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# Myanmar Law Updates 2019

## Myanmar Update #5

May 29, 2019

Royal Thai Embassy, Yangon, Myanmar

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**March 20, 2018**

**Notable points of  
Deeds of Registration Law**

# Deeds for Mandatory of registration

## The following documents/deeds must be registered:

- ▶ Instruments of gift of immovable property;
- ▶ Deeds relating to immovable property which has value at least one hundred thousand Kyats and above;
- ▶ Mortgage agreement and cancellation of mortgage agreement without conferring the valued property or ownership document;
- ▶ Lease agreement from year to yearly and/or leasing more than 1 year and/or reserving a yearly lease the immovable property;
- ▶ Agreements relating to mortgaging, conferring or transferring all or several or related benefit of the immovable property by the company;
- ▶ Adoption deeds.

# Period for Registration

- ▶ The agreement/deeds must be submitted to register within 120 days from the date of execution;
- ▶ If the documents is Court's order or decree, must be submitted to register within 120 days from the date of order;
- ▶ The documents must be submitted to register within 120 days from the date of last execution if signatory is more than one person;

# Deeds executed at abroad

- ▶ If the deeds is executed at abroad, shall be submitted to register within 120 days from the date of arriving into Myanmar.
- ▶ If the deeds cannot be registered within 120 days and exceeded period is not more than 120 days, can apply for registration by paying specified fine.

**June 21, 2018**

**Key provision of fourth Amendment to  
Myanmar Anti-Corruption Law**



# Key provision of fourth Amendment to Myanmar Anti-Corruption Law

- ▶ Enable to take action against Myanmar citizens or resident foreigner.
- ▶ **“Corruption”** also includes act by anyone causing damages to State’s monies, properties and assets, in breach of laws, rules, regulations, procedures, when handling public budget, managing and entering into agreement related to public budget.
- ▶ **“General Repute”** as the information on which the Commission has the reason to believe with the primary evidence that a person is suspicious committing against the law on corruption.

# Key provision of fourth Amendment to Myanmar Anti-Corruption Law

- ▶ The Commission can determine the General Repute of corruption as the information report.
- ▶ The Commission shall order to any private business organization to lay down the business code of ethics for the anti-corruption.
- ▶ Commission issued Order 14/2018 on 19 October 2018, to establish rigid code of conduct to prevent corruption by private sector.

# Key provision of fourth Amendment to Myanmar Anti-Corruption Law

## Outline

- ▶ According to amendment, the complainant shall be any person and not only aggrieved person. The Commission can take action on general repute of corruption without complaint. Political post and competent authority person can be taken action for their past corruption. The Commission may issue orders to private organizations to set up rigid business codes of anti-corruption.

**December 21, 2018**

**Ministry of Commerce Notification No. 57/2018** allowing foreign companies, international NGO and foreign branches to import office properties and materials related to the services

# Ministry of Commerce Notification No. 57/2018

- ▶ In **Notification No. 57/2018**, the Ministry allows the foreign companies, international NGO and foreign branches to import the office properties and materials related to the services from the date of issuing the notification;
- ▶ The following specifications shall be followed:
  - Export/import registration by the companies and branches, registration number for export/import by NGO shall be applied;
  - Import only office properties;
  - To import related materials if the business is service type;
  - Not to re-sell the imported properties;
  - To comply the specifications set out by the relevant departments in importing;
  - To submit the undertaking;

**January 2, 2019**

**Ministry of Planning and Finance**  
**Announcement No. 1/2019** grants  
permission to operate the insurance  
business

## Ministry of Planning and Finance Announcement No. 1/2019

- ▶ The Ministry of Planning and Finance has the right to grant permission the company to operate the insurance business, underwriting agency or insurance broking with foreign investment.
- ▶ The Ministry invites interested local and foreign insurers the Expression of Interest (EOI) and/or the Request for Proposal (RFP) to transact insurance business in Myanmar.
- ▶ Financial Regulatory Department (FRD) facilitates the clarifications.
- ▶ The local composite insurers which have been mandated by the Ministry to operate as separate life insurance and non-life insurance entities paving a way for foreign entities to associate or partner with the local insurers.

## Methods of licensing

### ▶ Life Insurance Companies

- Option 1: Allowing not more than 3 licenses for foreign life insurers as 100% wholly owned subsidiaries;
- Option 2: Allowing foreign life insurers with a life/composite representative office in Myanmar to form JV with local life insurers.



## Methods of licensing

### ▶ Non-life Insurance Companies

- Allowing foreign non-life insurers with a non-life/composite representative office in Myanmar to form JV with local non-life insurers.

**April 30, 2019**

**Ministry of Hotel and Tourism Notification No. 6/2019** specifying license fee, renewal fee, fine and service fee for hotel business, lodging-house business, tourist enterprise and tour guide business;

## Ministry of Hotel and Tourism Notification No. 6/2019

### License fee, renewal fee, fine and service fee for hotel business: Local and foreign JV, Foreign 100%

License fee	Renewal fee	Fine	Service fee
MMK equal to USD 4,000 (up to 50 rooms)	As the rate of license fee	MMK equal to USD 20 (overdue license term (per day)	MMK equal to USD 1,500 (increase or decrease of rooms)
MMK equal to USD 5000 (from 51 rooms to 100 rooms)		MMK equal to USD 20 (overdue withdrawl of license (per day)	MMK equal to USD 1,500 (changing the name of hotel, owner, ownership, applying to reissue for the lost or damage of license, changing the type of business)
MMK equal to USD 7,000 (from rooms 101 and above)			

## Ministry of Hotel and Tourism Notification No. 6/2019

License fee, renewal fee, fine and service fee for tourist enterprise:  
(Local, inbound or outbound) (Foreign 100%)

License fee	Renewal fee	Fine	Service fee
MMK equal to USD 2,000	As the rate of license fee	MMK equal to USD 15 (overdue license term (per day))	MMK equal to USD 1,500 (changing the name of company, applying to reissue for the lost or damage of license)
MMK equal to USD 250 (Branch license fee)		MMK equal to USD 15 (overdue withdrawl of license (per day))	MMK equal to USD 1,500 (changing office or ownership by passing The Union Territory, Region or State)

## Ministry of Hotel and Tourism Notification No. 6/2019 specifying license fee, renewal fee, fine and service fee

License fee, renewal fee, fine and service fee for tourist enterprise:  
(Local, inbound or outbound) (Local and Foreign JV)

License fee	Renewal fee	Fine	Service fee
MMK equal to USD 1,800	As the rate of license fee	MMK equal to USD 10 (overdue license term (per day))	MMK equal to USD 1,000 (changing the name of company, applying to reissue for the lost or damage of license)
MMK equal to USD 200 (Branch license fee)		MMK equal to USD 10 (overdue withdrawl of license (per day))	MMK equal to USD 1,000 (changing office or ownership by passing The Union Territory, Region or State)

**May 7, 2019**

**New Gambling Law allows to open  
Casino and plays by foreigner only**

# What means Casino?

- ▶ **CASINO** means a place or building which has been registered with the approval of the Union Government together with specifications and only foreigners have the right to play.
- ▶ The Union Government may allow the establishment and opening of casinos with specifications.


**May 21, 2019**

**Ministry of Commerce Notification No. 23/2019 – to apply the retail/wholesale business registration for specified importing;**



# Ministry of Commerce Notification No. 23/2019

- ▶ 100% foreign companies, Foreign-Myanmar JV companies which are importing Fertilizer, seeds, pesticide, hospital equipment, construction materials and agricultural machinery with export/import license must apply the retail/wholesale business registration.
- ▶ The registration must be applied within (90) days from the date of notification, **from 21 May 2019**, in accordance with the specifications of Notification Nos. 25/2018 and Newsletter 2/2018 by the Ministry of Commerce.
- ▶ If the capital investment amount and shop area have not been reached as provided amount, the companies must perform to conform with said requirements within (5) years after registering.
- ▶ If fail to comply this notification, the companies shall be taken action.



# **Overview of Intellectual Property Laws in Myanmar; Trademark, Industrial Design, Patent and Copyright**

# Overview of Myanmar Intellectual Property Laws; Industrial Design, Trademark, Patent and Copyright

## ENACTMENT

- ▶ Industrial Design Law has been enacted on 30<sup>th</sup> January, 2019 (Law No. 2/2019)
- ▶ Trademark Law has been enacted on 30<sup>th</sup> January, 2019 (Law No. 3/2019)
- ▶ Patent Law has been enacted on 11<sup>th</sup> March, 2019 (Law No. 7/2019)
- ▶ Copyright Law has been enacted on 24<sup>th</sup> May, 2019 (Law No. 15/2019)

# Overview of Myanmar Intellectual Property Laws; Industrial Design, Trademark, Patent and Copyright

## General Information

- ▶ All of Industrial Design Law, Trademark Law, Patent Law and Copyright will come into force commencing from the day, by notification, issued by the President of the Union.
- ▶ **Ministry of Commerce** is Responsible Ministry for all Intellectual Property Laws.
- ▶ **Central Committee and Agency** shall be inclusive for all Intellectual Property Laws.
- ▶ Directorate carries out the Registration process.

**January 30, 2019**

**Overview:  
Trademark Law, filing requirement and  
and Important key points**

## Required Document / Information

### Required Documents/Information for the application

- ▶ the request for registration;
- ▶ the name and address of the person or legal entity applying for registration;
- ▶ if the application is submitted by a representative on behalf of the applicant, the representative's name, national registration (identity) card number and address;
- ▶ clear and complete representation of the mark; and
- ▶ names and types of goods and services requested for registration in accordance with international trademark classification.

## Required Documents / Information

### Required Documents/Information where applicable

- ▶ the registration number, type, and country of origin of the entity, if the applicant is applying on behalf of a legal entity;
- ▶ documents supporting, describing, and requesting the claim of priority right, if the applicant requests such right;
- ▶ documents supporting, describing, and requesting the exhibition priority right, if the applicant requests such right;
- ▶ a certificate of registration, if the mark in the application is registered at the Myanmar Office of the Registration of Deeds; and
- ▶ other requirements that may be set from time to time by a directorate that will be established to oversee trademark registration.

# Important Key Points and Notable

## The key points are as follows:

- ▶ All registered trademarks before enforcement of new Trademark Law need to re-register under the new Law.
- ▶ Earliest applicant, who submits the application conformed to specifications, shall have the right to register the mark.
- ▶ Priority claim is allowed.
- ▶ Opposition and cancellation process are available.
- ▶ Lawsuit in civil and criminal are allowed.



# Important Key Points and Notable

## The key points are as follows:

- ▶ Terms of Registration is (10) years from the date of application.
- ▶ Renewal can be made for (10) years in each time after the expiration of first registration period.
- ▶ Shall apply for the renewal within (6) months before expiration of the registration period.

# Offences and Penalties

## Offences

- ▶ Counterfeiting the mark;
- ▶ Using a counterfeit mark on goods or services;
- ▶ Possession of any articles used for counterfeiting a mark;
- ▶ Trading and distributing and/or importing and exporting goods bearing a counterfeit mark;
- ▶ Exporting and importing the goods used the counterfeited mark;
- ▶ Using the flags or symbols as trademark which are protected under International Treaties with commercial purpose;

# Offences and Penalties

## Offences

- ▶ Removing, destroying, destroying the image or making addition a registered trademark by intending to damage the mark owner;
- ▶ Issuing or cause to issue the false Certificate of Registration;
- ▶ Recording or cause to record in the Registration Book dishonestly.

## Penalties

- ▶ Maximum imprisonment is 10 years and maximum fine is 10 million Kyats.

**January 30, 2019**

**Overview: Industrial Design Law and  
Notable points**

# Protectable Industrial Design

- ▶ The industrial design is protectable if it is **genuine and created with no imitation**;
- ▶ For **priority** right, the design must not be published or used or displayed or declared to the public at abroad or domestic before the application. The industrial design which is just a depiction of suggestion of technical or conduct, and the design which is contrary to public policy, cannot be protected.

# Requirements for Industrial Design Application

- ▶ Request for registration;
- ▶ Name and address of the applicant person or lawful organization;
- ▶ Representative name, NRC and address of the representative if the application is applied by the representative;
- ▶ Clear and complete explanations of industrial design;
- ▶ Index of products which are delicate by industrial design or products which are include industrial designs.

# Terms of an Industrial Design

- ▶ The terms of registered Industrial Design is (5) years from the date of application.
- ▶ 2 renewal can be made for (5) years in each time after the expiration of first registration period.
- ▶ Shall apply for the renewal within (6) months before expiration of the registration period.

# Offences and Penalties

## Offences

- ▶ Issuing or cause to issue the false Certificate of Registration of Industrial Design;
- ▶ Recording or cause to record in the Registration Book dishonestly;
- ▶ Disclosing to the non-relevant person about the confidential Industrial Design during confidential period;
- ▶ Disclosing or allow to use the public, delivering the documents related to Industrial Design application to non-relevant person before publication;

## Penalties

- ▶ Maximum imprisonment is 1 year and maximum fine is 2 million Kyats.



**March 11, 2019**

# **Overview: Patent Law**

# Required Document / Information

## Required Documents/Information for the application

- ▶ The request for grant of patent;
- ▶ The names, nationalities or countries of incorporation, and addresses of applicants or lawful organizations and inventors;
- ▶ The representative or agent's name, national registration card number, and address if application is applied by the representative;
- ▶ Patent specifications and drawings;
- ▶ Patent name and Summary of Patent; and
- ▶ One or more patent claims.

# Un-protectable Inventions

- ▶ Discoveries, Scientific theories and Mathematical methods.
- ▶ The systems, principles or techniques in relation to doing business, psychological performance (or) playing games.
- ▶ Computers programs.
- ▶ Essential biological process for production or propagation of plants and animals other than the processes for production of non-organism and micro-organism.
- ▶ Except the cultured and synthesized micro-organism, all animal species and plant species including natural life forms and whole or a part of biological life forms; and DNA – including complementary DNA sequences, cells, cell lines, cell Cultures and seeds.

# Un-protectable Inventions

- ▶ Methods for surgery or treatment of human and animal body, including the diagnostic techniques obtained from experiments in the bodies of human and animals;
- ▶ Inventions related to known objects by public including naturally existing objects, new usage and new features; or those related to and the chemical products stipulated with the provisions occasionally;
- ▶ Inventions that can badly affect the moral, peace and tranquility of people or human, animal or plant or health and the environment and inventions prohibited from using within territory of the State under any existing Law.

# Terms of Registration

- ▶ The term of patent is (20) years from the date of application.
- ▶ The term of petty patent is (10) years from the date of application.

# Enforcement

- ▶ The right holder can apply at the Intellectual Property Court for temporary order for his injury or damage under civil procedure.
- ▶ Whoever violates the offences specified in the Patent Law shall be punished with imprisonment or with fine or both.
- ▶ The maximum term of imprisonment is not exceed 1 year and maximum fine shall not be exceeded 2 million Kyats.

**May 24, 2019**

# **Copyright Law and its key points**

# Copyright Law and its key points

## Protected Copyrights:-

- ▶ Book, leaflet, poem, novel, article, computer program and other writings;
- ▶ Speech, lecture, address, sermon and other orations;
- ▶ Drama and the work of dramatic music, mime, choreographic work and other literary and artistic work performed on the stage;
- ▶ Music and musical work with or without lyric;
- ▶ Audio-visual work including cinematographic work;
- ▶ Architectural work;
- ▶ Drawing, scratching, painting, carving, sculpture, engraving, work of inlaying by colorful glass and gem, work made of wood, work made by pottery, metal ware, earthenware, jewellery, handcraft, costume, indigenous clothing and dressing;



# Copyright Law and its key points

## Protected Copyrights:-

- ▶ Lithography, work made by weaving, gold embroidery and other work of fine art;
- ▶ Photographic work;
- ▶ Work of applied art;
- ▶ Pattern of textile;
- ▶ Illustration, map, plan, diagram and 3D work relating to geography or topography or architectural work or science.
- ▶ Translating, referring, arranging the literary and artistic work and changing or reforming by other mean;
- ▶ Collecting the literary or artistic works including collecting the traditional description;
- ▶ Aggregating the information with readable machine or other way by selecting or arranging, including creation in such collecting

# Copyright Law and its key points

## Un-Protected Works:-

- ▶ Idea, procedure, method of performing, mathematical formula, basic principle, discovery or data;
- ▶ Variety of data that have the character that may be deemed to be the news of the relevant day or printed information;
- ▶ Constitution and laws;
- ▶ Rules, regulations, notifications, orders, directive and procedures issued by the Government Department, Government organizations and Directorates;
- ▶ Judgments and orders of Court;
- ▶ Translating and collection the information included above by the Government officially.

# Term of Copyright

- ▶ The protected term for economic rights of a literary or artistic work although there is **NO** registration is:
  - In addition to the life of original author, a period of 50 years after his decease.
  - 25 years from the date of making for applied art work.

# Assignment of Copyright

Copyright owner may assign the economic right by way of:

- ▶ Inheritance under any existing law or custom;
- ▶ Willing by the authorized person;
- ▶ Gift or donation;
- ▶ Assignment of ownership under any existing law;
- ▶ Licensing.

# Application and Registration

- ▶ The application can apply to the Registrar and any requirements to be submitted within 30 days if required from the date of receiving notice letter issued by the Registrar.
- ▶ The application is reviewed by the Registrar and will notify to the applicant if registration is refused or granted.

# Offences

## Offences:-

- ▶ Reproducing the copyright or protected related rights directly or indirectly, transmission and distributing the public;
- ▶ Possessing or trading the infringed copyright or related rights goods;
- ▶ Importing the infringed copyright or related rights to Myanmar.
- ▶ Possessing any instrument mainly used in producing the infringed copyright or related rights goods;
- ▶ Granting of or making to grant fraudulent Certificate of Copyright Registration or Certificate of Related Rights Registration;
- ▶ Making or causing to be made a false entry in the copyright registration book or registration book for related rights.

# Penalties

## Penalties:-

- ▶ The minimum term of imprisonment not exceeding **1 year** and minimum fine not exceeding **1 million kyats** for specified offences.
- ▶ The maximum term of imprisonment not exceeding **10 years** and maximum fine not exceeding **10 million kyats** for repeated offences.
- ▶ The penalties for abettor will be the same as offender.

# Existing Copyright Act, 1914 is Repealed

The Myanmar Copyright Act, 1914 is repealed by this Copyright Law.



# Offices



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