

Data Privacy Law in Myanmar

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September 2022

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Key Legislations of Data Privacy Protection in Myanmar

At present, there is no specifically codified data privacy law in Myanmar.

However, data privacy protection provisions can be found in the following existing laws:

- Constitution of the Republic of the Union of Myanmar (2008),
- Electronic Transactions Law 2004 (as amended in 2014 and 2021),
- Telecommunications Law 2013 (as amended in 2017),
- Law Protecting the Privacy and Security of Citizens 2017 (as amended in 2020 and 2021),
- Competition Law (2015),
- Financial Institutions Law (2016),
- Law Relating to Private Health Care Services (2007)
- Notification 116/97 (Insurance Business Rules) of the Ministry of Finance and Revenue, and
- Cybersecurity Law (Draft) 2022.

Substantive Data Privacy Provisions

- **Constitution of the Republic of the Union of Myanmar (2008): Section 357** states that “the Union shall protect the privacy and security of home, property, correspondence, and other communications of citizens under the law subject to the provisions of this Constitution.”
- **Electronic Transactions Law 2004 (as amended in 2014 and 2021)** – is currently the most comprehensive statute consisting of inclusive provisions on data privacy in Myanmar. A Chapter (Chapter X) on protection of personal data was added to the Electronic Transactions Law in 2021.
- **The Law for Protection of Privacy and Security of Citizens 2017 (as amended in 2020 and 2021): Section 8** provides that all individuals are obliged to not invade personal privacy and personal security of other Myanmar citizens. However, this provision has been suspended under the Amendment Law of State Administration Council (2021) until further notice.
- **The Competition Law (2015): Section 19** mentions that all business owners are responsible for non-disclosure and non-use of another business’ secrets and private information, without the lawful owner’s permission.
- **The 2022 Cybersecurity Law (Draft)** is a pending law which covers protection of data privacy in Myanmar.

Changes to Data Privacy Provisions

- The **suspension of Section 8 of the Law Protecting the Privacy and Security of Citizens (2017)** means that government agencies can now intercept any communication and demand data from telecommunications service providers. In addition, **amendments to the Electronic Transactions Law (2004)** allow the government access to personal data in the name of "stability," "tranquility," and "national security."
- There is a **draft Cyber Security Law** that has been circulated that contains data protection provisions, however they are extremely similar to the new provisions in the Electronic Transactions Law referred to above. State Administration Council (SAC) has been mulling over the enactment of new Cybersecurity Law since 2021.

Data Subjects' Rights

- In Myanmar, there is no express provision on the right of data subjects, such as right to do-not-calls or right to correction of data.
- However, according to existing laws, data subjects basically have the right to non-disclosure without the consent of a data owner and/or without the permission of law, the right to non-disturbing in communication by telecommunications devices or in any way, and the right to non-processing of data by unauthorized means.
- Most importantly, every citizen has the right to enjoy fully personal privacy and personal security as set forth in the Constitution of Myanmar. **[Section 3 of Law for Protection of Privacy and Security of Citizens (2017)]**
- However, there is some limitation on the rights of data subjects pursuant to the government intervention under in the name of "stability," "tranquility," and "national security."

General Requirements on Cross-border Transfers

- With reference to **Telecommunications Law**, restriction on cross-border data transfers shall also be in accordance with the terms and conditions contained in the telecommunication business license, especially for data center operation, which were stipulated by the respective government department to a service provider for establishing and providing service in Myanmar.
- With reference to **Section 27-A of Electronic Transactions Law 2004 (as amended up to 2021)**, personal data may be transferred overseas with the consent of data subject.
- Currently, **Myanmar's Post and Telecommunications Department (PTD)** oversees controlling data transfer, and the position is less specific when no express provision is made.

Enforcement and Remedies

- A privacy breach is punishable with imprisonment, fine and administrative action in Myanmar.
- According to the **Electronic Transactions Law 2004** (as amended up to 2021), the following sanctions can be made –

Imprisonment for a term of minimum one year to maximum term up to three years, or with a fine not exceeding 10,000,000 kyats or with both, in case of failure to manage personal data in accordance with the law; [Section 38-A]

Imprisonment for a term of minimum one year to maximum term up to three years, or with a fine not exceeding 5,000,000 kyats, or with both in case of obtaining, disclosing, utilizing, destroying, altering disseminating or sending personal data to a third party without the consent of the data subject or without the approval; [Section 38-B]

- Pursuant to the **Financial Institutions Law 2016**, administrative penalties namely warnings, fines, orders including those restricting the operations of financial institutions, suspension, or permanent termination from duties, shall be imposed for those who violates the privacy regulations contained in the law. However, these administrative sanctions shall not preclude taking criminal action or civil action. [Section 154]

Enforcement and Remedies (Continued)

- Under the **Competition Law 2015**, imprisonment for a term not exceeding two years or with fine not exceeding 10,000,000 kyats or with both, shall be applicable in case of breach of privacy of another business. [Section 41]
- **Telecommunications Law 2013 (as amended in 2017)** promulgates that communications, reception, transmission, distribution, or conveyance of incorrect information with dishonest or participation and prohibiting, obstructing, or interfering the transmission, reception, communication, conveyance or distribution of information without permission shall be liable to imprisonment for a term not exceeding one year or with fine or with both. [Section 68]
- **The Draft Cybersecurity Law (2022)** also states punishment for any person who manages by other means or abuses personal data without the consent of respective person and he or she shall be liable, upon conviction, for imprisonment for a term from minimum of 1 year to maximum of three years or with a fine up to 5 million kyats or with both. [Section 80]



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