

NEWS BULLETIN

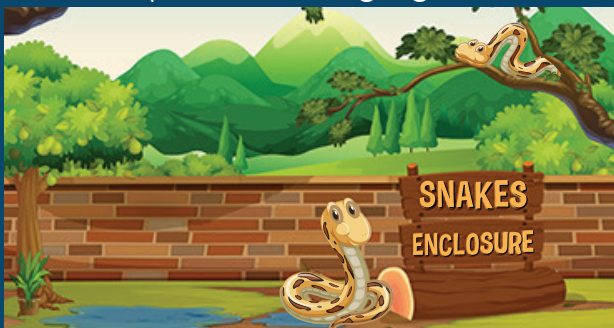


EDITORIAL

As a part of our continuing effort to disseminate important legal information, we are pleased to publish the thirteenth issue of the quarterly 'The Legal Counsel News Bulletin' with some important updates.

ON A SERIOUS NOTE

Someone mistakenly left the cages open in the Reptile House at the zoo, and there were snakes slithering all over the place. Frantically, the keeper tried everything but couldn't get the slippery animals back into their cages. Finally, he yelled, "Quick, call a lawyer!" "A lawyer? Why?" "We need someone who speaks their language."



Bangladesh Labour Rules Amendment 2022: Major Changes

The Ministry of Labour and Employment has introduced some important amendments to the Bangladesh Labour Rules, 2015, which took effect from 1 September 2022. As many as 101 changes have been made to the 2015 Rules, including inserting some new rules and repealing two. Most of these amendments can have considerable impacts on organizations, who are already seeking guidance and clarifications on how to implement them. Amongst the many, we have tried to sum up here the most significant and regularly used rules as amended.

A much needed provision has been added in the amended Rules which brings an age-old confusion to an end: the scope of permanent work. Although the term permanent and temporary workers were defined in the Bangladesh Labour Act, 2006, the Rules did not go on to explain precisely how these two shall be differentiated and did not give a timeframe for temporary

employment. The newly replaced Rule 18 now states that, depending on the type and nature of work of the particular establishment, any work shall be considered as permanent work which is continuously running for more than 180 (one hundred and eighty) days. Simply put, it means that if the position, work or job is such that it is needed in the organization for more than 180 (one hundred and eighty) days continuously, it should be deduced as indispensable insofar as hiring an employee temporarily in that position is concerned. So, in such a position, work or job, the correct form of contract will be that of permanent employment.



Three amendments have been dedicated to maternity benefits. Firstly, a new proviso has been added under Rule 38 that clarifies that if a woman gives birth after the scheduled time of eight weeks preceding the expected day of her delivery, the scheduled leave of eight weeks following the delivery shall be adjusted with the whole leave. This essentially means that the total number of leaves shall be sixteen weeks, and if the baby is delivered later than expected then the eight weeks; leaves shall be reduced proportionately. Secondly, a new Rule 38A (Leave for Miscarriage) entitles a woman to 4 (four) weeks of paid leave for health recovery reasons in case she has a miscarriage before the scheduled date of her going on her maternity leave. Furthermore, such leave cannot be adjusted with any leave which is due to her. This was a much needed change that ensures employers are mindful towards employees' health and wellbeing. Finally, a new Rule 39A (Calculation of Maternity Benefit) further prescribes the method of calculation for maternity benefit and allows deductions to be made for her subscriptions to provident fund during her leave period.

In addition, there are other key changes that have been brought under the new amendments of the Rules in different areas of the labour laws. For instance, the amended Rules clarify that the 60(sixty) days needed for completing disciplinary proceedings shall be calculated from the day the complaint is filed (show-cause) till the day the matter is disposed of. On the other hand, Rule 101(2) previously required that a worker cannot be made to work for more than 10 (ten) days consecutively without giving him/her the weekly leave. Adding a proviso to the said Rule it has now allowed a worker to work in the weekly holidays and add the weekly holidays' compensatory leaves to the festival holidays to enjoy a long break. In such a case, R.101(1) & (2) will not be applicable and this shall be considered as an exemption under S.102 of Bangladesh Labour Act, 2006. Further, if the employment of a worker is terminated before he enjoys the weekly holidays during his festival holidays, in that case he will be entitled to wages for the said holiday and the total wages (except overtime allowance and bonus) shall be divided by 30 for the purpose of calculating one day's wages.

The position of calculating annual leave encashment is now clear, since the amendment brought under R.107(2) depicts that the total of the last drawn monthly gross salary (except overtime allowance or bonus) shall be divided by 30 and the result shall be multiplied by the number of unspent annual leaves for the purpose of calculating annual leaves encashment amount. Previously, this clarification of whether gross salary or basic salary should be used to calculate annual leave encashment amount was given through an explanation from the Ministry, which was often faced with questions of authority and prevalence.

Pertinently, the most important amendment can be found under Rule 361A (Conduct towards Women), which complements section 332 of the Bangladesh Labour Act 2006 and defines sexual harassment. Rule 361A (1) states that where any woman is employed in any work of any establishment, no person of that organization shall behave which can be termed as discourteous, obscene or rude behavior or sexual harassment against the modesty and dignity of woman. An explanation appended to sub-rule 1 expounds the term sexual harassment and it says for the purpose of this sub-rule, twelve types of conduct would constitute the indecent and unmannerly behaviour and sexual harassment. The said Rule also states about the formation of special committee for dealing with sexual harassment complaints, the number of members and other obligations on employers in handling and preventing such matters. Earlier, for over a decade, this phenomenon was only covered by the direction given in the judgment of a landmark High Court case.

DID YOU KNOW



Up until July 2022, affidavits were required to be made on stamp papers valued at Taka 200, i.e. the stamp duty was Tk. 200. Following the latest budget, affidavits are now required to be made on stamp papers valued at Taka 300, i.e. the stamp duty is Tk. 300.



Tax Identification Number (TIN) Certificate is a valid requirement for the sale and purchase of immovable property such as land, which may not be sold or purchased without one.

NEW IMPORTANT LEGISLATIONS (JULY 2022-SEPTEMBER 2022):

1. National Freedom Fighters Council Act, 2022;
2. Private Medical Colleges and Dental College Act, 2022; and
3. Public Debt Act, 2022.

CURRENT AFFAIRS



Seven MoUs between Bangladesh and India:

Hon'ble Prime Minister Sheikh Hasina signed seven Memorandums of Understanding (MoUs) with the Government of India, during her recent visit to the country, with a view to muster cooperation in the areas of, space, science and technology, broadcasting, river water sharing and capacity building among railway and judicial personnel of the two nations.



Queen's Counsel now are to be called King's Counsel:

Legal Counsel mourns the passing of Her Majesty of the United Kingdom, Queen Elizabeth Alexandra Mary Windsor. With her passing and the ascendance of King Charles III to the throne, the title Queen's Counsel (QC) has changed to King's Counsel (KC) with immediate effect. King's Counsel (KC) is typically a senior trial lawyer, technically appointed by the monarch of the country to be one of 'His [Her] Majesty's Counsel learned in the law'.

LEGAL COUNSEL NEWS



Legal Counsel hosted legendary artiste, singer, rockstar, Mr. Shafin Ahmed, on its 8th programme of "Legal Counsel Talk" Series. Prodigy child of legendary parents, Mr. Ahmed had a plethora of motivational stories, life lessons and interesting experiences to share with the LC Family, who listened to the man speak with awe. The event ended with him singing one great number.



Legal Counsel continues its vow of sharing and imparting legal knowledge, as the members go to and invite many more of its retainership clients, for short, pro-bono half-day training on corporate affairs, employment laws and contract laws and other industry-specific topics.



Partners of Legal Counsel, Barrister Miti Sanjana and Barrister Omar H. Khan have been conferred with 4 prestigious awards under **'South Asian Business Excellence Awards 2022'**:

- ✔ "Outstanding Women Leadership Excellence Awards in legal fraternity in recognition of professional achievement, positive influence, and valuable contribution to the women" (MITI SANJANA)
- ✔ "Social Change Maker Award Under Media Category for Fostering Greater Public Understanding of The Country's Legal System" (MITI SANJANA)
- ✔ "Outstanding Leadership Excellence in Legal Fraternity in South Asia" (OMAR H. KHAN)
- ✔ "Justice Media Award for contributing to public's understanding of justice & legal framework" (OMAR H. KHAN)

We join hands in congratulating them for their tireless contributions and for glorifying the name of the country.

PRO-BONO WORKS : PUBLICATIONS AND TV SHOWS (JULY 2022 - SEPTEMBER 2022)

PUBLICATIONS AND INTERVIEWS

- ✔ Suspicion | Barrister Miti Sanjana, Partner of Legal Counsel | The Daily Prothom Alo | July 13, 2022; <https://legalcounselbd.com/09221>
- ✔ Greediness | Barrister Miti Sanjana, Partner of Legal Counsel | The Daily Prothom Alo | July 20, 2022; <https://legalcounselbd.com/09222>
- ✔ Minority rights in Bangladesh | Barrister Miti Sanjana, Partner of Legal Counsel | The Daily Prothom Alo | August 09, 2022; <https://legalcounselbd.com/09223>
- ✔ Legal remedy for neglecting parents at their old age | Barrister Miti Sanjana, Partner of Legal Counsel | The Daily Prothom Alo | August 24, 2022; <https://legalcounselbd.com/09224>
- ✔ Discovering my wife is pregnant after divorce | Barrister Miti Sanjana, Partner of Legal Counsel | The Daily Prothom Alo | September 15, 2022; <https://legalcounselbd.com/09225>

TV SHOWS AND INTERVIEWS

- ▶ RAPE | Barrister Miti Sanjana, Partner of Legal Counsel | Ekattor Tv | July 06, 2022; <https://youtu.be/XUaB578Py8Y>
- ▶ Different criteria for women's qualifications in a patriarchal society | Barrister Miti Sanjana, Partner of Legal Counsel | Daily Jugantor | July 05, 2022; https://youtu.be/Mj2lu5mfn_4
- ▶ Where do women's live in old age | Barrister Miti Sanjana, Partner of Legal Counsel | Nexus Tv | July 20, 2022; <https://fb.watch/fOtajoDZ-z/>
- ▶ Nitol Tata EID Anondo | Barrister Miti Sanjana, Partner of Legal Counsel | Asian Tv EID Entertainment | July 24, 2022; <https://youtu.be/h8yves3zVdQ>
- ▶ Discussion on Nancy Pelosi's expected visit to Taiwan that prompted outrage from China | Barrister Miti Sanjana, Partner of Legal Counsel | BBC News | August 2, 2022; <https://legalcounselbd.com/v9221>
- ▶ Applauded for breaking a Taboo by a son who is looking for a partner for his mother in the newspaper | Barrister Miti Sanjana, Partner of Legal Counsel | Maasranga Television | August 2, 2022 ; <https://youtu.be/TeG-3AkqxcU>
- ▶ Discussion on refraining Hiro Alam to sing Rabindra Sangit by the Police | Barrister Miti Sanjana, Partner of Legal Counsel | BBC News | August 2, 2022; <https://youtu.be/VlcnLvcSZgE>
- ▶ Impediment of women in the workplace | Barrister Miti Sanjana, Partner of Legal Counsel | Bangladesh Television | August 13, 2022; <https://fb.watch/fOtGaCwB0w/>
- ▶ Why children are targeted for Kidnapping | Barrister Miti Sanjana, Partner of Legal Counsel | Ekushey TV | August 28, 2022; <https://youtu.be/bAzTY2PCWGU>
- ▶ Father held accountable for daughter's death | Barrister Miti Sanjana, Partner of Legal Counsel | Ekattor TV | August 28, 2022; <https://fb.watch/fOu3RBEv5S/>
- ▶ Nobody should be deprived of their freedom to dress as they please | Barrister Miti Sanjana, Partner of Legal Counsel | The Daily Prothom Alo | September 21, 2022; <https://legalcounselbd.com/v9222>
- ▶ False Case filed by a female | Barrister Miti Sanjana, Partner of Legal Counsel | Prothom Alo | September 28, 2022; <https://legalcounselbd.com/v9223>
- ▶ Dowry | Barrister Miti Sanjana, Partner of Legal Counsel | Prothom Alo | September 28, 2022; <https://legalcounselbd.com/v9224>
- ▶ Dowry | Barrister Miti Sanjana, Partner of Legal Counsel | Prothom Alo | September 29, 2022; <https://legalcounselbd.com/v9225>

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