

Private Industrial Enterprises Law (1990)¹

The State Law and Order Restoration Council

The Private Industrial Enterprise Law

(The State Law and Order Restoration Council Law No. 22/90)

The 10th Waxing Day of Nadaw, 1352 M.E.

(26th November, 1990)

The State Law and Order Restoration Council hereby enacts the following Law:

Chapter I Title and Definition

This Law shall be called the Private Industrial Enterprise Law.

2. The following expressions contained in this Law shall have the meanings given hereunder:

(a) Industrial Enterprise means an enterprise which produces finished goods from raw materials, using any form of power in any building. This expression does not include cottage industries;

(b) Power means electrical power or any other kind of power generated or transmitted by mechanical devices;

(c) Private Industrial Enterprise means the conducting of an industrial enterprise either individually or in partnership or by forming a company. This expression does not include industrial enterprise conducted in joint venture with the Government;

(d) Ministry means the Ministry of Industry No. (1);

(e) Minister means the Minister of the Ministry of Industry No. (1);

(f) Directorate means the Directorate of Regional Industrial Co-ordination and Industrial Inspection;

(g) Director General means the Director General of the Directorate;

(h) State or Divisional Officer-in-charge means the State or Divisional Officer-in-charge of the Directorate;

¹ <http://www.investinmyanmar.com/myanmar-investment-laws/> 26 September 2014.

(i) Supervisory Body means the Body formed under this Law and which conducts supervision and inspection of private industrial enterprises;

(j) Entrepreneur means a person who has been granted registration to conduct a private industrial enterprise under this Law. This expression also includes the heir, legal representative and succeeding lawful organization of the entrepreneur.

Chapter II Basic Principles

3. Private Industrial Enterprises shall be conducted in accordance with the following basic principles:-

(a) to enhance the higher proportion of the manufacturing value added in the gross national product and value of services, and to increase the production of the respective economic enterprises which are related to the industrial enterprise;

(b) to acquire modern technical know-how for raising the efficiency of industrial enterprises and to establish the sale of finished goods produced by the industrial enterprise not only in the local market, but also in the foreign market;

(c) to cause utilization by relying mainly as local natural resources;

(d) to cause narrowing down of the gap between rural development and urban development by causing the development and improvement of industrial enterprises;

(e) to cause opening up of more employment opportunities;

(f) to cause avoidance of or reduction of the use of technical know-how which cause environmental pollution;

(g) to cause the use of energy in the most economical manner.

Chapter III Registration of Private Industrial Enterprises

4. (a) Any person desirous of conducting any private industrial enterprise;

(b) Any person conducting any private industrial enterprise on the day this Law is enacted; by using any type of power which is three horsepower and above or manpower of ten wage-earning workers and above shall register under this Law.

5. In applying for registration under Section 4, application shall be submitted to the respective State or Divisional Officer-in-charge in the prescribed manner.

6. On application for registration being made under Section 5, the respective State or Divisional Officer-in-charge may, after making necessary scrutiny and inspection grant or refuse to grant registration in accordance with the prescribed manner.

7. The Directorate shall categorize the size of private industrial enterprises in accordance with the prescribed manner as follows:-

- (a) small scale private industrial enterprise;
- (b) medium scale private industrial enterprise;
- (c) large scale private industrial enterprise.

8. The Directorate shall prescribe the registration fee and the tenure of registration according to the scale of the private industrial enterprise.

Chapter IV Formation of the Private Industrial Enterprise Co-ordination Body

9. In order to make co-ordinations necessary for the development and improvement of private industrial enterprises, the Ministry shall form, with the approval of the Government the Private Industrial Enterprise Co-ordination Body comprising persons including the Director Generals of the Directorate and other relevant departments and Managing Directors of the State – owned Economic Enterprises-In addition, the duties and powers of the said Body shall also be prescribed.

Chapter V Supervisory Body and Its Duties and Powers

10. The Ministry shall form Supervisory Bodies with suitable persons in the State and Divisions.

11. The duties and powers of the Supervisory Body are as follows:

- (a) giving opinion in respect of the inspection, recommending or refusing to recommend for grant of registration, causing to be removed or to be terminated or to be closed down private industrial enterprises which are conducting on the day this Law is enacted;
- (b) inspecting, recommending or refusing to recommend for grant of registration in respect of cases where applications are submitted for registration of new private industrial enterprises;
- (c) in recommending for grant of registration of private industrial enterprises, the following factors shall be taken into consideration:

(i) no cause of being injurious to the health of the public residing in the vicinity of the private industrial enterprise;

(ii) being safe from the danger of fire;

(iii) no cause of being a nuisance to the environment and no cause of there being any pollution;

(iv) no cause of being injurious to the health of the workers of the private industrial enterprise and no Like hood also of there being any danger;

(v) being also in compliance with the existing laws;

(d) supervising to ensure the compliance by the entrepreneurs in the conducting of the industrial enterprises in accordance with the basic principles;

(e) informing the relevant Government department to take action against the entrepreneur if it is discovered that any private industrial enterprise is not in conformity with any existing Law;

(f) giving opinion for the determination of industrial areas and for the granting of lease of land for the private industrial enterprises;

(g) in granting lease of land in an industrial area to entrepreneurs, causing to be done so in accordance with the stipulations;

(h) carrying out the duties and powers assigned by the Ministry or by the Private Industrial Enterprise Co-ordination Body.

12. The Supervisory Body shall submit to the Director General through the State or Divisional Officer-in-charge the opinion given in respect of recommending or refusing to recommend for grant of registration under section 11 sub-sections (a) and (b).

Chapter VI Duties and Rights of the Entrepreneur

13. The duties of the entrepreneur are as follows:-

(a) shall pay the registration fees, fees for the renewal of registration and other payable duties and taxes prescribed by the Directorate;

(b) shall abide by the terms and conditions of the registration certificate;

(c) shall conduct the enterprise by opening an account with the relevant bank in the name of its registered enterprise;

(d) shall maintain systematically and fully as prescribed by the Directorate, the statement of accounts relating to the registered private industrial enterprise and shall submit

the same to the relevant Government department, organization or Supervisory Body when required to do so;

(e) shall submit to the inspection of the person or inspection body assigned by the Directorate or Supervisory Body;

(l) shall shift the place of enterprise, change the nature of enterprise, amalgamate enterprises and split up enterprises only with the approval of the Directorate;

(g) shall abide by the orders and directives issued from time to time by the Ministry and the Directorate;

(h) shall also abide by the existing laws.

14. The entrepreneur has the right to apply for the following requirements from the relevant Government departments and Government organizations:-

(a) land, water, power, communication and transport et cetera required for use in his enterprise;

(b) exemptions and reliefs from taxes;

(c) loans for' fixed capital and working capital;

(d) raw materials, machinery and spare parts required locally and from abroad for his enterprise;

(e) local and foreign technical know – how for enhanced production goods and for improvement in the quality of finished goods.

15. The entrepreneur has the right to carry out the followings:-

(a) appointing foreign experts and technicians with the approval of the Ministry;

(b) carrying out change of the name of enterprise, transfer of ownership, temporary suspension or permanent closing down of the enterprise in the manner prescribed and with the approval of the Directorate.

Chapter VII Powers of the Director General

16. The Director General shall, in order that entrepreneurs may, have the right to enjoy, submit to the Private Industrial Enterprise Co-ordination Body and carry out in respect of the following matters:-

(a) land, water, power, communication and transport et cetera required for use in his enterprise;

(b) exemptions and reliefs from taxes;

- (c) loans for fixed capital and working capital;
- (d) raw materials, machinery and spare parts required locally and from abroad for his enterprise;
- (e) local and foreign technical know-how for enhanced production of goods and for improvement in the quality of finished goods;
- (f) to acquire local and foreign markets;
- (g) to acquire industrial areas and leased land for industrial enterprises.

17. The Director General shall reply as to whether or not the applications for registration submitted by the respective State or Divisional Officer-in-charge are granted.

18. The Director General may, under the direction of the Minister or on the submission of the Supervisory Body or the State, Divisional Officer-in-charge suspend or cancel the registrations granted.

Chapter VIII Duties and Powers of the State or Divisional Officer-in-charge

19. The duties and powers of the State or Divisional Officer-in-charge are as follows:—

- (a) scrutinizing the applications submitted for registration of private industrial enterprise and forwarding the same to the Director General together with the opinion of the Supervisory Body;
- (h) registering or refusing to register in accordance with the direction of the Director General;
- (c) inspecting at site of private industrial enterprises at the requirement of the Directorate or on the opinion of the Supervisory Body;
- (d) collecting registration fees and fees for renewal of registration and depositing the same at the bank;
- (e) co-ordinating with the relevant departments in accordance with the opinion of the Director General or the Supervisory Body, in order to acquire industrial areas, if it is an agricultural land, applying for sanction under section 39 of the Land Nationalization Act;
- (f) carrying out the duties and powers assigned by the Minister and the Director General.

Chapter IX Invalidation of Registration

20. When any of the following events occur, registration is invalidated;-

- (a) expiration of the tenure;
- (b) cancellation:
- (c) surrender of the registration certificate by the entrepreneur;
- (d) the enterprise being terminated under any existing law.

Chapter X Appeal

21. Any person conducting a private industrial enterprise or any entrepreneur:

- (a) who is dissatisfied with an order or decision of the Director General may file an appeal to the Minister within 30 days of the receipt of such order or decision;
- (b) the decision of the Minister shall be final.

Chapter XI Powers of the Minister

22. The Minister may, in respect of a private industrial enterprise pass the following orders at his discretion:-

- (a) granting registration;
- (b) if it is necessary in the interest of the State suspending or cancelling the registration granted by the Directorate, if re-application is made, granting registration after scrutiny.

23. The Minister:-

- (a) may determine any industrial enterprise as a private industrial enterprise;
- (b) shall give a decision if a dispute arises as to whether it is a private industrial enterprise or not.

24. The decision of the Minister under section 23 sub-section (b) shall be final.

25. The Minister may, in respect of the following matters direct the respective State or Divisional Officer-in-charge to cause the removal of buildings, moveable and immoveable property:—

- (a) continuing to conduct a private industrial enterprise without being granted registration by a person after conviction under this Law;
- (b) failure to comply with any condition prescribed by the Directorate by an entrepreneur who has been granted a lease of land in any industrial area.

Chapter XII Prohibitions

26. No one shall conduct a private industrial enterprise contained in section ~. without obtaining registration under this Law.

27. An entrepreneur:

- (a) in distributing and selling the goods he has produced shall not sell without a trade mark;
- (h) shall not violate any provision of section 13;
- (c) shall not fail to comply with any order or decision passed by the Minister and the Director General

Chapter XIII Offence and Penalty

28. Whoever violates the provision of section 26 shall, on conviction:-

- (a) in the case of conducting a small scale private industrial enterprise, he punished with fine which may extend from a minimum of kyats 5,000 to a maximum of kyats 10,000;
- (h) in the case of conducting a medium scale private industrial enterprise, he punished with fine which may extend from a minimum of kyats 10,000 to a maximum of kyats 20,000:
- (c) in the case of conducting a large scale private industrial enterprise be punished with fine which may extend from a minimum of kyats 20,000() to a maximum of kyats 50,000.

29. If a person who is convicted of an offence under Section 28 continues in the commission of such offence, he shall be punished with fine at the following rate for each day of the extent of the period of continuance thereof: -

- (a) in the case of a small scale private industrial enterprise, at the rate of kyats 100:
- (h) in the case of a medium scale private industrial enterprise, at the rate of kyats 150:
- (c) in the case of a large scale private industrial enterprise, at the rate of kyats 200.

30. If the Director General discovers that the entrepreneur has violated any provision of section 27. the Director General may pass any of the following administrative penalties:

- (a) warning;
- (b) causing damages to be paid;
- (c) suspension of registration subject to a periodical limit or cancellation of registration.

Chapter XIV Miscellaneous

31. In the implementation of this Law, the respective State or Divisional Officer- in – charge may, if necessary request the assistance of the Myanmar Police Force.

32. If the respective entrepreneur fails to pay the damages imposed under section 30, the respective State or Divisional Officer-in-charge shall recover such damages as if it were an arrear of land revenue.

33. No suit or prosecution shall lie against any member of the Supervisory Body or any public servant for anything which is in good faith done under this

34. For the purpose of carrying out the provisions of this Law, the Ministry:-

- (a) may, with the approval of the Government, issue such procedures as may be necessary;
- (h) may issue such orders and directives as may be necessary.

Sd./ Saw Maung

Senior General

Chairman

The State Law and Order Restoration Council