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Occupational Safety and Health Law

New Occupational Safety and Health Law

On 15th March 2019, the new Occupational Safety and Health Law (“**Law**”) was passed and entered into force. The intent of the law is to implement safety and health regulations for industries and business in Myanmar. A primary goal is to reduce and mitigate the occurrences of diseases and accidents arising in various industries and business activities in Myanmar, and in so doing, to improve the productivity and health of workers

Applicable Industries / Businesses

This Law lists out 18 types of industries/businesses to which it will apply. The scope is broad and includes factories, workshops, manufacturing, construction and communications, and these can be owned by government departments or organizations, cooperatives, national citizens or foreigners in private or joint venture

Requirement of Registration

It is mandatory for a business which falls under the above-mentioned list of industries/businesses to apply to or notify the Factories and General Labour Laws Inspection Department if such business wishes to:

- (a) operate a building, extend or demolish a factory or building;
- (b) place, install, extend or change the use of applicable machines; and/or
- (c) close or terminate or relocate or change the nature of its business.

Responsibilities of the Employer

Under this Law, some key responsibilities of an employer are:

Oversight

- (a) to appoint a person in-charge for occupational safety and health to closely supervise safety and health of workers;

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- (b) if the number of workers in the business exceeds the number determined by the Ministry of Labour, Immigration and Population (the number has not yet been published), to form an occupational safety and health committee;

Safety Measures

- (c) to assess the risks of workplace, process and machines and materials used and the likelihood of the occurrence of hazards at the workplace and to the environment;
- (d) to display instructions, danger signs, notices, posters and signage for directions in accordance with requirements under the Law;
- (e) if the workplace is classified as a hazardous workplace, to put in place additional safety measures;

Medical

- (f) to arrange a medical check-up for the workers by a medical professional duly certified under the Law when they suffer from any occupational disease;
- (g) not to demote or dismiss a worker during or before any period when a medical certificate is issued for occupational disease;
- (h) not to demote or dismiss a worker because the worker has made a complaint to the authorities about workplace conditions which are hazardous or detrimental to health;

Reporting

- (i) to inform the Factories and General Labour Laws Inspection Department in the case of an occupational accident and/or hazardous event; and
- (j) to inform the Factories and General Labour Laws Inspection Department if a worker is contaminated or likely to be contaminated with the occupational disease due to the work.

Certifications for Installations

It is required under the Law that the manufacturer, importer, seller and/or person who operates, installs or dismantles the hazardous machines that are used in the workplace or site obtains a certificate issued by the authorized examiner or relevant authority under the Law. The manufacturer, importer and/or seller

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are required to provide the information relating to use of the machinery in a safe manner and to conduct testing of the machinery for safety and health purposes.

Offences and Penalties

An employer who is found to have contravened this Law may be liable to a fine and/or imprisonment. Depending on the contravention, the fines range from MMK 1 million (approximately US\$650) to MMK 10 million (approximately US\$6,500). There are also certain violations which may result in imprisonment, such as failure to appoint a person-in-charge of safety and health matters and a failure to report an occupational accident and/or hazardous event.

Conclusion

The Law is a positive step in developing a safer and healthier work environment, and provides safeguards for workers. At the same time, there are quite a number of procedural aspects that have not been set out in the Law. For example, the Law does not specify the applicable notification timelines for the reporting of occupational accidents and hazardous events. It is also unclear if there is to be a differentiation in reporting obligations based on the severity of the accident or event. These procedural aspects may well be addressed in the relevant implementing regulations in support of the Law, which have yet to be promulgated. For the moment, employers in Myanmar should take note of the various requirements set out under the Law and make the necessary changes to your workplace policies and procedures in order to comply with this Law and the implementing regulations (when they are promulgated).

This update sets out the framework of the Law and highlights the key aspects only. It is not intended to be, nor should it be read as, a comprehensive summary of the Law or as legal advice.

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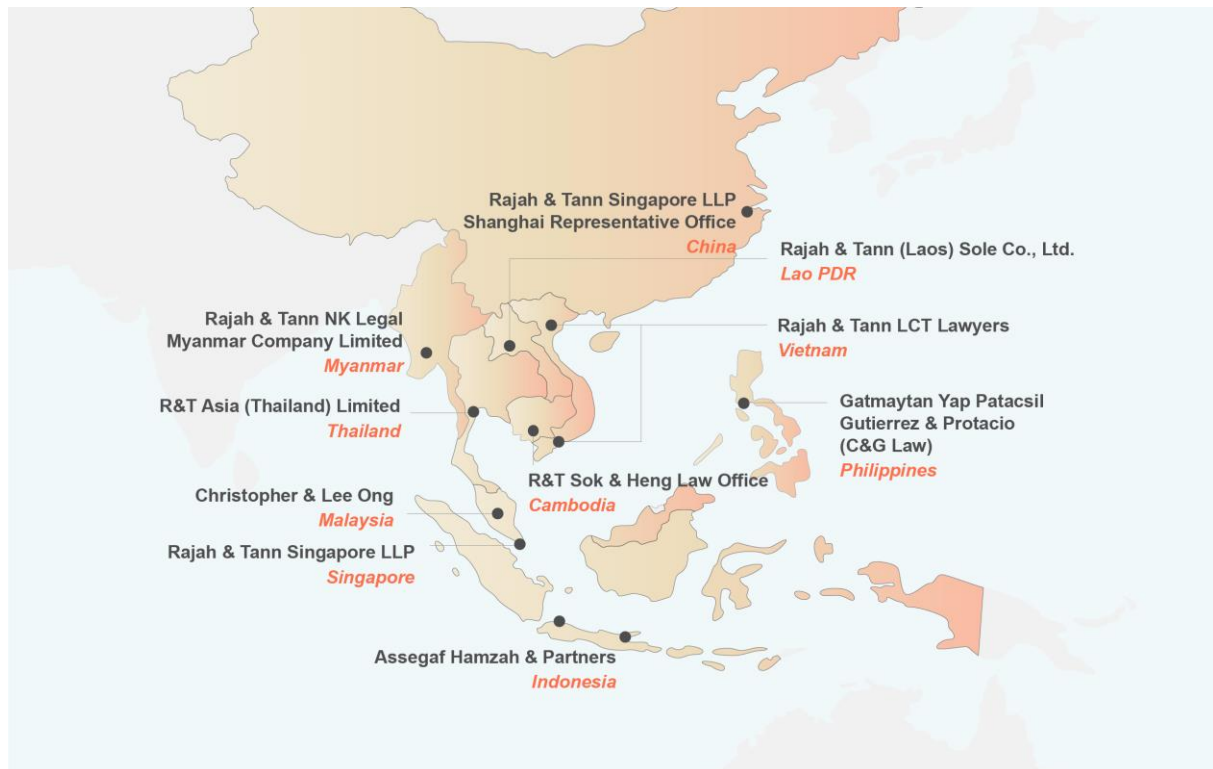
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