the Arbitration Council that he should not be prosecuted on any of the following causes:

- (a) being declared the employer as pauper;
- (b) being the work is under liquidation;
- (c) occurrence of force majeure which cannot be prevented by the employer;
- (d) occurrence of any other sufficient cause.

33. The Arbitration Council shall decide whether or not to prosecute against the employer within 15 days from the date of receipt of the application made under Rule 32.

Chapter VIII

Miscellaneous

34. The disputes being heard shall not be void on account of vacancy in office of any member of the Arbitration Body or Tribunal or any defect in appointing a member of the Arbitration Body or Tribunal.

35. The Minister may determine and issue the rate of damages from time to time, by notification, to be paid to the worker by the employer which a dispute arises due to when the employer terminates any enterprise as it can no longer operate or when the worker is dismissed from work without any cause.

36. In carrying out conciliation and decision of the dispute, the skilled interpreter may be called for and carried out if it is necessary.

37. Every member of the Arbitration Body or Tribunal shall take affirmation as contained in **Form (12)** before carrying out his duties and obligations.

38. The parties in dispute and witnesses shall take affirmation as contained in **Form (13)** in the presence of Arbitration Body or Tribunal.

39. The Trade Dispute Rules, 1963 and the Damages for Delay in Cash Benefit Relating to Trade Dispute of People's Workers Rules, 1971 are hereby repealed by this Rules.

Sd / Aung Kyi
Union Minister
Ministry of Labour

To

The Conciliation Body
 Township

Dated:

Subject: Sending the list of the Coordinating Committee Members

Sr No.	Name	N.R.C. No.	Father's Name	Qualification	Date of Birth	Date of enrollment to work	Occupation Designation	Date on which one becomes a committee member	Address	Signature
1.										
2.										
3.										
4.										
5.										
6.										

Signature.....
 Name of employer.....
 Factory/Enterprise/ Establishment
 Address.....

Copy to:

Office copy

To
 The Conciliation Body
 Township

Dated:

Subject: **Sending the settlement record of the Coordinating Committee**

Sr. No.	Dispute No.	Name of the claimant	Name of the person claimed	Date of claim	Date of negotiation	Subject of claim	Condition of settlement	Remark
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Committee members

(Sd) () (Sd.) () (Sd.) () (Sd.) ()
 Name Name Name Name

Signature.....
 For the Coordinating Committee
 Name.....
 Factory/Enterprise/ Establishment
 Address.....

Copy to:
 Office copy

To
 The Conciliation Body
 Township

Dated:

Subject: **Sending the record of settlement**

Sr. No.	Dispute No.	Name of the claimant	Name of the person claimed	Date of claim	Date of Negotiation	Subject of the claim	Situation of Settlement	Name and Signature of the workers agreed	Remark
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Signature.....
 Name of employer.....
 Factory/Enterprise/ Establishment

Address.....

Copy to:
 Office copy

**Complaint
(Rule 9)**

To

The Conciliation Body
-----Township

Dated:

Subject: **Complaint to Settle the Dispute**

- 1.
.....
.....
- 2.
.....
.....

Signature.....
Name of the Complainant.....
N.R.C No.....
Address of Business/ Contact Address
.....
.....
Phone No.....

Copy to:

- 1.Region/State Arbitration Body
- 2.the person complained

Mutual Agreement
{(Rule 11(d), 16(f), 23(g))

----- Conciliation Body

1. This mutual agreement is reached between the claimant, U/ Daw..... (hereinafter referred to as " worker") and U / Daw the person claimed, Factory/ Enterprise (hereinafter referred to as "employer"). A dispute occurred relating to the claims submitted by the claimant U / Daw () dated and it was conciliated by theTownship Conciliation Body to obtain settlement. The following agreements are obtained by the above-mentioned claimant and the person claimed.

The Points Agreed

- (a)
-
- (b)
-
- (c)
-
- (d)
-
- (e)
-

2. According to the said agreements, we, the claimant and the person claimed sign the mutual agreement on(Y/M/D) in the presence of the Township Conciliation Body. If the mutual agreement is violated by the claimant worker or the employer, the person claimed, it is understood that he shall be taken action under the existing laws, regulations, by-laws, orders and directives.

Claimant (s) Person (s) claimed

In the presence of:

**Collective Dispute Report
{Rule 12(b)}**

The Conciliation Body

.....Township
.....Region/ State
Dispute No. (...../20.....)

To

The Arbitration Body
.....Region/ State

.....and..... } Claimant
Address

And
..... } Person claimed
Address

Dated: (Y/M/D)

Subject: **Sending report on collective dispute which cannot be settled**

1. The said dispute was conciliated by theTownship Conciliation Body from..... to
2. The points claimed are as follows:
 - (a)
 - (b)
 - (c)
3. The points which can be settled are as follows:
 - (a)
 - (b)
 - (c)

4. The points which cannot be settled are as follows:

- (a)
- (b)
- (c)

5. The facts which should be carried out are as follows:

- (a)
- (b)
- (c)

6. The facts which should not be carried out are as follows:

- (a)
- (b)
- (c)

7. The advices are as follows:

- (a)
- (b)
- (c)

8. The case conciliated is sent as attachment.

Secretary
.....Conciliation Body

Copy to-

Office copy

**Register Relating to the Settlement of Dispute
(Rule 13)**

Sr. No.	Dispute No.	Name of the claimant	Name of the person claimed	Date of the commencement of conciliation	Points settled	Points unsettled	Date of the completion of conciliation	Date and Letter No.of sending case to the Arbitration Body
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Secretary
..... Township Conciliation Body

To send claim, written statement

[Rule 15(c)]

Arbitration Body

.....Region/ State

.....Township

Letter No.

Dated:

Injured Claimant.....

.....

Person claimed.....

.....

Subject: To send the claim, written statement relating to Dispute No. (..../20.....)

1. This is to notify the above-named injured claimant/ person claimed that the person who claims to try the dispute mentioned in above subject matter is directed to send three copies of the claim to the Secretary not later than(Y/M/D) () Hour and a copy of such claim to the relevant person claimed in advance.

2. The above-named person claimed is directed to send three copies of written statement relating to the claim which was sent in advance to the Secretary not later than(Y/M/D) () Hour and a copy of such written statement to the persons claimed in advance.

By order

Secretary

1. U / Daw

.....

2. U / Daw

.....

**Summoning for hearing
[Rule 15(d)]
Arbitration Body**

..... Region/ State
.....Township

Letter No.

Dated:

Injured Claimant.....

.....

Person claimed.....

.....

Subject: **Summoning to hear relating to dispute**

1. This is to notify the injured claimant/ person claimed that the hearing of the above-mentioned Dispute No. (...../20...) shall start on(Y/M/D)()Hour at.....
2. The persons claimed shall attend the hearing of this Arbitration Body in person or by their lawyer by submitting the power of attorney. (In the power of attorney, N.R.C. No. of assignor and N.R.C No. of assignee shall be mentioned.)
3. On the adjournment date, all instruments and documents which they are desirous to produce as evidence for their written statement shall be submitted.
4. On the adjournment date, the attorneys of the injured claimants shall attend the hearing of the dispute together with the power of attorney. (The attorney shall bring his N.R.C on the adjournment dates.)
5. On the adjournment date, the attorneys of the claimant shall produce the facts which they are desirous to produce further and documents on which they rely.

By order

Secretary

1. U / Daw

.....

2. U / Daw

.....

Decision of the Arbitration Body

[Rule 17(d)]

Arbitration Body

.....Region/ State

.....Township

Dispute No. (...../ 20.....)

.....and} Injured Claimant
Address }

Versus

.....} Person claimed
Address }

Dated:

Decision

1. The dispute arisen between the owner ofenterprise residing at No.....,Ward,City and worker/ workers/ labour organization was tried as it was referred by theTownship Conciliation Body.

2. This Arbitration Body hereby decides as follows by drawing issues based on the claim, written statement and testimonies of the claimant and the person claimed:

<u>Issue No. 1</u>	x	x	x	x	x	x	x		x	x	x	
<u>Consideration No. 1</u>			x	x	x	x	x	x			x	x
	x											
<u>Decision No. 1</u>		x	x	x	x	x	x			x	x	x
<u>Issue No. 2</u>	x	x	x	x	x	x	x		x	x	x	

<u>Consideration No.2</u>	x	x	x	x	x	x		x	x
	x								
<u>Decision No.2</u>	x	x	x	x	x	x		x	x
	x								

This decision shall be effective commencing from the date mentioned above.

3. The money which is liable to pay to the claimant shall be paid within 30 days from the date of this decision.

- Note: (1) Any disputant who is dissatisfied with this decision may apply to the Arbitration Council **within seven days** from the date of this decision or carry out lock-out or strike according to the relevant law.
- (2) If it is not carried out according to Note. 1, the decisions shall be carried out by both parties within the stipulated time.

(Sd.) () (Sd.) () (Sd.) ()
 Secretary Chairperson Member

(Sd.) () (Sd.) () (Sd.) () (Sd.) ()
 Member Member Member Member

(Sd.) () (Sd.) () (Sd.) () (Sd.) ()
 Member Member Member Member

**Application
(Rule 19)**

To.

Arbitration Council
Building No. (51)
Nay Pyi Taw

Subject: **Applying for dissatisfaction on the decision ofRegion/ State
Arbitration Body relating to the dispute**

.....
.....
.....
.....

Attached: Decision of theRegion/ State Arbitration Body and
documents which are desirous to produce

(Applicant)

Signature.....
Name.....
N.R.C No.....

Copy to:

1. Region / State Government
2. Region / State Arbitration Body
3. Factories and General Labour Laws Inspection Department

Decision of the Tribunal

[Rule 23 (f)]

Tribunal

Dispute No. (...../ 20....) Applied in 20.....

} Applicant

Versus

} Respondent

Dated:

Decision

1. Region/ State Arbitration Body tried and decided on the dispute arisen between.....,City and owner of the such enterprise.
2.Region/ State Arbitration Body tried such dispute as of Dispute No. (..... / 20...) and decided on.....
3. This dispute is the dispute arisen from claiming..... etc. by the claimants from the person claimed.
4. The said Arbitration Body drew () issues on such claims and decided. It was applied as the claimant and person claimed are dissatisfied with the decision on the following () issues.

<u>Issue No. (1)</u>	x	x	x	x	x	x	x	x	x	x	x
<u>Issue No. (2)</u>	x	x	x	x	x	x	x	x	x	x	x

5. The Tribunal hereby draws and decide on the following issues based on the objections and testimonies of the claimant and person claimed.

<u>Issue No. (1)</u>	x	x	x	x	x	x	x		x	x	x
<u>Consideration No.(1)</u>		x	x	x	x	x	x			x	x
	x										
<u>Decision No.(1)</u>	x	x	x	x	x	x			x	x	x
	x										
<u>Issue No.(2)</u>	x	x	x	x	x	x		x	x	x	
<u>Consideration No. (2)</u>		x	x	x	x	x	x			x	x
	x										
<u>Decision No. (2)</u>	x	x	x	x	x	x			x	x	x
	x										

This decision shall be effective commencing from the date mentioned above.

6. The money which is liable to pay to the claimant shall be paid within 30 days from the date of this decision.

(Sd.) () (Sd.) () (Sd.) ()
Member Chairperson Member

"Affirmation"
(Rule 37)

" I solemnly affirm to try the case truly according to the evidence, try it without corruption, try my best uprightly if any doubt arises, not to disclose or make it known the vote or opinion of the members of Arbitration Body/ Tribunal for any cause except the relevant court requires to testify in accord with law."

"Affirmation"
(Rule 38)

" I solemnly affirm, in this dispute, to testify the whole truth and not but the truth."