

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 reducing the strength of workers or lock-out due to economic, financial or raw material difficulty etc. or termination from work 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 arbitral tribunal or tribunal and mutual agreement;
 - (d) **Member of the Conciliation Body** means the Chairman, Secretary and members contained in the Conciliation Body;
 - (e) **Member of the Tribunal** means the Chairman, Secretary and members contained in the Tribunal;
 - (f) **Form** means the form contained in these rules.

Chapter II

— The Workplace Coordinating Committee

3. The member of the 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 an 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 work all of its workers are members of the labour organization or a work having the persons 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 work;
- (b) if it is a work 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 work and the same number of the representatives of the persons who are not the members of the labour organization;
- (c) if it is a work which has no labour organization, it shall be two representatives elected by the workers of such work.

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

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

6. In a work where 30 or more workers are working, the employer shall form a Coordinating Committee to negotiate on the collective agreement, prepare the 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, prepare the record of settlement in Form (2) and send such record of settlement to the relevant Conciliation Body within seven days.

8. Relating to a claim submitted by the workers for injury, even though the Coordinating Committee is not formed in a work which has less than 30 workers, the employer shall negotiate with the representatives of the workers and prepare record of settlement in Form (2-

A). The employer shall send the said record of settlement to the relevant Conciliation Body on request.

9. In negotiating and settling in respect of a claim submitted by a worker or worker's side or employer's side 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, excluding the official holidays, after knowing or receiving the dispute;
- (b) if it cannot be conciliated until the settlement is reached within three days, may conciliate until the settlement is reached if the 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 the both sides sign in the mutual agreement as mentioned in Form (4) and send such agreement to the parties in dispute and the Township Factory and Labour 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, relating to the collective dispute which cannot be reached settlement to the relevant Arbitration Body within two days, excluding official holidays, together with the proceeding.

13. The Conciliation Body shall keep the record relating to settlement of dispute in Form (6).

Chapter IV

The Dispute Settlement Arbitration Body

14. The member of the Arbitration Body:
- (a) shall have attained 25 years of age;
 - (b) (i) if he is a Chairman, shall have experience in work of legal affairs or labour affairs;
(ii) if he is a person elected from the list recommended and submitted by the employer's organizations and labour organizations, shall have work experience;
 - (c) shall have good character.
15. The Arbitration Body, relating to the dispute:
- (a) shall try and decide the disputes referred by the Conciliation Body within the stipulated time contained in the Law. If is 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 (i) and (ii) of sub-section (a) of section 16 of the Law to hear and try the dispute when it 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 or to send the claim, written statement which they will submit to each other in advance before submitting them;
 - (d) shall intimate with Form (8), i.e. summoning for hearing, by expressing that the original agreements, documents which he is desirous to submit shall be submitted accompanied with the claim, written statement of the party 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 party 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) summoning witnesses to appear;

- (iii) summoning to produce documents and materials;
- (iv) examining the witnesses;
- (v) admitting exhibit documents and materials;
- (vi) adjourning the date of hearing of 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 argument when the examination of parties in dispute and witnesses is concluded;
- (f) if the 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 agreement with Form (4) in front of the relevant Conciliation Body;
- (g) shall submit the case to the Arbitration Body after trying it.

17. The Arbitration Body:

- (a) shall decide, in deciding the dispute, by basing primarily on the evidences 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 Chairman. After having signed as such, no addition or amendment shall be allowed;
- (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 excluding the official holidays.

18. If the Chairman 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 person who is not desirous to 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 Body. If it is applied as such by a party, the remaining party shall accept the decision of the Arbitration Body.

Chapter V

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 a work who is a member of an employer organization or manager or a person who is carrying out duty as an executive committee member at a employer organization or a person who carried out duty 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 carrying out duty as an executive committee member at a labour organization or a person who carried out duty in such labour organization within 12 months before the formation of the Arbitration Council.

22. The Arbitration Council, to try 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 Chairman;
- (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 Chairman, and relevant suitable persons among the persons contained in sub-section (a) and sub-section (b) as the members if the 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 it is desirous to hear them or without hearing them;
- (b) may recall the witnesses if it is necessary to hear and adjourn the hearing date of the dispute;
- (c) may go to and inspect the relevant place, establishment if it is necessary;
- (d) shall try 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 the 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 Chairman or a member of the Tribunal is not enable to continue to hear and try 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 employer and worker:

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

26. In the decision, the manners and amounts of the damages for termination from work or damages for dismissal from work or damages for lock-out shall be mentioned and such cash benefits shall be paid within 30 days from the date of decision.

27. The parties in dispute may apply to 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 publish the decisions passed by the Tribunal in order to be known by the relevant employer, worker, labour organization, employer organization and 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-rules (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 preemptively.

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

(a) being declared the employer as pauper;

(b) being the work is under liquidation;

(c) occurring the force majeure event which cannot be prevented by the employer;

(d) occurring 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 tried 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 in dispute by the employer 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 mediation, 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.

(Sd.) xxxxx

Aung Kyi

Union Minister

Ministry of Labour

To

The Conciliation Body

..... Township

Dated:

Subject: **Sending the list of the Conciliation 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.....

Mill/Factory/Establishment.....

Address

Copy to: Office copy

To

Form (2)

The Conciliation Body

..... Township

Dated:

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

Name

Mill/ Enterprise/ Establishment.....

Address

Copy to: Office copy

To

The Conciliation Body

.....City

Subject: **Sending the record of settlement**

Sr.No.	Dispute No,	Name of the claimant	Name of the person claimed	Date of the claim	Date of Conciliation	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.....

Mill/ Enterprise/Place.....

Address

Copy to:

Office copy

Form (3)

**Complaint
(Rule 9)**

To

The Conciliation Body
-----Township

Dated: th ,

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, Mill / Enterprise (hereinafter referred to as " employer"). A dispute occurred relating to the claims submitted by the claimant U / Daw () datedand it was conciliated by the Township 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:

Secretary

Chairman

Member

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

.....

Address

Person claimed

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

.....City

Letter No.

Dated:

Claimant for being injured.....

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 **3 copies of** written statement relating to the claim which was sent in advance to the Secretary not later than(Y/M/D) 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

.....City

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

.....City

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

.....and

Address

Injured Claimant

And

.....

Address

Person claimed

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	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	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 person 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.) ()
Secretary

(Sd.) ()
Chairman

(Sd.) ()
Member

(Sd.) ()
Member

(Sd.) ()
Member

(Sd.) ()
Member

(Sd.) ()
Member

(Sd.) ()
Member

(Sd.) ()
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**

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

Accompanied with: 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. Labour Law Inspection Department

Decision of the Tribunal

[Rule 23 (f)]

Tribunal

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

} Applicant
And

} 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.

Issue No. (1) x x x x x x x x x x

Issue No. (2) 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.

Issue No. (1) x x x x x x x x x x

Consideration No.(1) x x x x x x x x x x

Decision No.(1) x x x x x x x x x x

Issue No.(2) 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.

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

(Sd.) ()
Member

(Sd.) ()
Member

(Sd.) ()
Member

Form (12)

" 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."

Form (13)

" Affirmation"
(Rule 38)

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