DICA
Directorate of Investment and Company Administration

Investment Related Laws of Myanmar

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Tax on Specific Goods Law
Pyidaungsu Hluttaw Law No 11 of 2016
The 9 Waxing Day of Pyatho 1377 M.E.
18 January 2016

Pyidaungsu Hluttaw enacted this Law.

Chapter 1
Name, Effective Date and Definitions

1. This Law shall be called Tax on Specific Goods Law.
2. The provisions of this Law shall be effective in the length and breadth of the country starting from 2016-2017 fiscal year.
3. The expressions in this Law shall have the definitions given hereunder:-
   (a) **Tax** means tax imposed on specific goods payable under this Law. This expression includes the fine and penalty charged under this Law.
   (b) **Taxpayer** means a person who is responsible to pay the tax according to this Law.
   (c) **Specific goods** means the goods mentioned in the Schedule of this Law.
   (d) **Manufacturing** means the manufacturing of specific goods in one's own factory or workshop or establishment or by entrusting to other people. This expression includes each manufacturing process in which goods are produced in natural way or by preserving. Moreover:-
      (1) distilling, re-distilling for refinery and addition of odour and taste, fermentation, bottling, adding necessary ingredients for preparation of beverages and preserving in other manner;
      (2) preserving and altering tobacco leaves or tobacco raw materials into products that can be consumed, inhaled and chewed and producing cheroots, cigars, cigarette and similar products by using tobacco; and
      (3) extracting and altering specific goods mechanically or manually or altering their quality or nature or size or structure or combination and combining their part of parts.
   (e) **Manufacturer** means a person who manufactures specific goods in his/her own factory or workshop or establishment or by entrusting to other people.
   (f) **Importer** means a person who imports specific goods that are specified to be levied with taxes.
   (g) **Sale** means the sale of specific goods in down payment or instalment or suspended payment or advance sale system.
   (h) **Owner of specific goods** means a person who is in possession of specific goods. This expression includes a representative who is authorized to manage specific goods transferred by the owner or manufacturer or a beneficiary in connection with specific goods.
   (i) **Traveler** means a person who is in possession of evidence of going on foreign trip. This expression includes people who is in possession of direct travelling tickets,

transits in the country according to the itinerary and will leave for another foreign country.

(j) **Landed cost** means the sum mixed with the value determined according to custom law for imported specific goods, the custom charged on such goods and unloading expense.

(k) **Duty free shop** means the shop that is authorized to operate and sell specific goods to the travelers in line with the disciplines.

(l) **Selling price of factory, workshop and establishment** means the selling price of factory, workshop and establishment without including the tax chargeable under this Law.

(m) **Market price** means the retail selling price determined by supply and demand without being controlled by the buyer and seller or the estimated selling price calculated according to the stipulations in any event where retail selling price cannot be determined.

(n) **Declaration form** means the form submitted by the taxpayer for production and sale of specific goods under this Law.

(o) **Assessment** means the determination of tax payable by the taxpayer under this Law. This expression includes the submission of declaration form and going under the assessment by taxpayers themselves after calculating the payable tax according to this Law.

(p) **Year** means fiscal year.

(q) **Ministry** means Republic of the Union of Myanmar Government, Ministry of Finance.

(r) **Department** means Internal Revenue Department.

(s) **Director General** means the Director General of Internal Revenue Department.

(t) **Township Revenue Officer** means the in-charge officer of the relevant Township Revenue Office who is assigned the duty of collecting taxes from the taxpayer. This expression includes Heads of the staff who are assigned the duty of assessing and collecting taxes at Large Taxpayer Revenue Office and Medium Taxpayer Revenue Office.

Chapter 2
Charging the Tax and Responsibility

4. (a) Any person who:-
   (1) imports specific goods;
   (2) manufactures them in the country; or
   (3) exports them shall be charged with tax according to the Schedule of this Law.

   (b) A person who possesses or owns specific goods for which tax has not been paid shall comply with the provisions of this Law.

   (c) A person who imports, exports, manufactures or possesses specific goods shall comply with this Law and rules issued under this Law.

5. With regard to specific goods for which tax is charged according to section 4:-

(a) if they are imported:-

(1) the importer shall pay the tax on specific goods.

(2) the Custom Department shall collect the custom and tax payable under sub-section 1 according to the manner of collecting the custom.

(b) if they are manufactured in the country, the manufacturer shall pay the tax on specific goods.

(c) if they are exported, the exporter shall pay the tax on specific goods.

6. (a) Through Union Tax Law that is prescribed for the respective financial year:-

(1) the items contained in the Schedule of this Law may be amended or added or deleted.

(2) the tax rates chargeable on specific goods contained in the Schedule which will be calculated based on value, amount, weight or other measurement shall be determined.

(3) specific goods and tax rate chargeable for the export shall be specified.

(b) With regard to owned or manufactured specific goods for which tax has not been paid, the relevant taxpayer shall send the required information to Township Revenue Officer in order to determine selling price in line with stipulations. Township Revenue Officer shall also request such information.

7. (a) The tax rate for specific goods chargeable according to section 4 shall be calculated based on value of goods, amount, weight or other measurement happened on:

(1) the date on which custom is cleared for specific goods which are imported; or

(2) the date on which specific goods are manufactured; or

(3) the date on which it is inspected that specific goods are owned without paying the tax according to this Law.

(b) The selling price of specific goods shall be calculated based on:-

(1) the market price determined and approved by Director General and Internal Revenue Department Management Committee for the relevant fiscal year for specific goods manufactured in the country or specific goods found at the owner's place for which tax has not been paid according to this Law.

(2) the landed cost for specific goods imported.

8. (a) Any person shall, according to this Law:-

(1) pay the chargeable tax before collecting specific goods if he/she imports specific goods.

(2) pay the chargeable tax within 10 days after the end of the month in which specific goods are sold if they are manufactured in the country.

(3) pay the chargeable tax within 7 days from the date on which it is inspected that specific goods for which tax has not been paid are found at the owner's place.

(b) The matters which are difficult to be dealt and complied with the procedure according to sub-section (a) shall be solved with the manners determined by Director General.

Chapter 3
Tax Exemption and Reliefs

9. (a) No tax shall be charged on the following specific goods:-
   (1) specific goods exported to foreign countries except for the ones determined to be charged with tax for export according to Union Tax Law.
   (2) specific goods sold by duty free shop to travelers.
   (3) specific goods sold on the ship or aircraft that travel to foreign countries.
   (4) specific goods temporarily imported for the purpose of re-exporting.
   (5) specific goods manufactured locally or imported for social, religious, health and education purposes and those donated by local and international people.
   (6) specific goods imported for people who are exempted according to international laws and international or diplomatic conventions.
   (7) fuel used for aircrafts that leave for foreign countries.

   (b) Union Government may exempt tax or grant tax relief in connection with taxable specific goods under the approval of Pyidaungsu Hluttaw.

   (c) Union Government may exempt tax or grant tax relief for the following matters:-
   (1) specific goods given to the State by foreign organizations as aids or specific goods
   (2) specific goods included in reciprocal rights principles.
   (3) specific goods manufactured locally or imported by Union Government for security and defense purposes except for teak and hardwood logs, teak and conversions, jade, ruby, sapphire, emerald, diamond and other valuable crude gems, fine gems and jewelry.

10. The following matters shall be conducted in line with stipulations:-
   (a) manners to be followed and complied for specific goods temporarily imported under the plan of re-exporting.
   (b) manners to be followed and complied for tax refund.

11. A manufacturer of specific goods may set off the tax paid at the time of importing raw materials and partly-finished goods or buying them from other local manufacturer of specific goods in order to manufacture specific goods with the tax chargeable on sale of his/her manufactured specific goods. Tax set-off process shall be conducted in line with stipulations so that tax will be charged only for one time for manufacturing and sale of specific goods.

Chapter 4
Duties and Powers

12. Director General shall practise the following duties and powers. He may confer his/her duties and powers to his/her subordinate staff and let them to implement:-
   (a) determining market price of specific goods and determining the estimated selling price of the factory, workshop and establishment based on such market price.
   (b) determining the manners of paying taxes for cases where tax payment is difficult to be made within specified period; extending the deadline of tax payment.

(c) announcing procedures and instructions.
(d) determining the forms.
(e) entering into business premises and checking specific goods and records.
(f) inspecting and restricting the re-shuffling of specific goods.
(g) discovering and confiscating specific goods; and
(h) handling sample materials.

13. A person who has been conferred duties and powers by Director General according to section 12 has the right to:-
(a) inspect statistics, evidence and other documents maintained through any system for the purpose of this Law, enter business premises and buildings, and conduct fully. Moreover, he/she has the right to:-
(1) take reference and copy accounting books, evidence and other documents.
(2) record, count and inspect goods, materials, facilities and containers located in the premises.
(3) print markings on accounting books or documents that have been inspected for remembrance, take reference from them and copy them.
(b) stop and inspect any vehicle that is on the verge of leaving from the warehouse where taxable specific goods are kept.
(c) If there is any reason to believe that any case conducted under this section will be obstructed or rejected, a person who has been conferred duties and powers by Director General according to section 12 has the right to request search warrant from Township Judge. In doing so, the findings shall be promptly reported to Township Judge and relevant Region or State Revenue Officer, Union Territory Revenue Officer, Revenue Officer of Large Taxpayer Revenue Office or Medium Taxpayer Revenue Office.
(d) Any matter contained in sub-section (a) shall be conducted in front of the relevant manufacturer or owner of specific goods or his/her representative and two witnesses. The receipt will be issued if accounting books and documents are confiscated and they will be possessed for a limited period during which they will be inspected.

14. When a person who is dwelling in a building or premise claims for the evidence to show the power for entering, any authorized person shall reveal the written evidence signed and issued by Director General to show that he/she has the power to practise the rights under section 12. If the authorized person is unable to do so, he/she shall not enter or exist in such business building or premise.

Chapter 5
Registration

15. (a) A manufacture of specific goods shall conduct the registration process at the relevant Township Revenue Officer's office.
(b) Township Revenue Officer may send the notice to the manufacturer of specific goods for registration in line with stipulations.

(c) If Township Revenue Officer discovers that the application is made for registration in line with stipulations, he/she shall issue the operating certificate for the relevant fiscal year.

Chapter 6
Submitting the Declaration Form

16. (a) A local manufacture of taxable specific goods shall pay the tax within 10 days after the end of the relevant month during which specific goods are sold and submit declaration form of manufacturing and selling specific goods for such relevant month to Township Revenue Officer.

(b) If there is any cause for Township Revenue Officer to presume that any person manufactures taxable specific goods, he/she may inform such manufacturer of taxable specific goods to pay for tax on the manufacturing and sale of specific goods and submit the declaration form.

(c) A person who imports taxable specific goods shall submit the list of imported specific goods to the Customs Department before withdrawing them from Customs Department.

Chapter 7
Tax Assessment and Refund

17. (a) If Township Revenue Officer believes and is satisfied that the declaration form sent under sub-sections (a) and (b) of Section 16 is correct and complete in connection with manufacturing and sale of specific goods, he/she shall assess tax based on such declaration form.

(b) If there is any cause for Township Revenue Officer to believe that the manufacturing and sale amount of specific goods may not be accurately obtained from information contained in the declaration form submitted for manufacturing and sale of specific goods, he/she may assess tax by screening other necessary evidence.

(c) If any person fails to submit the declaration form in connection with manufacturing and sale of specific goods, Township Revenue Officer shall, based on the available information, assess tax on any manufacturer of specific goods within one month after the end of the month in which specific goods are manufactured and sold.

18. If the taxpayer can show that or Township Revenue Officer or Custom Department finds out that the paid tax amount is greater than the actual taxable amount, any extra sum shall be refunded. The taxpayer is entitled to claim the refund within one year starting from the date of receiving the notice.

Chapter 8
Re-assessment and Correcting the Mistake

19. (a) Township Revenue Officer may re-assess the tax for any fiscal year in regard to:-

(1) the matter in which tax is free from being assessed although it should be assessed; or

(2) the matter in which tax is assessed less than the chargeable amount.

(b) The tax shall be calculated and claimed according to tax rate which is effective for the relevant year when taking action according to sub-section (a).

20. (a) Township Revenue Officer may, upon finding any conspicuous mistake in the record in connection with the assessment or upon the report made by the taxpayer, amend any decision within 3 years starting from the date on which such decision is made.

(b) Tax Appeal Tribunal or Region or State Revenue Officer, Union Territory Revenue Officer, Revenue Officer of Large Taxpayer Revenue Office or Medium Taxpayer Revenue Office may, upon finding any conspicuous mistake in the record in connection with the order for appeal upon the report made by the appellant, amend the order for appeal within 3 years starting from the date on which such order is made.

(c) The tax shall be calculated according to tax rate of the relevant year when taking action according to sub-sections (a) and (b). The taxpayer or appellant shall be given the right to explain in order to make an amendment that will increase the tax amount or decrease the refund amount.

Chapter 9
Appeal

21. (a) Any taxpayer who is dissatisfied with any order may appeal to the following individuals and organizations:-

(1) the relevant Region or State Revenue Officer or Union Territory Revenue Officer or Revenue Officer of Large Taxpayer Revenue Office or Medium Taxpayer Revenue Office if the amount of tax assessed by Township Revenue Officer exceeds 1 million kyats.

(2) Tax Appeal Tribunal if the tax amount exceeds 10 million kyats and the decision is made by Regional or State Revenue Officer or Union Territory Revenue Officer or Revenue Officer of Large Taxpayer Revenue Office or Medium Taxpayer Revenue Office.

(3) Union Supreme Court if the case is related to legal question arisen from the decision made by Tax Appeal Tribunal.

(b) The taxpayer:-

(1) may appeal in line with specifications if he/she is dissatisfied with any order or decision made to him/her.

(2) shall submit the appeal form within 30 days starting from the date on which the order or decision is made by Township Revenue Officer.

(c) If the taxpayer or Township Revenue Officer is dissatisfied with the decision passed by the relevant Region or State Revenue Officer or Union Territory Revenue Officer or Revenue Officer of Large Taxpayer Revenue Office or Medium Taxpayer Revenue Office, they shall submit the appeal form within 60 days starting from the date on which such order is made.

(d) When calculating the limitation for appeal,

(1) the period required to copy the order that is desirous to be appealed and

(2) the period during which the right to appeal is requested without settling the tax completely shall be deducted.

(e) Union Supreme Court, Tax Appeal Tribunal, the relevant Region or State Revenue Officer or Union Territory Revenue Officer or Revenue Officer of Large Taxpayer Revenue Office or Medium Taxpayer Revenue Office may relax the limitation period prescribed under sub-sections (b) and (c) if there is sound reason.

(f) Any person who is desirous to appeal shall go under appeal only after:-

(1) either settling the tax completely; or

(2) applying and depositing 50% of the assessed tax to the relevant Region or State Revenue Officer or Union Territory Revenue Officer or Revenue Officer of Large Taxpayer Revenue Office or Medium Taxpayer Revenue Office and complying with the decision made by them.

(g) The relevant appeal court may pass the relevant order after providing the appellant the right to speak when making a decision for appeal case.

(h) If the amount of tax does not exceed 1 million kyats, the decision of Township Revenue Officer shall be final and conclusive. If the amount of tax does not exceed 10 million kyats, the decision of Region or State Revenue Officer, Union Territory Revenue Officer, Revenue Officer of Large Taxpayer Revenue Office or Medium Taxpayer Revenue Office shall be final and conclusive. If the tax amount exceeds 10 million kyats and no legal question arises, the order of Tax Appeal Tribunal shall be final and conclusive.

(i) If any legal question arises with regard to the order made by Tax Appeal Tribunal, the appellant or Region or State Revenue Officer, Union Territory Revenue Officer, Revenue Officer of Large Taxpayer Revenue Office or Medium Taxpayer Revenue Office may make a proposal to Tax Appeal Tribunal within 60 days starting from the date on which such order is made.

(j) If Tax Appeal Tribunal refuses the proposal made under sub-section (i), a person whose proposal has been refused may apply to Union Supreme Court within 60 days starting from the date on which the order of refusal is made.

Chapter 10
Offences and Penalties

22. If any person fails to conduct any of the following activity without sound reason, Township Revenue Officer shall cause such person to pay the fine or remedy for each of the failure:-

(a) 5 million kyats for failing to register within the respective year;

(b) 5 million kyats for failing to provide information in time requested under this Law in order to determine market price.

(c) 100 per cent of the value of specific goods shall be paid as fine if they are owned without paying tax and such specific goods shall be confiscated.

(d) 10 per cent of the payable tax shall be paid as fine for failing to pay tax under this Law within specified period.

(e) 10 per cent of the tax chargeable for the relevant month shall be paid as fine for failing to submit declaration form in time.

(f) 50 per cent of value of specific goods shall be paid as fine for failing to affix tax label on them discovered by Township Revenue Officer.

23. (a) If it is discovered that any person evades for tax exemption or omits information related to specific goods in order to reduce tax amount, such person shall be provided with the right to disclose complete information within specified period.

(b) If a person who has the right to disclose complete information according to sub-section (a) does so, he/she shall pay the tax as well as the fine which is equivalent to one time of the tax which is over charged due to tax invasion or omission of information.

(c) If a person who has the right to disclose complete information according to sub-section (a) fails to do so within specified period or provide less information related to manufacturing amount of specific goods which has been omitted or evaded, he/she shall be charged with both tax under sub-section (b) and fine and shall also be prosecuted.

24. If any person who has the right to disclose information according to section 23 (a) is convicted of having failed to disclose information within permitted period or providing less information in regard to amount of specific goods which have been omitted or evaded, he/she shall be punishable with imprisonment for a term not more than 3 years or with fine not more than 1 million kyats or both.

25. (a) Any person who intentionally submits incorrect declaration form in regard to manufacturing amount of specific goods with dishonest intention or submits evidence that is incorrect or known to be incorrect by such person shall be punishable with fine that is equivalent to 3 times of chargeable tax and shall be prosecuted.

(b) Any person who is convicted after being charged with the offence under sub-section (a) shall be punishable with imprisonment for a term not more than 3 years or fine not more than 3 million kyats or both.

26. Any person who is convicted of having committed any of the following offence by having a ground of this Law shall be punishable with imprisonment for a term not more than 7 years:-

(a) misusing any right or power conferred under this Law by dishonest intention or fraudulent manner.

(b) failing to comply with the provision of this Law without sound reason; prohibiting the conduct of activity that is to be done in line with laws in force.

27. Whoever commits bribery by having a ground of this Law or makes effort to do so shall be charged according to criminal proceeding or according to any law in force separately prescribed for such offence.

28. If any person is convicted of having failed to provide information without sound reason after being prosecuted under sub-section (d) of section 31, he/she shall be punishable with imprisonment for a term of minimum 1 year to maximum 3 years.

Chapter 11
Compulsory Collecting

29. If any taxpayer fails to pay tax chargeable under this Law within specified period or in line with the manners determined by Director General:-

(a) he/she shall be regarded as the default person and the unpaid tax shall be regarded as arrear tax amount.

(b) the arrear tax amount shall be collected from the taxpayer as the income tax arrears.

Chapter 12
Miscellaneous

30. Tax Appeal Tribunal, Regional or State Revenue Officer, Union Territory Revenue Officer, Revenue Officer of Large Taxpayer Revenue Office or Middle Taxpayer Revenue Office or Township Revenue Officer are entitled to request any information related to the matters of this Law from any person who is in possession of such information.

31. If any person who has been requested to provide information according to section 30 fails to do so:-

(a) timeline for him/her shall be extended to 15 days.

(b) If such person still fails to provide information within the timeline extended under sub-section (a), Tax Appeal Tribunal, Regional or State Revenue Officer, Union Territory Revenue Officer, Revenue Officer of Large Taxpayer Revenue Office or Middle Taxpayer Revenue Office or Township Revenue Officer may inspect the reason for failure by practicing the Civil Procedure Code.

(c) When inspection under sub-section (b), if it is found out that the reason for failure is not because of such person's action but because of the loss of documents, such person shall be caused to make an oath to the extent he/she can recall and he/she may be permitted to submit the information.

(d) If Tax Appeal Tribunal, Regional or State Revenue Officer, Union Territory Revenue Officer, Revenue Officer of Large Taxpayer Revenue Office or Middle Taxpayer Revenue Office or Township Revenue Officer find out that a person fails to submit information without sound reason, they may prosecute him/her.

32. Any person who will leave Myanmar shall not do so unless he/she receives the certificate showing that he/she has no liability to pay tax or has completed tax payment issued by any authority that has been conferred duty by the Ministry for that purpose.

However, the Ministry may exempt any person from this section by issuing the notification in connection with the above-mentioned case.

33. (a) Tax collected from respective Region or State except the amount collected for importing specific goods may be deposited to the fund of respective Region or State according to percent or ratio determined by Union Government.

(b) The reward may, according to the percent or ratio determined by Pyidaungsu Hluttaw, be given from the fine collected on owning and possessing specific goods for which tax has not been paid.

34. The Ministry:-

(a) may determine specific goods on which tax label shall be affixed or for which other manner shall be practised among taxable specific goods.

(b) may determine the sale by affixing tax label or the practice of other manner.

(c) may determine manners of storing or maintaining specific goods under bond.

35. The Ministry may determine manners to be followed in connection with specific goods for which commercial tax has been paid according to provisions of Commercial Tax Law 2014, Union Tax Law and Union Tax Law 2015.

36. When implementing the provisions of this Law:-

(a) the Ministry may issue the rules, regulations and disciplines under the approval of Union Government.

(b) the Ministry may issue the notifications, orders and instructions and Director General may issue the notifications, orders, instructions and procedures under the approval of the Ministry.

I hereby sign according to the Constitution of Republic of the Union of Myanmar.

Sd/xxx
Thein Sein
The President
Republic of the Union of Myanmar

Schedule

Specific Goods on which Tax will be charged

In connection with the specific goods contained in the following schedules, if they are imported, the tax shall be charged on the landed cost, and if they are produced and sold in the country, the tax shall be charged on more of either the selling price determined by the factory, workshop and establishment or the selling price estimated and determined by Director General of Internal Revenue Department and Management Committee of Internal Revenue Department based on the market price at the specific rate shown against them. The value grade and tax percent of specific goods shall be determined according to Union Tax Law that is prescribed for the respective financial year.

Sr. No	Types of specific goods	Market Price Value Grade	Tax percent
1.	(a) Various kinds of cigarettes	Up to ( ) kyats per packet containing 20 pieces	( ) kyats per piece
	(b) Various kinds of cigarettes	From ( ) kyats to ( ) kyats per packet containing 20 pieces	( ) kyats per piece
	(c) Various kinds of cigarettes	From ( ) kyats to ( ) kyats per packet containing 20 pieces	( ) kyats per piece
	(d) Various kinds of cigarettes	From ( ) kyats to ( ) kyats per packet containing 20 pieces	( ) kyats per piece
	(e) Various kinds of cigarettes	From ( ) kyats to ( ) kyats per packet containing 20 pieces	( ) kyats per piece
	(f) Various kinds of cigarettes	( ) kyats and above per packet containing 20 pieces	% of the value
	(g) Various kinds of cigarettes (imported)	On landed cost	%
2.	Tobacco		%
3.	Virginia tobacco, cured		%
4.	Cheroots		%
5.	Cigars		%
6.	Pipe tobacco		60
7.	Betel chewing preparations		%
8.	(a) Various kinds of liquor	Up to ( ) kyats per litre	( ) kyats per litre

	(b) Various kinds of liquor	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(c) Various kinds of liquor	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(d) Various kinds of liquor	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(e) Various kinds of liquor	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(f) Various kinds of liquor	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(g) Various kinds of liquor	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(h) Various kinds of liquor	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(i) Various kinds of liquor	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(j) Various kinds of liquor	( ) kyats and above per litre	% of per litre value
	(k) Various kinds of liquor (imported)	On landed cost	%
9.	Various kinds of beer		%
10.	(a) Various kinds of wine	Up to ( ) kyats per litre	( ) kyats per litre
	(b) Various kinds of wine	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(c) Various kinds of wine	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(d) Various kinds of wine	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(e) Various kinds of wine	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(f) Various kinds of wine	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(g) Various kinds of wine	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(h) Various kinds of wine	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre

	(i) Various kinds of wine	From ( ) kyats to ( ) kyats per litre	( ) kyats per litre
	(j) Various kinds of wine	( ) kyat and above per litre	% of one litre value
	(k) Various kinds of wine (imported)	On landed cost	%
11.	Teak and hardwood logs, teak and conversions exceeding 10 inches round		%
12.	Jade, rubies, sapphires, emeralds, diamonds and other gems (rough)		%
13.	Jewelries and jade, rubies, sapphires, emeralds, diamonds, other gems (fine) and jewelries		%
14.	Vans above 1,800 CC except Double Cab 4 Door Pick Up, saloons, sedans and estate wagons and coupes		%
15.	Petrol, diesel, aviation jet fuel		%
16.	Natural gas		%

Sunday, December 27, 2015

Translation of the draft 2016 Union Tax Law

CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED

Union Tax Law Draft 2016
Pyidaungsu Hluttaw Law No. /2016
, 1377 M.E, 2016

The Pyidaungsu Hluttaw hereby enacts this law.

Chapter (1)
Title, coming into force and definitions

1. (a) This law shall be called the Union Tax Law 2016.
(b) The provisions contained in this law -
(1) Shall come into force with effect from 1st April, 2016 for the 2016-2017 financial year regarding chapter 5: commercial tax;
(2) Regarding chapter 6: income tax -
(aa) shall come into force with effect from 1st April, 2016 regarding the provisions contained in section 19 - salary income - and section 24 of this law;
(bb) shall come into force from the 2016-2017 assessment year regarding the remaining provisions.

2. The following expressions contained in this law shall have the meanings given hereunder -
(a) "**Tax**" means the tax collected for the Union by the Union Government;
(b) "**Law**" means the laws enacted relating to the tax collected for the Union by the Union Government;
(c) "**Relevant Ministry**" means the Union Ministries responsible for collecting the taxes to be collected by the Union Government for the Union;
(d) "**Law relating to the budget**" means the law relating to the Union budget and the law relating to the additional budget allotment, enacted annually;
(e) "**Tax Rate**" means the specified rate at which tax is collected for the Union by the Union Government.

Chapter 2
Taxes earmarked for collection

3. The taxes received by the Union contained in the laws relating to the budget are the taxes earmarked for collection contained in table (1) of this law for the relevant financial year.

Chapter 3
Specifying the tax rates and reporting

4. The relevant Ministry shall collect the earmarked taxes at the tax rates contained in this law for the types of the taxes.

5. If the tax rates contained in this law should be amended, supplemented or substituted, the Union Government shall submit the matter to the Pyidaungsu Hluttaw to be decided after discussion.
6. Every three months, the relevant Ministry shall send the status of collection of the earmarked taxes contained in table (1) of this law to the Budget Department.
7. Every six months, the Budget Department shall compile the lists of tax collection status sent by the relevant Ministries and submit the compilation to the Union Government through the Ministry of Finance with its opinion and remarks.

Chapter 4
Duties and powers of the relevant Ministries

8. The relevant Ministries shall be responsible for, and monitor, the collection of the earmarked taxes contained in table (1) of this law.
9. The relevant Ministries shall request assistance from the Union Ministries, Region or State Governments, Head Organizations of the Self-administered Divisions and Head Organizations of the Self-administered Regions in order to obtain required data and support so that tax payers pay in accordance with the law.
10. The relevant Ministries shall request assistance from the Union Ministries, Region or State Governments, Head Organizations of the Self-administered Divisions and Head Organizations of the Self-administered Regions in order to obtain required data and support so that tax payers pay in accordance with the law.

Chapter 5
Commercial Tax

11. According to section 6 of the Commercial Tax Law, the schedules to this law are prescribed as follows -

Schedules to the Commercial Tax Law
Special Goods

(a) If the special goods contained in the following schedule are imported, the tax shall be paid on the landed costs, and if the special goods are produced and sold in the country, the tax shall be paid on the sales price shown by the factory or workshop, or the market price, or the estimated value specified by the Director General for Commercial Tax, whichever is higher.

No.	Special goods	Value based on the market price	Tax rate
	(a) Various kinds of cigarettes	20 sticks per pack with a selling price up to Ks. 300	Ks. 3 per stick
	(b) Various kinds of cigarettes	20 sticks per pack with a selling price from Ks. 301 to 500	Ks. 8 per stick
	(c) Various kinds of cigarettes	20 sticks per pack with a selling price from Ks. 501 to 1,000	Ks. 14 per stick
	(d) Various kinds of cigarettes	20 sticks per pack with a selling price from Ks.1,001 to 2,000	Ks. 29 per stick
	(e) Various kinds of cigarettes	20 sticks per pack with a selling price from Ks. 2,001 to 3,000	Ks. 48 per stick
	(f) Various kinds	20 sticks per pack with a selling	120% of the

No.	Special goods	Value based on the market price	Tax rate
	of cigarettes	price above Ks. 3,000	value
	(g) Various kinds of cigarettes (imported)	Landed costs	120%
2.	Tobacco		60%
3.	Virginia tobacco, cured		60%
4.	Cheroot		60%
5.	Cigars		60%
6.	Pipe tobacco		60%
7.	Betel chewing preparation		60%
8.	(a) Various kinds of liquor	Selling price up to Ks. 500 per litre	Ks. 66 per litre
	(b) Various kinds of liquor	Selling price from Ks. 501 to 1,000 per litre	Ks. 197 per litre
	(c) Various kinds of liquor	Selling price from Ks. 1,001 to 2,000 per litre	Ks. 394 per litre
	(d) Various kinds of liquor	Selling price from Ks. 2,001 to 3,000 per litre	Ks. 656 per litre
	(e) Various kinds of liquor	Selling price from Ks. 3,001 to 4,000 per litre	Ks. 919 per litre
	(f) Various kinds of liquor	Selling price from Ks 4,001 to 5,000 per litre	Ks. 1,181 per litre
	(g) Various kinds of liquor	Selling price from Ks. 5,001 to 7,000 per litre	Ks. 1,575 per litre
	(h) Various kinds of liquor	Selling price from Ks. 7,001 to10,000 per litre	Ks. 2,231per litre
	(i) Various kinds of liquor	Selling price more than Ks. 10,000 per litre	60% of the value
	(j) Various kinds of liquor (imported)	Landed costs	60%
9.	Various kinds of beer		60%
10.	Various kinds of wine		50%
11.	Teak, hard wood logs and conversions		25%
12.	Jade, rubies, sapphires, emeralds, diamonds and other precious stones		15%

No.	Special goods	Value based on the market price	Tax rate
13.	Jewelry made from jade, rubies, sapphires, emeralds, diamonds or other precious stones		5%
14.	Four double pickup vehicles above 1800 CC, light vans, saloons, sedans and light wagons, estate wagons and coupes		25%
15.	Petrol, diesel, aviation jet fuel		10%
16.	Natural gas		8%

(b) No commercial tax shall be levied for any goods mentioned below.

Sr. no.	Description of the goods
1.	Paddy, rice, split, soft bran, rough bran, paddy husk
2.	Wheat grain, flour, smooth and rough flour
3.	Maize and other cereals, powder maize and other powder cereals
4.	Pulses, chick peas, pea flour
5.	Peanuts, shelled or unshelled
6.	Sesame, sesame flowers
7.	Mustard seeds, sunflower seeds, tamarind seeds, cotton seeds
8.	Palm oil
9.	Various cottons
10.	Jute and similar fibers
11.	Garlic, onions
12.	Potatoes
13.	Cassava plants, cassava powder
14.	Spices (leaves, fruits, seeds, bark), prepared spices
15.	Various fresh fruits
16.	Vegetables
17.	Sugar, sugarcane
18.	Mulberry leaves
19.	Medical plants or herbs
20.	Thatch, reeds, thapo, dani, taung htan, pharlar, elephant foot yam tuber, thanakhar and such agricultural products not elsewhere specified
21.	
22.	Wood, bamboo
23.	Live animals, fish and shrimps
24.	Silk cocoons

Sr. no.	Description of the goods
25.	Canes, finished and unfinished
26.	Honey and bee wax
27.	Lac
28.	Dregs from the production of peanut oil, sesame oil, bran oil, fermented soy-bean oil and solid oil
29.	Soap powder, soap
30.	Bleaching oil
31.	Coir yarn, charcoal made from coconut shells
32.	Tea leaves, various kinds of dry tea leaves
33.	Different kinds of stamps, including revenue stamps
34.	Sealing wax and sticks
35.	Slates, slate pencils and chalk
36.	Shrimp and fish sauces (ngan-pya-ya)
37.	Peanut oil, sesame oil, sunflower oil, bran oil, fermented soy-bean oil, solid oil
38.	Raw fish, raw prawns
39.	Milk, all kinds of milk powder
40.	Chili, chili powder
41.	Saffron, saffron powder
42.	Ginger
43.	Fish paste
44.	Ripe tamarinds
45.	National flag
46.	Various kinds of religious beads
47.	Various kinds of rulers, erasers, sharpeners
48.	Alternatives to firewood
49.	Coconut oil (not palm oil)
50.	Various kinds of fowl eggs
51.	Pumpkin seeds, watermelon seeds
52.	Religious clothes (thingyan robes, etc.)
53.	Oil dregs
54.	Salt
55.	Rubber paste
56.	Betel nuts
57.	Fertilizers
58.	Insecticides, pesticides
59.	Farm equipment, farm machines and parts
60.	Raw materials for animal feed, finished animal feed
61.	Animal medicines
62.	Cross-breeding components
63.	Solar panels, solar charger controllers and solar inverters
64.	X-ray films, plates and other X-ray material, surgical, medical or pharmaceutical apparatus and equipment
65.	Bandages, gauze, other surgical dressing materials, hospital and surgical outfit and sundries
66.	Pharmaceutical and other medicines (except medicine restricted by rules and regulations)

Sr. no.	Description of the goods
67.	Raw materials for pharmaceuticals
68.	Textbooks, exercise and drawing books of various kinds and papers for the production of such books and all sorts of pencils
69.	Graphite for the production of pencils
70.	Condoms
71.	The weapons, machines, vehicles, equipment and their spare parts for the usage of governmental organizations for national defense and security
72.	Various kinds of gun powder, various kinds of dynamites and
73.	accessories thereof used by the civil departments
74.	Crops seeds, nursery plants
	Fire engines, ambulance vehicles
75.	Duty free articles to be sold in foreign currency to overseas passengers at the departure places
76.	Goods used by diplomats and non-diplomatic staff at foreign embassies and consulates if there is reciprocity
77.	Goods purchased for the consumption of armed forces by using the budget of the Ministry of Defense
78.	CMP goods, packaging materials for them, packaging materials for finished goods
79.	Fuel sold to foreign embassies, UN organizations and foreign diplomats by the Ministry of Energy.
80.	Goods purchased by local or foreign organizations with money
81.	donated for the country
	Jet fuel for outbound planes
	Goods exempted from tax by parliament due to requirements of the state

(c) Except for the goods specified in sub-sections (a) and (b), 5% commercial tax shall be paid on the sales price of goods produced and sold in the country or on the landed costs of imported goods.

(d) Except for goods and trading activities exempted in accordance with this law, 5% commercial tax shall be paid on the sales price of the following activities:

(1) Domestic sale of imported goods

(2) Trading

(e) With regard to the goods specified in sub-section (a), the commercial tax levied on the import of the goods listed below must not be set off with the commercial tax levied on the proceeds of the sale of said goods. Likewise, the commercial tax levied when purchasing such goods from a local manufacturer must not be set off with the commercial tax levied on the proceeds from the resale of said goods. But for a trading transaction with the goods a set-off may be done in accordance with the commercial tax regulations -

(1) Cigarettes

(2) Tobacco

(3) Virginia tobacco, cured

(4) Cheroots

(5) Cigars

(6) Pipe tobacco
(7) Betel chewing preparation
(8) Various kinds of liquor
(9) Various kinds of beer
(10) Various kinds of wine

(f) 5% commercial tax shall be levied on the revenue from services provided in the country, with the exception of the following exempted services –

Sr. No.	Types of services
1.	House rental services unless the services are operated as a business
2.	Parking space rental services
3.	Life insurance services
4.	Microfinance services
5.	Health care services
6.	Education services
7.	Freight transport services (vehicles, vessels, aircraft, heavy machinery transport services)
8.	Employment agency services
9.	Banking services
10.	Customs clearance services
11.	Service consisting in the renting out of objects for social functions
12.	Contract manufacturing
13.	Funeral services
14.	Child nursery services
15.	Myanmar traditional massage / massage performed by a blind person
16.	Moving services
17.	Toll collection services
18.	Animal health care services
19.	Public toilet fees collection services
20.	Outbound air transport services
21.	Services concerning culture and art
22.	Public transport services (bus, railway and ferry boats)
23.	License fees to be paid to state organizations
24.	Publishing businesses concerned with the security of the Ministry of Defence and their publishing services
25.	Services used by diplomats and non-diplomatic staff of embassies and consulates if there is reciprocity
26.	Services purchased by local or foreign organizations with money donated for the country
27.	Services exempted from tax by parliament due to requirements of the state.

Sr. No.	Types of services
28.	Intra-government services provided by the Office of the President, the Office of the Union Government, the Office of the Pyidaungsu Hluttaw, the Office of the Pyithu Hluttaw, the Office of the Amyotha Hluttaw, the Office of the Supreme Court, the Constitutional Court, the Office of the Union Election Commission, the Union General Attorney's Office, the Office of the Union Auditor and the Office of the Union Civil Service Board, the Union Ministries, the Naypyitaw Council, the Central Bank of Myanmar, the Department of Social Welfare, the Offices of Region and State Governments and Departments (not included are services provided by, or to, state-owned enterprises)

(g) 5% commercial tax shall be levied on the revenue from the remaining services with the exception of services listed in sub-section (f).

(h) 3% commercial tax shall be levied on the sale proceeds from selling a building after having constructed it in the state. The developers shall be subject to all obligations and benefits contained in the Commercial Tax Law and the Commercial Tax Regulations.

12. In the cooperative sector and private sector, no commercial tax shall be levied if the sales proceeds or the service revenue do not exceed the following thresholds –

(a) Production and domestic sale of goods which are subject to commercial tax: sale proceeds up to Ks. 20,000,000 within one financial year;

(b) Services subject to commercial tax: Service revenue up to Ks. 20,000,000 within one financial year;

(c) Trading: Sale proceeds up to Ks. 20,000,000 within one financial year.

13. If any person receives foreign currency for the production and sale of any goods subject to commercial tax, the performance of services subject to commercial tax, or trading, the amount of commercial tax shall be calculated according to the tax rates stipulated in this law and paid in kyats in accordance with the commercial tax regulations.

14. Any person exporting the following goods shall pay commercial tax on the sale proceeds at the following tax rates. The commercial tax levied when buying and producing the goods may be set off against the commercial tax on the export according to the stipulations.

Sr. No.	Type of goods	Tax percentage rate
(a)	Crude oil	5
(b)	Natural gas	8
(c)	Teak, hard wood logs and conversions	50
(d)	Jade, rubies, sapphires, emeralds, diamonds and other precious stones	15
(e)	Jewelry made from jade, rubies, sapphires, emeralds, diamonds and other precious stones	5
(f)	Electric power	8

15. The provision of section 14 shall not apply to sale proceeds on which no commercial tax is levied *[because they do not exceed the thresholds]*.
16. With the exception of the goods contained in section 14 above, the commercial tax levied on the export of goods shall be 0%. The commercial tax levied when buying and producing the goods may be set off with the commercial tax on the export according to the stipulations. Notwithstanding the commercial tax provisions, if the commercial tax levied for the export is less than the commercial tax levied when buying and producing the goods, a refund may be demanded. However, this shall not apply to goods that are purchased in the country and brought overseas for self-use.
17. 5% commercial tax applies if Myanmar Petroleum Products Enterprise under the Ministry of Energy imports jet fuel to sell it domestically.
18. The definition of the expressions contained in chapter 5 of this law shall be the same as in the Commercial Tax Law.

Chapter 6
Income Tax

19. (a) The income tax rates to be to be applied to anyone's income from salary, profession, property, business and other sources are as follows -

Sr. No.	Income schedules for assessing income tax		Income tax rate
	From	To	
	Kyat	Kyat	
(a)	1	2,000,000	0%
(b)	2,000,001	5,000,000	5%
(c)	5,000,001	10,000,000	10%
(d)	10,000,001	20,000,000	15%
(e)	20,000,001	30,000,000	20%
(f)	30,000,001and above		25%

(b) Notwithstanding any other provisions of the income tax law, 10% income tax shall be assessed on the income consisting of the total rental fees from the lease of land, buildings and apartments; the allowances in accordance with sections 6

of the Income Tax Law may be deducted. This income shall not be combined with other types of income and no additional assessment shall be made

20. 10% income tax shall be assessed, in foreign currency, on the total income earned abroad - with the exception of exempted income - of citizens residing abroad; the allowances according to sections 6 and 6A of the Income Tax Law may not be deducted.
21. If a company is incorporated and registered in Myanmar according to the Myanmar Companies Act or the 1950 Special Companies Act, 25% income tax shall be assessed on the total net profit in kyats earned by this company; the allowance under section 6 of the Income Tax Law may not be deducted.
22. 25% income tax shall be assessed on the total income (with the exception of income from salary) of a foreigner residing abroad; the income tax rate shall be the income tax rate under section 19 if the income is from salary; the allowances under sections 6 and 6A of the Income Tax Law may not be deducted.
23. 25% income tax shall be assessed on the total net income of such a business if the business operates under a permit issued by the Myanmar Investment Commission; the allowance under section 6 of the Income Tax Law may not be deducted.
24. 30% income tax shall be assessed on income which has escaped assessment; the allowances under sections 6 and 6A of the Income Tax Law may not be deducted. However, if a citizen can show the source of the income used for buying, constructing, acquiring or establishing a new business, or expanding the business, the income tax shall be assessed according to the tax rates specified below with regard to the remaining income whose sources cannot be shown. No income tax is to be assessed if the sources of all income used can be shown. Assessment according to this section shall not apply to the ownership or trade of properties obtained illegally or matters in which action is taken under the Anti-Money Laundering Law.

Sr. No.	Income (Kyat)	Income Tax Rate
(a)	1-100,000,000	3%
(b)	100,000,001 - 500,000,000	5%
(c)	500,000,001 - 1,000,000,000	10%
(d)	1,000,000,001 - 1,500,000,000	20%
(e)	1,500,000,001 and above	30%

25. 25% Income tax shall be assessed on the income of cooperative societies registered and formed under the Cooperative Society Law, with the exception of primary cooperative societies; the allowance under section 6 of the Income Tax Law may be deducted.
26. 25% income tax shall be assessed on the total net profit of state-owned economic organizations; the allowance under section 6 of the Income Tax Law may not be deducted.
27. If a capital gain has arisen in kyats or foreign currency from selling, exchanging or otherwise transferring one asset or more than one assets*[,the following income tax rates apply.]*; the allowances under sections 6 and 6A of the Income Tax Law may not be deducted -

(a) If the company is participating in Myanmar's oil and gas sector, the income tax shall be assessed according to the tax rate shown next to the capital gain specified below in the type of currency earned -

Profit	**Income tax rate to be assessed**
(1) Up to equivalent kyats 100 billion	40%
(2) From equivalent kyats 100 billion+1 to 150 billion	45%
(3) Equivalent kyats 150 billion+1 and above	50%

(b) 10% income tax shall be assessed, in kyats or foreign currency, on the capital gain of an individual person or a group of persons with the exception of companies participating in Myanmar's oil and gas sector. The tax shall be assessed in the type of currency earned if *[the tax payer]* is a foreigner residing abroad.

28. No income tax shall be assessed on a capital gain if the total value of the assets sold, exchanged or otherwise transferred within one year is not more than kyats 10,000,000.

29. Income of small or mid-sized businesses of up to kyats 10,000,000 during the first three years, including the year of commencement of the business, is exempt from income tax. Income tax shall be assessed on income earned in excess of this amount.

30. The basic allowance according to clauses (1) and (2), sub-section (a), section 6 of the Income Tax Law is an amount equivalent to 20% of the income for each type of income. However, the total basic relief for a year shall not exceed kyats 10,000,000.

31. A parent relief is added to clause (2) sub-section (a) section 6 of the Income Tax Law. The income tax shall be assessed on what remains of the total income after deducting the following allowances contained in clause (2) sub-section (c) section 6 of the Income Tax Law -

(a) Kyats 1,000,000 for each parent with whom the taxpayer lives together

(b) Kyats 1,000,000 for a spouse

(c) Kyats 500,000 for each child

32. The income tax is to be calculated in accordance with the provisions contained in section 8 of the Income Tax Regulation if the income (with the exception of a capital gain) is received in a foreign currency. The income tax shall be levied in kyats on citizens and foreigners residing in the country; it shall be levied in the type of currency obtained on foreigners residing abroad.

33. Income specified below is exempt from income tax –

(a) Up to a total income of kyats 10,000,000 received once or repeatedly during the income year as an award for an arrest under the Narcotic Drugs and Psychotropic Substances Law;

(b) Up to a total income of kyats 10,000,000 received once or repeatedly during the income year as an award for the seizure of illegal materials;

(c) Reward received together with a medal conferred by the state;

(d) Income from salary received in foreign exchange by a citizen residing abroad;

(e) Pensions and gratuities obtained by a civil servant as a consequence of retirement;

(f) Winning money in a lucky draw of the state lottery.

34. The definition of the expressions contained in chapter 6 of this law shall be the same as in the Income Tax Law.

Chapter 7
Rates of other taxes to be collected

35. The relevant ministries must manage the rate to be collected, exemptions and relief with regard to the taxes specified below in accordance with the existing law-

(a) Excise tax
(b) Import license fees
(c) Myanmar state lottery
(d) Transportation tax
(e) Stamp duty
(f) Customs duty
(g) Land tax
(h) Water tax
(i) Embankment tax
(j) Forest products tax
(k) Mineral extraction tax
(l) Natural pond and lake tax
(m) Rubber paste tax
(n) Oil and gas extraction tax
(o) Mineral tax and gem stone tax
(p) Communication service tax
(q) Power generation tax

36. Notwithstanding the provisions in the Myanmar Gemstones Law, with regard to the extraction of jade, rubies, sapphires, emeralds, diamonds and other gemstones and the trade of them in unprocessed and finished jewelry:

(a) Commercial tax shall be charged according to sub-section (a), section 11 and section 14 of this law on the proceeds in kyats or foreign currency from the sale of the gemstones or jewelry;
(b) Sub-section (a) shall not apply to sale proceeds which are not taxable *[because they do not exceed the thresholds]*;
(c) Income tax shall be charged on the total net income obtained within a year according to the income tax rates under this law.

Chapter 8
Miscellaneous

37. The Union Government may, by notification, form a supporting team for tax collection if necessary.
38. The Union Government shall do the following to enable the sale of locally manufactured goods in the market and competition with imported goods, the development of long-term benefits for local agriculture and livestock farming which mainly depend on the local manufacturing business, and domestic and foreign investments carried out in the state, without contravening international agreements signed by the state –

(a) Engaging in activities so that, with regard to the amount of goods permitted for import and customs duty rates, the highest privilege and relief similar to that of countries in the ASEAN region within the framework of the WTO and ASEAN Trade Agreement can be obtained;

(b) Making necessary arrangements in conformity with the provisions of the customs law, the provisions of the procedures relating to import/export permission and the fixing of allotments.

39. The relevant ministries must educate and organize the public so that they pay tax according to the tax assessment law and inform the public of the reliefs and exemptions so that they can be enjoyed in accordance with the law, and recognize dutiful tax payers and arrange for appropriate rewards.

(Table -1)

2016 - 2017 Financial Year
Taxes of the Union originally earmarked for collection

Sr. No.		Responsible Ministries of the Union Government	Description	2016 - 2017 Estimate in million kyats
1.			**Taxes collected on local production and consumption**	2,485,510.056
	1.	Ministry of Home Affairs	Excise duty	940.311
	2.		Commercial tax	2,229,929.745
	3.	Ministry of Finance	Import license fees	5,000.000
	4.	Ministry of Commerce	State lottery	30,000.000
	5.	Ministry of Finance	Transport tax	181,470.000
	6.	Ministry of Rail Transportation	Stamp duty	37,710.000
	7.	Ministry of Finance Ministry of Mines	Pearl oyster tissue implant tax	460.000
2.			**Taxes collected on income and ownership**	**2,370,434.645**
	1.		Income tax	2,370,434.645
3.		Ministry of Finance	**Customs Duty**	**475,000.000**
	1.		Customs duty	475,000.000
4.		Ministry of Finance	**Taxes collected on the extraction and consumption of state- owned resources**	**887,384.336**
	1.			1.485
	2.	Ministry of Home Affairs	Taxes collected on land	13.723
	3.		Water tax	0.025
	4.	Ministry of Agriculture and Irrigation	Embankment tax	2,886.265

Sr. No.		Responsible Ministries of the Union Government	Description	2016 - 2017 Estimate in million kyats
	5.	Ministry of Home Affairs Ministry of Environmental Conservation and Forestry	Tax collected on the extraction of forest materials Tax collected on the extraction of minerals (not including industrial	3.855
	6.	Ministry of Home Affairs	raw materials, minerals and	1,303.800
	7.		decorative stones) Natural pond and lake tax	710,613.714
	8.		Tax collected for the extraction of oil and	19,540.000
	9.	Ministry of Lifestock, Fisheries and Rural Development	natural gas Mineral tax and gems stones tax	142,595.149
	10.	Ministry of Energy Ministry of Mines Ministry of Communication, Information Technology Ministry of Electric Power	Tax collected for telecommunication services Tax collected on the generation of electric power.	10,426.320
			Grand total	**6,218,329.037**

Please contact Sebastian Pawlita (sebastian.pawlita@lawplusltd.com) if you are interested in further information.

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*Below is a courtesy translation of the '2016 Payment of Wages Act' a law enacted by the Myanmar parliament. This law has been translated by SMART Myanmar, an EU funded project.**

2016 The Payment of Wages Act

(2016 Pyidaungsu Hluttaw Law No. 17)

The 1st Waning Day of Pyatho, 1377 M.E.

25th January, 2016

Pyidaungsu Hluttaw enacts this Act.

Chapter (1)

Name and Definition

1. **This law shall be known as "The Payment of Wages Act".**

2. **Definitions in this act have the following meanings:**

   (a) **Wages** means the wage or salary received as an employee working part time, weekly, or monthly for the employer. Overtime fees and bonuses paid based on performance or ethics and other benefits which can be regarded as income are also included in this.

   But the following things are excluded…

   (1) Travel allowances or other special allowances for travel

   (2) Expenses based on work requirements that are allowed to be reimbursed later from the Employer.

   (3) Social welfare allowances

   (4) Contributions by the employer according to any existing law

   (5) Lodging and meal allowances, charges for electricity, charges for water and other taxes

   (6) Medical expenses and recreational expenses

   (7) Contribution upon dismissal or in accordance with sympathy

(8) Pension and reward base on service years upon their retirement

(9) Other things set and declared by the Ministry in accordance with the approval of Union Government stated as these do not concern with wages in this Act.

(b) **Employer** means the person who is responsible to pay upon the employment of one or more persons via verbal or written agreement to carry out his/her duty on trade, manufacturing, services, agriculture and livestock. Contractors, authorized agents in-charge on behalf of an employer, heirs and authorized dealers are also included and considered as employer. But, labor leaders (the head of labor union or workplace coordination committee) are excluded.

(c) **Employee** means the person who earns his/her living on the wages, whether from part-time work, piece-work or permanent work.

Persons in internship and scholars, clerks and office staff, labor outside the work, housemaids and drivers, security guards, cleaners, maintenance workers, chef, postman, gardeners and general workers are included.

(d) **The Ministry** means Ministry of Labor, Employment and Social Security.

(e) **Department** means Department of Factory and Labor Law Inspection.

(f) **Chief of Inspector** means Director General, Department of Factory and Labor Law Inspection.

(g) **Inspector** means any investigating officer from Department of Factory and Labor Law Inspection.

Chapter (2)

Methods of payment and time-frame

3. The employer must…

(a) Pay in local currency or foreign currency recognized by the Central Bank of Myanmar. This may be in cash, check or deposit into the bank account of Employee.

(b) Moreover, pay can be in the means of…

(1) Totally in cash OR half the cash and half in things set according to the local price to those employees working in trade, manufacturing and service sectors.

(2) Totally in cash OR half the cash and half in things set as local price according to local traditions or common agreement to those working in agriculture and livestock sectors.

But, this must be for the sake of the employees and their families. And, it also must be reasonable/fair.

(3) An employee shall receive the payment for 60 days when he/she is in Alternative Civil Service.

4. An employer must pay for…

(a) Part-time, daily, weekly or other part-time job, temporary or piecework when the work is done OR at the agreed time.

(b) According to the Article (a), the time frame shall not exceed one month.

(c) Wages for the permanent work must pay per monthly basis. If so…

(1) Must pay at the end of the payment period when there are not more than 100 workers.

(2) If there are 100 workers and above, pay must not be administered later than 5 days after the end of the payment period.

(d) Upon termination, wages must be paid within 2 days from the date of termination.

(e) If a resignation letter is submitted, wages must be paid at the ending day of the payment period.

(f) If an employee dies, wages must be paid to the legally recognized heir within 2 working days after the day he/she has died.

(g) All wages must be paid during the working day.

5. If the owner encounters difficulty to pay the wages according to Section 4 sub-section (c) because of significant happenings, including natural disaster, the employer must report to the Department with solid evidence that wages will be paid at the mentioned day upon the workers' agreement.

6. The Department shall allow the owner to pay the wages at an appropriate time after the Ministry has investigated and set the rules for that.

Chapter (3)

Deductions

7. The Employer…

(a) Can deduct from wages for absences except when such absence is during a public holiday or entitled leave, according to the law.

(b) Accommodation charges and transportation charges, meal allowances, charges for water and electricity, taxes and errors in payment shall be allowed for deduction.

(c) Can deduct from pre-issued, expensed and saved (or) contributed amount according to the law upon the employee contract.

(d) The Employer can deduct with the judgment of the Court of Arbitrator Jury Council.

8. The Employer cannot deduct except the deduction in accordance with Section 7 and Section 11.

9. The total amount of other deductions, except when the employee fails to perform their duties, shall not be more than 50% of the employee's wages.

10. The Employer must…

(a) According to Section 11 of this Act, get permission from the Department concerning "why" and "how" prior to making deductions from wages.

(b) Permissions stated in sub-section (a) shall be publicly posted.

(c) Fines must not exceed the value of damage caused by the action or cost of performance failure of the employee.

(d) According to Section 4 of this Act, when making a specific deduction…

(1) Do not deduct without allowing an appeal from the Employee.

(2) Do not deduct more than 5% of the monthly wages.

(e) No deduction is allowed from a worker under 16 years old.

(f) The timeframe for deductions shall be set upon an agreement from both sides.

(g) Deductions shall be carried out within the limited timeframe upon the agreement of the Township Arbitration Council set in accordance with Law.

(h) Every deduction must be well documented.

(i) You must submit a monthly report to the Department concerning deductions.

(j) Fines deducted according to Section 11 sub-section (b) must be used for the social welfare of the employees upon discussion with a registered labor organization.

11. Employers shall fine for the following actions or performance failure by the employees…

(a) Direct damage which is either intentional or due to negligence or due to the failure of the employee concerned with company property to take proper care.

(b) A breach of the employment contract or breech of any rules for which a fine had been previously set.

12. If a worker…

(a) Encounters any one of the following situations, he/she shall ask directly or via a registered Labor Organization or by the in-house Workplace Coordination Committee to the Employer:

(1) Any unreasonable deduction from wages

(2) Payment which is not made by the due date.

(b) If the Employer takes no action, although asked in accordance with Section 12 Sub-Section (a), the Employee can present this to the Inspector within 6 month from the date of the deduction or from the date of the failure to render payment.

13. (a) The Inspector shall issue a decree after reviewing the case presented in accordance with Section 12 Sub-Section (b).

(b) Not only the Employee, but also the Employer, has 30 days to appeal to the Chief of Inspector if they are not satisfied with the order.

(c) The Chief of Inspector shall decree after reviewing the appeal applied in accordance with Sub-Section (b).

(d) The Chief of Inspector's decision will be the final decision.

Chapter (4)

Overtime Wages

14. If an Employee carries out overtime work, he/she must be allowed the presiding overtime rate as set by the Law.

Chapter (5)

Duties and Responsibilities of Inspector and Chief of Inspector

15. In order to supervise or investigate the implementation of the Terms stated in this Act, the Ministry can appoint Inspectors as needed.

16. A Chief of Inspector

(a) Can appoint the Inspector depending upon the respective territory.

(b) Can delegate/instruct the Inspector to sue an accused Employer at the relevant court of law.

17. An Inspector

(a) Must perform his/her duty completely as Chief of Inspector appointed.

(b) Has to report to the Chief of Inspector in accordance with the presiding norms.

18. The Inspector and Chief of Inspector has the right to carry out the following actions.

(a) Can inspect the workplace included in this Act at any time upon showing their government ID. If it is a nighttime inspection, then 2 witnesses must accompany.

(b) During the inspection, according to Section 18 sub-section (a), may check/inspect the payroll documents, deduction records, and other evidentiary documents of the related/involved persons.

(c) May copy or keep the original payroll records and other documents related to payroll as evidence, provided this is done with a search warrant and 2 witnesses.

Chapter (6)

Lawsuit

19. (a) An Inspector shall sue any person not in accordance with this Act, for breach of any term of this Law, at the respective court under the permission of the Chief of Inspectors.

(b) A lawsuit in accordance with the Section 19 Sub-Section (a) shall not affect the right to claim by civil suit.

(c) Without presenting to an Inspector according to Section 12 sub-section (b), a worker can claim in accordance with civil law.

20. The Court can decree that payment can be suspended or exempt in the following circumstances.

(a) Emergency cases including natural disaster.

(b) In cases of bankruptcy of the Employer.

(c) In cases where the employee is absent to accept payment either by himself/herself or by his/her agent.

21. The following circumstances are not included in the lawsuit concerned with deductions or any other claims.

(a) The claim to the Inspector is in ongoing process.

(b) Already directed to pay for the claim.

(c) Already confirmed as no need to pay.

Chapter (7)

Prohibitions

22. All Employers are not allowed to breach any terms stated in Sections 4,5,8,9 and 11.

23. No person is allowed to breach any Bylaws, Notifications and Orders declared in accordance with this Act.

Chapter (8)

Offenses and Penalties

24. Upon conviction, a jail sentence of not more than 3 months (*or*) a fine of at least 2 Million Kyats (*or*) both may be administered to the respective/convicted Employer. Moreover, forfeited wages must be paid to the respective Employee.

25. If an Employer again commits and is convicted of the same offense, there must be a jail sentence up to 6 months (or) a fine of at least 5 Million Kyats (or) both. Moreover, the forfeited wages must be paid to the respective Employee.

26. Upon conviction, the fine must be minimum 100,000 Kyats to maximum 500,000 Kyats to anyone who breaches any prohibition stated in Section 23.

27. Upon conviction, the decree must be the sentence in jail of not more than 3 months (or) fine of not more than 500,000 Kyat (or) both of that for his/her detriment.

Chapter (9)

General

28. Any agreement or contract which is incommensurate with the terms stated in this Act shall be considered null and void.

29. While implementing the terms stated in this Act,

(a) The Ministry can enact the Bylaws and also declare the Rules upon the agreement of the Union Government.

(b) Departments and Ministries can declare the required Orders, Notifications, Instructions and Procedures.

30. The Payment of Wages Act, 1936 is hereby repealed.

I hereby sign in accordance with Constitution of The Republic of the Union of Myanmar.

Sd/- Thein Sein

President

The Republic of the Union of Myanmar

**This document is a courtesy translation of the 2016 Payment of Wages Act. Only the wording of the original Myanmar language version, as approved by the Pyidaungsu Hluttaw, may be considered as legally valid. SMART Myanmar cannot be responsible for mistakes in translation or accidental omissions. The information contained herein does not constitute legal advice and is intended for general information only.*

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SMART Myanmar

Financial Institutions Law
(Pyidaungsu Hluttaw Law No. 20, 2016)
1st Waning of Pyatho 1377 ME
(January 25, 2016)

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Financial Institutions Law

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Pyidaungsu Hluttaw hereby enacts this Law.

CHAPTER I
TITLE AND DEFINITION

1. This Law shall be called the Financial Institutions Law.

2. The following expression contained in this Law shall have the meanings given hereunder:-
   - **(a)** **State** means the Republic of the Union of Myanmar.
   - **(b)** **Financial Institution** means banks, non-bank financial institutions and scheduled institutions.
   - **(c)** **Bank** means an entity licensed by the Central Bank under this law to carry on banking business. In which commercial bank, development bank and foreign bank branch licensed under this Law are also included.
   - **(d)** **Banking business** means the business of commercial banking or development banking.
   - **(e)** **Entity** means a company established under the Myanmar Companies Act or Special Company Act and State-owned Financial Institutions.
   - **(f)** **Commercial Banking Business** means the business of;
     - (1) accepting or receiving various kinds of deposits ;
     - (2) paying and collecting cheques drawn by or paid in by customers;
     - (3) providing credit facilities; and
     - (4) such other banking business as the Central Bank may prescribe under Section 52.
   - **(g)** **Commercial Bank** means a bank licensed by the Central Bank under this Law to carry on commercial banking business.
   - **(h)** **Development Banking Business** means the business of accepting fixed deposits with terms exceeding one year and financing of specific economic sectors at terms consistent with the terms of the resources collected by such banks or funds provided by the Government.
   - **(i)** **Development Bank** means a bank licensed by the Central Bank under this Law to carry on development banking business.
   - **(j)** **Non-Bank Financial Institution** means an entity that is registered under Section 20 to carry on one or more of the following businesses-
     - (1) finance company;
     - (2) leasing;

(3) factoring;

(4) credit token;

(5) money services;

(6) any other credit services the Central Bank may prescribe.

(k) **Holding company** means a company that owns 51% or more of the shares of a bank or has the power to elect a majority of the directors of the bank or exercises a significant influence over the management, operations and policies of the bank.

(l) **Board of Directors** means the Board of Directors of a financial institution.

(m) **Bank Branch**, in relation to a bank, includes the principal place of business, a branch, a pay office or sub-pay office, an agency and a place of business set up and maintained for a limited period only.

(n) **Business day** means any calendar day other than a Saturday, Sunday, public holiday and bank holiday.

(o) **Capital funds** means-

(1) in the case of a bank established in Myanmar, its capital used for the purposes of calculating its capital adequacy ratio prescribed by the Central Bank; and the aggregate of its paid-up capital and its published reserves, deduction having been made for any loss appearing in the accounts of the bank and

(2) in the case of a foreign bank branch licensed in Myanmar, its initial paid-up capital and its capital used for the purposes of calculating its capital adequacy ratio prescribed by the Central Bank from time to time.

(p) **Central Bank** means the Central Bank of Myanmar established under the Central Bank of Myanmar Law.

(q) **Chief Executive**, in relation to a financial institution, means a person who is principally responsible for the management and conduct of the business of the financial institutions, in which in the direct employment of, or acting for or by arrangement with, the financial institution also included.

(r) **Company** has the same meaning as defined in Myanmar Companies Act.

(s) **Subsidiary company** has the same meaning as defined in the Myanmar Companies Act.

(t) **Credit facility** means –

(1) the granting by a financial institution of advances, loans and other facilities where by a customer of the financial institution has access to funds or financial guarantees; or

(2) the incurring by a financial institution of other liabilities on behalf of a customer.

(u) **Credit societies business** means the business of engaging primarily in financing to individuals who are members for consumption, production or commerce, using funds collected in member's accounts.

(v) **Credit token business** means the activity of issuing a token being a credit card, debit card, charge card or stored value card and such other card or device prescribed by the Central Bank.

(w) **Credit bureau** means an entity specialized in the collection and sale of credit performance information for individuals and companies.

(x) **Deposit** means a sum of money paid on terms under which it will be repaid or it is repayable, either wholly or in part, with any consideration in money or money's worth and such repayment being either, on demand or at a time or in circumstances agreed by the person or an entity making the payment and the person receiving it.

(y) **Document** includes –

(1) any matter expressed or described on any material in any form;

(2) any visual or sound recording, electronic, magnetic or mechanical .

(z) **Employee** means an employee of the financial institution and includes an individual seconded or temporarily transferred from another employer.

(ya) **Factoring business** means the business of financing accounts receivables.

(la) **Fit and proper** means probity, integrity, diligence, competence, banking and business experience of a person and set of criteria prescribed by the Central Bank for the purposes of this Law.

(wa) **Finance Company business** means business engaging primarily in financing the purchase of goods or services with funding other than deposits from the public.

(tha) **Foreign bank branch** means a branch of a foreign bank licensed by the Central Bank to carry out banking business in Myanmar.

(ha) **Government** means the Union Government of the Republic of the Union of Myanmar.

(lagyi) **Leasing business** means the business of letting or sub-letting movable property on hire, regardless whether the letting is with or without an option to purchase the property.

(aha) **License** means the authorization issued by the Central Bank to carry on banking business under this Law.

(aa) **Registration Certificate** means the approval issued by the Central Bank to NBFI to carry on business under this Law.

(bb) **Ministry** means the Union Ministry of Finance.

(cc) **Money services business** means the business of-

(1) money transmission;

(2) issuance and management of payment instrument;

(3) cashing of cheques;

(4) issuing and selling of traveler's checks or money orders.

(dd) **Officer in relation to a financial institution,** includes–

(1) the chief executive, or his deputies;

(2) the chief financial officer;

(3) such other person performing executive functions at the financial institution.

(ee) **Payment system** means any system or arrangement for the transfer, clearing or settlement of funds or securities, but excludes—

(1) an in-house payment system operated by a person solely for own administrative purposes;

(2) such other systems or arrangements as may be prescribed by the Central Bank.

(ff) **Payment instrument** means any instrument, whether tangible or intangible, that enables a person to obtain money, goods or services or to otherwise make payment.

(gg) **Place of business** means a branch or an office of a financial institution.

(hh) **Relative** in relation to a person means his spouse, brother or sister of the individual, brother or sister of the spouse of the individual, any lineal ascendant and descendant of the individual or spouse of the individual and his dependents; and any such relationship created through adoption.

(ii) **Related party in relation to a financial institution** means-

(1) a person who has substantial interest in the financial institution or the financial institution has significant interest in the person;

(2) a director or officer of the financial institution or of a body corporate that controls the financial institution;

(3) a relative of a natural person covered in paragraphs (1) and (2);

(4) an entity that is controlled by a person described in paragraphs (1), (2) and (3);

(5) a person or class of persons who has been designated by the Central Bank as a related party because of its past or present interest in or relationship with the financial institution.

(jj) **Scheduled Institutions** means institutions not established under this law, but under another law, that provide financial services for a specific group or a community that include;

(1) Rural Development Bank;

(2) Agricultural Bank;

(3) Micro Finance Institutions licensed under the Microfinance Business Law;

(4) Credit Societies;

(5) Postal Savings Bank.

(kk) **Securities** include securities as defined in the Securities Exchange Law.

(ll) **Substantial interest** means owning, directly or indirectly, ten percent or more of the capital or of the voting rights of a financial institution or, directly or indirectly, exercising control over the management of the financial institution, as the Central Bank may determine.

(mm) **Associate company** means a company where not less than twenty per centum and not more than fifty per centum of that company's shares are held by another company.

CHAPTER II
OBJECTIVES

3. The aim of this Law is-

(a) to obtain sustainable economic development of the State;

(b) to develop the financial sector of the State;

(c) to ensure that financial Institution within the State carry on financial services activities in line with the international standards ;

(d) to enable the Central Bank to effectively regulate and supervise the financial institutions in accordance with the international standards; and

(e) to maintain the stability, safety and soundness of the financial system and to protect the depositors' interest.

CHAPTER III
ESTABLISHMENT

4. The financial institutions shall be established as limited liability company in accordance with the Myanmar Companies Act or with the Special Company Act. In the case of state-owned financial institutions, it shall be deemed to have been established under this Law.

CHAPTER IV
GENERAL POWERS AND DUTIES OF THE CENTRAL BANK OF MYANMAR IN RELATION TO FINANCIAL INSTITUTIONS

General Powers

5. The Central Bank in relation to the financial institution, shall have power to -

(a) grant licenses;

(b) provide registration, approval and authorization;

(c) carry out regulation and supervision of bank and NBFIs under this Law;

(d) require any bank and NBFI to comply with any order, regulation, directive and guideline issued under this Law;

(e) require any bank and NBFI to provide any information and periodical written reports as may be prescribed by the Central Bank;

(f) promote, implement and enforce consumer protection in the banking and payment system; and

(g) such other power conferred on it under this Law.

Delegation of Powers

6. In implementing its duties under this Law, the Central Bank-

(a) may also authorise or instruct its officer or employee to perform any functions, exercise any powers, or discharge any duties;

(b) may appoint any person who is not its officer or employee to perform any functions, exercise any powers, or discharge any duties, as determined by Board of Directors.

Cooperation with Regulators

7. In carrying out functions under this Law the Central Bank may-

(a) cooperate with regulators of financial institutions not governed under this Law and relevant domestic and international authorities and exchange information relating to any bank or NBFI.

(b) the Central Bank may enter into memorandum of understanding and other suitable arrangements with other financial regulators to ensure the safety and soundness of the financial system.

(c) In regulating and supervising representative offices of foreign banks, and bank and NBFIs, in which foreign banks or foreign investor has a substantial interest, cooperate with the foreign regulators concerned, on the basis of reciprocity and ensuring timely exchanges of information adequate to discharge its regulatory and supervisory responsibilities.

(d) have the power to enter into cooperative arrangements and shall provide for the confidential treatment of the information received pursuant to the memorandum of understanding and other arrangements.

CHAPTER V
LICENSE

Application for License

8. (a) Any person wishing to conduct banking business under this Law must apply to the Central Bank for a license in the prescribed form together with the following documents-

(1) document evidencing that proposed applicant is a company or an entity incorporated under the Laws of Myanmar;

(2) a copy of the proposed applicant's Memorandum of Association, its Articles of Association and any other document associated with its formation;

(3) the proposed location of the principal place of business and the branch offices of the proposed bank;

(4) copies of the audited balance sheets and profit and loss accounts of the applicant;

(5) the amounts of the authorized and subscribed capital of the proposed institution;

(6) a business plan for the proposed institution, setting out the types of activities envisaged for and the structural organization of the proposed institution;

(7) the qualification and experience, business or profession, the financial condition of owners of substantial interest in the proposed institution;

(8) the qualification and experience, the directors and chief executive of the proposed institution;

(9) an authorization of the applicant permitting the Central Bank to carry out financial, criminal and professional background checks on the applicant, its directors and chief executive and affiliated persons;

(10) an authorization of the owners, directors and chief executive of the proposed institutions, permitting the Central Bank to carry out financial, criminal and professional background checks on them and affiliated persons;

(11) such additional information as shall be prescribed by regulation of the Central Bank.

(b) The State-owned bank established under any written Laws of Myanmar before this Law shall reapply its license under this Law in accordance with section 176 of this Law.

Documents required for Licensing

9. In addition to the documents listed in section 8 of this Law, the following documents shall accompany the application by a foreign bank for a license to carry on banking business in Myanmar through a subsidiary or branch –

(a) a credit rating report by an international credit rating agency;

(b) a statement of its capital position, its ranking by total assets and capital in its home country and globally;

(c) a written undertaking of the foreign bank, to provide such funds as may be necessary to meet all its obligations relating to the business activities of its subsidiary or branch in Myanmar;

(d) a written statement from the bank regulator of the country where the foreign bank maintains its principal place of business certifying that:

(1) the foreign bank has a valid license to carry on banking business in that country;

(2) the foreign bank is authorized under the law of that country to establish a subsidiary or a branch in Myanmar;

(3) no facts are known to the regulator showing that any director or officer of the said foreign bank are not fit and proper.

Approval or Rejection of Application

10. (a) The Central Bank shall, on an application having been duly made in accordance with section 8 and 9, approve the application for license if the licensing requirements under this Law are met.

(b) The Central Bank shall reject an application for a license if it is satisfied that any of the following circumstances apply –

(1) the licensing requirements under this Law has not been met;

(2) any information contained in the application for a license or any information submitted in connection there with is found to be false, misleading or inaccurate;

(3) the Central Bank has determined that there are indications that the applicant would not comply with any of the requirements under this Law or any other Laws in Myanmar;

(4) the Central Bank has determined that there are indication that the influence that would be exercised on the applicant by any person who has a substantial

interest in the proposed institution would threaten the sound and prudent management of the applicant;

(5) the Central Bank has determined that the applicant would be connected to a group of persons that would pose a threat to the sound and prudent management of the applicant or hinder the Central Bank in the discharge of its regulatory and supervisory responsibilities;

(6) the Central Bank has determined that current domestic economic or financial conditions in Myanmar warrant the rejection of the application for a license.

Notification by Central Bank

11. The Central Bank-

(a) shall notify the applicant in writing of its decision whether to issue or refuse a license within a period of not later than six months from date of the receipt of a complete application.

(b) shall return any incomplete application to fulfill the licensing requirements. Where any additional information or document required by the Central Bank is not provided by the applicant within the specified period, the application shall be deemed to have been withdrawn.

(c) The Central Bank may make changes to the conditions and restrictions in a license that has been issued, in light of any factors that may undermine the efficient and stable operation of the bank or the financial system or the interests of depositors.

(d) shall determine the rules and regulations on licensing, and publish the list of banks licensed annually.

Requirement for Licensing

12. Any person wishing to carry out banking business shall be –

(a) a company incorporated under written Laws in Myanmar and has a valid license issued by the Central Bank;

(b) a foreign bank subsidiary or branch with a valid license issued by the Central Bank;

(c) a person who is exempted under section 19.

Compliance with Terms and Conditions

13. Any bank, holding a license issued by the Central Bank, shall –

(a) comply with all conditions and restrictions imposed by the Central Bank ;

(b) commence its operations within one year from the date of receipt of its license to operate;

(c) not carry on any activity other than the activities permitted under this Law; and

(d) conspicuously display a copy of its license at each of its place of business.

Fees for Banks

14. (a) The Central Bank may prescribe different fees for licenses issued for different businesses or for different classes or categories of banks.

(b) Every bank shall pay the following fees not less than one month before the anniversary date of the issue of the license –

(1) a license fee upon being licensed;

(2) a fee for opening any office in Myanmar other than the office at the principal place of business;

(3) an annual fee on the license so issued and in respect of each office, including the office at the principal place of business.

Revocation of License

15. (a) The Central Bank may revoke the license of a bank if:

(1) failing, within the period specified, to deposit the modified minimum capital requirements prescribed for banks;

(2) failing, within the period specified, to restore the minimum capital required following losses in business;

(3) failing, within the period specified, to refrain from activities which violate the existing laws or fail to comply with the terms and conditions prescribed by the Central Bank;

(4) liquidating voluntarily or involuntarily or bankruptcy;

(5) extinguishing of the original legal entity as a result of a merger, amalgamation or division;

(6) Central Bank is satisfied that the revocation of the license would not be contrary to the national interest and interests of the depositors of the bank;

(7) the bank provided, in connection with its application for the license, information that was false or misleading in a material particular;

(8) the bank fails to commence permitted activities within one year from the date of receipt of the license;

(9) the bank ceases to conduct permitted activities without having any sound reasons for more than three months continuously;

(10) the bank conducts permitted activities in a manner detrimental to the rights and interests of depositors;

(11) it would be contrary to the national interest for the license to remain in force;

(12) it would be contrary to financial system stability in Myanmar for the license to remain in force;

(13) the bank acts in contravention of the Central Bank of Myanmar Law or this Law, or the rules and regulations framed there under;

(14) the bank fails to comply with the orders or directives issued by the Central Bank;

(15) the bank becomes insolvent or is unlikely to return to solvency within a reasonable period of time;

(16) the bank is merged or amalgamated with any other bank without having prior approval of the Central Bank;

(17) the bank requests the Central Bank to revoke its license.

Decision on Revocation

16. The Central Bank -

(a) shall make a decision on the revocation within ninety days from the date of above circumstances occurred under section 15;

(b) Information concerning the decision taken under sub-section (a) and the grounds on which the decision is based shall be furnished in writing to the concerned bank.

Notification of Revocation of License

17. Where the decision has been made to revoke a license under section 15 and 16, the Central Bank shall publish a notification for public information.

Alteration of Constituent Documents

18. Any bank incorporated in Myanmar seeking to alter its Memorandum of Association or its Articles of Association shall get the prior written authorization of the Central Bank.

Scheduled Institutions

19. (a) This Law shall not apply to scheduled institutions.

(b) Notwithstanding sub-section (a), scheduled institutions shall be subject to the whole or any part of this Law, if the Ministry upon the recommendation of the Central Bank decides that-

(1) it is in the interest of the depositors or public; or

(2) the total assets of the scheduled institutions exceeds the amount prescribed by the Central Bank in a regulation for purposes of this section; or

(3) the said institution poses a threat to stability and soundness of the banking system or the financial system as a whole; or

(4) the said institution is operated for the sole purpose of avoiding being licensed or registered as a bank, or NBFI under this Law.

(c) The Ministry shall publish an order to give effect to the decision in sub-section (b).

(d) It shall not be necessary for the Ministry or Central Bank to give an opportunity to the scheduled institution concerned to make any representation prior to the order.

(e) An order of the Ministry under subsection (b) shall be deemed to be an integral part of this Law and be read as one with this law.

(f) The Ministry may issue the necessary regulations and the Central Bank may issue necessary notification, order, directive and procedures to give effect to this section.

(g) The provisions of this section and any regulations or order made hereunder shall have full force and effect notwithstanding anything contained in the written Law under which the scheduled institution is established and anything contained in any other written Law.

CHAPTER VI

Non-BANK FINANCAL INSTITUTIONS (NBFI) and FOREIGN BANK REPRESENTATIVE OFFICE

Application for Registration Certificate

20. (a) A company wishing to carry on NBFI business shall apply to the Central Bank for the registration certificate as prescribed by the Central Bank.

(b) Persons carrying on NBFI business prior to the effective date of this Law shall apply to the Central Bank within 6 months of the effective date to obtain a registration certificate from the Central Bank to carry on NBFI business.

Issuance of Registration Certificate

21. The Central Bank shall issue the registration certificate to the applicant under section 20 with the terms and conditions as it may deem fit.

Regulations and Directives on NBFI

22. The Central Bank may issue regulations and directives to NBFI on matters pertaining to-

(a) governance requirements;

(b) transparency and disclosure requirements;

(c) consumer protection;

(d) reporting requirements; and

(e) such other matters relating to regulation and oversight of the NBFIs.

NBFI Business

23. A NBFI may engage in one or all of the following activities subject to any conditions and restriction imposed by the Central Bank-

(a) finance company business;

(b) leasing business;

(c) factoring business;

(d) credit card business;

(e) money services business;

(f) any other credit services the Central Bank may prescribe;

(g) such other activities determined by the Central Bank.

Representative Office

24. Foreign financial institution seeking to set up a representative office in Myanmar shall obtain the registration certificate of the Central Bank.

Issuance or Refusal of Registration Certificate

25. The Central Bank -

(a) upon receipt of complete application under section 24, having assessed the application, may grant or refuse the registration certificate subject to terms and conditions;

(b) may issue rule and regulations relating to representative office in Myanmar.

Activities of Representative Office

26. (a) A representative office shall only carry on activities or business as may be specified by the Central Bank;

(b) No foreign financial institution shall, through its representative office, carry on within Myanmar any banking, development banking or NBFI business.

Fees for NBFI

27. A NBFI and a foreign institution respectively upon receipt of the registration certificate shall –

(a) pay fees as may be prescribed by the Central Bank;

(b) at any time submit information relating to its business or affairs, and such periodical returns as the Central Bank may specify.

Amendment of Constituent Documents

28. (a) Every NBFI, or every representative office shall, within three months notify the Central Bank of any amendment or alteration to any of its constituent documents;

(b) The notification in sub-section (a) must be duly verified by a statutory declaration made by a director of the NBFI or representative office.

Extension of this Law to NBFI and Representative Office

29. (a) the Central Bank may by an order published in the gazette, declare that any or all of the provisions of this Law shall apply to a particular NBFI, or representative office, or to such class, category of NBFI, business or representative offices generally if it is necessary to –

(1) promote monetary stability and a sound financial structure; or

(2) influence the credit situation to the advantage of State; or

(3) protect the interest of the public in respect of the business or activities carried on by the NBFI, or representative office.

(b) Where an order under sub-section (a) is published the provisions of this Law made applicable to such NBFI, or representative office, or such class, category of NBFI business or representative offices, shall apply as if the references therein to a bank were references to such particular NBFI, or representative office, or to such class, category or description of NBFI business, or representative offices.

Publication of List of NBFI and Representative Office

30. The Central Bank shall publish annually a list of all NBFIs and representative office mentioned in section 29.

CHAPTER VII
RESTRICTIONS RELATING TO ACCEPTANCE AND SOLICITATION OF DEPOSITS

Restriction on Acceptance of Deposit

31. Only persons having a valid license granted by the Central Bank may carry on the business of accepting deposit.

Restriction on Unsolicited Calls

32. Except with the written consent of the Central Bank, no financial institutions or person can make unsolicited calls for the purposes of-

(1) soliciting or procuring for the making of deposit in Myanmar; or

(2) entering into or offering to enter into any agreement with a view to the acceptance of deposit in Myanmar.

False, Deceptive Offensive and Misleading Advertisement

33. (a) If the Central Bank is of the opinion that any statement made in an advertisement issued by a bank is false, deceptive offensive or misleading, the Central Bank may by notice in writing direct the bank to do all or any of the following :

(1) cease the continued issue of the advertisement;

(2) modify the advertisement in such manner as may be specified by the Central Bank;

(3) take all practical steps to retract or withdraw the advertisement from every and all publication or display of it.

(b) The Central Bank may vary, amend or revoke any directions issued under sub-section (a).

CHAPTER VIII
CAPITAL, RESERVES AND SIGNIFICANT OWNERSHIP

Maintenance of Capital Funds

34. (a) Banks shall hold capital in the following manner-

(1) in the case of a bank incorporated in Myanmar, its paid-up capital is not less than twenty billion kyat;

(2) in the case of branch or subsidiary of foreign bank, its paid-up capital is not less than the equivalent of seventy five million US dollars.

(b) The paid-up capital in sub-section (a) may be increased from time to time by the Central Bank as prescribed in a regulation.

(c) A bank shall maintain at all times, net capital funds unimpaired by losses, in such ratio specified by the Central Bank in a regulation.

(d) For the purposes of this Law, the initial capital funds of a bank shall be the amount of subscribed and paid- up capital.

(e) A bank seeking to reduce its share capital shall obtain the prior written approval of the Central Bank.

(f) The Central Bank may require a bank with a subsidiary to calculate and maintain the minimum capital adequacy ratio on a consolidated basis.

(g) For the purposes of this Law-

(1) **Core capital or Tier 1 Capital** means permanent shareholders' equity in the form of issued and fully paid ordinary shares, and perpetual non-cumulative preference shares, capital grants and disclosed reserves less year to date losses, goodwill, pre-operating expenses and/or prepaid expenses, deferred taxes, capitalized leasehold rights and any other intangible assets;

(2) **Supplementary capital or Tier 2 capital** means general provisions which are held against future, presently unidentified losses and are freely available to meet losses which subsequently materialize, subordinated debts, cumulative and redeemable preferred stocks, and any other form of capital as may be determined and specified from time to time by the Central Bank;

(3) **Total capital** means the sum of core capital and supplementary capital; and

(4) **Total risk weighted assets and off-balance sheet exposures** means total assets and off-balance sheet exposures adjusted in relation to the risks of the different categories of assets and off-balance sheet exposures as may be prescribed by the Central Bank.

Maintenance of Reserve Funds

35. (a) A bank shall maintain a reserve fund and a sum equal to twenty five per centum of the net profits of that year shall be transferred to its reserve fund. Such transfer shall be made so long as the amount of the reserve fund is equal to one hundred per centum of its paid -up capital; and

(b) Notwithstanding sub-section (a), the Central Bank may from time to time specify a different portion of the net profits of each year, to be transferred to the reserve fund of a bank.

Maintenance of Liquid Assets

36. A bank shall hold such minimum, or minimum average amount of liquid assets in Myanmar at all times or over such time as may be specified by the Central Bank in a regulation.

Maintenance of Assets in Myanmar

37. A bank shall maintain at all times, such minimum amount of assets in Myanmar as may be specified by the Central Bank in a regulation.

Assigned Capital of Foreign Bank Branch

38. (a) A foreign bank shall maintain for its bank branch, a minimum amount of assigned capital, which amount shall be the same as the minimum amount of initial capital

funds to be maintained if such foreign bank branch was established and licensed as a domestic bank.

(b) The assigned capital to be maintained by a foreign bank for its branch shall be kept in the form and manner as may be specified by the Central Bank in a regulation.

Provisions for Loans and Other Assets

39. Every bank shall-

(a) make provision for loans, advances and other assets before any profit or loss is declared;

(b) ensure that the provision for loans, advances and other assets made under sub-section (a) is adequate according to such regulations as may be specified by the Central Bank.

Payment of Dividends

40. (a) A bank shall only pay dividends or make any form of distribution to its shareholders from its profits.

(b) No bank shall declare or pay any dividend or make any form of distribution to its shareholders–

(1) until all its capitalized expenses, including preliminary expenses, other items of expenditure, and tangible assets, have been completely written off;

(2) if, as a result thereof, the aggregate book value of its assets would be less than the sum of the book values of its liabilities and unimpaired capital funds;

(3) as long as the bank is in breach of a requirement imposed by or under any provision of this Law.

Prescription on Assets, Liabilities and Provisions

41. The Central bank may prescribe-

(a) different minimum amounts of assets to be held by different classes or categories of banks;

(b) different type of assets to be classified as assets, and different type of liabilities to be classified as liabilities, for different classes or categories of banks; and

(c) different provisions for different classes or categories of banks in relation to any matter provided under this Law.

Acquisition of Substantial Interests

42. (a) Any person, alone or in concert acquiring the substantial interest of a bank shall submit to the Central Bank a written application accompanied by any other supporting documents as may be specified in the regulations issued by the Central Bank.

(b) The Central Bank shall be authorized to carry out the background checks referred to in sub-section (a) and may require any additional documents and information in relation to an application made.

(c) The Central Bank shall not grant an approval to an application made under sub-section (a) and (b), if it determines that one or more of the following circumstances apply:

(1) the applicant, being an individual, is not a fit and proper person;

(2) the applicant, being a body corporate, has one or more directors or chief executive who are not fit and proper persons;

(3) facts are known to the Central Bank to indicate that the person making the acquisition would exercise significant influence on the bank that would threaten the sound and prudent management of the bank.

(d) The Central Bank shall have power to approve or reject any application made under sub-section (a).

Approval to Continue to be Substantial Shareholder

43. No person who is a substantial shareholder of a bank shall, upon the coming into force of this Law, continue to be such a shareholder unless, within 6 months after effective date, apply to the Central Bank for approval to continue to be such a shareholder.

Reporting on Substantial Interest

44. Each bank shall submit an annual report to the Central Bank of the names and addresses of shareholders having substantial interest in the bank and the number of voting shares held by such persons.

Approval to Acquire Substantial Interest

45. No person shall, alone or in concert with one or more persons, enter into any agreement or arrangement to acquire substantial interest in a bank without the prior approval of the Central Bank.

Disapplication of Restriction on Substantial Interest

46. (a) The provisions of sections 43 and 45 shall not apply to-

(1) Voting shares of a bank acquired-

(aa) in lieu of shares for the repayment of credit granted by the bank;

(bb) under an underwriting arrangement, in which case the bank shall dispose of such voting shares within one year or such longer period as the Central Bank in exceptional circumstances may approve;

(2) Voting shares of a bank held as an agent, trustee or custodian.

(b) A bank which has acquired voting shares of another bank under paragraph 1(aa) of sub-section (a) shall inform the Central Bank upon its acquisition of such voting shares.

Breach of Restriction on Substantial Interest and Maximum Shareholding

47. (a) Where the Central Bank is satisfied that any person has contravened the provisions of sections 42,43,44 and 45 or the regulations made under section 50, the Central Bank may impose administrative penalties under a directive as follows-

(1) in respect of any voting shares which are the subject of the contravention prohibit the transfer of, or the carrying out of the agreement or arrangement to transfer, such shares;

(2) prohibit the exercise of any voting rights in respect of such shares;

(3) prohibit the issue of further shares or pursue any offer made to their holder;

(4) except in a liquidation, prohibit the payment of any sums due from the bank on such shares;

(5) in respect of the defaulting person, the Central Bank direct such person to sell such shares by public auction.

(b) A directive made under sub-section (a) shall be served on the defaulting person as soon as practicable, and may be publicized in such manner as the Central Bank deems fit.

(c) Any defaulting person against whom a directive has been made under sub-section (a) may, within fourteen days of the service of the directive, make representations in writing to the Central Bank applying for a revocation or for a modification of the order.

(d) The Central Bank may, after considering the representations made under sub-section (c), either confirm the directive, or revoke it, or vary it in such manner.

(e) The Central Bank may give directions to the directors or officers of a bank as may be necessary to give effect to any directive made under sub-section (a).

Merger of banks

48. (a) With the prior written approval of the Central Bank, banks shall carry on the following-

(1) for a bank to acquire the business or a substantial part of the business of another bank or to sell all or a substantial part of its own business;

(2) for the amalgamation or merger of a bank with another bank;

(3) for a foreign bank to acquire the business or a substantial part of the business of a bank in Myanmar or to sell all or a substantial part of its own business in Myanmar;

(4) which will result in a change in the control of a bank or its holding company.

(b) An application for the approval in sub-section (a) shall be submitted to Central Bank together with a copy of the proposed agreement and all other relevant information and documents.

(c) At any time after receiving an application the Central Bank, may by written notice, require the applicants or any of them to provide any additional information and documents.

(d) The Central Bank shall, on an application having been duly made under this section approve or refuse the application and make necessary modifications, or impose conditions in approving the application.

(e) In relation to the sub-section (a)(4) , the term “control” includes-

(1) the ability to influence, whether directly or indirectly, the composition of the board of directors of a company or any other body corporate;

(2) holding, directly or indirectly, whether personally or through a holding company or companies or subsidiaries thereof, or in any other way, an aggregate of twenty per centum or more of the voting power of a company or body corporate.

Merger Procedures

49. (a) Where Central Bank has granted approval to an application in respect of an agreement under section 48, the institution whose business is to be transferred(transferor) and the person to whom the transfer is to be made (transferee) may make a joint application to the High Court of the Region or High Court of the State by way of an ex-parte originating summons for such order of the High Court of the Region or High Court of the State as may be required to facilitate or enable the agreement being given effect to.

(b) On the hearing of an application under sub-section (a), the concerned High Court of the Region or High Court of the State may grant an order in the terms applied for or with such modifications or variations as the High Court of the Region or High Court of the State deems just or proper in the circumstances of the case.

(c) The order of concerned the High Court of the Region or High Court of the State made under sub-section (b) shall be published by the transferee for public information.

(d) The transferor shall lodge, within thirty days of the making of the order of the concerned High Court of the Region or High Court of the State under sub-section (b), an authenticated copy of such order together with an authenticated copy of the agreement or arrangement approved by Central Bank with-

(1) the Registrar of Companies; and

(2) the appropriate authority, if any, concerned with the registration or recording of dealings in any movable property, or any interest in movable property transferred pursuant to the order.

(e) The concerned High Court of the Region or High Court of the State shall, where an order of the High Court of the Region or High Court of the State under sub-section (a) vests any alienated land, or any share or interest in any alienated land in the transferee cause a copy of the order to be served on the Land Administrator, immediately after the making of the order so that the Land Administrator, gives effect to the provisions of the said section.

(f) An order of the High Court of the Region or High Court of the State under sub-section (b) may relate to any property or business of the transferor outside Myanmar and, if it so relates, effect may be given to it either in accordance with any reciprocal arrangements relating to enforcement of judgments that may exist between Myanmar and the country, in which such property or business is, or where there are no such arrangements, in accordance with the Law applicable in such country.

Regulation on Maximum Shareholding

50. The Central Bank may make regulations specifying-

(a) the maximum percentage of the voting shares of a bank that may be held by any person; and

(b) maximum percentages under sub-section (a) with respect to any class of companies, body corporate or individuals.

CHAPTER IX
PERMITTED ACTIVITIES

Conditions of Permitted Activities

51. Each bank may carry on the activities permitted by this Law, subject to the provisions of its Memorandum of Association and Articles of Association and to the conditions and restrictions of its license.

Permissible Banking Activities

52. A commercial bank may carry on and may engage in any or all of the following activities, subject to any conditions and restriction in the license issued to such bank-

(a) acceptance of deposits;

(b) lending;

(c) leasing;

(d) factoring;

(e) money services;

(f) credit token business;

(g) foreign exchange business;

(h) issuing and administering payment instruments such as credit cards, travellers' cheques and bankers' drafts (payment orders);

(i) issuing of guarantees and commitments;

(j) trading for own account or for account of customers in, money market instruments such as cheques, bills and certificates of deposit; foreign exchange; currency forward and spot contracts, swaps and exchange and interest-rate instruments; and transferable securities;

(k) providing corporate advise;

(l) money broking;

(m) portfolio management and advice;

(n) trustee services;

(o) credit reference services;

(p) e- banking;

(q) mobile banking;

(r) safe custody services;

(s) development banking business;

(t) mortgage financing;

(u) other banking activities determined by the Central Bank.

Requirement for Subsidiary

53. Through as separately incorporated subsidiary, a bank may engage in-

(a) insurance business;

(b) securities broking business;

(c) any other activity related to banking business as approved by the Central Bank.

Permissible Activities of Development Bank

54. A development bank may engage in one or all of the following activities subject to any conditions and restriction in the license -

(a) providing long term finance;

(b) issuing guarantees and commitments;

(c) such other activities prescribed by the Central Bank.

Subsidiaries and Consolidated Supervision

55. Any such subsidiaries shall be subject to supervision to the same extent as the bank and the Central Bank may require any information otherwise required with respect to such bank and its subsidiary to be reported separately for each entity and on a consolidated basis.

Restriction on Trade

56. No bank shall engage, whether on its own account or on a commission basis, in wholesale or retail trade including import and export trade, unless –

(a) in the course of satisfaction of debts due to it;

(b) purchasing or selling of gold or foreign currency by the bank.

Restriction on Investment in Immovable Property

57. A bank shall not purchase or in any other way acquire any immovable property therein, exceeding such percentage of its capital funds as may be determined by the Central Bank, unless-

(a) required for the purpose of conducting its banking business or of providing housing or other amenities for its staff;

(b) accepting any immovable property as security for a debt.

Requirements relating to credit facilities

58. (a) Every bank shall ensure that the bank has established and maintained-

(1) adequate internal policies, practices and procedures relating to the granting of credit facilities, making of investments and the ongoing management of the loan and investment portfolio;

(2) adequate internal policies, practices and procedures for evaluating the quality of assets and the adequacy of loans loss provisions and loan loss reserves.

(b) A director, chief executive or officer of a bank shall not give any credit facility in contravention of any credit limit imposed on him, and any agreement made with him, by the bank.

(c) The Central Bank may direct a bank to-

(1) submit any information relating to its policies and procedures for the giving of any credit facility;

(2) submit a report on the limit or the terms and conditions imposed on every director, chief executive or officer of the bank in relation to granting of credit facilities;

(d) The Central Bank may make such modification to the policies or procedures of the credit facilities submitted by the bank as it deems fit.

Large exposures

59. (a) A bank shall not take on financial exposure in respect of a person or a single counterparty or group of connected counterparties which constitutes in the aggregate a liability amounting to more than twenty per centum of the core capital of the bank. Such restriction shall not be applied to the exposure related to the Government policy by the state-owned banks.

(b) The limit in sub-section (a) does not apply to transactions between banks unless otherwise specified by the Central Bank and subject to such terms and conditions imposed by the Central Bank.

(c) The Central Bank may establish additional limits for unsecured, partially secured and secured financial exposures of a bank.

(d) A bank shall report to the Central Bank, the particulars of each large financial exposure, in the form and at the intervals that the Central Bank may require.

(e) The Central Bank may specify the group of connected counterparties, aggregate exposure, additional limits and such other requirements as it deems necessary.

(f) For the purpose of this section, "financial exposure " means a credit facility given by a bank to or on behalf of any person which credit facility may include loans, advances, overdrafts, lease financing, acceptances, guarantees, letters of credit, performance bonds, foreign exchange contracts and any other form of direct or indirect financial obligation to a bank as defined by the bank, including any off-balance sheet credit facility.

Restrictions on Investments

60. (a) A bank shall not acquire or hold shares in any company or enterprise-

(1) that is not a public company and that does not meet the criteria determined by the Central Bank;

(2) that carries on the type of business that is declared ineligible by the Central Bank.

(b) A bank shall not acquire or hold shares of, in any company or enterprise to an aggregate value in excess of ten per centum of the unimpaired capital funds of the bank.

Restriction on Cross Holding

61. (a) A bank may acquire or hold shares-

(1) in another bank, up to a value of five per centum of the unimpaired capital funds of the other bank;

(2) in any company or enterprise carrying on a NBFI business, up to a value of five per centum of the unimpaired capital funds of that company or enterprise.

(b) The limit in section 60 sub-section (b) shall not apply-

(1) where the bank acquires or holds any shares of any company or enterprise under an underwriting or sub-underwriting contract for a period not exceeding seven business days, or such further period as the Central Bank may approve;

(2) to any acquisition or holding of shares approved in writing by the Central Bank in another bank under Chapter XIV and XV of this Law or a company that is a wholly owned subsidiary of the bank;

(3) to any acquisition or holding of shares in the course of the satisfaction of any debt due to the bank provided such acquisition or holding is declared in writing to the Central Bank and is disposed of within two years from the date of acquisition.

(c) Any bank acquiring or holding shares under this section shall keep a register of such holdings available for inspection at all times.

(d) For the purposes of this section, the Central Bank may by regulations specify the terms and conditions of-

(1) an acquisition or holding by a bank in an enterprise that may be made by such bank; and

(2) the nature and maximum value of shares any person and aggregate value of all shares that may be acquired or held by a bank.

(e) Where a bank has contravened the provisions of this section or any regulations made there under, the Central Bank may-

(1) prohibit such bank from increasing the amount of shares in that company or enterprise; and

(2) require such bank to decrease the amount of its shares in that company or enterprise to specified limit within a specified time.

Disapplication of Sections 60 and 61

62. The provisions of section 60 and 61 shall not apply to foreign bank and their foreign bank branches.

Restriction on Credit for Purchase of Own Shares and Debt Securities

63. (a) No bank shall grant credit for the acquisition of its own shares or for the purchase of debt securities with respect to which the bank has an unconditional or contingent liability.

(b) No bank shall grant credit against the security of its own shares or shares of a company that has substantial interest in the bank.

(c) the provision in sub-section (a) and (b) shall not apply to a bank from providing money or granting credit facility secured by its own shares to an employee stock ownership plan to finance the purchase of shares of the bank: Provided that the sum of the amounts of funds so provided shall not exceed the equivalent of five per centum of the total nominal amount of the subscribed and paid in share capital of the bank.

Lending to related party

64. (a) No bank shall provide any credit facility to its directors, managers or shareholders holding more than five per centum of the voting shares of the bank.

(b) No bank shall enter, directly or indirectly, with a related party of the financial institutions into any transaction on terms and conditions that are less favorable to the bank than market terms and conditions.

(c) A bank shall enter into a transaction with a related party if the following is satisfied-

(1) such transaction has been approved at a meeting of the Board of Directors of the bank by the votes of not less than two thirds of the number of its directors other than any director concerned;

(2) such transaction is secured by collateral.

(d) No bank shall grant any credit facility to a related party if as a result thereof a limit specified by regulation of the Central Bank would be exceeded.

(e) Central Bank may specify the following-

(1) the principal amount of any credit facility;

(2) the aggregate principal amount outstanding on all credit facility or any class of credit facility by a bank to any single related party or a single member of a stated class of related party.

(f) All credit to related party shall be disclosed in the accounts for that financial year and for each subsequent financial year till such credit facility has been repaid or settled in full.

(g) Any transaction of a bank with a related party that is in breach of this section shall be promptly reported to the Central Bank describing the transaction and specifying its terms and conditions.

(h) If a bank enters into a transaction that is in breach of this section, the Central Bank may issue a directive within thirty days, to secure repayment of all amounts due or impose such other conditions as it deems fit.

(i) this section shall not apply to a director or officer who is an employee of the bank at the time that the credit facility is granted if the credit facility is granted under the scheme applicable to the employees.

Regulation on Maximum Foreign Currency Exposure

65. The Central Bank may issue regulations to set the maximum foreign currency exposure which bank may incur in foreign currency generally or in any specified currency or currencies.

Regulation on Prudential Requirements

66. (a) The Central Bank shall issue regulations in accordance with the provisions of this Law to specify the prudential requirements for banks.

(b) Prudential requirements may be specified for all banks or may be specified for one or more classes or categories of banks based on the differences in the purpose, nature and size of business and the origin of financial resources, of such banks.

(c) Any banks that fail to comply with a requirement prescribed under this section shall pay to the Central Bank, within such time as may be determined by the Central Bank, a fine at such rate specified in a regulation of the Central Bank.

Records of Transactions and Commitments

67. (a) Banks shall keep on file the pertinent documents for every transaction and commitments of the institution, in such form as shall render the documents admissible as evidence in a court of law.

(b) The Central Bank may in a regulation specify the terms and conditions on record keeping and record retention including-

(1) the types of documents;

(2) the manner of retention;

(3) the duration of retention;

(4) such other requirements deemed necessary to give effect to this section.

Money Laundering and the Reporting of suspicious transactions

68. The Central Bank shall make regulations prescribing the specific procedures including reporting requirements under Anti-money Laundering Law, Counter Terrorism Law and other related Laws.

Control of establishment or acquisition of subsidiaries

69. A bank shall obtain the prior written consent of the Central Bank on the followings-

(a) establish or acquire any subsidiary within or outside Myanmar;

(b) any office in or outside Myanmar.

Establishment of correspondent banking relationship

70. (a) Bank may establish correspondent banking relationship with any bank outside Myanmar.

(b) The Central Bank may prescribe by regulation the terms and conditions for the establishment of correspondent banking relationship with financial institution outside Myanmar.

Consumer Protection

71. (a) It shall be the responsibility and duty of the Central Bank to promote consumer protection and financial capability of the bank consumers and financial consumers generally.

(b) For the purposes of carrying out the responsibility and duty under sub-section (a), the Central Bank shall be empowered to-

(1) plan, formulate an implement a strategy for financial consumer protection in Myanmar;

(2) co-ordinate consumer protection measures carried out by other financial sector regulators;

(3) receive all necessary information from other financial sector regulators and financial institutions;

(4) issue directions to the general financial sector in areas that are not supervised by the other financial sector regulators and where there are gaps;

(5) promote an out of court dispute resolution system to deal with disputes between financial institution and its customers;

(6) promote and consolidate consumer research and data collection;

(7) create an effective financial literacy network of stakeholders;

(8) keep the Government and public informed of the activities and issues in the area of financial consumer protection.

(c) The Central Bank may issue regulations necessary to give effect to sub-section (a) and (b).

Anti-Competitive practices

72. A bank shall be prohibited from-

(a) entering into contracts or agreements or adopting practices of any kind which would secure them a position of dominance in the financial markets;

(b) engaging in manipulative practices in order to obtain an unfair advantage for themselves or for third parties.

CHAPTER X
BOARD OF DIRECTORS, CHIEF EXECUTIVE

Board of Directors

73. (a) Every bank shall have a Board of Directors consisting of not less than five who shall be elected by the general meeting of the shareholders of the bank.

(b) A meeting of the Board of Directors of a bank shall not be duly constituted although the number of directors required to constitute the quorum at such meeting is present, unless at least one independent non-executive director is present at such meeting.

(c) The provisions of this section shall not apply to foreign bank branches.

Functions, Duties and Powers of the Board

74. (a) All functions to be performed and all powers to be exercised by the bank, other than those to be performed by the general meeting of shareholders, shall be performed and exercised by the Board of Directors subject to this Law.

(b) The Board of Directors may frame necessary by-laws in order to systematically perform the functions to be performed by it under sub-section (a).

(c) The responsibilities of the Board of Directors shall include the overseeing of the management of the affairs of the bank and include –

(1) adopting and reviewing a comprehensive risk management process;

(2) establishing and reviewing the system and procedures of control and risk management;

(3) adopting policies for organizational arrangements for delegating authority and responsibility;

(4) adopting adequate internal practices and procedures that promote ethical and professional standards;

(5) adopting and reviewing the system of internal controls of the bank;

(6) ensuring that the bank complies with the requirements of this Law and rules and regulations, directives, and guidelines issued thereunder.

Power to Form Committee

75. (a) The Board of Directors may form one or more committees or sub-committees according to need for specific purposes including -

(1) Risk Management Committee;

(2) Credit Committee;

(3) Remuneration Committee;

(4) Audit Committee;

(5) Assets and Liability Management Committee.

(b) The functions, duties, powers and working procedure of a committee or sub-committee formed under sub-section (a), and the remuneration or allowances to be paid to its members shall be as determined by the Board of Directors.

Fit and Proper Criteria

76. (a) A person shall be eligible to be appointed, elected or nominated as a director, chief executive or manager of a bank only if the person is a fit and proper person to hold office and the person is not prevented from doing so by any provision of this Law.

(b) In determining whether a person is a fit and proper person under this Law, in addition to such other matters that may be prescribed by the Central Bank, the following matters shall be taken into consideration -

(1) the academic or professional qualifications or effective experience in banking, finance, business or administration or any other relevant discipline of the person concerned;

(2) whether such person is or has been subject to any investigation or inquiry in relation to fraud, deceit, dishonesty or any other improper conduct by any regulatory body, professional association, or any other body established by Law within or outside Myanmar;

(3) whether such person has been convicted by any court in Myanmar or abroad in respect of a crime committed in connection with financial management.

(4) whether such person is an un-discharged bankrupt or has been declared a bankrupt in Myanmar or abroad;

(5) whether such person has failed to satisfy any judgment or order of any court whether in Myanmar or abroad including the repayment of a debt;

(6) whether such person has been declared by a court in Myanmar or abroad or an official medical board in Myanmar to be of unsound mind;

(7) whether such person has been removed or suspended by a regulatory action or Central Bank from serving as a director or officer in any bank or financial institution or corporate body in Myanmar or abroad; or

(8) whether such person has been a substantial shareholder, director, chief executive of any financial institution in Myanmar or elsewhere whose license has been suspended or has been cancelled.

(c) Without prejudice to sub-section (b), a director, chief executive or manager of a bank shall not simultaneously hold office as a director or officer of another bank or financial institution except where such other institution is a subsidiary or a holding company of the bank.

(d) No person shall be nominated, appointed and elected as a director of a bank before the bank has given the Central Bank written notice of intent thereof within 30 days of the appointment.

(e) The written notice shall be in such form as may be prescribed by the Central Bank and be accompanied by the relevant documents and information as required by the Central Bank.

(f) The Central Bank is authorized under this Law to carry out any such background checks as it considers appropriate in confirming any of the matters referred to in sub-sections (b), (c) and (d).

Appointment of Chief Executive and Conditions of Services

77. (a) The Board shall appoint a Chief Executive of the bank subject to this Law and the Memorandum and Articles of Association.

(b) No person shall be nominated or appointed as chief executive of a bank unless the bank has complied with section 76(d).

(c) The Central Bank may, either approve or disapprove the proposed appointment or nomination as chief executive and shall, within thirty days after receipt of the notice of intent, notify the bank of the decision.

(d) Any person aggrieved by a notice of disapproval by the Central Bank under sub-section (c) may within fifteen days of the date of receipt of the notice, appeal to the Central Bank.

(e) On receipt of a notice of appeal under sub-section (d), the Central Bank may within thirty days of receipt either confirm the nomination or appointment or reject the appeal.

(f) The decision of the Central Bank is final.

Disqualification and Removal from Office

78. (a) A person shall be ineligible to hold office as a director or chief executive if-

(1) the person is not a fit and proper person to continue in office;

(2) the person whose appointment, election or nomination had not been properly notified to the Central Bank under section 76(d);

(3) the person whose appointment or nomination has been disapproved by the Central Bank under section 77(c);

(4) the person has become disqualified and permanently incapable of performing duties with the bank;

(5) the person has otherwise acted in a way that is manifestly opposed to the objectives and interests of the bank or its depositors.

(b) A bank shall, within fifteen days of becoming aware that one of its directors or chief executive is ineligible to hold the office, cause the removal of the ineligible director or chief executive and notify the Central Bank in writing accordingly.

(c) Where the Central Bank is satisfied that any of the directors or chief executive of a bank who is ineligible under sub-section (a), continues to hold office, the Central Bank may -

(1) direct the bank in writing to remove such person from the office within such period as may be specified in such direction; and

(2) notify in writing the person whose removal is required of such a direction with a copy of the direction.

(d) The bank shall within the period specified in the direction, remove the person identified from the office and notify such person in writing of his removal from office and shall take any such other steps as are necessary to inform the shareholders of the bank and the Registrar of Companies of such removal.

(e) The removal of the director or officer in accordance with the directions given under sub-section (c) shall take effect from the date of receipt by the director of the notification of removal, notwithstanding the provisions of any other Law or the Memorandum of Association and Articles of Association of the bank.

(f) A bank which fails to comply with any direction given under sub-section (c) (1) within the period specified and any director or officer who has been served with a notice under sub-section (c) (2) who continues to act as a director or officer, shall each be guilty of an offence under this Law.

(g) Any bank that is aggrieved by the removal of a person from the office of director or officer of that bank under this sub-section (c), or the person concerned, may appeal to the Central Bank in which case, the procedures provided for under section 77(d) and (e) shall apply.

Disclosure of Interests

79. (a) Every director and officer shall disclose in full to the Board of Directors of the bank any substantial financial and commercial interest that the person or any relatives may have either directly or indirectly.

(b) Such disclosure referred to in sub-section (a), shall be made upon first becoming a director, chief executive or manager of the bank and annually thereafter.

(c) Whenever any matter related to such an interest, arises for discussion in a meeting of the Board of Directors, the director or officer shall disclose the interest and shall not attend any deliberations or vote on the decision on such a matter.

Liability of Directors and Officers

80. (a) In addition to any liability imposed by other provisions of this Law or any other Law, any director, chief executive or officer of a bank shall be liable for any loss or damage sustained by the bank, any depositor of the bank or any other person as a result of his gross negligence or willful misconduct in the performance of his/her functions or duties as director, chief executive or officer of that bank.

(b) For the purpose of this section, any person authorizing or willfully permitting gross negligence or willful misconduct by another person shall be jointly with such other person and severally liable for any loss or damage sustained as a result thereof.

(c) Actions to recover damages from a director or officer under this section shall be commenced within three years after occurrence of the negligence or misconduct.

Duty to Maintain Secrecy

81. (a) A bank shall keep secret the information relating to the affairs or the account, record, and transaction of a customer of a bank.

(b) No director, officer or employee of any bank licensed institution whether during his tenure of office, or thereafter, and no person who has by any means, access to customer information, shall provide or otherwise disclose to any person, such customer information.

(c) No person who has any information or document which to the person's knowledge was disclosed in contravention of sub-section (a) shall disclose the same to any other person.

Exceptions to Duty of Secrecy

82. (a) The provisions of section 81 shall not apply to the disclosure of customer information-

(1) to the Central Bank, or to any director, officer or employee of the Central Bank, or to any person appointed by the Central Bank under this Law, where the

disclosure is for the purpose of the exercise of powers and duties of the Central Bank;

(2) to any person rendering professional services to the Central Bank where the person is authorized in writing by the Central Bank to obtain the information from the bank;

(3) which the customer, or his personal representative, has given permission in writing to disclose;

(4) in a case where the customer is declared bankrupt, or, if the customer is a company, the company is being or has been wound up, in Myanmar or outside Myanmar;

(5) where the information is required by a party to a *bona fide* commercial transaction, to assess the creditworthiness of the customer relating to such transaction;

(6) where the information is required for the purposes of any criminal proceedings or in respect of any civil proceedings between a bank and its customer or his guarantor relating the customer's transaction; or between the bank and two or more parties making adverse claims to money in a customer's account;

(7) in accordance with the order of a court of law;

(8) where the disclosure is solely in connection with the conduct of internal audit of the bank or the performance of risk management;

(9) to credit bureaus licensed by the Central Bank;

(10) where disclosure is solely in connection with the performance of operational functions of the bank, where such operational functions have been out-sourced;

(11) where disclosure is in relation to the merger or proposed merger of the bank with another financial institutions;

(12) where the disclosure is solely in connection with the transfer or proposed transfer of the business of the bank to another bank;

(13) where the disclosure is solely in connection with the restructure, transfer or sale of a bank under Chapters XIV and XV; and

(14) where such disclosure is made under the Anti-money Laundering Law and Counter Terrorism Law.

(b) In any civil proceedings under sub-section (a) (6) and (7) where any information or document is likely to be disclosed in relation to a customer's account, such proceedings may, if the court, of its own motion, or on the application of a party to the proceedings, so orders, be held in camera and in such case, the information or document shall be secret as between the court and the parties thereto, and no such party shall disclose such information or document to any other person.

(c) Unless the court otherwise orders, no person shall publish the name, address or photograph of any parties to such civil proceedings as are referred to in sub-section (b), or any information likely to lead to the identification of the parties thereto, either during the currency of the proceedings or at any time after they have been concluded.

Further exception to Duty of Secrecy

83. Notwithstanding the provisions of any other section, the Central Bank may-

(a) publish information obtained by it from the banks, in a consolidated form as it considers fit in the public interest;

(b) share supervisory information, on a confidential basis, with financial supervisory and regulatory agencies, both domestic and foreign, responsible for the safety and soundness of the financial system, if the information is used only for purposes related to the effective supervision of the institutions concerned.

CHAPTER XI
ACCOUNTING, AUDITING AND FINANCIAL STATEMENTS

Accounts and Financial Statements

84. (a) Every bank shall maintain accounts and records, and prepare periodic financial statements, adequate to reflect its operations and financial condition, in accordance with such internationally accepted accounting standards, as prescribed by regulations made by the Central Bank.

(b) Compliance with such regulations shall be deemed to be in compliance with the accounting standards specified in or under any other written law.

(c) Without limiting the generality of the provisions of sub-section (a), each foreign bank branch shall maintain separate books, accounts and records, and shall prepare financial statements, including profit and loss accounts, reflecting only the assets, liabilities, income and expenses of the foreign bank branch, that are segregated from the other books, accounts, records and financial statements of the foreign bank to which it belongs.

Audit Committee

85. (a) Every bank is required to set up an Audit Committee.

(b) The Audit Committee shall consist of three members appointed by the general meeting of shareholders of the bank for periods of four years.

(c) Any member of the Board of Directors who is a non-executive independent director shall lead the Audit Committee and the management shall not concurrently serve on the Audit Committee.

(d) The Audit Committee shall –

(1) establish appropriate accounting procedures and accounting controls for the bank, supervise compliance with such procedures, and audit the bank's accounts and records;

(2) monitor compliance with the laws and regulations applicable to the bank and report to the Board of Directors thereon;

(3) deliver opinions on any matters submitted to it by the Board of Directors.

(e) The Audit Committee shall meet ordinarily once every three months and whenever convened by the Board of Directors.

Balance Sheet and Profit and Loss Account

86. (a) Every bank shall prepare at the expiration of each financial year-

(1) a balance sheet as at the last working day of such financial year;

(2) a profit and loss account in respect of such year;

(3) such other financial statements as required by the Central Bank.

(b) The balance sheets and profit and loss accounts of a bank shall reflect its operations and financial condition and those of its subsidiaries, both on an individual and on a consolidated basis.

(c) Every bank shall transmit the financial statements to the Central Bank within three months after the close of the financial year.

(d) Every bank shall publish its audited financial statement for such financial year in at least one widely read newspaper in Myanmar or in such other manner permitted by the Central Bank.

(e) The audited financial statement shall be exhibited in a conspicuous place of each bank branch.

(f) The Central Bank may prescribe the form, content and certification of the balance sheet and profit and loss account including any disclosure requirements to be made.

(g) Where the Central Bank determines that a disclosure statement published by a bank under sub-section (f) does not contain information which it is required to contain or is otherwise false or misleading, the Central Bank may, by notice in writing to the bank, require the bank-

(1) to publish a disclosure statement that contains the information that was omitted;

(2) to publish a disclosure statement that does not contain false or misleading information; or

(3) to take such other corrective action as the Central Bank may specify in the notice.

Periodic Returns to Central Bank

87. (a) Every bank shall prepare and submit to the Central Bank periodic financial returns.

(b) Each return required under sub-section (a) shall be-

(1) submitted in such form, and at such intervals as may be prescribed by the Central Bank;

(2) certified as to its accuracy by the chief executive and the chief financial officer of the bank.

(c) Returns to be so submitted by a licensed foreign bank branch shall cover only the assets, liabilities, income, expenses, administration and operations of its foreign bank branch.

(d) Failure to submit any return as required by or under this section shall be an offence under this Law.

External Auditors

88. (a) The general meeting of the concerned bank shall appoint suitable external auditor for auditing its accounts.

(b) Banks shall replace their external auditors at least once every five years and may not appoint the same auditor for more than three consecutive times or such other period as may be prescribed by the Central Bank.

(c) Each bank shall, promptly after appointing external auditors, inform the Central Bank of the names, business address, qualifications and experience of the auditors.

(d) External auditors shall be regarded as suitable, unless the Central Bank has given a written notice that for reasons explained in the notice, the external auditors employed by the bank are not suitable, in which case the bank shall promptly replace its external auditors.

(e) Only fit and proper person shall be appointed as auditors and no related party and employee of a bank shall be eligible for appointment as external auditor for that bank.

(f) Any person appointed as external auditor who shall after such appointment become a related person or employee of the bank shall immediately cease to act as its external auditor.

(g) If a bank fails to appoint external auditors under sub-section (a), the Central Bank shall have the power to appoint external auditors for such bank to carry out the tasks specified by section 89 at the expense of the bank.

(h) Every external auditor appointed by a bank under sub-section (a) or (e) shall have a right of access at all times to the books, accounts and vouchers and all documents and records belonging to the bank, which he considers necessary for the performance of his duties, and he shall be entitled to require from the directors and officers of the bank such information and explanations as he thinks necessary for the performance and proper discharge of his duties and functions as auditor.

(i) The Central Bank may issue regulation on the criteria for external auditors and related matters.

Audit Report

89. (a) Every audit report, which shall be completed within three months of the end of the financial year shall contain the following statement by the auditors-

(1) whether in their opinion the balance sheet and profit and loss account are full and fair and properly drawn up;

(2) whether they exhibit a true and correct statement of affairs of the bank;

(3) whether the information obtained from the officers or agents of such bank is satisfactory;

(4) such other relevant matters as may be prescribed by the Central Bank.

(b) For banks, the report of the auditors made in accordance with sub-section (a) shall be read together with the report of the Board of Directors of the bank at the annual general meeting of their shareholders.

(c) Upon its completion, but not later than three months after the end of the financial year, the audit report of the auditors made under sub-section (a), together with the auditors' management letter, shall be transmitted to the Central Bank.

(d) Where the Central Bank is of the opinion that the audited financial statements do not exhibit a true and correct statement of affairs of the bank or that the auditors' report or management letter are otherwise unsatisfactory, it may order the bank to require the auditor or newly appointed external auditor to submit a fresh report at the expense of the bank.

(e) an auditor, shall immediately report the matter to the Central Bank if, in the course of the performance of his duties as an auditor of a bank, he is satisfied of the following-

(1) there has been a serious breach or non-observance of the provisions of this Law or that otherwise a criminal offence involving fraud or dishonesty has been committed;

(2) losses have been incurred which reduce the capital funds of the bank by fifty percent;

(3) serious irregularities have occurred, including irregularities that jeopardize the security of the creditors; or

(4) he is unable to confirm that the claims of creditors are still covered by the assets.

Submission of Audit Report

90. (a) The auditor must submit the audit report to both the concerned bank and financial institution and the Central Bank.

(b) While submitting the audit report to the Central Bank under sub-section (a), the auditor must attach thereto the other reports connected with the audit of the concerned bank, as well as the documents prescribed by the Central Bank.

CHAPTER XII
REGULATION, INSPECTION AND SUPERVISION

On-Site Examinations of bank

91. (a) The Central Bank shall cause an on-site examination to be made of each bank at intervals not exceeding two years.

(b) The Central Bank may –

(1) conduct any on-site examination of a bank under examination jointly with other persons.

(2) select, appoint and authorize any chartered accountant or firm of chartered accountants to be an examiner.

(c) It shall be lawful for any examiner -

(1) to require any director, officer, employee or auditor of a bank under examination to furnish all such information relating to the affairs of the bank, as such examiner may consider necessary;

(2) to require any director, officer, employee or auditor of a bank under examination to produce for inspection any documents, cash, securities and other assets of the bank, in his possession or custody;

(3) in the case where there is evidence of mismanagement by a bank under examination, to require-

(aa) any director, officer or employee to submit the accounts of the bank for audit by an auditor authorized by the Central Bank;

(bb) the bank under examination to furnish to the auditor such information;

(cc) inspection by the auditor of any documents, cash, securities and other assets of the bank, or in its possession or custody.

(d) It shall be the duty of every director, officer, employee and auditor of a bank under examination to comply with the requirements imposed under section 91 and to provide access to, the offices of the bank and to any directors, officers or employees of the bank.

(e) Where the Central Bank considers it necessary to determine whether a bank is carrying on business in a manner detrimental to its present or future depositors, it may by notice in writing, require any person whom it considers to have information relating to the bank, to furnish such information to the Central Bank or to any examiner.

(f) A person required to furnish information to the Central Bank under sub-section (e) shall do so, unless such person is prevented by a court order to furnish such information to the Central Bank.

(g) For the purpose of ascertaining the true condition of the affairs of a bank under examination of section 91, also examine the business of any company, which is or has at any relevant time been—

(1) a holding company or subsidiary company of the bank under examination;

(2) a subsidiary company of a holding company of the bank under examination;

(3) an associate company of the bank under examination.

(h) A person referred to in this section shall comply with all requirements imposed on him by the Central Bank under section 91.

Inspections made by Foreign Banks

92. (a) A foreign bank may inspect its office established in the Myanmar after securing the approval of the Central Bank under this Law and subject to the conditions prescribed by the Central Bank.

(b) The concerned foreign bank must submit to the Central Bank a copy of the inspection report prepared by it after conducting inspection under sub-section (a).

CHAPTER XIII
CORRECTIVE ACTION AND BANK RESOLUTION MEASURES

Responsibility of Central Bank concerning compliance by banks

93. It shall be the responsibility and duty of the Central Bank to systematically monitor the performance of all banks so as to ensure their compliance with all applicable criteria, standards, rules, regulations and provisions of this Law.

Corrective actions taken by the Central Bank

94. (a) The Central Bank may implement corrective actions where-

(1) a bank informs the Central Bank that it is insolvent or that it is likely to become unable to meet its obligations to a material extent or that it is about to suspend payment to any extent; or

(2) whether after an inspection under section 91, or otherwise, the Central Bank is satisfied that a bank-

(aa) is carrying on its business in a manner detrimental to the interests of its depositors, creditors or the public;

(bb) is not paying its financial obligations as they fall due;

(cc) has become or is likely to become unable to meet all or any of its obligations to a material extent, or is about to suspend payment to any extent;

(dd) has contravened any provision of this Law or any condition of its license, or any provision of any written Law, regardless that there has been no prosecution in respect thereof;

(ee) has obtained its license on the ground of false or fraudulent statements made by it in connection with the license application;

(ff) the association of any director, chief executive or officers of a bank is or is likely to be detrimental to the interests of the bank or its depositors;

(gg) the Central Bank is being hindered in supervising the bank because all or a significant part of the administration, operation and books or records of the bank have been moved outside of Myanmar without the prior consent of the Central Bank;

(hh) has failed to carry out any direction given to it by the Central Bank;

(ii) has failed to meet the Central Bank standards relating to asset quality management, earning, liquidity or sensitivity to market risk;

(jj) has failed to meet or is in danger of failing to meet any capital requirements in this Law or any regulation of the Central Bank;

(kk) engaging in practices, operations or activities that could pose risks to the depositors of the banking system in whole or in part;

(ll) is insolvent and the value of total assets is less than the value of total liabilities;

(mm) is facing legal action for relief by a custodian, receiver or liquidator under any Bankruptcy Law or any Law that provides for relief of debtors;

(nn) has engaged in or been used for criminal activities and the bank has not taken measures adequate to prevent it;

(oo) consist of one or more foreign bank which have gone into voluntary liquidation, or in respect of which a custodian, receiver or liquidator has been appointed, or whose license to carry on banking business in the country of its principal place of business has been cancelled;

(pp) is otherwise in a situation which the Central Bank considers may materially impair the ability of the bank to meet its obligations or otherwise continue its operations;

(qq) has incurred losses in its banking operation for three financial year continuously.

(b) Notwithstanding sub-section (a), where the Central Bank determines that the giving of a warning notice under section 95 would jeopardize the interest of depositors or creditors, , the Central Bank may proceed to take any of the corrective actions under section 96 without giving a warning notice.

Warning notice issued by the Central Bank

95. (a) Where the Central Bank has made a determination that any of the circumstances described in section 94 exists in respect of a bank, the Central Bank shall issue a warning notice to the bank.

(b) Upon being served a notice under sub-section (a), the bank shall, within two weeks of being served the notice, submit to the Central Bank in writing its plan of action and commitment to address the weaknesses or lapses specified in the notice.

(c) A plan of action referred to in sub-section (b) shall-

(1) give details of remedial measures to address the underlying weaknesses or lapses in the bank;

(2) be approved by the Board of Directors of the bank concerned;

(3) specify the timeframe within which the weaknesses or lapses would be satisfactorily addressed;

(4) explain the monitoring mechanisms for the implementation of the remedial measures.

(d) A bank which has submitted a plan of action to the Central Bank shall submit to the Central Bank such updates or other reports as may be required.

(e) If a bank fails to submit a plan of action within the specified time or if the Central Bank determines that the plan of action submitted by the bank is inadequate, or if the bank fails to implement the plan submitted, the Central Bank shall take any such corrective actions specified in section 96.

Power of Central Bank to ensure corrective actions taken by banks

96. (a) The Central Bank may take one or more of the following actions against a bank to which a notice has been issued under section 95(a) or a bank falling within any one or more of the circumstances mentioned in section 94-

(1) caution or prohibit the bank against entering into any particular transaction or class of transactions;

(2) direct the bank to cease and desist from any unsafe or unsound practice or contravention;

(3) require the bank to take appropriate action as may be directed by the Central Bank;

(4) during the course, or after the completion, of any inspection of a bank under section 91, the Central Bank shall –

(aa) require the bank to call a meeting of its directors for the purpose of considering any matter relating to the affairs of the bank;

(bb) require an officer of the bank to discuss any such matter with the Central Bank;

(cc) require the Board of Directors of the bank to give in writing to any officer specified by the Central Bank all notices of, and other communications relating to, any meeting of the Board and the committee;

(dd) appoint one or more of the officers of the Central Bank to observe the manner in which the affairs of the bank or of its offices or branches are being conducted and make a report thereof;

(ee) require the bank to make, within such time as may be specified by the Central Bank, such changes in the management as the Central Bank may consider necessary based on the state of affairs disclosed during or by the inspection;

(5) require the bank to increase its paid-up capital either through the issue of new shares or a call on the unpaid portion of the issued capital;

(6) require the bank to maintain higher capital adequacy or liquidity ratios or place other restrictions or conditions on the business conducted by the bank;

(7) suspend in whole or part of the business of the bank;

(8) suspend in whole or part of the shareholders' rights, including voting rights, in the bank and/ or prohibit the distribution of profits or other withdrawals by shareholders of the bank;

(9) suspend or permanently bar from office of the bank, any director, chief executive, or officer;

(10) restrict the powers of any director, chief executive, officer and employee of the bank;

(11) limit the compensation, (including management fees and bonuses) paid to directors and senior officers of the bank;

(12) prohibit or impose limitations on the acceptance of deposits and the granting of loans or advances or the making of investments by the bank;

(13) require the bank to enhance its governance, internal controls and risk management systems;

(14) require the downsizing of operations, restrict the expansion of branches or offices or the closing of branches or offices in Myanmar or abroad, of the bank;

(15) enhance provisioning for assets of doubtful quality;

(16) prohibit principal or interest payments on subordinated debt provided by the shareholders of the bank;

(17) other than state-owned bank by order in writing made by the Central Bank, remove from office, any director, chief executive or officer of the bank and if state-owned bank, notify concerned authority to take necessary action on it;

(18) by order in writing made by the Central Bank, suspend the Board of Directors and take control of the bank and operate its business through the appointment of "Administrator", selected by the Central Bank as being fit and proper to manage the bank;

(19) by order in writing made by the Central Bank, require the bank to apply for de-listing from any stock exchange on which it is listed.

(b) In the case of an order under paragraphs (9) and (17) of sub-section (a), the director, chief executive or officer to be removed from office, have been given a reasonable opportunity to make representations to the Central Bank in respect of the proposed order: Provided that if in the opinion of the Central Bank, in the case of an order to be made by the Central Bank under paragraphs (9)and (17) of sub-section (a), any delay would be detrimental to the interests of the bank, or its depositors, creditors or the public generally, the order may be made immediately and the opportunity to make representations be given as soon as possible after the order has been made.

(c) The order may, in consequence of such representations be confirmed, modified, amended, replaced or revoked subject to such conditions, as the Central Bank may specify.

(d) An order made under paragraph (18) of sub-section (a), shall be valid for a period not exceeding 2 years unless extended by subsequent order issued by the Central Bank.

(e) The Central Bank shall provide an initial report to Cabinet as soon as practicable after the control of a bank has been taken over by an Administrator appointed under paragraph (18) of sub-section (a) and a yearly report thereafter.

(f) An order of the Central Bank made under paragraph (18) of sub-section (a) may at any time be revoked by an order and such order may contain directions or provisions of an incidental, ancillary, or consequential nature, as deemed necessary or expedient by the Central Bank.

(g) Any director, chief executive or officer removed from office under paragraph (17) of sub-section (a) shall cease to hold the office with effect from the date set out in the order and shall not thereafter hold any other office in that bank or, in any manner, whether directly or indirectly, engage in, any affairs or business of the bank.

(h) The removal of any director, chief executive or officer under paragraph (17) of sub-section (a) shall be lawful and valid notwithstanding anything contained in any contract of service or agreement or contract, and whether or not made or provided for under any law, and any person so removed from office shall not be entitled to claim any compensation for the loss or termination of office.

(i) The provisions of this section shall apply to the foreign bank branch.

(j) All assets, liabilities, acts and omissions of the foreign bank resulting from or otherwise relating to the business of any of its bank branch office shall be attributed to that single entity in applying the provisions of this Chapter.

(k) For the purposes of this Chapter, the capital and value of assets of a bank shall be determined in accordance with standards and procedures specified in the regulations made by the Central Bank.

CHAPTER XIV
ADMINISTRATORSHIP

Appointment of an Administrator

97. (a) Administrators shall be appointed by an order of the Central Bank under of section 96(a) (18).

(b) For the purposes of sub-section (a), only fit and proper persons are eligible to serve as Administrator for a bank.

(c) If at any time an Administrator becomes ineligible to serve, the Administrator shall be replaced by the Central Bank.

(d) An Administrator shall be appointed for a term not exceeding twenty four months as specified in the appointment, which may be extended once for another period not exceeding twenty four months.

(e) The Administrator shall be employed by the Central Bank and receive remuneration from the Central Bank.

(f) All costs incurred by the Central Bank on account of the administratorship, including the remuneration of the Administrator, shall be borne by and charged to the bank for which the Administrator is appointed.

(g) The decision by the Central Bank appointing an Administrator or extending the term of appointment of an Administrator shall be in writing, specifying the grounds for its decision.

Review of appointment

98. (a) Within five business days from the date of service of the decision appointing the Administrator for a bank, the Board of Directors of the bank may make written representations on behalf of the bank to the Central Bank objecting to the appointment of the Administrator.

(b) In the event that no such objection is made within the five business days, the bank shall be deemed to have consented to the appointment of the Administrator.

(c) Upon the timely receipt of such objection, the Central Bank shall review the appointment of the Administrator and decide either to affirm the appointment or to terminate the appointment, giving the grounds for its decision in writing.

(d) The decision made under sub-section (c) shall be final and served promptly on the chairman of the Board of Directors of the bank.

(e) If the appointment of the Administrator is terminated, the Administrator shall immediately return control of the bank and its assets, books and records to the authorized manager of the bank.

Effect of taking control

99. (a) Upon the appointment of an Administrator the bank and its directors, chief executive and officers shall submit the property, business and affairs of the bank to the control of the Administrator, and shall provide the Administrator with all such facilities as may be required to carry on the business and affairs of the bank.

(b) The Administrator shall assume control of the property, business and affairs of the bank concerned, and carry on the business and affairs of that bank in the name and on behalf of the bank, for such time as may be specified in the order or until such time when the order is revoked.

(c) Throughout the period of the order that is in force, all the powers of the bank, and of its directors and shareholders under the constituent documents or memorandum and articles of the bank, or exercisable by the bank or its directors under any written law, or otherwise, shall be vested in the Administrator.

(d) While the order is in force, no director, chief executive or officer of a bank shall, either directly or indirectly, engage in any activity in relation to the bank, except as may be required or authorized by the Administrator.

(e) No remuneration of whatever nature shall accrue or be payable to any director, chief executive or officer of the bank, except that which is approved in writing by the Administrator.

Remedial actions that can be taken by the Administrator

100. An Administrator may with the approval of the Central Bank, and notwithstanding any provisions of the Myanmar Companies Act and Special Companies Act or any other Law, take any one or more of the following measures for the purpose of carrying out the rehabilitation of a bank–

(a) suspend, terminate and wind up, any part of the bank's activities in or outside Myanmar;

(b) sell the assets of the bank to any other bank or entity on such terms and conditions as may be approved by the Central Bank;

(c) terminate the employment of any officers or employee, or replace any officers and employee of the bank;

(d) if the officers or employees mentioned in sub-section (c) are from state-owned banks, notify relevant authority to take necessary action;

(e) make such arrangements as the Administrator considers necessary for the merger of the bank with another bank;

(f) re-organize the bank by increasing its capital and selling shares to new shareholders and reconstituting the Board of Directors of the bank;

(g) re-construct the bank in any such manner as the Administrator considers to be in the interest of depositors, including the closing down of unviable business or the bank or re-organizing its management;

(h) take any such other measures as may be approved by the Central Bank to rehabilitate the bank.

Report of the Administrator

101. (a) The Administrator shall prepare and present to the Central Bank a report on the financial condition and future prospects of the bank for which the Administrator has been appointed within the time specified by the Central Bank.

(b) The Administrator shall include in the report an assessment of the amount of assets likely to be realized in a liquidation of the bank.

(c) The report shall be accompanied by a proposed action plan, where relevant, that shall discuss the relative costs and benefits associated with-

(1) returning the bank to compliance by carrying out an action plan;

(2) rehabilitation of the bank under the procedure set forth in Chapter XV;

(3) a voluntary liquidation under Chapter XVII;

(4) revocation of the license and liquidation of the bank; and

(5) commencement of insolvency proceedings against the bank.

Termination of Administratorship

102. (a) The appointment of an Administrator shall terminate upon the earlier of-

(1) completion of the term specified in appointment the Administrator and extension thereof;

(2) the date of the decision of the Central Bank;

(3) the date of the decision of the court of law to that effect;

(b) Within twenty business days of the termination of the appointment, the Administrator shall prepare and submit to the Central Bank a final report of the Administratorship.

Financial Support by Central Bank

103. During the administratorship, the Central Bank may provide financial support to banks under conditions to be prescribed in an order to provide for any temporary liquidity support.

CHAPTER XV
REHABILITATION OF BANK

Action available to the Central Bank

104. (a) The Central Bank shall, within one year of placing a bank under the control of an Administrator audit or cause to audit the accounts of the bank concerned.

(b) Based on the report of the Administrator and the auditor, the Central Bank may take any one or more of the following actions with regard to a bank-

(1) release the suspension of the Board of Directors of the bank made under section 96(a) (18) and order the same Board of Directors to operate the business of the bank;

(2) dismiss the Board of Directors of the bank and direct the convening of a general meeting of the bank to elect a new Board of Directors;

(3) carry out a capital reduction exercise and cancel any portion of the shares of the bank which is lost or unrepresented by available assets;

(4) dilute the participation of the existing shareholders by issuing shares to such persons and at such consideration as may be determined by the Central Bank;

(5) file an application in the concerned High Court of the Region or High Court of the State for the liquidation of the bank.

(c) Without prejudice to the powers conferred under section 96, or sub-section (b), and in addition to the powers conferred under the Central Bank of Myanmar Law-

(1) the Central Bank may by order-

(aa) direct any shareholder of the bank to divest or transfer the shares owned by him to a fit and proper person for such consideration as may be determined by the Central Bank;

(bb) transfer any assets or liabilities, in whole or part, from the bank to another bank or financial institution, on such terms and conditions as may be determined by the Central Bank;

(cc) subject to section 107, vest all or part of the assets and liabilities of the bank in another bank or financial institution, as may be considered appropriate by the Central Bank;

(2) the Central Bank may with the consent of the Union Parliament through Union Government do one or more of the following-

(aa) purchase any shares of the bank financed by the Union Government Budget for the purpose of controlling the business of that bank;

(bb) provide soft loans to the bank, financed by the Union Government Budget for the purpose of ensuring stability of the bank and the financial system as a whole.

(cc) establish a new bank to be capitalized by the Union Government Budget to acquire the assets and liabilities of the bank.

(d) In deciding on the appropriate action to be taken under sub-section (b) or sub-section (c), the Central Bank shall have due consideration to the latest audit report of the bank and any report prepared by the Administrator.

(e) No action under sub-section (b), or sub-section (c), shall be taken unless the bank in respect of which the action is to be taken has been given a reasonable opportunity to make representations to the Central Bank in respect of the proposed order: Provided that if in the opinion of the Central Bank any delay would be detrimental to the interests of the bank, or its depositors, creditors or the public generally, the action may be taken immediately and the opportunity to make representations shall be given as soon as possible after the action has been taken.

(f) As a consequence of such representations, the action of the Central Bank shall be confirmed, modified, amended, altered, varied, replaced or revoked subject to such conditions, as the Central Bank may specify.

(g) The Central Bank may for the purposes of this section, disclose information relating to the bank to any potential acquirer and the recipient shall hold such information in confidence and use it solely for purpose of making a decision on the acquisition.

Shareholder Representations

105. (a) For the purposes of this Chapter, only the owners' representative of a bank may make representations to the Central Bank against any action taken by the Central Bank.

(b) The owners representative means-

(1) the person appointed by a decision taken by a simple majority vote of the owners of the bank to be the representative;

(2) the person holding for the time being the office of Chairman of the Board of Directors of the bank or his duly authorized representative.

(c) Within fourteen days from the date of service of an order made by the Central Bank under section 104(b) and (c), the owners of the bank may make objections in writing to the Central Bank against the decision.

(d) The owners shall be deemed to have consented to the decision taken if the Central Bank does not receive the objection on time.

(e) The Central Bank shall within fourteen days of the receipt of timely objection, review the objection and either confirm, modify or terminate the order of the Bank as it considers appropriate giving the grounds for the decision.

(f) The decision of the Central Bank shall be served promptly on the owners' representative of the bank.

(g) All action taken by the Central Bank shall remain in full force and effect during such period unless or until otherwise terminated by the Central Bank.

(h) The order confirmed, modified or terminated decision issued by the Central Bank shall be final and conclusive.

Capital reduction and cancellation of shares

106. (a) Where the paid-up capital of a bank has been lost or is un-represented by available assets, the Central Bank may, on notice being published for public information, through an application to the concerned High Court of the Region or High Court of the State, reduce the share capital of the bank by canceling such portion of its paid-up capital that has been lost or un-represented by available assets.

(b) Where the assets or liabilities of the bank have been transferred to another person under section 104(c)(1)(bb) and (cc) , the Central Bank may on notice being published for public information, through an application to the concerned High Court of the Region or High Court of the State, cancel the residual share capital of the bank.

(c) Where the Central Bank issues an order under sub-section (a) to reduce the share capital of a bank, if on the expiry of ninety days from the date of any call made by the bank on its members to pay on their respective shares and payment on any such shares has not been made, the Central Bank may proceed to apply to the concerned High Court of the Region or High Court of the State for the cancellation of such shares for which payment has not been made.

(d) Where the share capital of a bank is reduced pursuant to sub-section (a), or any of its shares is cancelled pursuant to sub-section (b), the Central Bank may require the constituent documents or memorandum and articles of association of the bank to be altered, and any company records or registers amended accordingly.

Vesting of Assets and Liabilities

107. Where all or part of the assets and liabilities of a bank are to be vested or transferred to another bank or financial institution under section 104, the Central Bank may by order published for public information, vest or transfer the assets and liabilities specified to the acquiring institution on such terms and conditions as it may consider appropriate. The order of the Central Bank issued under this section shall be final and conclusive.

Conditions for Vesting

108. The vesting order shall only be made if–

(a) the vesting of assets and liabilities of the bank to which an order under section 107 applies in the acquiring institution is justified by the interests of the depositors and creditors of the transferee institution or the public interest;

(b) the acquiring institution is capable of carrying on in a competent manner the business of the bank; and

(c) the acquiring institution agrees in writing to comply with such terms and conditions as may be specified by the Central Bank relating to the manner in which the assets to be vested are to be used and any existing liabilities are to be met.

Effect of Vesting Order

109. (a) With effect from the relevant date specified in the vesting order issued under section 107 –

(1) all rights of the transferee institution to the assets vested and all obligations under the liabilities vested shall be deemed to have been transferred to and acquired by the acquiring institution, and notwithstanding the provisions of any other Law to the contrary no other action shall be required to perfect such transfer or acquisition;

(2) all entries in all the Official Registers in Myanmar recording assets or liabilities so vested shall be changed by replacing the name of the transferee institution with the name of the acquiring institution, provided however, that no failure to make such change shall affect any right or obligation transferred and acquired by the acquiring institution under the vesting order;

(3) the acquiring institution shall comply with the terms and conditions of the vesting that the acquiring institution has consented to in writing and with any such other directions as the Central Bank may issue under this Law or the Myanmar Companies Act or the Special Company Act;

(4) the license issued to the transferee institution shall be modified to the extent necessary to accommodate the effects of the vesting order on the business of such transferee institution;

(5) if all assets and liabilities of the transferee institution deriving from domestic banking business and banking business outside Myanmar are vested in the acquiring institution, the license to the transferee institution shall be cancelled by the Central Bank.

(b) Unless otherwise specified by the Central Bank and as may be set out in the vesting order issued under section 107, with effect from the relevant date-

(1) all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature pertaining or relating to the vested assets or liabilities of the transferee institution and subsisting, or having effect on the day immediately preceding the relevant date and to which the transferee institution is a party or which are in favor of the transferee institution , shall be deemed with effect from the relevant date to be contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation or other instruments entered in to or granted, as the case may be, by the acquiring institution;

(2) all actions and proceedings of whatever nature instituted by or against the transferee institution pertaining or relating to the vested assets or liabilities of the transferee institution and pending on the day immediately preceding the relevant date, shall be deemed with effect from the relevant date to be actions and proceedings instituted by or against the acquiring institution, and may be continued or prosecuted accordingly.

(c) For the purposes of this section-

(1) 'relevant date' means the date the vesting order is published;

(2) "Official Registries" means a registry established under the Law of Myanmar that records the creation of interests, ownership, transfers and dealings in

properties whether movable or immovable of individuals and bodies corporate in Myanmar.

Taxes and fees

110. Exemption from taxes, fees or charges due and owing on any transfer of an asset or liability can be applied to the Ministry under this Chapter. No consent of creditor, depositor, borrower or shareholder shall be applicable to any transaction under this Chapter.

Moratorium

111. (a) In addition to the powers in this Chapter, the Central Bank may, if it considers it to be in the interest of the bank, or if it is necessary to protect the interests of depositors or maintain stability of the financial system, by order published for public information-

(1) prohibit any bank from carrying on all its banking business, or such part of it, as may be set out in the order;

(2) prohibit the bank from doing or performing any act or function connected with all its banking business, or such part of it, as may be set out in the order;

(3) suspend the license granted to the bank under this Law to such extent and for such period as may be necessary to give effect to the prohibitions under sub-section(1) or sub-section(2);

(4) provide for all such matters of an incidental or consequential nature, in order to give effect to the matters under the foregoing paragraphs, including provisions for the taking into the custody or control of the Central Bank the property, books, documents or effects of the bank.

(b) An order under sub-section (a) may, from time to time, be modified, amended, altered, varied or replaced either prospectively, or where it is not impracticable or unjust to do so, retrospectively, by a further order under sub-section (a).

(c) An order made under sub-section (a), and a further order under sub-section (b) may be revoked by the Central Bank and any such order may contain all such incidental and consequential orders and directions deemed necessary by the Central Bank.

CHAPTER XVI
REHABILITATION OF NBFI AND SCHEDULED INSTITUTION

112. A NBFI or scheduled institution may be rehabilitated in accordance with the regulations and procedures prescribed by the Central Bank.

CHAPTER XVII
LIQUIDATION OF BANKS, PRIOR APPROVAL NEEDED FOR VOLUNTARY WINDING-UP AND LIQUIDATION OF A BANK

Prior Approval of Central Bank for Voluntary Winding-up and Liquidation

113. (a) No person shall petition to High Court for the voluntary winding-up and the liquidation of a bank, without the written approval of the Central Bank.

(b) An approval under sub-section (a) shall not be granted unless the Central Bank is satisfied-

(1) that the incumbent bank is solvent and has the ability to repay its depositors and other creditors without delay;

(2) that the winding-up, liquidation of the incumbent bank has been approved at a meeting of the shareholders of the banking by an affirmative vote representing not less than three fourths of the outstanding shares entitled to vote.

(c) Provided that no such authority may be granted by the Central Bank for the winding-up or liquidation of a domestic bank being a state-owned corporation without the prior written approval by the Government, or for the liquidation of a branch in Myanmar of a foreign financial institution without the written request by the management of the foreign financial institution to which the branch belongs.

Conditions for Voluntary Winding -up or Liquidation

114. (a) Before the Central Bank grants an approval under section 113(b)and (c), it shall ensure that the incumbent bank seeking winding-up or voluntary liquidation has-

(1) repaid its depositors;

(2) paid all financial liability or obligations incurred under this Law and returned all funds and other property held by it in a fiduciary capacity.

(b) In addition to the requirements in sub-section (a), an incumbent bank must-

(1) have wound- up all operations undertaken;

(2) immediately ceased to carry on the business to be liquidated, exercising only such powers as are necessary to effect an orderly liquidation.

(c) The Central Bank may request for reports, documents and such other information concerning the person seeking the approval and the incumbent bank, including its winding-up and liquidation plan.

(d) The Central Bank may issue such direction as it deems fit to any person seeking the approval of the Central Bank and the incumbent bank to ensure that the requirements in sub-section (a) are met.

(e) If an incumbent bank is unable to meet the requirements of section 113 and this section, the Central Bank shall appoint an Administrator under section 97 of this Law.

Notice of Voluntary Liquidation

115. (a) The incumbent bank shall cause a notice of the winding-up or voluntary liquidation –

(1) to be sent to the Registrar of Companies within fourteen days of the receipt of the approval under section 113, from the Central Bank;

(2) to be sent to all depositors and other creditors, and persons otherwise entitled to the funds or property held by such bank as a fiduciary, lessor of a safe deposit box or bailee;

(3) to be notified to the debtors of the bank to repay their debt immediately;

(4) to be published once in at least two widely circulated newspapers in Myanmar;

(5) to be displayed in a conspicuous place at its principal place of business and each of its other offices.

(b) The Central Bank shall specify the information to be included in the notice referred to in sub-section (a).

(c) The Central Bank may exempt an incumbent bank from sending a notice under sub-section(a) (2) to any person where the Central Bank is satisfied that-

(1) it is impracticable to do so;

(2) the person has otherwise had adequate notice of the winding up and liquidation.

Rights of Creditors

116. (a) The approval to go into winding-up or voluntary liquidation shall not prejudice the rights of a depositor or other creditor of an incumbent bank to payment in full of any claim, or the rights of an owner of funds or other property held by the bank.

(b) All lawful claims shall be paid promptly and all funds or other property held by the incumbent bank shall be returned to their rightful owners within such maximum period as the Central Bank may determine.

Cancellation of License and Distribution of Assets

117. (a) Upon completion of the winding-up and liquidation, the incumbent bank shall prepare and submit to the Central Bank an audited statement of accounts and a report of liquidation certified by an opinion of an external auditor acceptable to the bank.

(b) The opinion of the auditor submitted under sub-section (a), shall state-

(1) whether the statement of accounts are full and fair and have been properly drawn up;

(2) whether the report of winding-up or liquidation exhibits a true and correct statement of the liquidation of the incumbent bank;

(3) where the auditor has called for any explanation or information from the incumbent bank, whether the explanation or information received by the auditor is satisfactory;

(4) whether the voluntary winding-up and liquidation was carried out in compliance with the directions given by the Central Bank.

(c) Where the Central Bank is of the opinion, based on the documents submitted under sub-section (a) that the incumbent bank has discharged all its obligations as referred to in section 114:

(1) the Central Bank shall cancel the license of the incumbent bank and notify the cancellation in accordance with the provisions of section 115 of this Law;

(2) the bank shall distribute its remaining assets among its rightful owners in proportion to their respective rights.

(d) No distribution under sub-section (c)(2) shall be made before the incumbent bank has-

(1) transmitted to the Central Bank funds sufficient to meet any disputed claim to payment or return of funds or property that may be determined by the court;

(2) transmitted to the Central Bank funds payable to all depositors, other creditors or persons entitled thereto who have not claimed such funds;

(3) complied with section 152 with regards to other funds and property held by the bank which cannot be distributed to the persons under sub-section (c)(2).

(e) All costs, charges and expenses properly incurred in the liquidation are payable out of the assets of the bank in voluntary liquidation.

(f) On receipt from the incumbent bank of a notice of approval of the audited statement of accounts and the report of liquidation submitted under sub-section (a), the incumbent bank shall cause the notice to be published for public information.

(g) Upon the publication of such notice of approval under sub-section (f), the Registrar of Companies, to strike-off the name of the company from the Register of Companies.

(h) From the date of the notice in sub-section (f), the bank shall stand dissolved.

(i) The dissolution of a bank under sub-section (g) shall not affect the liability under this Law or any written Law of any owner, director, chief executive or other officer of the bank and that liability shall continue and may be enforced as if the bank had not been dissolved.

Compulsory liquidation

118. A bank may be compulsorily wound-up or liquidated by the Central Bank, if one or more of the following grounds are present:

(a) the bank is not paying its financial obligations as they fall due;

(b) the Central Bank determines that the capital of the banking is less than one-half of the minimum capital to be maintained by the bank under this Law;

(c) the Central Bank determines that the value of the assets of the bank is less than the value of the debts or is insolvent;

(d) the Administrator appointed under section 97 recommends that the bank be liquidated.

Representative of Owners in Liquidation Proceedings

119. For the purposes of the procedures set out hereinafter, the owners of a bank shall be represented by a representative who shall be-

(a) for a domestic bank not being a state-owned bank, the person holding for the time being the office of Chairman of the Board of Directors of the bank or his duly authorized representative, unless another person is appointed as owners' representative by the owners of the bank;

(b) for a domestic bank being a state-owned bank, Government or its duly authorized representative;

(c) for a branch or a subsidiary of a foreign bank, the chief executive or his deputy of the foreign bank.

Petition for commencing liquidation proceedings

120. The Central Bank may petition the concerned High Court of the Region or High Court of the State to commence liquidation proceedings against a bank.

Rejection of Petition

121. A petition for commencing liquidation proceedings against a bank shall be rejected by the High Court if -

(a) none of the grounds of section 118(a) applies;

(b) the petition is not accompanied by the required documents for commencement of the liquidation;

(c) any document or other evidence submitted to the High Court of the Region or High Court of the State in support of the petition is manifestly false or inaccurate and without such document the petition does not meet the requirements of the law;

(d) the owners' representative for the bank shows, with the concurrence of the Central Bank, that capital funds have been made to the bank and such funds are immediately available and sufficient to eliminate the grounds for commencing liquidation proceedings against the bank;

(e) the petition concerns a domestic bank being a state-owned and the Government provides a written guarantee for the due payment of all liabilities of the bank;

(f) the petition does not meet any other requirement of the law.

Appointment of Liquidator

122. By its decision to commence liquidation proceedings against a bank, the relevant High Court of the Region or High Court of the State shall appoint the Central Bank or a person or persons nominated by the Central Bank to act on its behalf as the liquidator.

Negotiated Settlements

123. (a) The liquidator for a bank in liquidation may enter into and carry out negotiated settlements of claims with any creditor and debtor of the bank, with the prior approval of the Central Bank.

(b) No such settlement shall be subject to opposition, review or appeal.

Priority of Payment

124. The assets of a bank shall be distributed among its creditors in the following order of priority-

(a) secured debt (guaranteed debt);

(b) all costs and expenses on account of the administration of the insolvency;

(c) claims with regard to deposits that are not in the form of debt securities;

(d) liabilities of the bank on account of Administration, rehabilitation and any liabilities due and owing to the Central Bank;

(e) national and local taxes due over a period of not more than one year preceding the date of the liquidation decision;

(f) salary payments to employees of the bank, excluding any remuneration of members

of the board of directors, as accrued to the date of the decision to open liquidation proceedings;

(g) claims of unsecured creditors;

(h) any other claims not paid under paragraphs (a) to (f).

Cross Border Insolvency

125. (a) In order to promote equal access of resident and non-resident creditors to a universal pool of assets of a banks in liquidation that engaged in cross border activities-

(1) if a bank in liquidation has branch in a foreign country, the bank shall cooperate with the authorities of that country;

(2) if a creditor of a bank in liquidation has received partial payment on his claims in a foreign country, the balance of his claims may be presented for payment together with costs incurred in the liquidation proceedings before the concerned High Court of the Region or High Court of the State;

(3) the relevant High Court may decide the extent to which foreign financial insolvency resolution measures against foreign bank should be recognized in liquidation proceedings commenced by the relevant High Court concerning their foreign bank branch in Myanmar;

(4) if a foreign bank is in liquidation in the country where its principal place of business is located, the relevant High Court may at the request of the foreign financial institution, authorize the transfer to the liquidator in that country such assets of the foreign bank branch in Myanmar, as the foreign bank branch shall deem advisable and in the interest of the depositors and creditors of that foreign bank branch in Myanmar.

(b) Claims of non-resident creditors of a foreign bank branch shall not be recognized for the purpose of the set-off or netting of obligations and shall not otherwise be admitted in liquidation proceedings commenced against a foreign bank branch.

(c) Liquidation proceedings in Myanmar commenced against a foreign bank branch shall not limit the rights of creditors of the foreign bank to which the branch belongs to pursue action of their claims against foreign assets held by the foreign bank outside Myanmar.

Power of Central Bank to make Regulation on Liquidation

126. The Central Bank may prescribe by regulations, the following;

(a) process and procedures for liquidation;

(b) terms and conditions of liquidator and its duties and power;

(c) finality in payment, clearing and settlement system;

(d) set off and netting;

(e) process for distribution;

(f) liquidation proceedings concerning foreign bank branch;

(g) termination of liquidation proceeding.

Disapplication of other Laws Relating to Insolvency

127. (a) The provisions of the Myanmar Companies Act, Special Companies Act and any Law relating to insolvency of companies shall not apply to a bank, unless otherwise specified in this Chapter.

(b) Notwithstanding the provisions of any written Law, any petition against a bank for a winding-up order or the appointment of a custodian, liquidator shall only be brought in the relevant High Court of the Region or High Court of the State.

CHAPTER XVIII
E-MONEY, E-BANKING AND MOBILE BANKING

Interpretation

128. "E- Money" means monetary value as represented by a claim on the issuer which is –

(a) stored on an e- device including a card;

(b) issued on receipt of funds of an amount not less than the monetary value issued;

(c) accepted as means of payment by persons other than the issuer.

Issue of E-Money and Credit Token Restricted

129. **(**a) No person may issue E-money or credit token, to the public unless such person is-

(1) a bank; or

(2) a financial institution that has been registered for that purpose by the Central Bank.

(b) E-money and credit token may be issued under a written contract between the issuer and the receiver of e-money or credit token that clearly states the period of validity of the e-money or credit token issued under the contract and the conditions for redemption of any e-money or credit token issued under the contract.

Regulation on E- Money and Credit Token

130. The Central Bank may by regulation-

(a) specify conditions and requirements for obtaining registration from the Central Bank before a person may issue e- money or credit token to the public, and the circumstances in which such registration shall or may be revoked by the Central Bank;

(b) impose on the issuers of e-money or credit token to the public, prudential requirements, and such other requirements including those relating to safety of customers' funds, and accounting and reporting;

(c) issue requirements applicable to contractual conditions, arrangements and payment procedures between the various parties that issue, use in payment, and accept e-money or credit token in payment;

(d) impose on issuers of e- money or credit token to the public, rules and procedures designed to facilitate inspection of their e- money business by the Central Bank.

Violation

131. Any person who issues e- money or credit token to the public while he is in violation of a provision of this Law or a regulation issued under this Chapter shall be guilty of an offence under this Law.

E- Banking Services

132. (a) The Central Bank is responsible for regulating the establishment of systems and practices for internet banking services, mobile banking and other forms of electronic banking collectively called e-banking services in Myanmar.

(b) For the purposes of the following, the Central Bank may issue necessary regulations and guidelines-

(1) to limit systemic and other risks that could threaten the stability of financial markets or undermine confidence in the payment system;

(2) to encourage institutions to educate customers about their rights and responsibilities and how to protect their own privacy;

(3) to encourage the development of effective, low risk, low cost and convenient payment and financial services to customers and businesses through e-services.

(4) on minimum standards that the institutions must observe regarding e-banking services;

(5) on conditions and processes for establishing of e-banking services.

CHAPTER XIX
OVERSIGHT OF PAYMENT AND SETTLEMENT SYSTEM

Payment System Policy

133. (a) In addition to the powers provided in the Central Bank of Myanmar Law, the Central Bank shall have the power to formulate, adopt and monitor the implementation of a payment system policy for Myanmar.

(b) In promoting safety and efficiency of the payment system, the Central Bank shall co-operate with other central banks or equivalent entities of other countries and with other relevant domestic or foreign authorities.

Powers of the Central Bank

134. The Central Bank shall have the powers-

(a) to regulate, supervise and monitor payment, clearing and settlement systems ;

(b) to provide for the settlement of securities in securities accounts maintained at the Central Bank;

(c) to provide for the regulation, supervision and monitoring of providers of money service and other form of payment instruments to the general public ;

(d) to facilitate the electronic presentment of cheques.

Power of Central Bank to Establish, Operate and Supervise Payment Systems

135. The Central Bank may establish, operate, organize, promote, participate or assist in the establishment, operation, organization and promotion of, and regulate and supervise-

(a) any system for the clearing and settlement of payments and other arrangements for the making or exchange of payments in domestic or foreign currencies;

(b) any system for the clearing and settlement of securities and other arrangements for the exchange of securities;

(c) any system to facilitate the clearing and settlement including other arrangements for the making or exchange of payments or the exchange of securities in any currency against other payments or securities in another currency.

Additional Power of Central Bank on Payment Systems

136. (a) In order to facilitate the clearing of cheques and other electronic instruments used as means of payment, the Central Bank may, in cooperation with financial institutions, establish clearing houses in such places as it shall deem necessary.

(b) The Central Bank shall have the power to do all or any of the following in relation to a clearing and settlement system and its clearing house:

(1) be a participant, participate and act as a central counter-party, including in a loss-sharing mechanism;

(2) act as a custodian of financial assets, or settlement agent, or both;

(3) accept and pay interest on deposits from clearing house, a participant or the central counter-party;

(4) provide intra-day liquidity to the participants.

Validity of Netting Agreements

137. Where a financial institution or the Central Bank is a party to a netting agreement, the financial institution or the Central Bank may enforce the agreement.

Interpretation

138. **"**Payment service provider" includes money service providers, payment instrument issuers and payment system operators.

Legality of Settlement Rules

139. (a) The settlement rules of a clearing and settlement system are valid and binding on the clearing house, the participants, the central counter-party.

(b) The rights and remedies of a participant, a clearing house, a central counter-party or the Central Bank, with respect to collateral granted to it as security for a payment or the performance of an obligation incurred in a designated clearing and settlement system, may not be affected by insolvency proceedings and may not be the subject of any stay provision or order affecting the ability of creditors to exercise rights and remedies with respect to the collateral.

Electronic Presentment of Cheques

140. (a) A bank may present a cheque by electronic means for payment to the bank on whom it is drawn.

(b) In making the electronic presentment of a cheque under sub-section(a), a bank may act in whole or in part through a third party service provider, including another bank or the clearing house, and such service provider is deemed to be an agent of the bank.

(c) A cheque image or truncated cheque will be recognized as the equivalent of the paper cheque that it represents, in any court of law.

(d) Once the transfer of funds takes place on a cheque image, or truncated cheque, the original cheque will no longer be negotiable.

Regulation on Cheques

141. The Central Bank may prescribe regulations on dishonored cheque, retention of cheque image and physical cheque, system rules on electronic presentment and implementation of the provisions of this Law.

CHAPTER XX
CREDIT INFORMATION

Powers of the Central Bank regarding Credit Bureau

142. (a) In addition to section 75 of the Central Bank of Myanmar Law, the provisions of this Chapter shall apply to matters relating to credit information.

(b) The Central Bank may establish or authorize the establishment of a credit bureau designed to collect and provide information on the payment record of the clients of all bank, NBFIs and other financial institutions in Myanmar.

(c) The Central Bank may require any credit institution and any other entities engaged in the extension of credit to report any information required by the credit reference system.

(d) Banks, NBFIs and other institutions shall ensure the veracity of the credit information of its clients submitted to the system.

Regulation of Private credit bureaus

143. (a) The Central Bank shall have the powers to license and regulate the operations of private credit bureaus that access information from banks, NBFIs and scheduled institutions.

(b) No person shall operate a private credit bureau without a valid authorization issued by the Central Bank.

Right of Central Bank to obtain Information

144. The Central Bank may obtain necessary information from a credit bureau.

CHAPTER XXI

POWER TO EXEMPT, RECOVERY OF FEES, BANK HOLIDAYS AND JUDICIAL REVIEW

Recovery of fees, expenses, etc.

145. (a) There shall be recoverable as a debt due to the Central Bank from the bank concerned-

(1) the amount of any fees payable under section 14(b);

(2) any remuneration and expenses payable by the bank to-

(aa) an auditor appointed;

(bb) an administrator appointed under section 96(a)(18);

(3) any financial penalty payable by the bank under this Law.

(b) An action to recover any financial penalty recoverable under this section shall not be brought after the expiration of 6 years from the date on which the cause of action accrued.

Declaration of holidays

146. (a) The Central Bank may, at any time by notice to the public, declare any day or days to be a bank holiday or holidays.

(b) No bank in Myanmar shall do any business without the approval of the Central Bank on any day declared a bank holiday under sub-section (a).

Judicial Review

147. (a) Any court having to adjudge a case filed in relation to the Central Bank or any action taken by the Central Bank or any person appointed by the Central Bank to act on its behalf, employee, or agent of the Bank, the sole question before the court shall be whether -

(1) the Central Bank exceeded its legal authority;

(2) the procedures followed by the Central Bank in making its decision were materially inconsistent with the procedures prescribed by this Law;

(3) the notification, or publication of the rules and regulation of the Central Bank fails to meet this Law;

(4) the decision of the Central Bank is manifestly inconsistent with the provisions of this Law or the Central Bank of Myanmar Law.

(b) Notwithstanding anything in any other law, any action taken by the Central Bank shall remain in effect without stay or restriction during the period of any legal action by any person or appeal and any further appeal or other judicial proceedings related to the appeal.

(c) Any relief or redress granted by any court against any action taken by the Central Bank shall be confined to compensation in monetary form.

(d) The competent court to hear any action or suit against the Central Bank or any person indicated under sub-section (a) shall be the relevant High Court.

Exemption of certain transactions from stamp duties

148. Exemption from stamp duty imposed by the prevailing Law on stamp duties or tax shall be determined by the Ministry in respect of the transfer of shares and assets of a bank or any of its subsidiary companies, sold or disposed by the bank if such sale or disposal has been approved by the Central Bank under section 107.

CHAPTER XXII
ELECTRONIC EVIDENCE

Authentication of electronic documents

149. Notwithstanding the provisions of the Evidence Act, any person seeking to admit an electronic document as evidence has the burden of proving its authenticity by evidence capable of supporting a finding that the electronic document is that which it is purported to be.

Application of evidence rule for electronic documents

150. (a) The best evidence rule in respect of an electronic document is satisfied-

(1) on proof of the integrity of the electronic documents system by or in which the electronic document was recorded or stored; or

(2) if an evidentiary presumption exists under this Law.

(b) Despite sub-section (a), in the absence of evidence to the contrary, an electronic document in the form of a print out satisfies the best evidence rule if the print out has been manifestly or consistently acted on, relied on or used as a record of the information recorded or stored in the print out.

Presumption of integrity of electronic document

151. In the absence of evidence to the contrary, the integrity of an electronic documents system by or in which an electronic document is recorded or stored is proven –

(a) by evidence capable of supporting a finding that at all material times the computer system or other similar device used by the electronic documents system was operating properly or, if it was not, the fact of its not operating properly did not affect the integrity of the electronic document and there are no other reasonable grounds to doubt the integrity of the electronic documents system;

(b) if it is established that the electronic document was recorded or stored by a party who is adverse in interest to the party seeking to introduce it;

(c) if it is established that the electronic document was recorded or stored in the usual and ordinary course of business by a person who is not a party and who did not record or store it under the control of the party seeking to introduce it.

Standards may be considered

152. (a) A court for the purpose of determining under any rule of law whether an electronic document is admissible, evidence may be presented in respect of any standard, procedure, usage or practice concerning the manner in which electronic documents

are to be recorded or stored, having regard to the type of business, enterprise or endeavor that used, recorded or stored the electronic document and the nature and purpose of the electronic document.

(b) An electronic document includes any information in digital form, where information may include data, text, sounds, codes, computer programs, software, or databases.

CHAPTER XXIII
PARTICULARS OF UNCLAIMED MONEYS OR DORMANT ACCOUNTS

153. (a) Every bank must submit to the Central Bank particulars of accounts which have remained dormant for more than seven years, within the first month of every fiscal year.

(b) The Central Bank may issue guidelines on unclaimed moneys and dormant accounts as it deems necessary.

CHAPTER XXIV
ADMINISTRATIVE PENALTIES

Imposition of Penalties

154. The financial institutions, its directors, members, executive officers, shareholders, management, managers and staff who violate any of the provisions of this Law or any regulations, by-law, order, directive, procedures under this Law shall be subject to the followings administrative penalties imposed by the Central Bank –

(a) warnings;

(b) fines;

(c) orders including those restricting the operations of financial institutions;

(d) suspension or permanent termination from duties in the financial institutions.

Appeal against Penalties

155. (a) Under section 154 any person aggrieved by the imposition of the penalty may appeal to the Board of Directors of the Central Bank, within thirty days from the date the penalty is imposed.

(b) The decision by the Board of Directors of the Central Bank on the appeal under sub-section (a) shall be final.

Criminal or Civil Action not Precluded

156. The administrative penalties provided in this Law shall not preclude taking criminal action or civil action.

Liability for Damages

157. Imposition of penalties under section 154 shall make the party guilty of the offence immediately liable to pay for any damages caused to the institution or to other parties.

CHAPTER XXV
PROHIBITIONS

Prohibition on carrying on banking business

158. No person shall establish a bank and carry on the banking business unless a license granted by the Central Bank.

Prohibition on carrying on NBFI business

159. No person shall establish a NBFI and carry on NBFI business unless it has a registration certificate issued by the Central Bank.

Offence of Submission of False or Misleading Information

160. No person shall submit false or misleading information in connection with an application for license to the Central Bank.

Prohibition on use of words "bank", etc

161. No person other than the following institutions shall use as part of its name or its description any of the words " bank ", " commercial bank", "development bank", " banker ", or " banking " unless it has a license or prior written approval of the Central Bank –

(a) an association of bank;

(b) an institution with respect to which such usage is established or recognized by law or international agreement;

(c) the representative or office of a foreign bank;

(d) any institution acting on behalf of the Government which carries on banking;

(e) any persons exempted by the Central Bank, by notification.

Prohibition on establishment of Representative Office

162. No foreign financial institutions shall establish the representative office unless it has a registration certificate issued by the Central Bank.

Prohibition of illegal deposit taking

163. No person shall receive, take, or accept deposits unless it has a valid license under this Law.

Prohibition on use of words "Finance Company", etc

164. No person shall assume or use the words "finance company ", "leasing", "factoring", "credit token", "money services", or any derivatives of these words in any language, unless it has a registration certificate or prior written consent issued by the Central Bank.

Prohibition of Unsolicited Calls

165. No financial institution or person shall, without the written consent of the Central Bank, make unsolicited calls from any person in Myanmar or outside Myanmar by soliciting or procuring for the making of deposit; or entering into or offering to enter into any agreement with a view to the acceptance of deposit.

Prohibition on Advertisement

166. No financial institutions shall make a false, deceptive, offensive or misleading advertisement in connection with its permitted activities.

Prohibition of Transfer of License

167. No licensee shall transfer its license to another person.

Prohibition on Merger and Amalgamation of bank business

168. Except with the prior written approval of the Central Bank, no bank shall-

(a) sell all or a substantial part of its own business;

(b) acquire the business or a substantial part of the business of another bank;

(c) amalgamate or merge with another bank;

(d) in the case of a foreign bank to acquire the business or a substantial part of the business of a bank in Myanmar; and

(e) in the case of a foreign bank to sell all or a substantial part of its own business in Myanmar.

Offence Relating to E-money and Credit Token

169. No person who issues e- money or credit token to the public shall violate any provision of this Law or a regulation issued under this Law.

Offence Relating to Private Credit Bureau

170. No private credit bureau shall violate any consumer protection regulations or fail to furnish correct information that may be required by the credit reference system.

CHAPTER XXVI
OFFENCES AND PUNISHMENT

Offences against Sections 158, etc

171. Any person who contravenes the provisions of sections 158, 159, 160, 162, 163, 167 and 168 of this Law shall upon conviction be punished with an imprisonment of two years to not more than five years and a fine of five hundred million Kyats.

Offences against Sections 161, etc

172. Any person that who contravenes the provisions of sections 161, 164, 165, 166, 169 and 170 of this Law shall upon conviction be punished with an imprisonment of not more than two years and a fine of one hundred million Kyats.

Power to Compound Offences

173. (a) The Governor may with the consent in writing of the Public Prosecutor, offer to compound any offence under any provision of this Law or under regulations made under this Law by accepting from the person reasonably suspected of having committed the offence such amount not exceeding fifty per centum of the amount of

the maximum fine, including the daily fine, if any, in the case of a continuing offence, to which that person would have been liable if he had been convicted of the offence, within such time as may be specified in the offer.

(b) An offer under sub-section (a) may be made at any time after the offence has been committed and where the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Governor may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(c) Upon receipt of the amount under sub-section (a), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made.

(d) Nothing in this section shall authorize the compounding of any repeated offence.

(e) Any monies paid to the Central Bank pursuant to the provisions of sub-section (a) shall be paid into and form part of the consolidated fund.

Abetting, Attempt or Conspiracy

174. Whoever abets, attempts, or conspires in the commission of any offence under this Law shall be liable to the punishment provided in this Law for such offence.

CHAPTER XXVII
GENERAL

Conflict of Law

175. If any provision in this Law conflict with the provisions of the Myanmar Companies Act or Special Companies Act, the provision of this Law shall prevail.

Surrender and Reissuance of License

176. Every bank that holds license issued under repealed Law shall surrender its license to the Central Bank within six months of the effective date. The Central Bank shall issue new license to the bank under section 11 of this Law subject to such terms and conditions imposed by the Central Bank.

Requirement to provide information for reissuance of License

177. Every bank on the date that this Law enters into force, shall provide the Central Bank with a list of shareholders, and for each owner of a substantial interest, including the ultimate beneficial owner of such substantial interest and such other information on their owners, in particular owners of a substantial interest, as requested by the Central Bank, within one year of the entry into force of this Law.

Preservation of Central Bank Actions

178. Every action of the Central Bank taken under the repealed Law shall continue in full force and effect unless expressly revised or withdrawn by the Central Bank under this Law.

Preservation of Rules, Regulations, etc

179. All rules, regulations, orders, direction, notifications and other subsidiary legislation made or issued under or by virtue of the repealed Law, shall be deemed to have been made or issued under or by virtue of this Law, and shall continue to remain in full force and effect in relation to the persons to whom they apply until amended, repealed or replace under or by virtue of this Law.

Preservation of Pending Application and Appeal

180. Any application for a license, approval or consent, or for any other purpose whatsoever, or any appeal, made by any person to the Central Bank under the repealed Law and pending immediately before the effective date, shall, if there is a corresponding provision in this Law, be dealt with as if it was made under that provision and, if there is no such corresponding provision in this Law, such application or appeal shall lapse on the coming into force of this Law.

Preservation of Transactions and Dealings

181. All transactions or dealings lawfully executed or entered into, and all business lawfully done, under or in accordance with any of the repealed Law by a person who was licensed under the repealed law with any depositor or other customer, creditor, debtor, or other person, shall be deemed to have been lawfully and validly executed, entered into, or done, under and in accordance with this Law, and, accordingly, any right or liability under such transaction, dealing or business existing, immediately before the coming into force of this Law, shall be deemed to continue to be lawful and valid under this Law.

Cognizable Offences

182. Offences prosecuted under this Law are prescribed as cognizable offences.

Legal Protection

183. (a) A person who carries out the assigned duties under this Law in good faith shall not be taken criminal action or civil action in implementing the provisions of this Law.

(b) The Central Bank shall indemnify the persons who assigned by the Central Bank to perform its duties, for any liability that arises from the exercise or purported exercise of, or omission to exercise, any power conferred by this Law.

Power of Central Bank to issue Regulation, etc

184. For the purpose of implementing the provisions of this Law, the Central Bank may issue regulations, by-laws, notifications, orders, directives, guideline and procedures as may be necessary.

Repeal

185. The Financial Institutions of Myanmar Law (The SLORC Law No.16/90) (hereinafter referred to as “repealed law”), is hereby repealed.

I hereby sign this Law under the Constitutions of the Republic of the Union of Myanmar.

(sd) Thein Sein
President
The Republic of the Union of Myanmar

14th January, 2016

[Note: This is not an official English translation. In preparing this draft English translation before an English translation is officially published, we have followed a policy to do a word for word translation. However, in some cases in which the Myanmar language is unclear but similar to the UNCITRAL Model Law, we have used words from the UNCITRAL model law, assuming that was the intention of the drafters."]

ARBITRATION LAW

The Pyidaungsu Hluttaw Law No. 5/2016
The 10th Waning Day of Nadaw 1377 M E
5th January, 2016

The Pyidaungsu Hluttaw hereby enacts the following Law:

Chapter 1
Title, Scope of Application and Definition

Title

1. This Law shall be called the Arbitration Law.

Scope of Application

2. (a) Subject to sub- section (b), an Arbitration Agreement whether executed in the State or in any other country, the place where legal implementation of arbitration is in the State, the provisions of this Law shall be applicable.

(b) If the place of arbitration is at any other country, which is apart from the State, or place of arbitration is not specified or not determined, section 10,11,30, 31 and Chapter 10, shall be applicable.

(c) If any other existing law in force in the State is restricted on the settlement of dispute by means of arbitration, the provisions of this Law shall not be binding upon such law.

Definitions

3. The expressions contained in this law shall have the same meaning given hereunder:

(a) "**State**" means the Republic of the Union of Myanmar;

(b) "**arbitration agreement**" means an agreement in writing by the parties to submit to arbitration all or certain disputes which arise or which may arise between them in respect of legal relationship, whether contractual or not;

(c) "**arbitration**" means any arbitration administered by an arbitrator or arbitral tribunal;

(d) "A**rbitrator**" means a person or a panel of arbitrators appointed with the consent of the parties to administer the disputes by arbitration;

(e) "a**ward**" means a decision of the arbitral tribunal and includes any interim award;

(f) "a**rbitral tribunal**" means a sole arbitrator or a panel of arbitrators;

(g) "**Court**" means the District Court or High Court of the State or Region of original jurisdiction, having jurisdiction to decide the questions in dispute of the arbitration as if they are exercising its original civil jurisdiction;

(h) "**domestic arbitration**" is an arbitration which is not an international arbitration;

(i) "**international arbitration**" means:

(1) if, at the time of execution of the arbitration agreement, if one of the party's place of business and trading activity is situated in another country other than Myanmar; or
(2) if the place stated in the arbitration agreement or the place to conduct arbitration in accordance with the arbitration agreement is situated outside the country in which the parties have their place of business; or
(3) if, among the commercially related business obligations, any place where a substantial part of the obligations is to be performed or the closest place connected to the subject matter of the dispute is situated outside the country in which the parties have their place of business; or
(4) if the parties of the arbitration agreement have expressly agreed that the subject matter relates to more than one country; such arbitration shall mean International Arbitration

Explanatory note:

1. If the place of business of a party is more than one place, the place of business of the party shall be that which is the closest to the place of execution of the arbitration agreement;
2. If a party does not have a place of business, reference to his place of business shall be its permanent residing place.

(j) "**New York Convention**" means the convention relating to the Recognition and Enforcement of Foreign Arbitral Awards adopted by the United Nations Diplomatic Conference held on 1958 June 10 at New York;

(k) "**foreign arbitral award**" means an award made in the territory of the New York Convention member states other than the State in accordance with the arbitration agreement;

(l) "**place of arbitration**" means a place where the arbitration is administered legally which is determined by the persons in dispute of an arbitration agreement or a person authorized by the person in dispute or arbitral tribunal or arbitration institution;

(m) "**party**" means a party to an arbitration agreement; and

(n) legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased, and, where a party acts in a representative character, the person on whom the estate devolves on the death of the party so acting.

Chapter 2
Aim

4. Aims of this Law are as follows:

(a) to settle domestic commercial disputes and international commercial disputes in a fair and effective manner;
(b) to settle disputes by means of arbitration, and to recognize and enforce the foreign award; and
(c) to encourage settlement of disputes by means of arbitration.

Chapter 3
General Principles

Receipt of written communications

5. (a) Unless otherwise agreed by the parties:

(1) any written communication is deemed to have been received on the date of delivered, if it is delivered to the addressee personally or if it is delivered at his place of business, habitual residence, or mailing address;
(2) if none of those described in subsection (1) can be found after making a reasonable inquiry, a written communication is deemed to have been received on the day it is so delivered, if it is sent to the addressee's last-known place of business, habitual residence, or mailing address by registered letter or any other means which provides a record of the attempt to deliver it.

(b) The provisions of this article do not apply to communications in court proceedings.

Objection and Waiver of right to object

6. (a) A party who is involving in the arbitration proceeding or on processing the arbitration shall object without undue delay or if a time is provided by this Law or arbitration agreement or arbitral tribunal, within such period of time:

(1) Arbitral tribunal has no jurisdiction;
(2) Procedural defect in arbitration process;
(3) Failure to comply with the arbitration agreement or provisions of this Law;
(4) Detrimental impact on the arbitral tribunal or arbitration due to procedural defect.

(b) proceed with the arbitration without stating his objection under subsection (a), shall be deemed to have waived his right to object.

Extent of court intervention

7. Notwithstanding anything contained in any other law for time being in force, in matters governed by this Law, no court shall intervene except where so provided in this Law.

Administrative assistance

8. The parties, or the arbitration tribunal with the agreement of the parties, may make arrangements to acquire assistance from any suitable institution or person to facilitate administration of the arbitral process.

Chapter 4
Arbitration Agreement

9. (a) Relating with the arbitration agreement, writing agreement under section 3, subsection (b) means:

(1) an arbitration agreement shall be deemed in writing if it is signed by the parties;
(2) if the information contained in electronic communication is accessible so as to be useable for subsequent reference, such arbitration agreement by means of electronic communication shall be deemed in writing.

(b) An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.

Refer to Arbitration and stay of suit before court

10. (a) a court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting his written statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void, inoperative or incapable of being performed;

(b) where an action referred to in subsection (a) of this article, arbitral proceedings may nevertheless be commenced or continued, and an award may be made, while the issue is pending before the court;

(c) If the court refuses to refer the parties to arbitration, any decision making before filing a suit relating to any matter of the arbitration contained in the arbitration agreement, shall not effect to the suit;

(d) the court shall order to stay the suit before the court, if the court refers the parties to arbitration;

(e) No appeal shall be allowed against the court decision which refers to arbitration under subsection (a);

(f) Appeal shall be allowed relating to the court decision refusing to refer to the arbitration.

Power of the Court to intervene in Arbitration

11. (a) Unless otherwise agreed by the parties, if a party requests the court, the court shall have power to make decision as its own jurisdiction for:

(1) taking evidence;
(2) the preservation any evidence;
(3) pass an order related to the property in disputes in arbitration or any property which is related to the subject-matter of the dispute;
(4) inspection, taking photo for evidence, preservation and seizure of the property which is related to the dispute;
(5) samples to be taken from, or any observation to be made of or experiment conducted upon, any property which is or forms part of the subject-matter of the dispute;
(6) allow to enter in the premises owned by or under the control of the parties to disputes for the purpose of above mentions matters;
(7) sale of any property which is the subject-matter of the dispute;
(8) an interim injunction or appointment of a receiver;

(b) If the interim measure is needed urgently in arbitration, the court may pass an order relating to preservation of evidence and related properties upon the application of a party as require.

(c) If the interim measure is not needed urgently, upon the application of a party in arbitration, the court shall deal such matter after delivering a notice to the other parties and arbitral tribunal and with the approval of the arbitration tribunal or with the written consent of the other party.

(d) The court shall only deal with the matters which the authorized person of the parties or arbitral tribunal or arbitral institution or other institution has no authority to do or not able to handle effectively.

(e) An order made by the court shall cease to have effect in whole or in part if the arbitral tribunal makes an order which expressly relates to the order under subsection (a).

Chapter 5
Composition of Arbitral Tribunal

Number of arbitrators

12. (a) The parties are free to determine the number of arbitrators. However, if the number of arbitrator is more than one, it shall not be an even number.

(b) Failing such determination as mentioned in subsection (a), the number of arbitrator shall be one.

Appointment of arbitrators

13. (a) Unless otherwise agreed by the parties, any nationality may act as an arbitrator.

(b) The parties are free to agree on a procedure of appointing the arbitrator or arbitrators, subject to the provisions of subsection (e) of this article.

(c) Where, an appointment procedure agreed upon by the parties, the appointment has to be made in accordance with such procedure. If a party fails to appoint or if both parties or the two arbitrators fail to agree on the third arbitrator, entrusted third party or an institution fails to perform any function and if the appointment procedure is not provided in the arbitration agreement, any party may request the Chief Justice or any person/institution selected by him to take the necessary measure.

(d) Failing such agreement in subsection (b),

(1) in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall choose the third arbitrator who will act as the presiding arbitrator of the arbitral tribunal. If a party fails to appoint the arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment, the appointment shall be made, upon request of a party, by the Chief Justice or any person/institution selected by the Chief Justice.

(2) in an arbitration with a sole arbitrator, the Chief Justice or any person/institution selected by him shall, upon request of a party, appoint the sole arbitrator if a party fails to appoint the sole arbitrator within thirty days of receipt of a request to do so from the other party.

(e) The Chief Justice or any person/institution selected by him, in appointing an arbitrator, shall have due regard to the qualifications required of the arbitrator by the agreement of the parties and such considerations as being an independent and impartial arbitrator.

(f) The Chief Justice or any person/institution selected by him may perform appropriate functions entrusted to him by subsections (c) and (d) of this section.

(g) In appointing a sole or third arbitrator for international arbitration in which parties are of different nationalities, the Chief Justice or any person/institution selected by him may take into account appointing an arbitrator of a nationality other than those of the parties.

(h) A decision on a matter entrusted to the Chief Justice or any person/institution selected by him by subsections (c) and (d) of this section shall be subject to no appeal.

Explanation Notes: The Chief Justice mentioned in this section refers to the Chief Justice of the High Court of the Region or High Court of the State within their jurisdiction for domestic arbitration and refers to the Chief Justice of the Union for the international arbitration.

Grounds for challenge for arbitrator

14. (a) When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence.

(b) If an arbitrator did not inform such circumstances to the parties as mentioned in subsection (a), from the time of his appointment and throughout the arbitral proceedings, he shall disclose any such circumstances to the parties without delay.

(c) An arbitrator may be challenged only if:

(1) circumstances exist that give rise to justifiable doubts as to his impartiality or independence, or
(2) he does not possess qualifications agreed to by the parties.

(d) A party may challenge an arbitrator appointed by him, or in whose appointment he has participated, only for reasons of which he becomes aware after the appointment has been made.

Challenge procedure

15. (a) The parties are free to agree on a procedure for challenging an arbitrator.

(b) Failing such agreement in subsection (a), a party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstance referred to in the subsection 14(c), send a written statement of the reasons for the challenge to the arbitral tribunal.

(c) Unless the challenged arbitrator per subsection (b) withdraws from his office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.

(d) If a challenge under the procedure agreed upon by the parties is not successful or arbitral tribunal decides subject to the subsection (c) as there is no reason to challenge upon the procedure of subsection (b), the party who intends to challenge may apply to the court to decide upon the challenge within 30 days from the date of such decision is made.

(e) Although the application under subsection (d) is pending in the court, the arbitral tribunal shall continue the arbitral proceedings and make an award.

(f) If the arbitral award has been set aside subsequent to application made under subsection (d), the Court may decide whether the challenged arbitrator is entitled to any fees or not.

Termination of the mandate of arbitrator and appointment of substitute arbitrator

16. (a) The mandate of an arbitrator shall terminate if:

(1) he becomes unable to perform legally and actually his functions (as a matter of law or as a matter of fact) or for other reasons fails to act without undue delay;
(2) he resigns from his office or if the parties agree on the termination.

(b) If a controversy remains concerning matters specified in subsection (a)(1), any party may, unless otherwise agreed by the parties, apply the court to decide on the termination of the mandate of the arbitrator. The decision regarding with the termination of the mandate of arbitrator, shall be subject to no appeal.

(c) If, under subsection (a)(1) or subsection (c) of section 15, an arbitrator resigns from his office or a party agrees to the termination of the mandate of an arbitrator, this does not imply acceptance of the validity of any ground referred to in subsection (a)(1) or subsection (c) of section 14.

17. (a) Where the mandate of an arbitrator terminates under section 15 or 16, or because of his withdrawal from office for any other reason or because of the revocation of his mandate by agreement of the parties or in any other case of termination of his mandate, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

(b) If an arbitrator is replaced as per subsection (a), the former hearings may be repeated at the discretion of arbitral tribunal, unless otherwise agreed by the parties.

(c) If an arbitrator is replaced as per this section, the order and decision made before the substitution of the arbitrator shall not be deemed invalid due to the re-composition of the arbitral tribunal, unless otherwise agreed by the parties.

Chapter 6
Jurisdiction of Arbitral Tribunal

Competence of arbitral tribunal to rule on its jurisdiction

18. (a) Unless otherwise agreed by the parties, the arbitral tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose:

(1) an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract;
(2) a decision by the arbitral tribunal that the contract is null and void shall not be affected the validity of arbitration clause under that contract.

(b) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defence. A party is not precluded from raising such a plea by the fact that he has appointed, or participated in the appointment of, an arbitrator.

(c) A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings.

(d) The arbitral tribunal may admit a later plea referred to in subsection (b) and (c) if it considers the delay justified.

(e) The arbitral tribunal may rule on a plea referred to in subsections (b) and (c) as preliminary issue or as an arbitral award. If the arbitral tribunal rules that it has jurisdiction or not, any party aggrieved by the arbitral award, may appeal to the court, subject to section 43, subsection (d) (1)(2) and section 47, subsection (b) (1), within 30 days from the date of receiving of such decision.

(f) Although the application is pending in the court, the arbitral tribunal shall continue the arbitral proceedings and make an award.

Power of arbitral tribunal to order interim orders

19. (a) Unless otherwise agreed by the parties, an arbitral tribunal shall have powers to make decision, order and instructions to any party for:

(1) security for costs;
(2) discovery of documents and interrogatories;
(3) giving of evidence by affidavit;
(4) the preservation, interim custody or sale of any property which is part of the subject-matter of the dispute;
(5) samples to be taken from, or any observation to be made of or experiment conducted upon, any property which is or forms part of the subject-matter of the dispute;
(6) the preservation and interim custody of any evidence for the purposes of the proceedings;
(7) securing the amount in dispute;
(8) an interim injunction or any other interim measure.

(b) An arbitral tribunal may have power to administer oaths to the parties and witnesses.

(c) An arbitral tribunal may have the power to adopt inquisitorial procedures as its consider appropriate.

(d) The power of the arbitral tribunal to order a claimant to provide security for costs as referred to in subsection (a)(1) shall not be exercised solely because the claimant is:

(1) an individual ordinarily residing outside the Republic of the Union of Myanmar;

(2) a corporation or an association incorporated or formed under the law of the other country.

(e) All decisions, orders or instruction made by an arbitral tribunal in the course of an arbitration may apply to the court for the enforcement in accordance with the section 31.

Immunity of the arbitrator

20. An arbitrator shall not be liable for his act or omission which is done with due care during the course of arbitration as an arbitrator.

Chapter 7
Conduct of Arbitral Proceedings

Equal treatment of parties

21. The parties shall be treated with equality and each party shall be given a full opportunity of presenting his case.

Determination of rules of procedure

22. (a) Without contradicting the provisions of this Law, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.

(b) Failing such agreement as specified in subsection (a), the arbitral tribunal may, subject to the provisions of this Law, conduct the arbitration in such manner as it considers appropriate.

(c) In conducting arbitral proceedings as per subsection (b), the power conferred upon the arbitral tribunal includes the power to determine the admissibility, relevance, materiality, and weight of any evidence.

Place of arbitration

23. (a) The parties are free to agree on the place of arbitration.

(b) Failing such agreement as specified in subsection (a), the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

(c) Notwithstanding the provisions in subsections (a) and (b), the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents.

Commencement of arbitral proceedings

24. Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

Language

25. (a) The parties are free to agree on the language or languages to be used in the arbitral proceedings.

(b) Failing such agreement as specified in subsection (a), the arbitral tribunal shall determine the language or languages to be used in the arbitral proceedings.

(c) This agreement or determination, unless otherwise specified in subsection (a) or (b), shall apply to any written statement by a party, any hearing and any award, decision or other communication by the arbitral tribunal.

(d) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

Statements of claim and defence

26. (a) The parties may agree the particulars to be stated in the claim or defence. Failing such agreement, the claimant shall state the facts supporting his claim, the points at issue and the relief or remedy sought, and the respondent shall state his defence in respect of these particulars and apply to the arbitral tribunal within the period of time agreed by the parties or determined by the arbitral tribunal.

(b) The parties may submit with their statements all documents they consider to be relevant and other evidence or may add a reference to the documents they will submit.

(c) Unless otherwise agreed by the parties, either party may amend or supplement his claim or defence during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it.

Hearings and written proceedings

27. (a) Unless otherwise agreed by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party.

(b) The parties shall be given sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purposes of inspection of goods, other property or documents.

(c) All statements, documents or other information supplied to the arbitral tribunal by one party shall be communicated to the other party. Also any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to the parties.

Default of a party

28. Unless otherwise agreed by the parties, if, without showing sufficient cause:

(a) the claimant fails to communicate his statement of claim in accordance with section 26, subsection (a), the arbitral tribunal shall terminate the proceedings;

(b) the respondent fails to communicate his statement of defence in accordance with section 26, subsection (a), the arbitral tribunal shall continue the proceedings. However, such failure in itself shall not be treated as an admission of the claimant's allegations;

(c) any party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the award on the evidence before it.

Expert appointed by arbitral tribunal

29. (a) Unless otherwise agreed by the parties, the arbitral tribunal:

(1) may appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal;
(2) may require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.

(b) If a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in a hearing. In doing so, the parties shall have the opportunity to put questions to the expert and to present evidence on the points at issue.

Court assistance in taking evidence

30. (a) The arbitral tribunal, or a party with the approval of the arbitral tribunal, may apply to the Court for assistance in taking evidence.

(b) The application shall specify the following particulars:

(1) the names and addresses of the parties and the arbitrators;
(2) the general nature of claim and the relief sought;
(3) the names and addresses of any person to be heard as witness or expert witness and a statement of the subject-matter of the testimony required;
(4) the document to be submitted or the description of the document to be produced or property to be inspected.

(c) The Court may, within its competence and according to its rules on taking evidence, execute the request that the evidence be provided directly to the arbitral tribunal.

(d) The Court may, while making an order under subsection (c), issue the same processes to witnesses as it may issue in suits tried before it.

Enforcement of interim order of the arbitral tribunal by Court

31 (a) relating to arbitration, whether interim order are passed within or outside the State, Courts may enforce such interim orders passed by the arbitral tribunal as if its own order and decision.

(b) in relation to arbitration exercised outside the State, when an applicant file the interim order for enforcement is unable to submit strong evidence that it is the same type of order exercised within the State, the Court shall not approve for enforcement.

(c) When approval is granted according to subsection (a) the Court shall enforce such order.

(d) There shall be no right of appeal upon the Court decision on granting approval according to subsection (a) or upon refusal.

Explanation Note: The interim order which refers to this section includes decision, order and instruction of the arbitral tribunal.

Chapter 8
Making of Arbitral Award and Termination of Proceedings

Rules applicable to substance of dispute

32. (a) If the place of arbitration is the Republic of the Union of Myanmar:

(1) In domestic arbitration, the arbitral tribunal shall decide the dispute which to be settled by arbitration in accordance with the substantive law in force of the Republic of the Union of Myanmar.

(2) In international commercial arbitration:

aa) The arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties;

bb) Any designation of the law or legal system of a given State shall be construed, unless otherwise agreed by the parties, as directly referring to the substantive law of that State and not to its conflict of laws rules;

cc) Failing any designation as per subsection clause (aa) by the parties, the arbitral tribunal shall apply the rules of law which it considers applicable.

(b) The arbitral tribunal shall decide the dispute with justice, equity and good conscience if the parties have expressly authorized it to do so.

(c) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

Decision-making by panel of arbitrators

33. (a) In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its members.

(b) However, notwithstanding anything contained in subsection (a), questions of procedure may be decided by a presiding arbitrator, if so authorized by the parties or all members of the arbitral tribunal.

Settlement

34. (a) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the

arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.

(b) An award on agreed terms shall be made in accordance with the provisions of section 35 and shall state that it is an arbitral award.

(c) Such award on agreed terms has the same status and effect as any other award on the merits of the case.

Form and contents of award

35. (a) The award shall be made in writing and shall be signed by arbitrator or arbitrators.

(b) In arbitral proceedings with more than one arbitrator for the purpose of subsection (a), the signatures of the majority of all arbitrators of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated.

(c) Unless the parties have agreed that no reasons are to be given or unless the award is an award on agreed terms, the award shall state the reasons upon which it is based.

(d) The award shall state its date and the place of arbitration as determined in accordance with section 23. The award shall be deemed to have been made at that place.

(e) After the award is made, a signed copy shall be delivered to each party.

(f) Unless otherwise agreed by the parties:

1) The costs of an arbitration shall be fixed by the arbitral tribunal;
2) The arbitral tribunal shall specify the party entitled to costs, the party who shall pay the costs, the amount of costs and method of determining that amount and the manner in which the costs shall be paid.

Explanatory note:

For the purpose of subsection (f) (1), "costs" means reasonable costs relating to:

(1) fees and expenses of arbitrators and witnesses;
(2) legal fees and expenses;
(3) any administration fees of the institution supervising the arbitration; and
(4) any other expenses incurred in connection with the arbitral proceedings and the arbitral award.

Termination of proceedings

36. (a) The arbitral proceedings shall be terminated by the final award or by an order of the arbitral tribunal in accordance with subsection (b) of this section.

(b) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings when:

(1) the claimant withdraws his claim, unless the respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on his part in obtaining a final settlement of the dispute;
(2) the parties agree on the termination of the proceedings;

(3) the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

(c) Subject to the provisions of section 37, the mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings pursuant to the section 34, subsection (a) and this section.

Correction and interpretation of award; additional award

37. (a) Within thirty days from the date of award, unless another period of time has been agreed upon by the parties, a party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature.

(b) If the arbitral tribunal considers the request made as per subsection (a) or, its own initiative, may correct any error of the type refer to in subsection (a) and such correction shall be delivered to the parties.

(c) If so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award.

(d) If the arbitral tribunal considers the request made as per subsection (c) to be justified, it shall give the interpretation within thirty days of receipt of the request. The interpretation shall form part of the award.

(e) Unless otherwise agreed by the parties, a party, with notice to the other party, may request, within thirty days of receipt of the award, the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award.

(f) If the arbitral tribunal considers the request made as per subsection (e) to be justified, it shall make the additional award within sixty days from the receipt of such request.

(g) The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, interpretation or an additional award under subsection (b), (d) or (e).

(h) The provisions of section 33 shall apply to a correction or interpretation of the award or to an additional award.

Effect of the Arbitral Award

38. Unless otherwise agreed by the parties, the award made by the arbitral tribunal pursuant to the arbitration agreement, shall be final and binding on the parties and persons claiming under them respectively.

Chapter 9
Power of the Court relating to Domestic Arbitration

Determination of preliminary issue of law

39. (a) Unless otherwise agreed by the parties, the Court may, on the application of a party to the arbitral proceedings who has given notice to the other parties, determine any issue of law arising in the course of the proceedings which the Court is satisfied substantially affects the rights of one or more of the parties.

(b) The Court shall not accept and consider an application under this section unless it is made with the agreement of all parties; or it is made with the permission of the arbitral tribunal and the Court is observed that the determination of the issue is likely to incur more costs; and the application is caused delay the case.

(c) The application of subsection (a) shall identify the issue of law to be determined and, except where made with the agreement of all parties, shall state the grounds on which should be decided by the Court.

(d) Unless otherwise agreed by the parties, the arbitral tribunal may continue the arbitral proceedings and make an award while an application to the Court under this section is pending.

Enforcement of Domestic Arbitration

40. (a) The domestic award shall be enforced under the Code of Civil Procedure in the same manner as if it were a decree of the court.

(b) If the respondent, who applies for the enforcement of the arbitral award, proves that the arbitral tribunal is not competent to make an arbitral award, the court shall not enforce the arbitral award.

(c) This section shall be applied for the enforcement of any domestic arbitral award.

Particulars for the set aside the Domestic Arbitral award

41. (a) Upon the application for setting aside by one of the party, the court may set aside the domestic arbitral award only if:

(1) a party to the arbitration agreement was under some incapacity; or
(2) the arbitration agreement is not valid under the law to which the parties have agreed or, failing any indication thereon, under the law of the Republic of the Union of Myanmar; or
(3) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or
(4) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration.

Proviso: If the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside; or

(5) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or was not in accordance with this Law.

Proviso: Such agreement was not in conflict with a provision of this Law from which the parties cannot derogate.

(6) the subject-matter of the dispute is not capable of settlement by arbitration under the existing law; or

(7) the award is in conflict with the national interest (public policy) of the Republic of the Union of Myanmar.

(b) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the award or, if a request had been made under section 37, from the date on which that request had been disposed of by the arbitral tribunal.

(c) The court, when asked to set aside an award as per subsection (a), may, where appropriate and so requested by a party, adjourn the setting aside proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the arbitral tribunal's opinion will eliminate the grounds for setting aside.

Appeal against Domestic Arbitration

42 (a) A party in dispute may, upon notice to the other parties and to the arbitral tribunal, appeal to the Court on an issue of law arising out of an award made in the proceedings.

(b) According to subsection (a) there is a right of appeal upon the award of the arbitration tribunal. However if there is a written agreement between the parties not to appeal, there shall be no right of appeal to the Court under this section.

(c) If there is an agreement in writing between the parties that it is not required to write down the reasons on the award, there shall be no appeal on such ground according to this section.

(d) Filing appeal according to this section shall be effected by the facts relating to section 44.

(e) When filing an appeal according to this section, shall identify the issue of law to be determined and state the grounds on which it is alleged that leave to appeal should be granted.

(f) Whether the Court accept or refuse the right of appeal under this section there shall be no second appeal.

43. (a) The Court, if satisfied and agree with the following facts shall accept the appeal:

(1) the decision of the arbitral tribunal of the issue in dispute is substantially affect the rights of a party or upon the parties ;
(2) the decision of the arbitral tribunal on the issue in dispute is obviously wrong.

(b) When filing appeal according to this section, the Court can pass any of the following orders:

(1) Approve the award;
(2) Amend the l award;
(3) To return the decision to the arbitral tribunal to review and reconsider the whole or part of the award;
(4) set aside the whole or part of the arbitral award.

(c) Appeal can be filed to the Court of competent jurisdiction for following court order:

(1) An order refusing to refer to arbitration according to section 10 subsection (f);
(2) An order granting or refusing to perform one of the interim measures according to section 11;
(3) Court order passing upon the issue of law according to section (39) subsection (a);
(4) An order setting aside or refusing the set aside of domestic arbitral award according to section 41.

(d) Following orders of an arbitral tribunal can be filed for appeal to the Court of Jurisdiction:

(1) Order accepting the application according to section 18 subsection (b) and (c);
(2) Order by the arbitral tribunal that it has jurisdiction or not according to section 18 (e);
(3) Order granting or refusing to perform the any interim measures according to section 19.

(e) There shall be no second appeal upon the order passed from filing of appeal according to this section.

Effect of the Appellate Court order upon Domestic Arbitration

44. The appellate Court, when passing an order relating to the award according to section 43 subsection (b):

(a) When it is decided to amend the award, such amended decision shall be effected as part of the award;
(b) When the Court pass the order remitting the award in whole or partial to the arbitral tribunal for reconsideration and revision the arbitral tribunal shall revise such matters and pass the decision;
(c) Necessary timing for the arbitral tribunal to review and pass the decision may be recommended.

Chapter 10
Recognition of Enforcement of Foreign Arbitral Award

Particulars to apply for recognition or enforcement of foreign arbitral award

45 (a) The party applying for the enforcement of a foreign award shall, at the time of the application, produce before the court:

(1) the original award or a copy thereof, duly authenticated in the manner required by the law of the country in which it was made;
(2) the original agreement for arbitration or a duly certified copy thereof; and
(3) such evidence as may be necessary to prove that the award is a foreign award.

(b) Where the award or arbitration agreement requiring to be submitted under subsection (a) is in a foreign language, the party seeking to enforce the award shall produce a translation into English certified as correct by the ambassador or consular of the country to which that party belongs or certified as correct in such other manner as may be sufficient according to the law in force in the Republic of the Union of Myanmar.

Recognition and Enforcement of Foreign Arbitral Award

46. (a) Except the application to set aside the award is refused under subsection (b) and (c), the award shall be enforced under the Code of Civil Procedure in the same manner as if it were a decree of the court.

(b) The court may refuse to recognize the foreign arbitral award if the party against whom it is invoked furnishes to the court proof that:

(1) the parties to the arbitration agreement referred was under some incapacity; or
(2) the said agreement is not valid under the law to which the parties have subjected to it or, failing any indication thereon, under the law of the country where the award was made;
(3) the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or
(4) the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration; or
(5) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or
(6) the award has not yet become binding on the parties or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made;

(c) Enforcement of the foreign arbitral award may be refused if the court finds that:

(1) the subject-matter of the dispute is not capable of settlement by arbitration under the law of the Republic of the Union of Myanmar; or
(2) the enforcement of the award would be contrary to the national interest (public policy) of the Republic of the Union of Myanmar.

(d) If an application for setting aside or suspension of an award has been made to a competent authority referred to in subsection (b)(6) of this section, the court may, if it considers it proper, adjourn its decision on the enforcement of the award and may also, on the application of the party claiming enforcement of the award, order the other party to provide appropriate security.

Appeals

47. Any party to dispute:

(a) The following orders passed by a competent court may be appealed:

(1) An order granting or refusing to take any measure under section 10;
(2) Any order under section 11;
(3) An order setting aside or refusing to set aside an award under section 46, subsection (b) and (c);

(b) The following orders passed by arbitral tribunal may be appealed to the competent Court:

(1) An order determining whether the arbitral tribunal has jurisdiction or not under section 18, subsection (e);
(2) An order granting or refusing the interim matures under section 19;

48. Nothing in this Chapter shall prejudice any rights which any person would have had of enforcing foreign arbitral award in the Republic of the Union of Myanmar or of availing himself of such award to the enactment of this Law.

No application of the Arbitration (Protocol and Convention) Act

49. Enforcement of foreign arbitral award under this Chapter shall not apply to the enforcement under the Arbitration (Protocol and Convention) Act, 1937.

Chapter 11
Miscellaneous

50. (a) In order to enforce the award made in contracting State of the New York Convention, the Chief Justice of the Union may appoint, by notification, any officer from the Office of the Supreme Court of the Union or any person or any individual in charge of any organization to certify or authenticate the copy of the arbitration agreement or arbitral award.

(b) The person, who is appointed per subsection (a), shall:

(1) comply with the rules determined by the Chief Justice of the Union ; and
(2) not reveal, directly or indirectly, to others any fact in the arbitral award or arbitration agreement including the personal information of the parties, without the written consent of the parties.

51. A sum directed to be paid by an arbitral award shall, unless the award otherwise directs, carry interest at the rate applied in the decree for payment of money, from the date of the award.

52. (a) The arbitral tribunal may fix the amount of the deposit or supplementary deposit, as the case may be, as an advance for the costs referred to in section 35, subsection (f), which it expects will be incurred in respect of the claim submitted to it. Provided that where, apart from the claim, a counter-claim has been submitted to the arbitral tribunal, it may fix separate amounts of deposit for the claim and counter-claim.

(b) The deposit referred to in subsection (a) shall be payable in equal shares by the parties. Where one party fails to pay his share of the deposit, the other party may pay that share. Where the other party also does not pay the aforesaid share in respect of the claim or the counter-claim, the arbitral tribunal may suspend or terminate the arbitral proceedings in respect of such claim or counter-claim, as the case may be.

(c) Upon termination of the arbitral proceedings, the arbitral tribunal shall render an accounting to the parties of the deposits received and return any unexpended balance to the parties, as the case may be.

53. (a) The arbitral tribunal shall have a lien on the arbitration for any unpaid costs.

(b) If an arbitral tribunal refuses to deliver an award because of any party refuse to pay the costs to the arbitral tribunal, by application of other party, the Court may inquire as necessary and order that there shall be paid to the arbitral tribunal by the responsible party and Court may order the arbitral tribunal to deliver the arbitral award accordingly.

(c) An application under subsection (b) may be made by any party unless the fees demanded have been fixed by written agreement between him and the arbitral tribunal.

(d) The Court may make such orders as it thinks fit regarding the costs of the arbitration where any question arises respecting such costs and the arbitral award contains no sufficient provision concerning them.

54. (a) An arbitration agreement shall not be discharged by the death of any party thereto, either as respects the deceased or any other party, but shall in such event be enforceable by or against the legal representative of the deceased.

(b) The authority of an arbitrator shall not be revoked by the death of any party by whom he was appointed.

55. Notwithstanding anything contained elsewhere in this Law or in any other law for the time being in force, where with respect to an arbitration agreement any application under this Law has been made in a Court, that Court alone shall have jurisdiction over the arbitral proceedings and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that Court and in no other Court.

56. The provisions under the Limitation Act which refers to the Arbitration Act (1944), shall be deemed to refer this Law.

57. The Supreme Court of the Union may issue necessary rules, regulations, by-law, notification, orders, directives, procedures and manuals, in accordance with this Law.

58. (a) Unless otherwise agreed by the parties in the arbitration agreement or other documents, the provisions of this Law shall not apply to the arbitration which commencing in accordance with the arbitration agreement before this Law had been enacted.

(b) Subject to the provision of subsection (a), if arbitration is commencing before this Law had been enacted, pending arbitration shall be proceed in accordance with the Law selected by the parties to the arbitration agreement.

59. The Arbitration Act, 1944 is repealed by this Law.

I hereby sign in accordance with the Constitution of the Republic of the Union of Myanmar.

(S/d) Thein Sein
President
Republic of the Union of Myanmar

Small and Medium Enterprises Development Law

(2015)

အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများ

ဖွံ့ဖြိုးတိုးတက်ရေးဥပဒေ

(၂၀၁၅ ခုနှစ်)

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The Republic of the Union of Myanmar

Pyidaungsu Hluttaw

Small and Medium Enterprises Development Law

(2015)

ပြည်ထောင်စုသမ္မတမြန်မာနိုင်ငံတော်

ပြည်ထောင်စုလွှတ်တော်

အသေးစားနှင့်အလတ်စားလုပ်ငန်းများဖွံ့ဖြိုးတိုးတက်ရေးဥပဒေ

(၂၀၁၅)

The Small and Medium Enterprises Development Law

(The Pyidaungsu HluttawLaw No. 23, 2015)

6th Waning of Tagu, 1376 M.E.

(9 April 2015)

The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter I

Name and Definition

1. This law shall be called **The Small and Medium Enterprises Development Law.**

2. The following expressions contained in this Law shall have the meanings given here under.

(a) The Small Enterprise means the following enterprises in which the value of the land is not included in the capital investment–

(1) The enterprise, if it mainly operates manufacturing business,in which number of employees shall not exceed than 50 as permanent or capital investment shall not exceed 500 million kyats;

(2) The enterprise, if it is labour intensive or mainly operates piecework business, in which number of employees shall not exceed 300 as permanent or capital investment shall not exceed 500 million kyats;

(3) The enterprise, if it mainly operates wholesale business,in which number of employees shall not exceed 30 as permanent or annual income of the previous year shall not exceed 100 million kyats;

အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများဖွံ့ဖြိုးတိုးတက်ရေးဥပဒေ

(၂၀၁၅ ခုနှစ်၊ ပြည်ထောင်စုလွှတ်တော်ဥပဒေအမှတ် ၂၃ ။)

၁၃၇၆ ခုနှစ်၊ တန်ခူးလပြည့်ကျော် ၆ ရက်

(၂၀၁၅ ခုနှစ်၊ ဧပြီလ ၉ ရက်)

ပြည်ထောင်စုလွှတ်တော်သည် ဤဥပဒေကို ပြဋ္ဌာန်းလိုက်သည်။

အခန်း(၁)
အမည်နှင့်အဓိပ္ပာယ်ဖော်ပြချက်

၁။ ဤဥပဒေကို **အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေး ဥပဒေ** ဟု ခေါ်တွင်စေရမည်။

၂။ ဤဥပဒေတွင် ပါရှိသော အောက်ပါ စကားရပ်များသည် ဖော်ပြပါအတိုင်း အဓိပ္ပာယ် သက်ရောက်စေရမည် -

(က) **အသေးစား စီးပွားရေးလုပ်ငန်း** ဆိုသည်မှာ မတည်ရင်းနှီးငွေတွင် မြေတန်ဖိုး မပါဝင်သည့် အောက်ပါလုပ်ငန်းတို့ကို ဆိုသည်-

(၁) ထုတ်လုပ်မှုလုပ်ငန်းကို အဓိကလုပ်ကိုင်သော လုပ်ငန်း ဖြစ်လျှင် ဝန်ထမ်း ဦးရေ အမြဲတမ်း ၅၀ ဦး ထက်မပိုသော သို့မဟုတ် မတည်ရင်းနှီးငွေ ကျပ်သန်း ၅၀၀ ထက်မပိုသော လုပ်ငန်း၊

(၂) လုပ်အား အခြေပြုထုတ်လုပ်မှုလုပ်ငန်း သို့မဟုတ် လက်ခစား လုပ်ငန်းကို အဓိကလုပ်ကိုင်သောလုပ်ငန်းဖြစ်လျှင် ဝန်ထမ်း ဦးရေ အမြဲတမ်း ၃၀၀ ဦးထက် မပိုသော သို့မဟုတ် မတည် ရင်းနှီးငွေ ကျပ် သန်း ၅၀၀ ထက် မပိုသော လုပ်ငန်း၊

(၃) လက်ကားရောင်းဝယ်ရေးလုပ်ငန်းကို အဓိကလုပ်ကိုင်သော လုပ်ငန်းတစ်ခု ဖြစ်လျှင် ဝန်ထမ်းဦးရေ အမြဲတမ်း ၃၀ ဦး ထက်မပိုသော သို့မဟုတ် လွန်ခဲ့သောနှစ်၏ တစ်နှစ်ဝင်ငွေ ကျပ်သန်း ၁၀၀ ထက် မပိုသောလုပ်ငန်း၊

(4) The enterprise, if it mainly operates retail business,in which number of employees shall not exceed 30 as permanent or annual income of the previous year shall not exceed 50 million kyats;

(5) The enterprise, if it mainly operates service business,in which number of employees shall not exceed 30 as permanent or annual income of the previous year shall not exceed 100 million kyats;

(6) The enterprise, if it is any other business other than in the above sub-sections (1), (2), (3), (4) and (5),in which number of employees shall not exceed 30 as permanent or annual income of the previous year shall not exceed 50 million kyats;

(b) The Medium Enterprise means the following enterprises in which the value of the land is not included in the capital investment-

(1) The enterprise, if it mainly operates manufacturing business,in which number of employees shall not exceed 300 as permanent or capital investment shall not exceed 500 million kyats to 1,000 million kyats;

(2) The enterprise, if it is labour intensive or mainly operates piecework business,in which number of employees shall not exceed 600 as permanent or capital investment shall not exceed 500 million to 1,000 million kyats ;

(3) The enterprise, if it mainly operate wholesale business,in which number of employees shall not exceed 60 as permanent or annual income of the previous year shall not exceed 100 million to 300 million kyats;

(၄) လက်လီ ရောင်းဝယ်ရေးလုပ်ငန်းကို အဓိကလုပ်ကိုင်သော လုပ်ငန်းတစ်ခု ဖြစ်လျှင် ဝန်ထမ်းဦးရေ အမြဲတမ်း ၃၀ ဦး ထက်မပိုသော သို့မဟုတ် လွန်ခဲ့သောနှစ်၏ တစ်နှစ်ဝင်ငွေ ကျပ်သန်း ၅၀ ထက် မပိုသောလုပ်ငန်း၊

(၅) ဝန်ဆောင်မှု ပေးသည့်လုပ်ငန်းကို အဓိကလုပ်ကိုင်သော လုပ်ငန်း တစ်ခု ဖြစ်လျှင် ဝန်ထမ်း ဦးရေ အမြဲတမ်း ၃၀ ဦး ထက် မပိုသော သို့မဟုတ် လွန်ခဲ့သောနှစ်၏ တစ်နှစ်ဝင်ငွေ ကျပ်သန်း ၁၀၀ ထက် မပိုသောလုပ်ငန်း၊

(၆) အထက်ပုဒ်မခွဲငယ် ၁၊ ၂၊ ၃၊ ၄ နှင့် ၅ တို့မှအပ အခြားလုပ်ငန်း တစ်ခု ဖြစ် လျှင် ဝန်ထမ်း ဦးရေ အမြဲတမ်း ၃၀ ဦး ထက် မပိုသော သို့မဟုတ် လွန်ခဲ့သောနှစ်၏ တစ်နှစ်ဝင်ငွေ ကျပ်သန်း ၅၀ ထက် မပိုသောလုပ်ငန်း။

(ခ) **အလတ်စား စီးပွားရေးလုပ်ငန်း** ဆိုသည်မှာ မတည်ရင်းနှီးငွေတွင် မြေတန်ဖိုး မပါဝင်သည့် အောက်ပါလုပ်ငန်းတို့ကို ဆိုသည်-

(၁) ထုတ်လုပ်မှုလုပ်ငန်းကို အဓိကလုပ်ကိုင်သော လုပ်ငန်း ဖြစ်လျှင် ဝန်ထမ်း ဦးရေ အမြဲတမ်း ၃၀၀ ဦး ထက်မပိုသော သို့မဟုတ် မတည်ရင်းနှီးငွေ ကျပ်သန်း ၅၀၀ အထက်မှ ကျပ် သန်း ၁၀၀၀ ထက်မပိုသော လုပ်ငန်း၊

(၂) လုပ်အားအခြေပြု ထုတ်လုပ်မှုလုပ်ငန်း သို့မဟုတ် လက်ခစား လုပ်ငန်းကို အဓိကလုပ်ကိုင်သော လုပ်ငန်းဖြစ်လျှင် ဝန်ထမ်း ဦးရေ အမြဲတမ်း ၆၀၀ ဦး ထက်မပိုသော သို့မဟုတ် မတည် ရင်းနှီးငွေ ကျပ်သန်း ၅၀၀ အထက်မှ ကျပ်သန်း ၁၀၀၀ ထက်မပိုသော လုပ်ငန်း၊

(၃) လက်ကားရောင်းဝယ်ရေးလုပ်ငန်း ကို အဓိကလုပ်ကိုင်သော လုပ်ငန်း တစ်ခုဖြစ်လျှင် ဝန်ထမ်းဦးရေ အမြဲတမ်း ၆၀ ဦး ထက်မပိုသော သို့မဟုတ် လွန်ခဲ့ သောနှစ်၏ တစ်နှစ်ဝင်ငွေ ကျပ် သန်း ၁၀၀ အထက်မှ ကျပ်သန်း ၃၀၀ ထက် မပိုသော လုပ်ငန်း၊

(4) The enterprise, if it mainly operates retail business, in which number of employees shall not exceed 60 as permanent or annual income of the previous year shall not exceed 50 million to 100 million kyats;

(5) The enterprise, if mainly operates service business,in which number of employees shall not exceed 100 as permanent or annual income of the previous year shall not exceed 100 million kyats to 200 million kyats;

(6) The enterprise, if it is any other business other than in the above sub-section (1), (2), (3), (4) and (5),in which number of employees shall not exceed 60 as permanent or annual income of the previous year shall not exceed 50 million kyats to 100 million kyats;

(c) **Entrepreneur** means the person or business which operate small enterprise or medium enterprise or both small and medium enterprise with full percent capital of citizen.

(d) **Business Association** means a non-profit association, an association which cooperates with such non-profit association, sub-association and branch unit thereof which are established by entrepreneurs in accord with the existing laws.

(e) **Central Committee** means the Central Committee of Small and Medium Enterprises Development.

(f) **Working Committee** means the Working Committee of the Small and Medium Enterprises Development.

(၄) လက်လီ ရောင်းဝယ်ရေးလုပ်ငန်းကို အဓိက လုပ်ကိုင်သော လုပ်ငန်း တစ်ခုဖြစ်လျှင် ဝန်ထမ်းဦးရေ အမြဲတမ်း ၆၀ ဦး ထက်မပိုသော သို့မဟုတ် လွန်ခဲ့သော နှစ်၏ တစ်နှစ်ဝင်ငွေ ကျပ် သန်း ၅၀ အထက် မှ ကျပ် သန်း ၁၀၀ ထက် မပိုသော လုပ်ငန်း၊

(၅) ဝန်ဆောင်မှုပေးသည့် လုပ်ငန်းကို အဓိကလုပ်ကိုင်သော လုပ်ငန်းတစ်ခု ဖြစ်လျှင် ဝန်ထမ်း ဦးရေ အမြဲတမ်း ၁၀၀ ဦး ထက်မပိုသော သို့မဟုတ် လွန်ခဲ့သောနှစ်၏ တစ်နှစ် ဝင်ငွေ ကျပ်သန်း ၁၀၀ အထက် မှ ကျပ်သန်း ၂၀၀ ထက်မပိုသော လုပ်ငန်း၊

(၆) အထက်ပုဒ်မခွဲငယ် ၁၊ ၂၊ ၃၊ ၄ နှင့် ၅ တို့မှအပ အခြားလုပ်ငန်း တစ်ခု ဖြစ်လျှင် ဝန်ထမ်း ဦးရေ အမြဲတမ်း ၆၀ ဦး ထက် မပိုသော သို့မဟုတ် လွန်ခဲ့သောနှစ်၏ တစ်နှစ် ဝင်ငွေ ကျပ်သန်း ၅၀ အထက် မှ ကျပ်သန်း ၁၀၀ ထက်မပိုသော လုပ်ငန်း။

(ဂ) **လုပ်ငန်းဆောင်ရွက်သူ** ဆိုသည်မှာ အသေးစား စီးပွားရေးလုပ်ငန်း သို့မဟုတ် အလတ်စားစီးပွားရေးလုပ်ငန်း သို့မဟုတ် အသေးစားနှင့် အလတ်စားစီးပွားရေး လုပ်ငန်းနှစ်ရပ်လုံးကို လုပ်ကိုင်သည့် ရာနှုန်းပြည့် နိုင်ငံသား စီးပွားရေး လုပ်ငန်း လုပ်ဆောင်သူ သို့မဟုတ် စီးပွားရေး အဖွဲ့အစည်းကို ဆိုသည်။

(ဃ) **စီးပွားရေးလုပ်ငန်းဆိုင်ရာအသင်းအဖွဲ့** ဆိုသည်မှာ လုပ်ငန်း ဆောင်ရွက်သူများက တည်ဆဲဥပဒေများနှင့်အညီ ဖွဲ့စည်းထားသော အကျိုးအမြတ်မယူသည့် အသင်းအဖွဲ့၊ ၎င်းတို့နှင့် ပူးပေါင်း ဆောင်ရွက်လျက်ရှိသော အဖွဲ့အစည်း၊ တစ်ဆင့်ခံ အဖွဲ့အစည်းနှင့် အဖွဲ့ခွဲ တစ်ခုခုကို ဆိုသည်။

(င) **ဗဟိုကော်မတီ**ဆိုသည်မှာ အသေးစားနှင့် အလတ်စား စီးပွားရေး လုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေး ဗဟိုကော်မတီကို ဆိုသည်။

(စ) **လုပ်ငန်းကော်မတီ** ဆိုသည်မှာ အသေးစားနှင့် အလတ်စားစီးပွားရေး လုပ်ငန်းများဖွံ့ဖြိုးတိုးတက်ရေး လုပ်ငန်းကော်မတီကို ဆိုသည်။

(g) **Agency**means the small and medium enterprises development agency.

(h) **Agency Branch Offices** mean the branch offices which are opened in the respective Regions or States and Self-administered Divisions or Self-administered Zones or Union Territory with the permission of the Central Committee and the Working Committee.

(i) **One-Stop Service Team** means the team which is formed and assigned duty by the local administration body in the respective Regions or States, Self-administered Divisions or Self-administered Zones and Union Territory in order to provide service for registration and application of permits at one place for small and medium enterprises and to discharge duties contained in this Law.

(j) **Fund** means small and medium enterprises development fund established under this law.

(k) **Fund Management Body** means the body which manages the small and medium enterprises development fund.

(l) **Responsible Ministry** means the Ministry assigned by the Union Government to take responsibility mainly in the implementing of small and medium enterprises development.

(m) **Respective Ministries** means the Ministries related to the implementation of small and medium enterprises development.

(ဆ) **အေဂျင်စီ** ဆိုသည်မှာ အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများဖွံ့ဖြိုး တိုးတက်ရေး အေဂျင်စီကို ဆိုသည်။

(ဇ) **အေဂျင်စီရုံးခွဲများ** ဆိုသည်မှာ သက်ဆိုင်ရာ တိုင်းဒေသကြီး သို့မဟုတ် ပြည်နယ် နှင့် ကိုယ်ပိုင်အုပ်ချုပ်ခွင့်ရတိုင်း သို့မဟုတ် ကိုယ်ပိုင်အုပ်ချုပ်ခွင့်ရဒေသများ သို့မဟုတ် ပြည်ထောင်စု နယ်မြေတို့တွင် ဗဟိုကော်မတီနှင့် လုပ်ငန်းကော်မတီတို့၏ ခွင့်ပြုချက်ဖြင့် ဖွင့်လှစ်ထားသော ရုံးခွဲများကို ဆိုသည်။

(ဈ) **တစ်နေရာတည်းတွင် ဝန်ဆောင်မှုပေးသည့်အဖွဲ့** ဆိုသည်မှာ သက်ဆိုင်ရာ တိုင်းဒေသကြီး သို့မဟုတ် ပြည်နယ်၊ ကိုယ်ပိုင်အုပ်ချုပ်ခွင့်ရတိုင်း သို့မဟုတ် ကိုယ်ပိုင် အုပ်ချုပ်ခွင့်ရဒေသများနှင့် ပြည်ထောင်စုနယ်မြေတို့တွင် အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများအတွက် တစ်နေရာတည်း၌ မှတ်ပုံတင်ခြင်း၊ ခွင့်ပြုမိန့်များ လျှောက်ထားရာတွင် ဝန်ဆောင်မှုပေးခြင်းနှင့် ဤဥပဒေပါလုပ်ငန်းတာဝန်များကို ဆောင်ရွက်ပေးရန် ဒေသဆိုင်ရာအုပ်ချုပ်ရေး အဖွဲ့အစည်းက ဖွဲ့စည်းတာဝန်ပေးအပ်သည့် အဖွဲ့ကိုဆိုသည်။

(ည) **ရန်ပုံငွေ** ဆိုသည်မှာ ဤဥပဒေအရ ထူထောင်ထားသော အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေးရန်ပုံငွေကို ဆိုသည်။

(ဋ) **ရန်ပုံငွေစီမံခန့်ခွဲမှုအဖွဲ့** ဆိုသည်မှာ အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေး ရန်ပုံငွေကို စီမံခန့်ခွဲသည့် အဖွဲ့ကို ဆိုသည်။

(ဌ) **တာဝန်ခံဝန်ကြီးဌာန** ဆိုသည်မှာ အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများဖွံ့ဖြိုးတိုးတက်ရေးအတွက် အကောင်အထည်ဖော်ရာတွင် အဓိကတာဝန်ယူ ဆောင်ရွက်ရန် ပြည်ထောင်စုအစိုးရအဖွဲ့က တာဝန်ပေးအပ်သည့် ဝန်ကြီးဌာန ကို ဆိုသည်။

(ဍ) **သက်ဆိုင်ရာဝန်ကြီးဌာနများ** ဆိုသည်မှာ အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေးအတွက် အကောင်အထည်ဖော်ရာ တွင် ဆက်စပ် ပါဝင်နေသော ဝန်ကြီးဌာနများကို ဆိုသည်။

(n) **Bank** means the company licensed by the Central Bank to operate commercial banking or development banking in Myanmar.In this expression,foreign bank which have obtained license also includes.

(o) **Entrepreneurship** means the innovation of marketable and more useful technology, products, manufacturing and services.

(p) **RegistrationPermission** means the registration permission by the Agency for small and medium enterprises in accord with the stipulations in order to enjoy the rights contained in this Law.

(q) **Loan Information Department** means the department established with the permission of the Central Bank of Myanmar to collect the related loan information or the other appropriate information to assess the worth of borrowing of the customers to the financial institutions, and to inform the collected information to the financial institutions.

Chapter II

Objective

3. The objectives of this law are as follows:

(a) to enable to accept the information related to business, technical assistance and financial aids for the small and medium enterprises;

(ဃ) **ဘဏ်** ဆိုသည်မှာ မြန်မာနိုင်ငံတွင် ကူးသန်းရောင်းဝယ်ရေး ဘဏ်လုပ်ငန်း ဖြစ်စေ၊ ဖွံ့ဖြိုးရေးဘဏ်လုပ်ငန်း ဖြစ်စေ ဆောင်ရွက်ရန် ဗဟိုဘဏ်က လိုင်စင်ထုတ်ပေးထားသည့် ကုမ္ပဏီကိုဆိုသည်။ ယင်း စကားရပ်တွင် လိုင်စင်ရရှိထားသော နိုင်ငံခြားဘဏ်လည်း ပါဝင်သည်။

(ဏ) **စွန့်ဦးတီထွင်မှု** ဆိုသည်မှာ စျေးကွက်ဝင် ပိုမိုအသုံးတည့်သော နည်းပညာ၊ ထုတ်ကုန်ပစ္စည်းများ၊ ကုန်ထုတ်လုပ်ငန်းနှင့် ဝန်ဆောင်မှု များကို ဆန်းသစ်တီထွင် ဖန်တီးနိုင်မှု ကိုဆိုသည်။

(တ) **မှတ်ပုံတင်ခွင့်ပြုခြင်း** ဆိုသည်မှာ ဤဥပဒေပါ အခွင့်အရေးများကို ရရှိခံစားနိုင်ရန် အသေးစားနှင့် အလတ်စားစီးပွားလုပ်ငန်းများကို သတ်မှတ်ချက်များနှင့်အညီ အေဂျင်စီက မှတ်ပုံတင်ခွင့်ပြုခြင်းကို ဆိုသည်။

(ထ) **ချေးငွေဆိုင်ရာ သတင်းအချက်အလက်ဌာန** ဆိုသည်မှာ ချေးငွေ ဆိုင်ရာ သတင်းအချက်အလက်များ သို့မဟုတ် ငွေရေးကြေးရေး အဖွဲ့အစည်းနှင့် ဆက်သွယ်ဆောင်ရွက်သူများ၏ ငွေချေးရန် ထိုက်တန်မှု ကို အကဲဖြတ်သုံးသပ်ရန် ဆီလျော်သက်ဆိုင်သော အခြားသတင်း အချက်အလက်များကိုစုစည်းနိုင်ရန်နှင့် စုစည်းရရှိသည့် သတင်း အချက်အလက်များကို ငွေရေးကြေးရေးအဖွဲ့ အစည်းများသို့ အသိပေး နိုင်ရန် မြန်မာနိုင်ငံတော်ဗဟိုဘဏ်၏ ခွင့်ပြုချက်ဖြင့် တည်ထောင် ထားသော ဌာနကို ဆိုသည်။

အခန်း (၂)
ရည်ရွယ်ချက်

၃။ ဤဥပဒေ၏ ရည်ရွယ်ချက်များမှာ အောက်ပါ အတိုင်းဖြစ်သည်-

(က) အသေးစားနှင့် အလတ်စားလုပ်ငန်းများအတွက်စီးပွားရေးနှင့်ဆက်စပ် သည့် သတင်းအချက်အလက်၊ နည်းပညာအထောက်အကူများနှင့် ငွေကြေးပံ့ပိုးမှုများ လွယ်ကူစွာ ရရှိနိုင်စေရန်၊

(b) to reach local and international markets and enhance the competitiveness of small and medium enterprises;

(c) to have new employment opportunities and increase income of the people through the development of small and medium enterprises;

(d) to reduce the difficulties and obstacles in business operations of small and medium enterprises.

Chapter III

Basic Principles

4. The basic principles of this law are as follows:

(a) tendering necessary financial assistance, tendering legal advice and laying down the administrative policy in order to thrive small and medium enterprises and to reduce the difficulties of enterprise;

(b) undertaking necessary measures for small and medium enterprises in order to compete not only in the local market but also in the foreign markets with the international standardized quality products and servicesto increase the capacity of competitiveness, and to obtain market;

(c) encouraging small and medium enterprises for registration which are not yet registered in accord with the law;

(d) supporting the availability of information, technology and financial investment to new establishing or existing small and medium enterprises;

(ခ) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများသည် ပြည်တွင်းပြည်ပဈေးကွက်များသို့ လက်လှမ်းမီစေရန်နှင့် ယှဉ်ပြိုင်နိုင်မှုစွမ်းရည်မြင့်မားတိုးတက် စေရန် ၊

(ဂ) အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်လာခြင်းအားဖြင့် ပြည်သူများအလုပ်အကိုင် အခွင့်အလမ်းသစ်များနှင့်အတူ ဝင်ငွေတိုးတက် ရရှိလာစေရန်၊

(ဃ) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများ ဆောင်ရွက်ရာတွင် လုပ်ငန်းဆိုင်ရာ အခက်အခဲများနှင့် အဟန့်အတားများကို လျော့ပါး စေရန်။

အခန်း (၃)

အခြေခံမူများ

၄။ ဤဥပဒေ၏ အခြေခံမူများမှာ အောက်ပါအတိုင်း ဖြစ်သည် -

(က) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများ ရှင်သန်ဖွံ့ဖြိုးတိုးတက်စေရန် လည်းကောင်း၊ စီးပွားရေးလုပ်ငန်း များ၏ အခက်အခဲများကို လျော့ချစေရန်လည်းကောင်း လိုအပ်သည့် ဘဏ္ဍာရေးဆိုင်ရာ အထောက်အပံ့ပေးခြင်း၊ ဥပဒေရေးရာ အကြံဉာဏ် ပေးခြင်းနှင့် စီမံခန့်ခွဲရေးဆိုင်ရာမူဝါဒများ ချမှတ်ပေးခြင်း၊

(ခ) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများကို ပြည်တွင်းဈေးကွက်တွင် သာမက ပြည်ပဈေးကွက်များတွင်ပါ နိုင်ငံတကာ စံချိန်စံညွှန်းမီ အရည်အသွေး ရှိသော ထုတ်ကုန်များ၊ ဝန်ဆောင်မှုများဖြင့် ဝင်ရောက် ယှဉ်ပြိုင်နိုင်ရေး၊ ယှဉ်ပြိုင်နိုင်မှု စွမ်းရည်မြင့်မားရေးနှင့် ဈေးကွက်ရရှိရေးတို့ကို ဆောင်ရွက်ပေးခြင်း၊

(ဂ) မှတ်ပုံမတင်ရသေးသော အသေးစားနှင့် အလတ်စားစီးပွားရေး လုပ်ငန်းများကို ဥပဒေနှင့်အညီ မှတ်ပုံတင်နိုင်ရေးအတွက် တိုက်တွန်း အားပေး ခြင်း၊

(ဃ) အသစ်စတည်မည့် သို့မဟုတ် လက်ရှိဆောင်ရွက်လျက်ရှိသော အသေးစားနှင့် အလတ်စားစီးပွားရေး လုပ်ငန်းများကို သတင်းအချက်အလက်၊ နည်းပညာ နှင့် ငွေကြေးအရင်းအနှီး ရရှိစေရန် အထောက်အကူပေးခြင်း၊

(e) ensuring small and medium enterprises to manage on the availability of resources with sustainable manner which has minimum impacts on natural and socio-economic environment;

(f) encouraging the small and medium entrepreneurs to produce innovative products, to develop services, to increase production capacity, to use appropriate advanced technology and facilities in production and distribution;

(g) encouraging the development of employment opportunities and human resources and managing the development of on-job trainings;

(h) promoting the cooperation of Government, private and international organizationsfor the development of small and medium enterprises;

Chapter IV

Formation of Central Committee and Function and Duties thereof

5. (a) The Union Government shall,to discharge functions and duties contained in this Law in order to enhance the development of small and medium enterprises, from the Central Committee of Small and Medium Enterprises as follows:

(1)	The President of the Union	Chairman
(2)	The Vice- Presidents	Vice-Chairman
(3)	The Union Ministers from Respective Ministries	Members

(ဂ) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများကို သဘာဝ ပတ်ဝန်းကျင် နှင့် လူမှုစီးပွားဝန်းကျင်တို့အား ဆိုးကျိုး သက်ရောက်မှု အနည်းဆုံးဖြင့် သယံဇာတအရင်းအမြစ်များ စဉ်ဆက်မပြတ် တိုးတက် ရရှိစေရေးအတွက် စီမံဆောင်ရွက် စေခြင်း၊

(စ) အသေးစားနှင့် အလတ်စားစီးပွားရေး လုပ်ငန်းရှင်များကို ဆန်းသစ် တီထွင်သည့်ကုန်စည်များ ထုတ်လုပ်ရေးနှင့် ဝန်ဆောင်မှုများ တိုးတက် စေရေး၊ ကုန်ထုတ်လုပ်မှု စွမ်းရည်တိုးတက်ရေး၊ ကုန်ထုတ် လုပ်ငန်းနှင့် ဖြန့်ဝေမှုတို့တွင် ခေတ်မီနည်းပညာ နှင့် အထောက်အကူပြု ပစ္စည်း များကို လိုက်လျောညီထွေ အသုံးပြုရေးတို့အတွက် အားပေး တိုက်တွန်း ခြင်း၊

(ဆ) အလုပ်အကိုင် အခွင့်အလမ်းများနှင့် လူသားအရင်းအမြစ် တိုးတက်ရေးကိုအားပေးခြင်းနှင့် လုပ်ငန်းခွင်သင်တန်းများ ဖွံ့ဖြိုးတိုးတက်လာစေရန် စီမံဆောင်ရွက်ခြင်း၊

(ဇ) အသေးစားနှင့် အလတ်စားစီးပွားရေး လုပ်ငန်းများ ဖွံ့ဖြိုး တိုးတက်ရေးအတွက် အစိုးရ၊ ပုဂ္ဂလိကနှင့် အပြည်ပြည်ဆိုင်ရာ ပူးပေါင်းဆောင်ရွက်မှု ကို အားပေးမြှင့်တင်ခြင်း။

အခန်း (၄)

ဗဟိုကော်မတီဖွဲ့စည်းခြင်းနှင့် လုပ်ငန်းတာဝန်များ

၅။ (က) ပြည်ထောင်စုအစိုးရအဖွဲ့သည် အသေးစားနှင့် အလတ်စား စီးပွားရေး လုပ်ငန်းများ ပိုမိုဖွံ့ဖြိုးတိုးတက်လာစေရေးအတွက် ဤဥပဒေပါ လုပ်ငန်း တာဝန်များကို ထမ်းဆောင်ရန် အသေးစားနှင့် အလတ်စားစီးပွားရေး လုပ်ငန်းများဖွံ့ဖြိုးတိုးတက်ရေး ဗဟိုကော်မတီကို အောက်ပါအတိုင်း ဖွဲ့စည်းရမည်-

(၁) နိုင်ငံတော်သမ္မတ ဥက္ကဋ္ဌ

(၂) ဒုတိယသမ္မတများ ဒုတိယဥက္ကဋ္ဌများ

(၃) သက်ဆိုင်ရာဝန်ကြီးဌာနများမှ အဖွဲ့ဝင်များ
ပြည်ထောင်စု ဝန်ကြီးများ

(4)	The suitable representatives And economists, Intellectuals and intelligentsia from the business associations	Members
(5)	The Union Minister from responsible Ministry	Secretary

(b) Joint-secretary shall be assigned duty from among the members formed under the sub-section (a).

(c) The president of the Union of Myanmarshall proclaim the formation of the Central Committee.

6. The functions and duties of the Central Committee are as follows-

(a) laying down thepolicies and guiding in order to carry out the development of small and medium enterprisesin accord withthebasic principles contained in this law;

(b) encouraging and promoting the development of small and medium enterprises which take part with highest ratio in the economic forces of the State;

(c) giving guidance to communicate and coordinate with local and international organizations for obtaining the financial and technical assistance;

(d) encouraging and promoting the development of themarket of small and mediumenterprise in order to reach rural area;

(e) arranging the regular occurrence and development of assess to market for the local and foreign investment enterprises;

(၄) စီးပွားရေးဆိုင်ရာ အသင်းအဖွဲ့များမှ သင့်လျော်သော ကိုယ်စားလှယ်နှင့် စီးပွားရေးပညာရှင်၊ အသိပညာရှင်၊ အတတ်ပညာရှင်ပုဂ္ဂိုလ်များ — အဖွဲ့ဝင်များ

(၅) တာဝန်ခံဝန်ကြီးဌာန ပြည်ထောင်စုဝန်ကြီး — အတွင်းရေးမှူး

(ခ) ပုဒ်မခွဲ(က)အရ ဖွဲ့စည်းထားသော အဖွဲ့ဝင်များအနက်မှ တွဲဖက် အတွင်းရေးမှူး ကို သတ်မှတ်၍ တာဝန်ပေးအပ်ရမည်။

(ဂ) ဗဟိုကော်မတီဖွဲ့စည်းခြင်းကို နိုင်ငံတော်သမ္မတက ထုတ်ပြန်ကြေငြာရမည်။

၆။ ဗဟိုကော်မတီ၏ လုပ်ငန်းတာဝန်များမှာ အောက်ပါအတိုင်း ဖြစ်သည် -

(က) ဤဥပဒေပါ အခြေခံမူများနှင့်အညီ အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေးကို ဆောင်ရွက်နိုင်စေရန် မူဝါဒများ ချမှတ်ခြင်း၊ လမ်းညွှန်ခြင်း၊

(ခ) နိုင်ငံတော်၏ စီးပွားရေးအင်အားစုများတွင် အချိုးအစား အများဆုံး ပါဝင်နေသည့် အသေးစားနှင့် အလတ်စားစီးပွားရေး လုပ်ငန်းများဖွံ့ဖြိုးတိုးတက်ရေးကို အားပေးမြှင့်တင်ခြင်း၊

(ဂ) ငွေကြေးအကူအညီနှင့် နည်းပညာအကူအညီများ ရရှိရေးအတွက် ပြည်တွင်းပြည်ပ အဖွဲ့အစည်းများနှင့် ဆက်သွယ်ညှိနှိုင်း ဆောင်ရွက်ပေးရန် လမ်းညွှန်မှုပေးခြင်း၊

(ဃ) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်း ဈေးကွက်များ ကျေးလက်ဒေသအထိ ဖွံ့ဖြိုးရေးကို အားပေးမြှင့်တင်ခြင်း၊

(င) ပြည်တွင်း ပြည်ပရင်းနှီးမြှုပ်နှံမှု စီးပွားရေး လုပ်ငန်းများအတွက် ဈေးကွက် ချိတ်ဆက်ရေး လုပ်ငန်းများ ပုံမှန်ဖြစ်ထွန်းတိုးတက်လာစေရန် စီစဉ်ပေးခြင်း၊

(f) encouraging and promoting to train and nurture the necessary human resources for the development of small and medium enterprises;

(g) giving guidance and support for theapplication of technology on energy production and effective and efficient use of energy, and technology on environmental conservation;

(h) coordinating and giving guidance for the use of production technology on value added products and the use of machinery, and giving guidance and support for emerging innovative enterprises;

(i) coordinating with the relevant government departments, organizations, local authorities and private entrepreneurs in order to provide and fill adequately the basic infrastructures and supplies of small and medium enterprises;

(j) forming of the Working Committee and specifying duties and functions;

(k) guiding to form Agency, Fund Management Board and the other necessary Boards and to assign duty thereupon.

Chapter V

Formation of the Working Committee and Functions and Duties thereof

7. (a) The Central Committee shall form the Working Committee as follows:

(1) a Vice-president	Chairman
(2) the Union Minister from the responsible ministry	Vice-Chairman

(စ) အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများဖွံ့ဖြိုး တိုးတက်စေရန် လိုအပ်သည့် လူသားအရင်းအမြစ်များ လေ့ကျင့် ပြုစုပျိုးထောင်ရေးကို အားပေးမြှင့်တင်ခြင်း၊

(ဆ) စွမ်းအင်ထုတ်လုပ်ခြင်းနှင့် စွမ်းအင်ကိုအကျိုးရှိရှိ ထိရောက်စွာ အသုံးချရေး နည်းပညာ၊ သဘာဝပတ်ဝန်းကျင်ထိန်းသိမ်းမှု နည်း ပညာများ အသုံးပြုရေးအတွက် လမ်းညွှန် ပံ့ပိုးပေးခြင်း၊

(ဇ) တန်ဖိုးမြှင့် ထုတ်ကုန်ပစ္စည်းများ ထုတ်လုပ်သည့် နည်းပညာနှင့် စက်ကိရိယာများ အသုံးပြုရေးအတွက် ဆက်စပ်ညှိနှိုင်း လမ်းညွှန်ခြင်း၊ စွန့်ဦးတီထွင် စီးပွားရေး လုပ်ငန်းများ တိုးတက်ပေါ်ထွန်းလာရန် လမ်းညွှန်ပံ့ပိုး ပေးခြင်း၊

(ဈ) အသေးစားနှင့်အလတ်စား စီးပွားရေးလုပ်ငန်းများ၏ အခြေခံအဆောက်အအုံများနှင့် အထောက်အကူပြုပစ္စည်းများ လုံလောက်စွာ ထောက်ပံ့ဖြည့်တင်းနိုင်ရေးအတွက် သက်ဆိုင်ရာဌာန၊ အဖွဲ့အစည်းများ၊ ဒေသဆိုင်ရာ အာဏာပိုင်များ၊ ပုဂ္ဂလိက လုပ်ငန်းရှင်များနှင့် ညှိနှိုင်းပေါင်းစပ် ဆောင်ရွက်ပေးခြင်း၊

(ည) လုပ်ငန်းကော်မတီ ဖွဲ့စည်းပေးခြင်းနှင့် လုပ်ငန်းတာဝန်များ သတ်မှတ်ပေးခြင်း၊

(ဋ) အေဂျင်စီ၊ရန်ပုံငွေစီမံခန့်ခွဲမှုအဖွဲ့နှင့် အခြားလိုအပ်သောအဖွဲ့များကို ဖွဲ့စည်း တာဝန်ပေးအပ်ရန် လမ်းညွှန်ခြင်း။

အခန်း (၅)

လုပ်ငန်းကော်မတီဖွဲ့စည်းခြင်းနှင့် လုပ်ငန်းတာဝန်များ

၇။ (က) ဗဟိုကော်မတီသည် လုပ်ငန်းကော်မတီကို အောက်ပါအတိုင်း ဖွဲ့စည်းရမည် -

(၁) ဒုတိယသမ္မတတစ်ဦး ဥက္ကဋ္ဌ

(၂) တာဝန်ခံဝန်ကြီးဌာန ပြည်ထောင်စုဝန်ကြီး ဒုတိယ ဥက္ကဋ္ဌ

(3)	the Union Minister or Deputy Ministers from the respective Union Ministry	Member
(4)	chief ministers of respectiveRegion or State,and Chairman of the Nay Pyi Taw Council	Member
(5)	persons from the government departments and government organizations	Member
(6)	suitable persons, economists,intellectuals, intelligentsia from the associations	Member

(b) The Central Committee shall designate and assign duty the secretary and Joint-Secretary fromamong the members of the committee formed under sub-section (a).

8. The function and duties of the WorkingCommittee of Small and Medium Enterprises Development are as follows:

(a) collecting, analyzing and submitting necessary information to the Central Committee in order to encourage and promote the small and medium enterprises;

(b) assisting the small and medium enterprises in order to overcome the obstacles;

(c) supporting to connect extensively with the local and foreign economic markets to enable to extend the market;

(d) creating in order to fulfill the skilled-labour requirementand employment opportunities;

(e) educating and promoting for technology requirements by accessing with the local and international organizations respectively;

(၃) သက်ဆိုင်ရာပြည်ထောင်စုဝန်ကြီးဌာနမှ ပြည်ထောင်စု အဖွဲ့ဝင် ဝန်ကြီး သို့မဟုတ် ဒုတိယဝန်ကြီးများ

(၄) သက်ဆိုင်ရာ တိုင်းဒေသကြီး သို့မဟုတ် ပြည်နယ် အဖွဲ့ဝင် ဝန်ကြီးချုပ်များ၊ နေပြည်တော်ကောင်စီ ဥက္ကဋ္ဌ

(၅) အစိုးရဌာန၊ အစိုးရအဖွဲ့အစည်းများမှ ပုဂ္ဂိုလ်များ အဖွဲ့ဝင်

(၆) အသင်းအဖွဲ့များမှ သင့်လျော်သော ပုဂ္ဂိုလ်များ၊ အဖွဲ့ဝင် စီးပွားရေးပညာရှင်၊ အသိပညာရှင်၊ အတတ်ပညာ ရှင်များ

(ခ) ပုဒ်မခွဲ(က) အရ ဖွဲ့စည်းထားသော အဖွဲ့ဝင်များအနက်မှ အတွင်းရေးမှူး၊ တွဲဖက် အတွင်းရေးမှူးတို့ကို ဗဟိုကော်မတီက သတ်မှတ်၍ တာဝန်ပေးအပ်ရမည်။

၈။ အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများ
ဖွံ့ဖြိုးတိုးတက်ရေးလုပ်ငန်းကော်မတီ၏ လုပ်ငန်းတာဝန်များမှာ အောက်ပါအတိုင်း ဖြစ်ပါသည် -

(က) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများ အားပေးမြှင့်တင် ဆောင်ရွက်နိုင်ရန် လိုအပ်သော သတင်းအချက်အလက်များကို ဗဟို ကော်မတီသို့ စုဆောင်း သုံးသပ်တင်ပြခြင်း၊

(ခ) အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများတွင် အဟန့်အတား ဖြစ်နေသော ကိစ္စရပ်များအား ကျော်လွှားနိုင်ရန် ကူညီဆောင်ရွက် ပေးခြင်း၊

(ဂ) စျေးကွက်များချဲ့ထွင်နိုင်ရေးအတွက် ပြည်တွင်းပြည်ပ စီးပွားရေး စျေးကွက်များနှင့် ကျယ်ပြန့်စွာ ချိတ်ဆက်နိုင်ရေးကို ပံ့ပိုးကူညီ ဆောင်ရွက်ခြင်း၊

(ဃ) ကျွမ်းကျင်လုပ်သားများ လိုအပ်ချက် ပြည့်မီအောင် လေ့ကျင့် ပျိုးထောင်ရန်နှင့် အလုပ်အကိုင် အခွင့်အလမ်းများ ဖန်တီးပေးခြင်း၊

(င) နည်းပညာ လိုအပ်ချက်များအတွက် ပြည်တွင်း ပြည်ပအဖွဲ့အစည်း အသီးသီးနှင့် ချိတ်ဆက်၍ ပညာပေး မြှင့်တင်ခြင်း၊

(f) connecting with the relevant government or private financial institution, investment organizations and banks in order to obtain local and foreign financial assistances;

(g) supporting for the development of the operations of related banks and microfinance activities for the development of small and medium enterprises;

(h) cooperating with local and international organizations relatingto small and medium enterprises to receive and disseminate technology and economic advice;

(i) coordinating with the technicalresearch departmentof the government Ministries and non-government organizations;

(j) formation the agency, fund management body and evaluation reporting body with the approval of the Central Committee and specifying its functions and duties;

(k) submitting the operations reports and the other necessary reports to the Central Committee;

(l) coordinating for attaining necessary budget allotment from Union BudgetFund for the development of small and medium enterprises;

(m) undertaking the functions and duties relating to the development of small and medium enterprises assigned by the Central Committee from time to time;

(n) arranging for the occurrence of connection between the manufacturing sectors and sale sectors in the regions respectively;

(စ) ပြည်တွင်းပြည်ပမှ ငွေကြေးအကူအညီများ ရယူနိုင်ရေးအတွက် သက်ဆိုင်ရာအစိုးရ သို့မဟုတ် ပုဂ္ဂလိက ငွေကြေးအဖွဲ့အစည်းများ၊ ရင်းနှီးမြှုပ်နှံမှုအဖွဲ့အစည်းများ၊ ဘဏ်များနှင့် ချိတ်ဆက်ဆောင်ရွက်ပေးခြင်း၊

(ဆ) အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေးအတွက်သက်ဆိုင်ရာဘဏ်များ၏ လုပ်ငန်းဆောင်ရွက်မှုနှင့် အသေးစားငွေချေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်စေရန် ပံ့ပိုးဆောင်ရွက်ပေးခြင်း၊

(ဇ) နည်းပညာနှင့် စီးပွားရေးဆိုင်ရာ အကြံပြုချက်များ ရယူဖြန့်ဖြူးနိုင်ရန် ပြည်တွင်းပြည်ပ အသေးစားနှင့်အလတ်စား စီးပွားရေးလုပ်ငန်းများဆိုင်ရာ အဖွဲ့အစည်းများ နှင့် ပူးပေါင်း ဆောင်ရွက်ခြင်း၊

(ဈ) အစိုးရဝန်ကြီးဌာနများနှင့် အစိုးရမဟုတ်သော အဖွဲ့အစည်းများရှိ နည်းပညာ ဆိုင်ရာ သုတေသနဌာနများနှင့် ညှိနှိုင်းဆောင်ရွက်ခြင်း။

(ည) ဗဟိုကော်မတီ၏ သဘောတူညီချက်ဖြင့် အေဂျင်စီ၊ ရုန်ပုံငွေ စီမံခန့်ခွဲမှုအဖွဲ့နှင့် လုပ်ငန်းသုံးသပ်မှုအစီရင်ခံရေးအဖွဲ့တို့ကို ဖွဲ့စည်းပေးခြင်းနှင့် လုပ်ငန်းတာဝန်များကို သတ်မှတ်ပေးခြင်း။

(ဋ) ဗဟိုကော်မတီသို့ လုပ်ငန်းအစီရင်ခံစာများနှင့် အခြားလိုအပ်သည့် အစီရင်ခံစာများကို တင်ပြခြင်း၊

(ဌ) အသေးစားနှင့် အလတ်စားစီးပွားရေး လုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေးအတွက် ပြည်ထောင်စုဘဏ္ဍာရန်ပုံငွေမှ လိုအပ်သည့် ထောက်ပံ့ခွဲဝေမှု ရရှိနိုင်ရန် ညှိနှိုင်းဆောင်ရွက်ခြင်း။

(ဍ) ဗဟိုကော်မတီက အခါအားလျော်စွာ ပေးအပ်သည့် အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေးဆိုင်ရာ လုပ်ငန်း တာဝန်များကို ဆောင်ရွက်ခြင်း၊

(ဎ) ဒေသအသီးသီးရှိ ထုတ်လုပ်မှုကဏ္ဍများနှင့် ရောင်းဝယ်မှု ကဏ္ဍများအား အချင်းချင်း ချိတ်ဆက်မှုဖြစ်လာစေရန် စီမံဆောင်ရွက်ပေးခြင်း၊

Chapter VI

Formation of the Evaluation and Reporting Body and Functions and Duties thereof

9. The Working Committee shall form the Evaluation Reporting Body with the suitable persons with the approval of the Central Committee. A member who is appointed by the Central Committee shall perform as the chairperson of the body.

10. The functions and duties of the Evaluation Reporting Body are as follows:

(a) observing and evaluating the actual conditions, requirements and difficulties of small and medium enterprises;

(b) evaluatingthe performance of the agency and agency branch offices ;

(c) evaluating work performance of service businesses, training schools, and financial institutionswhichsupport for the development of small and medium enterprises;

(d) assessing and evaluating the impact of small and medium enterprises on naturaland socio-economic environment;

(e) evaluating in order to support by the State on the requirement of small and medium enterprises through the analysis of the development of regional countries and countries around the world;

(f) evaluating the sector growth, contribution in Gross Domestic Product (GDP),exports and imports of small and medium enterprises;

အခန်း (၆)

လုပ်ငန်းသုံးသပ်မှု အစီရင်ခံရေးအဖွဲ့ ဖွဲ့စည်းခြင်းနှင့် လုပ်ငန်းတာဝန်များ

၉။ လုပ်ငန်းကော်မတီသည် ဗဟိုကော်မတီ၏ သဘောတူညီချက်ဖြင့် လုပ်ငန်းသုံးသပ်မှုအစီရင်ခံရေးအဖွဲ့ကို သင့်လျော်သောပုဂ္ဂိုလ်များဖြင့် သတ်မှတ်ချက်များနှင့်အညီ ဖွဲ့စည်း ရမည်။ ဗဟိုကော်မတီက တာဝန်ပေးအပ်သည့် အဖွဲ့ဝင်တစ်ဦးက အဖွဲ့၏ ဥက္ကဋ္ဌအဖြစ် ဆောင်ရွက်ရမည်။

၁၀။ လုပ်ငန်းသုံးသပ်မှု အစီရင်ခံရေးအဖွဲ့၏ လုပ်ငန်းတာဝန်များမှာ အောက်ပါအတိုင်း ဖြစ်သည် -

(က) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများ၏ ပကတိအခြေအနေ၊ လိုအပ်ချက်များနှင့် အခက်အခဲများကို လေ့လာသုံးသပ်ခြင်း၊

(ခ) အေဂျင်စီနှင့် အေဂျင်စီရုံးခွဲများ၏ လုပ်ငန်းစွမ်းဆောင်ရည်ကို သုံးသပ်ခြင်း၊

(ဂ) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများ၏ ဖွံ့ဖြိုးတိုးတက်ရေးအတွက် အထောက်အကူပြုသည့် ဝန်ဆောင်မှုလုပ်ငန်းများ၊ သင်တန်းကျောင်းများ၊ ဘဏ္ဍာရေးဆိုင်ရာ အဖွဲ့အစည်းများ၏ လုပ်ငန်းဆောင်ရွက်မှုအခြေအနေကို သုံးသပ်ခြင်း၊

(ဃ) အသေးစားနှင့် အလတ်စားစီးပွားရေး လုပ်ငန်းများ၏ သဘာဝပတ်ဝန်းကျင်နှင့် လူမှုစီးပွား ပတ်ဝန်းကျင်ဆိုင်ရာ သက်ရောက်မှုများကို ဆန်းစစ်သုံးသပ်ခြင်း၊

(င) ဒေသတွင်းနှင့် ကမ္ဘာ့နိုင်ငံများ၏ ဖွံ့ဖြိုးတိုးတက်မှု အခြေအနေကို ဆန်းစစ်သုံးသပ်၍ မိမိနိုင်ငံရှိ အသေးစားနှင့်အလတ်စား စီးပွားရေးလုပ်ငန်းများ၏ လိုအပ်ချက်များကို နိုင်ငံတော်က ပံ့ပိုး ဆောင်ရွက်ပေးနိုင်ရန် သုံးသပ်ခြင်း၊

(စ) အသေးစားနှင့် အလတ်စားစီးပွားရေး လုပ်ငန်းများ၏ ကဏ္ဍအလိုက် ဖွံ့ဖြိုးတိုးတက်မှု၊ နိုင်ငံ၏ပြည်တွင်းအသားတင် ထုတ်လုပ်မှုတန်ဖိုးတွင်ပါဝင်မှု၊ ပြည်ပသို့ တင်ပို့မှုနှင့် ပြည်ပမှ တင်သွင်းမှုများအပေါ် သုံးသပ်ခြင်း၊

(g) assessing and evaluating on job creation of small and medium enterprises, minimum wage, investment and products according to type, of business, investment and employment;

(h) submitting the evaluation report to the Central Committee through the Working Committee and proclaiming to the public from time to time.

Chapter VII

Formation of Agency and Agency Branch Offices and Functions and Duties thereof

11. The Working Committee shall form the agency comprising of the heads from concerned government departments, government organizations, and the suitable representatives and experts from the associations with the approval of the Central Committee.

12. The person who is appointed with the approval of the Central Committee shall perform as the chairman of the agency. The chairman of the agency shall be deemed as Deputy Ministerlevel.

13. The Director General from the responsible ministry shall perform as the secretary of the agency.

14. The functions and Duties of the agency are as follows:

(a) implementing the small and medium enterprises development policy;

(b) submitting the annual progress report on enhancing the development of the small and medium enterprises to the Central Committee through the Working Committee;

(ဆ) အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများ၏ အလုပ်အကိုင်ဖန်တီးပေးနိုင်မှုနှင့် အနိမ့်ဆုံးရရှိသည့် လုပ်ခလစာ၊ လုပ်ငန်းအမျိုးအစားအလိုက် ရင်းနှီးမြှုပ်နှံမှုများနှင့် ထွက်ကုန်များ၊ ရင်းနှီးမြှုပ်နှံမှုများနှင့် အလုပ်အကိုင်ရရှိမှုများ ကို စိစစ်သုံးသပ်ခြင်း၊

(ဇ) လုပ်ငန်းသုံးသပ်ချက်များနှင့် သက်ဆိုင်သည့် အစီရင်ခံစာများကို လုပ်ငန်း ကော်မတီမှတစ်ဆင့် ဗဟိုကော်မတီသို့ တင်သွင်းခြင်းနှင့် အများပြည်သူသို့ အခါ အားလျော်စွာ ထုတ်ပြန်ကြေညာခြင်း။

အခန်း (၇)
အေဂျင်စီနှင့် အေဂျင်စီရုံးခွဲများ ဖွဲ့စည်းခြင်းနှင့် လုပ်ငန်းတာဝန်များ

၁၁။ လုပ်ငန်းကော်မတီသည် ဗဟိုကော်မတီ၏ သဘောတူညီချက်ဖြင့် သက်ဆိုင်ရာ အစိုးရ ဌာန၊ အစိုးရအဖွဲ့အစည်းများမှ ဌာနအကြီး အမှုးများ၊ အသင်းအဖွဲ့များမှ သင့်လျော်သည့် ကိုယ်စားလှယ်များ၊ ပညာရှင်များ ပါဝင်သည့် အေဂျင်စီ ကို ဖွဲ့စည်းရမည်။

၁၂။ ဗဟိုကော်မတီ၏ သဘောတူညီချက်ဖြင့် တာဝန်ပေးအပ်ခြင်း ခံရသော ပုဂ္ဂိုလ်က အေဂျင်စီဥက္ကဋ္ဌ အဖြစ် ဆောင်ရွက်ရမည်။ အေဂျင်စီဥက္ကဋ္ဌသည် ဒုတိယဝန်ကြီး အဆင့်ပုဂ္ဂိုလ် ဖြစ်သည် ဟု မှတ်ယူရမည်။

၁၃။ တာဝန်ခံဝန်ကြီးဌာနမှ ညွှန်ကြားရေးမှူးချုပ်သည် အေဂျင်စီ အတွင်းရေးမှူး အဖြစ် ဆောင်ရွက်ရမည်။

၁၄။ အေဂျင်စီ၏ လုပ်ငန်းတာဝန်များမှာ အောက်ပါ အတိုင်း ဖြစ်သည်-

(က) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေးမူဝါဒကို အကောင်အထည်ဖော် ဆောင်ရွက်ခြင်း၊

(ခ) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်း ဖွံ့ဖြိုးတိုးတက်မှုကို တိုးမြှင့်ရေးဆိုင်ရာ လုပ်ငန်းဆောင်ရွက်ချက်များအပေါ် နှစ်ပတ်လည် တိုးတက်မှုအစီရင်ခံစာကို လုပ်ငန်းကော်မတီမှတစ်ဆင့် ဗဟိုကော်မတီသို့ တင်သွင်းခြင်း၊

(c) supporting to lessen the difficulties and needs faced according to the business nature ofthe small and medium enterprises;

(d) coordinating for the establishment of regional agency branch offices and one-stop service teamin order to provide the necessary services to the small and medium enterprises;

(e) undertaking legal education activities related to the small and medium enterprises;

(f) tendering necessary advice, organizing workshops and providing trainingsrequired for the development of the small and medium enterprises;

(g) coordinating with the relevant government departments and government organizations for the establishment of the small and medium enterprises;

(h) providing non-financial services in cooperation with the relevant ministry, organizations, companies and banks for enhancing the availability of financial support to the small and medium enterprises ;

(i) facilitating to establish the economic networks by cooperating between the small and medium enterprises and the local and foreign enterprises;

(j) urging the competition of the small and medium enterpriseseach other to promote the creation and extension of market, and organizing goods and technology exhibitions;

(၈) အသေးစားနှင့် အလတ်စားစီးပွားရေး လုပ်ငန်းများ၏ လုပ်ငန်းသဘော သဘာဝအလိုက် ကြုံတွေ့နေရသော အခက်အခဲများ၊ လိုအပ်ချက်များကို လျော့နည်းစေရန် ပံ့ပိုးကူညီ ဆောင်ရွက်ခြင်း၊

(ဃ) အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများကို လိုအပ်သည့် ဝန်ဆောင်မှုများ ပေးနိုင်ရန်အတွက် ဒေသဆိုင်ရာ အေဂျင်စီ ရုံးခွဲများ တည်ထောင်ခြင်းနှင့် တစ်နေရာတည်း ဝန်ဆောင်မှု ပေးသည့်အဖွဲ့များ တည်ထောင်နိုင်ရန် ညှိနှိုင်း ဆောင်ရွက်ခြင်း၊

(င) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများနှင့် သက်ဆိုင်သော ဥပဒေ ပညာပေးရေး လုပ်ငန်းများ ဆောင်ရွက်ခြင်း၊

(စ) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေးအတွက် လိုအပ်သောအကြံဉာဏ်ပေးခြင်း၊ အလုပ်ရုံဆွေးနွေးပွဲများကျင်းပခြင်းနှင့် သင်တန်းများပေးခြင်း ၊

(ဆ) အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများတည်ထောင်နိုင်ရန် သက်ဆိုင်ရာ အစိုးရဌာန၊ အစိုးရအဖွဲ့အစည်းများနှင့် ညှိနှိုင်း ဆောင်ရွက်ပေးခြင်း၊

(ဇ) သက်ဆိုင်ရာဝန်ကြီးဌာန၊ အဖွဲ့အစည်းများ၊ ကုမ္ပဏီများ၊ ဘဏ်များနှင့် ပူးပေါင်းလျက် အသေးစားနှင့် အလတ်စား စီးပွားရေး လုပ်ငန်းများကို ငွေကြေးထောက်ပံ့မှု တိုးမြှင့်ရရှိစေရန် ငွေကြေးမဟုတ်သော ဝန်ဆောင်မှုများကို ဆောင်ရွက်ပေးခြင်း၊

(ဈ) အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများနှင့် ပြည်တွင်းပြည်ပ စီးပွားရေးလုပ်ငန်းများ ပူးပေါင်း၍ စီးပွားရေးကွန်ရက်များ တည်ထောင်နိုင်ရန် ဆောင်ရွက်ပေးခြင်း၊

(ည) တီထွင်ကြံဆမှုနှင့် ဈေးကွက်ချဲ့ထွင်နိုင်ရေးကို မြှင့်တင်နိုင်ရန်အတွက် အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများ အချင်းချင်း ယှဉ်ပြိုင်ဆောင်ရွက်မှုကို တွန်းအားပေးခြင်း၊ ကုန်စည်နှင့် နည်းပညာပြပွဲများ ကျင်းပပေးခြင်း၊

(k) advising and settling the disputes of small and medium enterprises, and assisting to settle the disputes by means of arbitration;

(l) supporting for the establishment of legal consultancy organizations and consultancy service for business set-up related to the small and medium enterprises;

(m) collecting the data and statistics related to the small and medium enterprise, checking in phases, recording and using as necessary;

(n) arranging to allow the registration of small and medium enterprises in accord with the stipulations and specifying the term of registration;

(o) communicating with the international financial institutions, international development agencies, business associations and local and international non-government organizations for the development of the small and medium enterprises;

(p) cooperatingclosely with the financial institutions for the development of the small and medium enterprises and implementation of development means,and obtaining advices;

(q) keeping the status of the small and medium enterprises until next three years after changing and emerging from type of small and medium enterprise;

(၄) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများနှင့် ပတ်သက်သော အငြင်းပွားမှုများကို အကြံပေးခြင်း၊ ညှိနှိုင်းဖြန်ဖြေပေးခြင်းနှင့် ခုံသမာဓိ နည်းဖြင့် ဖြေရှင်းနိုင်ရန် ကူညီဆောင်ရွက်ပေးခြင်း၊

(၅) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းဆိုင်ရာ ဥပဒေအတိုင်ပင်ခံအဖွဲ့အစည်းများ၊ လုပ်ငန်းထူထောင်ရေး အတိုင်ပင်ခံဝန်ဆောင်မှုလုပ်ငန်းများ တည်ထောင်နိုင်ရေးအတွက် ကူညီပံ့ပိုးဆောင်ရွက်ပေးခြင်း၊

(၆) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများနှင့် သက်ဆိုင်သည့် ကိန်းဂဏန်းဆိုင်ရာ စာရင်းများကို ကောက်ယူခြင်း၊ အဆင့်ဆင့် စစ်ဆေးခြင်း၊ မှတ်တမ်း တင်ထားရှိခြင်းနှင့် လိုအပ်ချက်နှင့်အညီ အသုံးပြုခြင်း၊

(၇) အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများကို သတ်မှတ်ချက်များနှင့်အညီ မှတ်ပုံတင်ခွင့် ပြုနိုင်ရေးအတွက် စီမံဆောင်ရွက်ခြင်း၊ မှတ်ပုံတင် သက်တမ်း သတ်မှတ်ပေးခြင်း၊

(၈) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေးဆောင်ရွက် ရန်အပြည်ပြည်ဆိုင်ရာ ငွေရေးကြေးရေး အဖွဲ့အစည်းများ၊ အပြည်ပြည်ဆိုင်ရာ ဖွံ့ဖြိုးရေး အေဂျင်စီများ၊ စီးပွားရေး အသင်းအဖွဲ့များ၊ ပြည်တွင်းနှင့် အပြည်ပြည် ဆိုင်ရာ အစိုးရ မဟုတ်သည့် အဖွဲ့အစည်းများနှင့် ဆက်သွယ်ခြင်း၊

(၉) အသေးစားနှင့်အလတ်စား စီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေးနှင့် တိုးတက်ရေးနည်းလမ်းများ အကောင်အထည်ဖော်ရန်အတွက် ငွေကြေးအဖွဲ့အစည်းများနှင့် နီးကပ်စွာပူးပေါင်းညှိနှိုင်း ဆောင်ရွက်ခြင်း၊ အကြံဉာဏ် ရယူခြင်း၊

(၁၀) အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းအမျိုးအစားမှ ပြောင်းလဲဖြစ်ပေါ်လာပြီး နောက် ၃ နှစ်အထိ အသေးစားနှင့်အလတ်စား စီးပွားရေးလုပ်ငန်း၏ အဆင့်အတန်းကို ထိန်းသိမ်းထားရှိခြင်း။

15. The agency branch offices which implement the functions and duties of the agency according to regions shall take responsibilityto the operations of one-stop service teams in the relevant areas.

Chapter VIII

The Role of Business Associations

16. The business associationsshall closely work with the Central Committee and the other related organizations in order to comply with and implement the basic principles of this law.

17. The business associations shallcooperate each other for the growth and development of the small and medium enterprises and the development of their business standard.

Chapter IX

Duties and Rights of Entrepreneur

18. The duties and rights of entrepreneur are as follows:

(a) registration of small and medium enterprisesin accord with the stipulations to enable to enjoy the rights contained in this law;

(b) changing freely of management mode and advanced technology in order to respond on the changes of economic or social environment and to develop enterprises;

(c) informing by the entrepreneur when the capital investment, number of labour and annual income of the previous year are inclusive as small and medium enterpriseare inconsistent with any of the specifications, re-registering within the permitted period and returning the registration certificate;

၁၅။ အေဂျင်စီ၏ လုပ်ငန်းတာဝန်များကို ဒေသအလိုက်အကောင်အထည်ဖော်မည့် အေဂျင်စီရုံးခွဲများသည် သက်ဆိုင်ရာနယ်မြေအတွင်း တစ်နေရာတည်းတွင် ဝန်ဆောင်မှုပေးသည့် အဖွဲ့ များ၏ လုပ်ငန်း ဆောင်ရွက်မှုများကို တာဝန်ခံရမည်။

အခန်း(၈)
စီးပွားရေးလုပ်ငန်းဆိုင်ရာ အသင်းအဖွဲ့များ၏ အခန်းကဏ္ဍ

၁၆။ စီးပွားရေးလုပ်ငန်းဆိုင်ရာအသင်းအဖွဲ့များသည် ဤဥပဒေ၏ အခြေခံမူဝါဒများကို လိုက်နာဆောင်ရွက်နိုင်စေရန် ဗဟိုကော်မတီ၊ အခြားဆက်စပ်သည့် အဖွဲ့ အစည်းများနှင့် နီးကပ်စွာ လုပ်ကိုင် ဆောင်ရွက်ရမည်။

၁၇။ စီးပွားရေးလုပ်ငန်းဆိုင်ရာ အသင်းအဖွဲ့များသည် အသေးစားနှင့် အလတ်စား စီးပွားရေး လုပ်ငန်းများ ကြီးထွားလာစေရေး၊ ဖွံ့ဖြိုးတိုးတက်ရေးနှင့် ယင်းတို့၏ စီးပွားရေး အဆင့်အတန်း တိုးတက်ဖြစ်ထွန်းလာစေရေးတို့အတွက် တစ်ဦးနှင့်တစ်ဦး ပူးပေါင်း ဆောင်ရွက်ရမည်။

အခန်း(၉)
လုပ်ငန်းဆောင်ရွက်သူ၏ တာဝန်နှင့် အခွင့်အရေးများ

၁၈။ လုပ်ငန်းဆောင်ရွက်သူ၏ တာဝန်နှင့် အခွင့်အရေးများမှာ အောက်ပါ အတိုင်း ဖြစ်သည် -

(က) ဤဥပဒေပါ အခွင့်အရေးများကို ရရှိခံစားနိုင်ရန် အသေးစားနှင့် အလတ်စား စီးပွားရေး လုပ်ငန်းများကို သတ်မှတ်ချက်များနှင့်အညီ မှတ်ပုံတင်ခြင်း၊

(ခ) စီးပွားရေး သို့မဟုတ် လူမှုပတ်ဝန်းကျင် ပြောင်းလဲ ဖြစ်ပေါ်မှုများကို တုံ့ပြန်နိုင်ရန်နှင့် စီးပွားရေးလုပ်ငန်း ဖွံ့ဖြိုးတိုးတက်လာစေရန် အတွက် စီမံခန့်ခွဲမှုပုံစံနှင့် တိုးတက်သော နည်းပညာများကို လွတ်လပ်စွာ ပြောင်းလဲ ဆောင်ရွက်ခြင်း၊

(ဂ) ဤဥပဒေအရ အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများအဖြစ် အကျုံးဝင်သည့် မတည်ရင်းနှီးငွေ၊ လုပ်သားဦးရေနှင့် လွန်ခဲ့သောနှစ်၏ တစ်နှစ်ဝင်ငွေ သတ်မှတ်ချက် တစ်ရပ်ရပ်နှင့် မကိုက်ညီသည့်အခါ လုပ်ငန်း ဆောင်ရွက်သူက အေဂျင်စီသို့ သတင်းပေးပို့ တင်ပြခြင်း၊ ခွင့်ပြုကာလအတွင်း ပြောင်းလဲမှတ်ပုံတင်ခြင်း၊ မှတ်ပုံတင် လက်မှတ်ကို ပြန်လည်အပ်နှံခြင်း၊

(d) keeping statisticsand records of own business in accord with the stipulations and receiving inspection according to the necessity;

(e) having the right to submit the grievances to the agency through the agency branch office;

(f) having the right to connect with government and non-government technical research departments, and local and foreign organizations through the agency for energy production and effective and efficient use of energy, environmental conservation , the production of value-added products and the use of machinery;

(g) having the right to attend in local and foreign training courses, workshops, lectures, exhibitions and competitions with the arrangement of the agency;

(h) having the right to apply forobtaining financial assistance and other services from the government ministries, government organizations and private organizations through the agency;

(i) having the right to apply for enabling to obtain loans according to the business plan for the development of small and medium enterprises;

(j) having the right to participate in the local and foreign business networks with the arrangement of agency;

Chapter X

Formation of the Fund Management Body and Function and Duties thereof

19. The Working Committee shall, with the approval of the Central Committee, form Fund Management Body with the suitable persons in accord with the stipulations. A member of the body who is designated by the Central Committee shall perform as the chairperson.

(ဃ) မိမိလုပ်ငန်း၏ စာရင်းဇယားမှတ်တမ်းများကို သတ်မှတ်ချက်နှင့်အညီ ပြုစုထိန်းသိမ်းထားရှိခြင်း၊ လိုအပ်ချက်နှင့်အညီစစ်ဆေးမှုကို ခံယူခြင်း၊

(င) နစ်နာမှုများနှင့်စပ်လျဉ်း၍ အေဂျင်စီ ရုံးခွဲမှတစ်ဆင့် အေဂျင်စီသို့ တင်ပြခွင့်ရှိခြင်း၊

(စ) စွမ်းအင်ထုတ်လုပ်ခြင်းနှင့် အကျိုးရှိရှိ ထိရောက်စွာ အသုံးချရေး သဘာဝ ပတ်ဝန်းကျင်ထိန်းသိမ်းရေး၊ တန်ဖိုးမြှင့်ထုတ်ကုန် ပစ္စည်းထုတ်လုပ်မှုနှင့် စက်ကိရိယာများအသုံးပြုရေးတို့အတွက် အစိုးရနှင့် အစိုးရမဟုတ်သော နည်းပညာဆိုင်ရာ သုတေသနဌာနများ၊ ပြည်တွင်း ပြည်ပ အဖွဲ့အစည်းများနှင့် အေဂျင်စီမှ တစ်ဆင့် ချိတ်ဆက် ဆောင်ရွက်နိုင်ခြင်း၊

(ဆ) ပြည်တွင်းပြည်ပမှ သင်တန်းများ၊ အလုပ်ရုံဆွေးနွေးပွဲများ၊ ဟောပြောပွဲများ၊ ကုန်စည်ပြပွဲနှင့် ပြိုင်ပွဲများသို့ အေဂျင်စီ၏ အစီအစဉ်ဖြင့် တက်ရောက်နိုင်ခြင်း၊

(ဇ) အစိုးရဝန်ကြီးဌာနများ၊ အစိုးရအဖွဲ့အစည်းများ၊ ပုဂ္ဂလိကအဖွဲ့အစည်းများမှ ထောက်ပံ့သည့်ငွေကြေးနှင့် အခြား ဝန်ဆောင်မှုများ ရရှိရန် အေဂျင်စီမှတစ်ဆင့် လျှောက်ထား နိုင်ခြင်း၊

(ဈ) အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေးအတွက် လုပ်ငန်းစီမံချက်များ အလိုက် ချေးငွေရယူ ဆောင်ရွက်နိုင်ရန် အေဂျင်စီသို့ လျှောက်ထားနိုင်ခြင်း၊

(ည) ပြည်တွင်းပြည်ပ စီးပွားရေးကွန်ရက်များတွင် အေဂျင်စီ၏ အစီအစဉ်ဖြင့် ပါဝင်နိုင်ခြင်း။

အခန်း(၁၀)
ရန်ပုံငွေ စီမံခန့်ခွဲမှုအဖွဲ့ ဖွဲ့စည်းခြင်းနှင့် လုပ်ငန်းတာဝန်များ

၁၉။ လုပ်ငန်းကော်မတီသည် ဗဟိုကော်မတီ၏ သဘောတူညီချက်ဖြင့် ရန်ပုံငွေ စီမံခန့်ခွဲမှုအဖွဲ့ကို သင့်လျော်သောပုဂ္ဂိုလ်များဖြင့် သတ်မှတ်ချက်များနှင့်အညီ ဖွဲ့စည်းရမည်။ ဗဟို ကော်မတီက တာဝန်ပေးအပ်သည့် အဖွဲ့ဝင်တစ်ဦးက အဖွဲ့၏ ဥက္ကဋ္ဌအဖြစ် ဆောင်ရွက်ရမည်။

20. The functionsand duties of the Fund Management Body are as follows-

(a) calculating and submittingto the Working Committee for estimating in annual budget allotment in order to provide loan services with low interest for the purpose of the development of small and medium enterprises;

(b) proposing a financial support to be enable to use for the supporting activities of small and medium enterprises development to the Central Committee through the Working Committee;

(c) establishing the small and medium enterprises development fund with the assistance fund of the State, grant from local and international financial institutions, donation from the donors and the service fees received from the own services;

(d) coordinating for the cooperation between the local and foreign organizations desirous to make investment and the registered small and medium enterprises in accord with the existing laws;

(e) arranging and recognizing for the direct access to finance of registered small and medium enterprises through the small and medium enterprise development banks and concerned banks after receiving a special loan with low interest specified by the State, non-interest loan from internal and external banks, financial institutions and investment organizations, loan with low interest, any loan for the development of small and medium enterprises;

၂၀။ ရန်ပုံငွေစီမံခန့်ခွဲမှုအဖွဲ့၏ လုပ်ငန်းတာဝန်များမှာ အောက်ပါအတိုင်း ဖြစ်သည် -

(က) အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေး အလို့ငှာ အတိုးသက်သာသော ချေးငွေများရရှိနိုင်ရေး ဝန်ဆောင်မှု ပေးနိုင်ရန်အတွက် နှစ်စဉ်ဘဏ္ဍာငွေအရ အသုံးဆိုင်ရာ ခန့်မှန်းခြေ ငွေစာရင်းတွင် ထည့်သွင်း လျာထားရန်၊ လုပ်ငန်းကော်မတီသို့ တွက်ချက် တင်ပြခြင်း၊

(ခ) အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးရေးဆိုင်ရာ အထောက်အကူပြု ကိစ္စရပ်များတွင် အသုံးပြုနိုင်ရန်အတွက် ထောက်ပံ့ ငွေတစ်ရပ်အား လုပ်ငန်းကော်မတီမှတစ်ဆင့် ဗဟိုကော်မတီ သို့ အဆိုပြုတင်ပြခြင်း၊

(ဂ) အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေး ရန်ပုံငွေကို နိုင်ငံတော်ကထောက်ပံ့ငွေ၊ ပြည်တွင်းပြည်ပ ငွေကြေးအဖွဲ့ အစည်းများမှ အကူအညီရရှိငွေ၊ အလှူရှင်များကလှူဒါန်းငွေ မိမိ ဝန်ဆောင်မှု လုပ်ငန်းများမှ ဝန်ဆောင်ခ ရရှိငွေ တို့နှင့် ထူထောင် ထားရှိခြင်း၊

(ဃ) ပြည်တွင်းပြည်ပမှ ရင်းနှီးမြှုပ်နှံမှုပြုလုပ်လိုသော အဖွဲ့အစည်းများနှင့် မှတ်ပုံတင်ထားရှိသော အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်း များ ပူးပေါင်းလုပ်ဆောင်နိုင်ရန် တည်ဆဲဥပဒေများနှင့်အညီ ညှိနှိုင်း ဆောင်ရွက်ပေးခြင်း၊

(င) အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေး အတွက် နိုင်ငံတော်အစိုးရက အတိုးသက်သာစွာ သတ်မှတ်သော အထူးချေးငွေတစ်ရပ်နှင့် ပြည်တွင်းပြည်ပဘဏ်များ၊ ငွေကြေး အဖွဲ့ အစည်းများ၊ ရင်းနှီးမြှုပ်နှံမှု အဖွဲ့အစည်းများမှ ရရှိနိုင်သည့် အတိုးမဲ့ ချေးငွေ၊ အတိုးသက်သာသောချေးငွေ၊ ချေးငွေတစ်ရပ်ရပ်ကိုရယူပြီး အသေး စားနှင့်အလတ်စား စက်မှုလုပ်ငန်း ဖွံ့ဖြိုးရေးဘဏ်နှင့် သက်ဆိုင်ရာဘဏ်များမှတစ်ဆင့် မှတ်ပုံတင်ထားရှိသော အသေးစား နှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများနှင့် တိုက်ရိုက် ချိတ်ဆက် ချေးယူနိုင်ရန် စီစဉ်ပေးခြင်း၊ အသိအမှတ် ပြုပေးခြင်း၊

(f) using the fund for the matters of the development of the small and medium enterprises;

(g) establishing theFinancial Information Unit to support for obtaining the normal loan, low interest loan, non-interest loan and grant aids not repayable to the small and medium enterprises;

(h) coordinating with the credit guarantee companies and corporations allowed by the Ministry of Finance in order to protect the losses in borrowing money to small and medium enterprises;

21. The Fund Management Body shall carry out in consultation with the Ministry of Finance and the Central Bank of Myanmar under the supervision of the Working Committee for the effective implementation of the financial matters.

Chapter XI

One-stop Service System

22. The respective Ministries shall conferred powers tothe officials to function, who have capacity to undertake one-stop service system by giving authority to work jointly in the one-stop service team for the development of small and medium enterprises.

23. The officials who are implementing the one-stop service system shall cooperate with the agency branch offices.

Chapter XII

Collecting and Keeping the Information and Dissemination

24. The agency shall, with respective departments and organizations to carry out the collecting information, keeping records and using of such

(စ) အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေး ဆိုင်ရာ ကိစ္စရပ်များအတွက် ငွေကြေးကျခံသုံးစွဲခြင်း၊

(ဆ) အသေးစားနှင့်အလတ်စား စီးပွားရေး လုပ်ငန်းများအား သာမန်ချေးငွေ၊ အတိုးနှုန်း သက်သာသောချေးငွေ၊ အတိုးမဲ့ချေးငွေ၊ ပြန်လည် ပေးဆပ်စရာ မလိုသောအကူအညီငွေများရရှိရန်အတွက် အထောက်အကူပြုရန် ချေးငွေ ဆိုင်ရာ သတင်းအချက်အလက်ဌာနကို တည်ထောင်ခြင်း၊

(ဇ) အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများအား ငွေချေးရာတွင် ဆုံးရှုံးမှုများကာကွယ်နိုင်ရန်အတွက် ဘဏ္ဍာရေးဝန်ကြီးဌာနမှ ခွင့်ပြု ထားသော ချေးငွေအာမခံကုမ္ပဏီများ၊ ချေးငွေအာမခံ ကော်ပိုရေးရှင်း များနှင့် ညှိနှိုင်းဆောင်ရွက် ပေးခြင်း။

၂၁။ ရန်ပုံငွေစီမံခန့်ခွဲမှုအဖွဲ့သည် ငွေကြေးဆိုင်ရာကိစ္စများကို ထိရောက်စွာ အကောင်အထည်ဖော်ဆောင်ရွက်နိုင်ရန် လုပ်ငန်းကော်မတီ၏ ကြီးကြပ်မှုဖြင့် ဘဏ္ဍာရေးဝန်ကြီးဌာန၊ မြန်မာနိုင်ငံတော်ဗဟိုဘဏ်တို့နှင့် ညှိနှိုင်းတိုင်ပင်၍ ဆောင်ရွက်ရမည်။

အခန်း(၁၁)

တစ်နေရာတည်းတွင် ဝန်ဆောင်မှုပေးသောစနစ်

၂၂။ သက်ဆိုင်ရာ ဝန်ကြီးဌာနများသည် အသေးစားနှင့် အလတ်စား စီးပွားရေး လုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်ရေးအတွက် တစ်နေရာတည်းတွင် ဝန်ဆောင်မှုပေးသော စနစ်ကို ဆောင်ရွက်နိုင်စွမ်းရှိသော ဝန်ထမ်းများအား လုပ်ပိုင်ခွင့် အခွင့်အာဏာများ ပေးအပ်၍ တစ်နေရာတည်းတွင် ဝန်ဆောင်မှုပေးသောအဖွဲ့များတွင် ပူးတွဲတာဝန်ပေး ရမည်။

၂၃။ တစ်နေရာတည်းတွင် ဝန်ဆောင်မှုပေးသော စနစ်အား အကောင်အထည်ဖော် ဆောင်ရွက်နေသည့် ဝန်ထမ်းများသည် အေဂျင်စီရုံးခွဲများနှင့် ပူးပေါင်းဆောင်ရွက် ရမည်။

အခန်း(၁၂)

သတင်းအချက်အလက် စုဆောင်းထိန်းသိမ်းခြင်းနှင့် ထုတ်ပြန်ခြင်း

၂၄။ အေဂျင်စီသည် အသေးစားနှင့် အလတ်စားစီးပွားရေး လုပ်ငန်းများနှင့် သက်ဆိုင် သည့် သတင်းအချက်အလက်များကို ကောက်ယူခြင်း ၊ မှတ်တမ်းတင်ထားရှိခြင်း၊

information as may be necessary related to the small and medium enterprise, coordinate and cooperate the followings:

(a) providing information on market, technology and investment through the network systems and disseminating thorough the media;

(b) coordinating for the establishment of local and international market advisory centers;

(c) coordinating with the relevant departments to develop e-commerce system for the local and foreign buyers and sellers;

Chapter XIII

Human Resources Development and ProvidingTechnology

25. The agency shall, with the relevant departments and organizations to enhance the production capacity and competitiveness of the small and medium enterprises coordinate the followings:

(a) seeking and transferring appropriate technologies;

(b) providing advice on production technology and trainingswhich enable to the utilization of modern machineries;

(c) encouraging and cooperating for the establishment ofthe laboratories that will test the quality of the products;

(d) exchangingtechnology between the local and foreign departments, organizations and private organizations;

(e) arranging the deserved reward according to the business capacity in order to promote the innovation;

လိုအပ်ချက်နှင့်အညီ အသုံးပြုခြင်းတို့ကို ဆောင်ရွက်နိုင်ရန် အောက်ပါတို့ကို သက်ဆိုင်ရာဌာန၊ အဖွဲ့အစည်း များနှင့် ညှိနှိုင်း ပူးပေါင်းစီစဉ် ဆောင်ရွက်ရမည် -

(က) ဈေးကွက်၊ နည်းပညာနှင့် ရင်းနှီးမြှုပ်နှံမှုဆိုင်ရာ သတင်းအချက်အလက်များကို ကွန်ယက်စနစ်များဖြင့်ပံ့ပိုးပေးခြင်း၊ သတင်းမီဒီယာများမှတစ်ဆင့် ထုတ်ပြန် ပေးခြင်း၊

(ခ) ပြည်တွင်းနှင့် နိုင်ငံတကာ ဈေးကွက်ဆိုင်ရာ အကြံပေးဌာနများထူထောင် ဖွင့်လှစ်နိုင်ရန် ညှိနှိုင်း ဆောင်ရွက်ခြင်း၊

(ဂ) ပြည်တွင်း ပြည်ပဂယ်ယူသူနှင့် ရောင်းချသူများအတွက် အွန်လိုင်းကုန်သွယ်မှုစနစ်ဖွံ့ဖြိုးစေရန် သက်ဆိုင်ရာဌာနများနှင့် ညှိနှိုင်း ဆောင်ရွက်ခြင်း။

အခန်း (၁၃)

လူစွမ်းအားအရင်းအမြစ်ဖွံ့ဖြိုးရေးနှင့် နည်းပညာအထောက်အပံ့ပေးခြင်း

၂၅။ အေဂျင်စီသည် အသေးစားနှင့် အလတ်စား စီးပွားရေး လုပ်ငန်းများ၏ ထုတ်လုပ်မှု စွမ်းအားနှင့် ယှဉ်ပြိုင်နိုင်မှု မြှင့်တင်နိုင်ရေးတို့အတွက် အောက်ပါတို့ကို သက်ဆိုင်ရာ ဌာန၊အဖွဲ့အစည်း များနှင့် ညှိနှိုင်းပူးပေါင်း စီစဉ်ဆောင်ရွက်ရမည်-

(က) သင့်လျော်သည့် နည်းပညာများကို ရှာဖွေဖော်ထုတ် လွှဲပြောင်းပေးခြင်း၊

(ခ) ကုန်ထုတ်လုပ်မှုဆိုင်ရာ နည်းပညာအကြံဉာဏ်များပေးခြင်းနှင့် ခေတ်မီစက်ကိရိယာများကို အသုံးပြုနိုင်စေရန် လေ့ကျင့်ပညာ ပေးခြင်း၊

(ဂ) ထုတ်ကုန်များ၏အရည်အသွေးကို စစ်ဆေးပေးမည့်ဓာတ်ခွဲခန်းများ တည်ထောင်မှုကို အားပေးခြင်းနှင့် ပူးပေါင်းဆောင်ရွက်ခြင်း၊

(ဃ) ပြည်တွင်း ပြည်ပဌာန၊ အဖွဲ့အစည်းများနှင့် ပုဂ္ဂလိကအဖွဲ့အစည်းများအကြား နည်းပညာ ပူးပေါင်း ဖလှယ်ခြင်း၊

(င) တီထွင်ဖန်တီးမှုစွမ်းရည် မြှင့်တင်နိုင်ရန် လုပ်ငန်းစွမ်းဆောင်ရည် အလိုက် ထိုက်တန်သော ချီးမြှောက်မှုများ စီစဉ်ပေးခြင်း၊

(f) providingnew technologiesachieved from the research results in order to produce from pilot stage to commercial production;

(g) undertaking the capacity building programme for the small and medium entrepreneurs and supporting in the human resource development activity;

Chapter XIV

Finding Market and Connection

26. The agency shall, with the relevant departments and organizations for market promotion of the small and medium enterprises, coordinate and cooperate the following:

(a) encouraging the export priority business actions;

(b) causing the awareness and familiar of the entrepreneurs on principles and practices of the international markets;

(c) supporting for market penetration and acquisition of market shares;

(d) enabling to reveal the standardization which can connect to the international market, and arranging for easy and smooth trade;

(e) causing the awareness and familiar of the entrepreneurs on customs and trade producers, and to receive appropriate relaxation;

(စ) သုတေသနလုပ်ငန်းများမှ ရရှိလာသည့် နည်းပညာသစ်များကို ရှေ့ပြေးအဆင့်မှ စီးပွားဖြစ်ထုတ်လုပ်နိုင်ရေးအတွက် အထောက်အပံ့များ ပေးခြင်း၊

(ဆ) အသေးစားနှင့် အလတ်စားစီးပွားရေး လုပ်ငန်းရှင်များ၏ စွမ်းဆောင်ရည်မြှင့်တင်ရေး အစီအစဉ်များကို ဆောင်ရွက်ခြင်းနှင့် လူစွမ်းအား အရင်းအမြစ် ဖွံ့ဖြိုး တိုးတက်ရေး လုပ်ငန်းရပ်များတွင် ပံ့ပိုးကူညီ ဆောင်ရွက်ခြင်း။

အခန်း (၁၄)

စျေးကွက်ရှာဖွေရှိတ်ဆက်ပေးခြင်း

၂၆။ အေဂျင်စီသည် အသေးစားနှင့်အလတ်စားစီးပွားရေးလုပ်ငန်းများ၏ စျေးကွက်မြှင့်တင်ရေးအတွက် အောက်ပါတို့ကို သက်ဆိုင်ရာဌာန၊ အဖွဲ့အစည်းများနှင့် ညှိနှိုင်းပူးပေါင်း စီစဉ် ဆောင်ရွက်ရမည်-

(က) ပို့ကုန်ဦးစားပေးလုပ်ငန်း ဆောင်ရွက်မှုများကို အားပေးခြင်း၊

(ခ) နိုင်ငံတကာစျေးကွက်များ၏ ကျင့်ဝတ်နှင့် စည်းမျဉ်းများကို လုပ်ငန်းဆောင်ရွက်သူများ သိရှိကျွမ်းဝင်စေခြင်း၊

(ဂ) စျေးကွက် ထိုးဖောက်ရေးနှင့် စျေးကွက်ဝေစုများရရှိစေရန် ပံ့ပိုးဆောင်ရွက် ပေးခြင်း၊

(ဃ) နိုင်ငံတကာစျေးကွက်ကို ချိတ်ဆက်မိစေမည့် စံနှုန်းသတ်မှတ်ချက်များ ဖော်ဆောင်နိုင်ရေးနှင့် ကုန်သွယ်မှုလွယ်ကူချောမွေ့စေရေးတို့ကို စီစဉ် ပေးခြင်း၊

(င) အကောက်ခွန်နှင့် ကုန်သွယ်မှု လုပ်ထုံးလုပ်နည်းများကို လုပ်ငန်းဆောင်ရွက်သူများ သိရှိကျွမ်းဝင်စေခြင်းနှင့် ထိုက်သင့်သည့် ဖြေလျှော့မှုများ ရရှိစေခြင်း။

Chapter XV

Coordinationon Taxation

27. The agency shall, for the development of small and medium enterprises and acquisition of competitiveness ability in accord with the guidance of the Working Committee, advice to the relevant departments and organizations to undertake tax exemption and reliefs regarding the followings matters:

(a) manufacturing ofadvanced new products through research;

(b) operating small and medium enterprises which include in the list of priority in the less economic developed areas;

(c) undertaking the manufacturing of products by using by-products and wastes;

(d) undertaking the factory modification for energy production, effective and efficient use of energy, reutilization;

(e) undertaking the rehabilitation of the small and medium enterprises due to devastation of natural disaster.

Chapter XVI

Supporting Entrepreneurship and Business Start-up

28. The agency shall, with relevant departments and organizations in order to make more investment in the small and medium enterprises by

အခန်း (၁၅)

အခွန်အကောက်ဆိုင်ရာ ညှိနှိုင်း ဆောင်ရွက်ပေးခြင်း

၂၇။ အေဂျင်စီသည် လုပ်ငန်းကော်မတီ၏ လမ်းညွှန်မှုနှင့်အညီ အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများ ဖွံ့ဖြိုးတိုးတက်စေရန်နှင့် ယှဉ်ပြိုင်နိုင်စွမ်းရည် ရှိစေရန် အောက်ပါကိစ္စရပ်များနှင့်စပ်လျဉ်း၍ အခွန်လျော့ပေါ့ခြင်းနှင့် ကင်းလွတ်ခွင့်ပြုခြင်းတို့ကို ဆောင်ရွက်နိုင်ရေးအတွက် သက်ဆိုင်ရာဌာန၊ အဖွဲ့အစည်းများသို့ အကြံပြု တင်ပြရမည် -

(က) သုတေသနပြုပြီး တီထွင်ဆန်းသစ်သော ကုန်ပစ္စည်း အသစ်ထုတ်လုပ်ခြင်း၊

(ခ) စီးပွားရေး ဖွံ့ဖြိုးတိုးတက်မှု နောက်ကျနေ သောဒေသ၌ ဦးစားပေး စာရင်းဝင် အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်း ဆောင်ရွက်ခြင်း၊

(ဂ) ဘေးထွက်ပစ္စည်းများနှင့် အလေအလွင့် ပစ္စည်းများကို အသုံးပြု၍ ထုတ်လုပ်မှု လုပ်ငန်းများကို ဆောင်ရွက်ခြင်း၊

(ဃ) စွမ်းအင်ထုတ်လုပ်ခြင်းနှင့် အကျိုးရှိရှိ ထိရောက်စွာ အသုံးချရေးနှင့် ပြန်လည် သုံးစွဲရေးတို့အတွက် အလုပ်ရုံ အတွင်း ပြုပြင်ပြောင်းလဲမှု ဆောင်ရွက်ခြင်း၊

(င) သဘာဝဘေးအန္တရယ်ကြောင့် ပျက်စီးဆုံးရှုံးသည့် အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများကို ပြန်လည်ထူထောင်ရေးလုပ်ငန်းများ ဆောင်ရွက်ခြင်း။

အခန်း (၁၆)

စွန့်ဦးတီထွင်မှုနှင့် လုပ်ငန်းသစ်စတင်မှုကို ပံ့ပိုးဆောင်ရွက်ခြင်း

၂၈။ အေဂျင်စီသည် လုပ်ငန်းကော်မတီ၏ လမ်းညွှန်မှုနှင့်အညီ စွန့်ဦးတီထွင်မှု ပြုသောလုပ်ငန်းရှင်များအနေဖြင့် အသေးစားနှင့်အလတ်စား စီးပွားရေးလုပ်ငန်းများ

entrepreneurs who undertake entrepreneurship in accord with the guidance of the Working Committee, coordinate and cooperate the following:

(a) giving tax relief;

(b) leasing the land to establish factory or the place for business with reasonable rate;

(c) establishing the business consultancy services, and advising and resolving the difficulties;

(d) assisting the establishment of joint-venture business.

Chapter XVII

Registration

29. The agency shall –

(a) allow the small and medium enterprises to register if they are enable to present the relevant license, permit or registration certificate;

(b) allowto register, if the small and medium enterprises are not required to have license, permit or registered certificate when consistent with the following:

(1) not affecting the health of public who are residing in the surrounding;

(2) being minimum impact on the natural and socio-economic environment and providing conservation work complied with specification;

တွင် ပိုမိုရင်းနှီး မြှုပ်နှံလာစေရန် အောက်ပါတို့ကို သက်ဆိုင်ရာဌာန၊ အဖွဲ့အစည်းများ နှင့် ညှိနှိုင်းပူးပေါင်း စီစဉ် ဆောင်ရွက်ရမည်-

(က) အခွန်လျော့ပေါ့ကောက်ခံခြင်း၊

(ခ) စက်ရုံများတည်ထောင်ရန် မြေ သို့မဟုတ် လုပ်ငန်းနေရာကို သက်သာသည့် နှုန်းထားဖြင့် ငှားရမ်းခြင်း၊

(ဂ) လုပ်ငန်းထူထောင်ရေး အတိုင်ပင်ခံဝန်ဆောင်မှု လုပ်ငန်းများ တည်ထောင်ဆောင်ရွက်ခြင်းနှင့် အခက်အခဲများကို အကြံပြုဖြေရှင်းခြင်း၊

(ဃ) အကျိုးတူ ကုန်ထုတ်လုပ်ငန်းများ ဖွဲ့စည်း တည်ထောင်နိုင်ရန် ကူညီဆောင်ရွက် ပေးခြင်း။

အခန်း (၁၇)
မှတ်ပုံတင်ခြင်း

၂၉။ အောက်စီသည် -

(က) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများသည် သက်ဆိုင်ရာလိုင်စင်၊ ခွင့်ပြုချက် သို့မဟုတ် မှတ်ပုံတင်လက်မှတ် တင်ပြနိုင်လျှင် မှတ်ပုံတင်ခွင့်ပြုရ မည်။

(ခ) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများသည် လိုင်စင်၊ ခွင့်ပြုချက် သို့မဟုတ် မှတ်ပုံတင်ရန် မလိုအပ်သည့် လုပ်ငန်းဖြစ်ပါက အောက်ပါသတ်မှတ် ချက်များနှင့် ညီညွတ်လျှင် မှတ်ပုံတင်ခွင့်ပြုရမည် -

(၁) ပတ်ဝန်းကျင်တွင် နေထိုင်လျက်ရှိသော ပြည်သူများ၏ ကျန်းမာရေးကို ထိခိုက်မှု မရှိခြင်း၊

(၂) သဘာဝပတ်ဝန်းကျင်နှင့် လူမှုစီးပွားပတ်ဝန်းကျင် အပေါ် ဆိုးကျိုးသက်ရောက်မှု အနည်းဆုံးဖြစ်ခြင်း၊ ပြန်လည် ထိန်းသိမ်းရေးလုပ်ငန်းများကို သတ်မှတ်ချက်နှင့်အညီ ဆောင်ရွက်ပေးနိုင်ခြင်း၊

(3) being safety of fire.

(4) not affecting the safety of work site and health;

30. The small and medium enterprisesmaymake registration, withdraw business license and apply for necessary recommendations at the relevant one-stop service centre.

31. The agency shall revoke the registration when one of the following mattersoccurs:

(a) returning of registration certificate by entrepreneur;

(b) termination of business under the existing laws;

(c) exceeding of limited three year period on changing business status which beyond the definition of small and medium enterprises;

Chapter XVIII

Miscellaneous

32. The Central Committee shall in accord with this Law, succeed and discharge the functions and duties of the Central Committee of Small and Medium Enterprises Development which was formed before enacting this law.

33. The Working Committee shall,in accord with this law, succeed and discharge the functions and duties of the Working Committee of the Small and Medium Enterprises Development which was formed before enacting this law.

34. In order to undertake the previsions contained in this law,the responsible Ministry shall take responsible for the office works of the Central Committee, the Working Committee, the Agency, Fund Management Body, Evaluation and Reporting Body, Agency Branch offices and One-Stop Service Centre and shall bear the expenditures.

(၃) မီးဘေးအန္တရာယ်ကင်းရှင်းခြင်း၊

(၄) လုပ်ငန်းခွင်ဘေးအန္တရာယ်နှင့် ကျန်းမာရေး ထိခိုက်မှုမရှိခြင်း။

၃၀။ အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများသည် သက်ဆိုင်ရာ တစ်နေရာတည်းတွင် ဝန်ဆောင်မှုပေးသည့် အဖွဲ့များ၌ မှတ်ပုံတင်ခြင်း၊ စီးပွားရေး လုပ်ငန်း လိုင်စင်ထုတ်ယူခြင်းနှင့် လိုအပ်သောထောက်ခံချက်များ လျှောက်ထားခြင်းတို့ ပြုနိုင်သည်။

၃၁။ အေဂျင်စီသည် အောက်ပါအကြောင်းအရာ တစ်ရပ်ရပ်ပေါ်ပေါက်သည့်အခါ မှတ်ပုံတင်ခွင့်ကို ပြန်လည် ရုပ်သိမ်းရမည် -

(က) လုပ်ငန်းဆောင်ရွက်သူက မှတ်ပုံတင် လက်မှတ်ကို ပြန်လည် အပ်နှံခြင်း၊

(ခ) တည်ဆဲဥပဒေတစ်ရပ်ရပ်အရ လုပ်ငန်း ရပ်စဲခံရခြင်း၊

(ဂ) အသေးစားနှင့် အလတ်စား စီးပွားရေးလုပ်ငန်းများ၏ အဓိပ္ပာယ် ဖွင့်ဆိုချက်ထက်ကျော်လွန်၍ စီးပွားရေးလုပ်ငန်းများ ပြောင်းလဲ ဖြစ်ပေါ်မှုသည် ကန့်သတ် ကာလ ၃ နှစ် ထက်ကျော်လွန်ခြင်း။

အခန်း (၁၈)

အထွေထွေ

၃၂။ ဗဟိုကော်မတီသည် ဤဥပဒေမပြဋ္ဌာန်းမီ ဖွဲ့စည်းထားသော အသေးစားနှင့် အလတ်စားစီးပွားရေးလုပ်ငန်းများဖွံ့ဖြိုးတိုးတက်ရေးဗဟိုကော်မတီ၏ လုပ်ငန်းတာဝန်များကို ဆက်ခံ၍ ဤဥပဒေနှင့်အညီ ဆောင်ရွက်ရမည်။

၃၃။ လုပ်ငန်းကော်မတီသည် ဤဥပဒေမပြဋ္ဌာန်းမီ ဖွဲ့စည်းထားသော အသေးစားနှင့် အလတ်စား စီးပွားရေး လုပ်ငန်းများ ဖွံ့ဖြိုး တိုးတက်ရေး လုပ်ငန်းကော်မတီ၏ လုပ်ငန်းတာဝန်များကို ဆက်ခံ၍ ဤဥပဒေနှင့်အညီ ဆောင်ရွက်ရမည်။

၃၄။ ဤဥပဒေပါ ပြဋ္ဌာန်းချက်များကို ဆောင်ရွက်နိုင်စေရန် တာဝန်ခံဝန်ကြီးဌာနသည် ဗဟိုကော်မတီ၊ လုပ်ငန်းကော်မတီ၊ အေဂျင်စီ၊ ရန်ပုံငွေစီမံခန့်ခွဲမှုအဖွဲ့၊ လုပ်ငန်းသုံးသပ်မှု အစီရင်ခံရေးအဖွဲ့၊ အေဂျင်စီရုံးခွဲနှင့် တစ်နေရာတည်းတွင် ဝန်ဆောင်မှုပေးသော အဖွဲ့တို့၏ ရုံးလုပ်ငန်း များကို တာဝန်ယူ ဆောင်ရွက်ရမည့်အပြင် ကုန်ကျစရိတ်များကို ကျခံရမည်။

35. The responsible Ministry shall, with the approval of the Union Government, specify the recompense and allowance of the members of the Central Committee, the Working Committee, the Agency, the Fund Management Body and the Evaluation Reporting Body who are not government officials.

36. The term of service of the Union level personnel contained in this law are normally the same as the term of the President.

37. In implementing the provisions contained in this law:

(a) The responsible Ministry may issue the necessary rules, regulations and by-laws with the approval of the Union Government;

(b) The Central Committee, the Working Committee, and the responsible Ministry may issue the necessary notifications, orders, directives and procedures.

(c) The Agency may issue the necessary orders and directives with the approval of the Working Committee.

I hereby sign under the Constitution of the Republic of the Union of Myanmar.

(Sd.) Thein Sein

President of the Union

Republic of the Union of Myanmar

၃၅။ တာဝန်ခံဝန်ကြီးဌာနသည် နိုင်ငံ့ဝန်ထမ်း မဟုတ်သည့် ဗဟိုကော်မတီအဖွဲ့ဝင်၊ လုပ်ငန်း ကော်မတီအဖွဲ့ဝင်၊ **အေဂျင်စီ** အဖွဲ့ဝင်၊ ရန်ပုံငွေ စီမံခန့်ခွဲမှု အဖွဲ့ဝင်နှင့် လုပ်ငန်းသုံးသပ်မှု အစီရင်ခံရေးအဖွဲ့ဝင်တို့၏ ချီးမြှင့်ငွေနှင့် စရိတ်များကို ပြည်ထောင်စုအစိုးရအဖွဲ့၏ သဘောတူညီချက်ဖြင့် သတ်မှတ်ပေးရမည်။

၃၆။ ဤဥပဒေပါ ပြည်ထောင်စုအဆင့်ပုဂ္ဂိုလ်များ၏ ရာထူး သက်တမ်းသည် သာမန်အားဖြင့် နိုင်ငံတော် သမ္မတ၏ ရာထူးသက်တမ်း အတိုင်းဖြစ်သည်။

၃၇။ ဤဥပဒေပါ ပြဋ္ဌာန်းချက်များကို အကောင်အထည်ဖော်ဆောင်ရွက်ရာတွင် -

(က) တာဝန်ခံဝန်ကြီးဌာနသည် လိုအပ်သော နည်းဥပဒေများ၊ စည်းမျဉ်းနှင့် စည်းကမ်းများကို ပြည်ထောင်စုအစိုးရအဖွဲ့၏ သဘောတူညီချက်ဖြင့် ထုတ်ပြန် နိုင်သည်။

(ခ) ဗဟိုကော်မတီ၊ လုပ်ငန်းကော်မတီနှင့် တာဝန်ခံဝန်ကြီးဌာနတို့သည် လိုအပ်သော အမိန့်ကြော်ငြာစာ၊ အမိန့်၊ ညွှန်ကြားချက်နှင့် လုပ်ထုံးလုပ်နည်းများကို ထုတ်ပြန် နိုင်သည်။

(ဂ) အေဂျင်စီသည် လုပ်ငန်းကော်မတီ၏ သဘောတူညီချက်ဖြင့် လိုအပ်သော အမိန့်နှင့် ညွှန်ကြားချက်များကို ထုတ်ပြန်နိုင်သည်။

ပြည်ထောင်စုသမ္မတမြန်မာနိုင်ငံတော် ဖွဲ့စည်းပုံအခြေခံဥပဒေအရ ကျွန်ုပ်လက်မှတ် ရေးထိုးသည်။

(ပုံ) သိန်းစိန်

နိုင်ငံတော်သမ္မတ

ပြည်ထောင်စုသမ္မတမြန်မာနိုင်ငံတော်

The Competition Law

(The Pyidaungsu Hluttaw Law No9, 2015)

The 7th Waxing Day of Taboung, 1376 M.E

(24 February, 2015)

The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter I

Title, Enforcement and Definition

1. (a) This Law shall be called **the Competition Law.**

(b) This Law shall come into force from the date specified by the President with notification.

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

(a) **State** means the Republic of the Union of Myanmar.

(b) **Government means** the Union Government of the Republic of the Union of Myanmar.

(c) **Commission** means the Myanmar Competition Commission formed under this Law.

(d) **Ministry** means the ministry assigned duty by the Union Government.

(e) **Competition** means business related competition carried out by businesses among the businessmen in the market through competitive business activities to get more number of customers who consume by purchasing their goods and services, market share and market dominance.

(f) **Competition Policy** means policies laid down by the State to cause direct effect on production, services, trade, investment and

businesses in order to emerge fair competition in the market and protect the interests of the consumers from monopolization.

(g) **Act of Restraint on Competition** means the act which reduces or hinders the competition among businesses in the market. In this expression, agreements of restraint on competition, taking chance on the abuse of the dominant market position and monopolization by any individual or group are also included.

(h) **Unfair Competition** means competitive practices by businesses during the business process which cause or may cause damage to the interests of the State or the legitimate rights and interests of other businesses or of consumers.

(i) **Business** means any business, such as manufactures, distributions, purchases, sells, imports, exports and exchanges the goods, or service.

(j) **Businessman** means the person who carries out any business or service business. In this expression, an organization that operates business or service is also included.

(k) **Goods** means materials that is traded or manufactured or consumed for the purpose of this Law. In this expression, debentures, stocks and shares are also included.

(l) **Service** means business that is carried out by fee or remuneration or consideration for the purpose of this Law. In this expression, businesses that are specified as service by the Government from time to time are also included.

(m) **Market** means an area where commercial dealings are conducted between persons desirous of selling and purchasing of goods and services.

(n) **Market-share** means the percentage or ratio of the sales or services provided by the businessman out of the total sale volume of the market.

(o) **Price** means the amount specified in the sale of goods or services.

(p) **Committee** means other committees including the Investigation Committee formed by the Commission in order to carry out the functions and duties of the Commission.

(q) **Working group** means the working group formed by the committee in order to carry out functions and duties relating to competition.

Chapter II

Objective

3. The objectives of this Law are as follows:

(a) to protect and prevent acts that injure of public interests through monopolization or manipulation of prices by any individual or group with intent to endanger fair competition in economic activities, for the purpose of development of the national economy;

(b) to be able to control unfair market competition on the internal and external trade and economic development;

(c) to be able to prevent from abuse of dominant market power;

(d) to be able to control the restrictive agreements and arrangements among businesses.

Chapter III

Basic Principles

4. The basic principles of competition are as follows:

(a) ensuring to lead to the economic developed community in the Region and State by creating free and fair competition environment in the market;

(b) ensuring the businesses to uniform development and enjoy equally rights through encouragement of fair competition in the market;

(c) enabling to protect from the detriment to the interests of the pubic by manipulation of price;

(d) ensuring to emerge free and fair competition in each area of business;

(e) ensuring to emerge economic community where it can carry out freely for international, regional and bilateral goods, services, investment, skilled labour and free flow of capital and to cooperate in competition network;

(f) implementing in the market in accordance with the competition policy;

(g) encouraging the innovative capability by protecting intellectual property rights of investors, inventors and producers.

Chapter IV

Formation of the Commission

5. The Government:

(a) shall form the Myanmar Competition Commission comprising of an appropriate person of Union level as a Chairman, professionals

and suitable persons from the relevant Union Ministries, government departments, government organizations and non-governmental organizations as members.

(b) shall, in forming the Commission, designate Vice-chairman and Secretary out of the members and assign duty.

(c) may reform the Commission formed under sub-section (a) as may be necessary.

6. The Commission members who are not civil service personnel are entitled to enjoy the salary, allowance and emolument allowed by the Ministry.

7. The Commission may independently administer and carry out its functions and duties in accordance with the economic policies laid down by the State.

Chapter V

Powers and Duties of the Commission

8. The powers and duties of the Commission are as follows:

(a) cooperating and coordinating with international, regional organizations or bilateral countries on competition matters;

(b) exempting from the compliance of this Law to businesses essential for the benefit of the State and small and medium enterprises, if necessary;

(c) forming committees and working groups according to the necessity and specifying functions and duties thereof;

(d) making decision on the matters submitted by the committees and working groups;

(e) specifying necessary forms, procedures and terms and conditions of application in order to obtain permission to cooperate businesses or to restrain competition;

(f) specifying market share, supply, amount of capital, number of share and magnitude of owned property relating to business which can cause detriment to competition due to dominance, purchase, acquisition or merger among businesses of full or partial ownership of a business by another business;

(g) specifying and determining market share, supply, amount of capital, number of share and magnitude of owned property relating to business which is assumed as monopolization by the Commission;

(h) directing to a business or a group of businesses to reduce the specified magnitude of market share if the ownership of market share of such business or group of businesses exceeds or is assumed by the Commission to be exceeding, the stipulated magnitude that can cause detriment to competition in the market;

(i) prohibiting by issuing notification of restriction on market share and sale promotion of any businessman who might monopolize assumed by the Commission;

(j) assigning duty to investigate if the Commission suspects that there is a violation of any prohibitions contained in this Law or if a concrete complaint has received;

(k) calling for necessary evidence and data related to competition from any businessman;

(l) calling and inquiring persons concerned to make necessary inquires relating to competition;

(m) inviting and discussing with professionals and experts in accord with the requirement to provide data, explanation, suggestions or opinions relating to competition;

(n) seizing the necessary evidence and properties in accord with the stipulations as exhibits to inspect case by case, and passing permission order or refusing to return such evidence or property on bond or revoking the permission;

(o) scrutinizing report on findings submitted by the Investigation Committee and directing to prosecute if necessary;

(p) arranging to grant an accomplice a pardon with conditions if such accomplice testifies without any concealment before the Court that he has involved in committing the crime;

(q) submitting advice to the Government through the Ministry in respect of matters relating to competition;

(r) performing the duties relating to competition assigned by the Government from time to time.

9. The Commission shall report on accomplishment of its performance and situation of development to the Government quarterly.

10. The Commission shall submit its performance urgently if extraordinary situation arises.

Chapter VI

Formation of the Investigation Committee and Functions and Duties thereof

11. The Commission:

(a) shall form the Investigation Committee comprising minimum of five members to maximum of nine members. It shall be assigned as Chairman of the Committee to a suitable person among them.

(b) in forming under sub-section (a), the Committee members shall be the persons who have experience and knowledge in economics**,** subject, legal subject, commercial subject and other respective subjects.

(c) in forming under sub-section (a), the Investigation Committee members shall not be a person who involved directly or indirectly in the business matters which shall be investigated.

(d) may reform the Investigation Committee formed under sub-section (a),as may be necessary.

12. The functions and duties of Investigation Committee are as follows:

(a) calling and examining for necessary evidence, document, financial evidence and concrete statement of reasons and calling and inquiring necessary witnesses for investigation matters;

(b) in performing the matters contained in sub-section (a),submitting to the respective departments and organizations through the Commission for enabling to take an action if it fails to comply without concrete reason;

(c) entering , inspecting and searching, in accordance with Law, the building , land and workplace of any businessman or person being investigated or any other person who seems to be involved in connection with them;

(d) submitting report on findings of investigation and for enabling to take necessary action under this Law to the Commission;

(e) forming necessary working groups and specifying functions and duties thereof;

(f) receiving and vetting reports on findings of investigation by working groups.

Chapter VII

Act of Restraint on Competition

13. No person shall carry out any of the following acts which cause act of restraint on competition:

(a) fixing the price directly or indirectly in purchase price or selling price or other commercial situation;

(b) making agreement on restraint on competition in the market;

(c) abusing by taking chance on the situation of dominance in the relevant market;

(d) conducting restraint on market by individual or organization;

(e) restraining and preventing to share market or resources provision;

(f) restraining or controlling on production, market acquisition, technology and development of technology and investment;

(g) collusion in tendering or auctioning;

14. The Commission may, by specifying a certain period, exempt in respect of agreement on restraint on competition which intends to lessen the expense of consumers if it is inclusive in any of the following matters;

(a) reforming formation and type of any business to improve the capability of business;

(b) upgrading of technology and technology level in order to improve the quality of goods and services;

(c) ensuring to be uniform development of technological standards and quality level of different products;

(d) ensuring to be uniform in the matters of carrying out business, distribution of goods and payment not concerned with price or facts related to price;

(e) ensuring to raise competitiveness of small and medium enterprises;

(f) ensuring to raise competitiveness of Myanmar businesses in the international market.

Chapter VIII

Monopolization on Market in Competition

15. No businessman shall carry out any of the following acts which cause monopolization on market:

(a) controlling on purchase price or selling price of goods or fees of services;

(b) restraining services or production or restricting of opportunities in purchase and sale of goods or specifying compulsory terms and conditions directly or indirectly for other businessmen, for the purpose of price controlling;

(c) suspending or reducing or restraining services, production, purchasing, distribution, transfer or import without any appropriate reasons or destroying or causing damage the goods to reduce the quality in order to lessen under the demand;

(d) controlling and restraining the area where goods or services are traded in order not to enter other businessmen into the market and to control market share;

(e) interfering in carrying out business of other person without fairness.

16. The businessman may, with the permission of the Commission in order to have an effect on the maintenance of the situation of another business or creation of a new business, perform any of the following matters;

(a) cooperating with producer, distributor and provider of any other business;

(b) purchasing in full or in part of owned properties or shares of any other business.

Chapter IX

Unfair Competition

17. The acts for the purposes of unfair competition under this law include as follows;

(a) misleading of consumers;

(b) disclosing business secrets;

(c) coercing of businessmen to each other;

(d) defaming of the reputation of another business;

(e) disturbing the operation of another business;

(f) advertising and sale promotion for the purpose of unfair competition;

(g) discriminating among businessmen;

(h) selling goods at price lesser than production cost or cost, insurance and freight (CIF) in the market;

(i) abusing influence of his business, inducing or instigating of a party under contract with other businesses to breach the contract;

(j) exercising unfair competitive act in competition stipulated by the Commission for the interests of consumers when necessary.

18. No businessman shall carry out any of the following acts which mislead the consumers:

(a) carrying out with intention to compete with the use of deceptive information which mislead the legally registered name of goods, business slogan, logo, packaging, geographical indication and other elements.

(b) carrying out business such as production of goods and services by using the information contained in sub-section (a).

19. No businessman shall, in respect of disclosing secrets of any other business, carry out any of the following acts;

(a) infringing security measures protected by the lawful owners of business secrets in accessing and collecting of business secrets and information related to such secret;

(b) using or revealing information of business secret without permission of lawful owner of such business;

(c) deceiving a person with an obligation to maintain secrets or abusing the confidence of such person in accessing, collecting, collecting or revealing of business secrets and information related to such secrets;

(d) leaking business secrets and procedures of products distribution owned by other persons who conduct systematically in accordance with the Law;

(e) leaking economic information by infringing security measures exercised by the State-owned organization;

(f) carrying out business activities or applying business licence or distributing goods by using information contained in sub-section(e).

20. No businessman shall coerce consumers or partners of other business by threatening or compelling them not to transact or to cease the transaction with such business.

21. No businessman shall broadcast false information directly or indirectly in order to damage the reputation, financial situation or business operation of other businesses.

22. No businessman shall obstruct or disrupt other businesses directly or indirectly.

23. No businessman shall, for the purpose of unfair competition, carry out any of the following advertising acts:

(a) comparing directly goods or services of a business with those of the same type of other business;

(b) misleading customers by imitative advertising of the goods of others;

(c) broadcasting false or misleading information to the customers on one of the following matters;

(1) price, quantity, quality, utility, designs, varieties, packagings, date of manufacture, durability, origin, manufactures, place of manufacture, processors or place of processing;

(2) usage, service,warranty period;

(3) other false or misleading information;

(d) other advertising activities prohibited by any existing Law.

24. No businessman shall carry out any of the following acts which cause unfair competition;

(a) organizing a sale promotion with intend to mislead;

(b) discriminating among customers in the same promotional campaign;

(c) exercising other promotional ways prohibited by any existing Law.

25. No businessman shall carry out any of the following acts which causes discrimination:

(a) causing obstruction in competition by refusing of permission to join his organization or to leave a business although it meets the specified qualifications;

(b) restricting objectives and activities of a business involving in business organization without concrete reasons.

26. No businessman shall sell his goods competitively in the market at price lesser than production cost of such goods or at price lesser than cost, insurance and freight (CIF) if it is imported goods in order to lessen competitiveness of other businesses.

27. No businessman shall, by abusing influence in the market, carry out any of the following acts;

(a) selling the goods or providing services at price lesser than production cost or cost, insurance and freight (CIF) in order to cause competitors to leave the market;

(b) causing to the detriment of consumers by sale or purchase the goods or services at unreasonable price to market price or by fixing sale price for retailers;

(c) controlling the production, distribution of goods and providing services; restraining the market; obstructing the development of science and technology; and causing the detriment of consumers;

(d) laying down non-uniform commercial terms and conditions within the same market in order to cause unfair competition;

(e) laying down unfair terms and conditions upon other businesses in concluding contracts regarding goods and services or coercing to accept obligations which are not related directly to such contracts;

(f) preventing entering of new competitiors into market by unfair means;

(g) refusing or allowing discriminately the use of main infrastructures or rare resources owned or utilized by oneself in order to prevent entry of new competitiors into the market.

28. No businessman shall persuade or induce a person or a business who has concluded a contract with other businesses to breach such contract before the expiry of contract term.

29. No businessman shall import goods into market through unfair means and sell such goods at price lesser than market price.

Chapter X

Collaboration among Business

30. In collaboration among business the following acts are included:

(a) merger of businesses;

(b) consolidation of businesses;

(c) purchasing or acquisition of other business by a business;

(d) joint-venture of businesses;

(e) performing other means of collaboration among businesses specified by the Commission.

31. No businessman shall, in performing the acts contained in section 30, collaborate which enable to cause the following situations;

(a) collaboration intends to raise extremely the dominance over market within a certain period;

(b) collaboration intends to decrease competition for acquiring the market which is a sole or minority of businesses.

32. No collaboration of business shall be carried out if the combined market share of business collaboration is exceeded to the market share specified by the Commission.

33. Any prohibited collaboration of business or prohibition under section 31 may be exempted in the following circumstances;

(a) where the business, after collaboration as per section 30 is still in the size of small and medium enterprise specified under any existing law;

(b) where one or more of businesses involved in business collaboration is or are at the risk of being collapsed or of becoming bankrupt;

(c) where collaboration among businesses is in the circumstance that effect on the promotion of export or in the circumstance that supports the development of technique and technology or that establishes entrepreneurial business.

Chapter XI

Taking Administrative Action and Appeal

34. The Committee may take the following one action or more than one action upon a businessman who violates the orders, directives and procedures issued under this Law:

(a) warning;

(b) imposing specified fine;

(c) coordinating with relevant Ministries to close the operation of business temporarily or permanently.

35. Any person who dissatisfies the order or decision passed by the Committee may appeal to the Commission within 60 days from the receiving date of such order or decision.

36. (a) The Commission may confirm, amend or cancel the decision of the Committee when it is appealed under section 35.

(b) The decision of the Commission under sub-section (a) shall be final and conclusive.

37. In default of payment of fine specified under sub-section (b) of section 34, it shall be collected as arrears of income tax.

38. The administrative action passed under this Law shall not prohibit taking criminal action or civil action.

Chapter XII

Offences and Penalties

39. Any person who violates the prohibition contained in section 13 shall,on conviction,be punished with imprisonment for a term not exceeding three years or with a fine not exceeding one hundred and fifty lakhs Kyat or with both.

40. Any businessman who violates the prohibitions contained in section 23, section 24 or section 29 shall, on conviction, be punished with imprisonment for a term not exceeding three years or with fine not exceeding Kyat one hundred and fifty lakhs or with both.

41. Any person who violates the prohibitions contained in section 15, section 19, section 22, section 26, section 27, section 31 or section 32 shall, on conviction, be punished with imprisonment for a term not exceeding two years or with fine not exceeding Kyat one hundred lakhs or with both.

42. Any person who violates the prohibitions contained in section 18, section 20, section 21, section 25 or section 28 shall, on conviction, be punished with imprisonment for a term not exceeding one year or with fine not exceeding Kyat fifty lakhs or with both.

43. Any person who fails without any concrete reason to apply to the request of the Investigation Committee to submit any evidence, document or financial evidence or to appear for the examination as witness for investigation under this Law shall be punished, on conviction, with imprisonment for a term not exceeding three months or with fine not exceeding Kyat one hundred thousand.

44. Notwithstanding contained in any existing law, the matters related to any provision contained in this law regarding competition shall be carried out by this Law.

Chapter XIII

Miscellaneous

45. Commission shall hold the meetings in accord with the stipulations.

46. Any member of the Commission who is not a Civil Service Personnel or Investigation Committee shall be deemed as public servant defined in section 21 of the Penal Code when performing the duties contained in this Law.

47. In prosecuting under this Law, prior sanction of the Commission shall be obtained.

48. The Ministry may appoint and assign a suitable officer as a collector to collect the specified fine contained in sub-section (b) of section 34.

49. If a person prosecuted is a business organization under this Law, the responsible person of such organization shall be prosecuted together with such business organization if he is unable to prove that the offence is committed without his knowledge or with due diligence to prevent the offence and such responsible person shall be deemed as jointly guilty for such offence if such organization is convicted.

50. The offences contained in this Law are determined as the cognizable offences.

51. An aggrieved person may also sue any person being convicted in civil action for his loss under this law.

52. The Commission may coordinate with respective Courts and Law Offices in accord with the existing laws to grant a pardon to a person as a leniency who discloses that he participated in violation of section 13.

53. When granting leniency by the respective Court, the different leniency may be granted depending upon the cooperation time and cooperation condition of any businessman.

54. The Ministry shall:

(a) take responsibility for the office work of the Commission, Committees and the Working Groups;

(b) bear the expenses of the Commission, Committees and working groups.

55. Any member of the Commission or of the Investigation Committee or of the Working Group or a Civil Service Personnel shall not be sued in criminal or civil action or by any other means if it is a concrete evidence that he or she exercises the power conferred under this Law in good faith.

56. In implementing the provisions contained in this Law:

(a) the Ministry may issue necessary rules,regulations and by-laws with the approval of the Government.

(b) the Commission may issue necessary notifications, orders, directives and procedures and the Committee may issue necessary orders and directives.

I hereby sign under the Constitution of the Republic of the Union of Myanmar.

Sd/ Thein Sein

President

Republic of the Union of Myanmar

The Government of the Republic of the Union of Myanmar
The Ministry of National Planning and Economic Development
Notification No. (1 / 2015)
The 12th Waxing of Wagaung, 1377 M.E.
(27th August, 2015)

In exercise of the power conferred under sub-section (a) of section 95 of the Myanmar Special Economic Zone Law, the Ministry of National Planning and Economic Development hereby issues these rules with the approval of the Union Government:

Chapter I
Title and Definition

1. These rules shall be called **the Myanmar Special Economic Zone Rules**.

2. The expressions contained in these rules shall have the same meaning as prescribed in the Myanmar Special Economic Zone Law. Moreover, the following expressions shall have the meanings given hereunder:

(a) **Law** means the Myanmar Special Economic Zone Law, 2014;

(b) **Authorized Operations** means operations relating to businesses for the establishment of the Special Economic Zone, construction business for the development of infrastructure within the Special Economic Zone and operations of their businesses or businesses relating to the repair and maintenance works within the Special Economic Zone permitted by the Management Committee;

(c) **Business** means the investment business operated in the Special Economic Zone with permission of the Management Committee;

(d) **Capital Goods** means any plant, machinery, equipment or accessories required for manufacturing or production of goods, either directly or **indirectly,** in which either goods or services are included, such as, construction works for the development of the Special Economic Zone, replacement, modernization, technological upgrade or expansion, change of materials, packaging machinery and equipment, machinery and instruments for testing and research;

(e) **One Stop Service Centre (OSSC)** means a centre which is formed by the Management Committee of the Special Economic Zone with the relevant departments to issue permits for investment within the Special Economic Zone, to carry out registration of company, issuance of entry visa relating to business, issuance of certificate of origin, tax collection process, issuance of work permit and permission for construction of factory and issuance of licenses and permits for other investment and business within the Special Economic Zone. ;

(f) **Proposal** means an application submitted by an investor or a developer to the Management Committee of the Special Economic Zone to get the permit for an intended investment;

(g) **Domestic Tariff Area** means internal taxation area of the Republic of the Union of Myanmar;

(h) **Authorized Customs Officers** means the customs officer attached to the One Stop Service Centre (OSSC) of the Special Economic Zone.

(i) **Specified Customs Officer** means the Head of Authorized Customs Officers who are attached to the One Stop Service Center of the Special Economic Zone;

(j) **Raw Material** means required materials which are used for the production of goods, in the form of, natural or unprepared or unrefined. Furthermore, materials or goods which are required to produce finished goods, required finished goods or semi-finished goods to produce value-added products and packaging materials in which unprepared or natural or raw materials ready to product and use are included;

(k) **Foreign Entrepreneur** means a person who resides out of the Republic of the Union of Myanmar, doing investment business and businesses relating to thereof in the Special Economic Zone. In this expression, a company incorporated outside of the Republic of the Union of Myanmar is also included;

(l) **Authorized Representative** means a person authoritized by the investor or the developer with an official letter to carry the goods necessary for a business in Special Economic Zone, to clear the custom, to reexport and to carry out similar businesses;

(m) **Goods Supplier** means a person who supplies raw materials, semi-product, finished products and technology which are required for services or products with or without fees for any business which is in the Special Economic Zone or in the domestic tariff area or in abroad;

(n) Permit means an official permission letter issued by the Management Committee to an investor or a developer to operate businesses in the Special Economic Zone;

(o) **Myanmar Automated Cargo Clearance System (MACCS)** means a clearance system for export, import customs procedures by using

information technology system and its relevant departmental organizations;

(p) **Combined Container Load** means a container in which goods from different owners are placed in it. In this expression, the goods that are not exported with the container are included;

(q) **Form** means the form stipulated in o these rules.

Chapter II

Formation of the Management Committee and carrying out the activities

3. The Central Body shall form a Management Committee for the Special Economic Zone within thirty days from the date of approval for the establishment of the relevant Special Economic Zone in accordance with section 9 of the Myanmar Special Economic Zone Law.

4. The Central Body may assign duties to the assigned person in the Management Committee, without limitation of the terms based on his skill and requirement.

5. The members of Management Committee who are not government servant are entitled to enjoy expenses and remuneration allowed by the Management Committee. The relevant Management Committee may, as necessary, charge the service fees for its services, including issuance of a permit from the Developers and Investors or Promoters.

Chapter III

Convening the Meetings of Central Body, Central Working Body and Management Committee

6. The meeting of the Central Body shall be convened at least twice a year.

7. The quorum ofmeeting shall be valid, if more than half of the members of the Central Body are present.

8. The Central Body shall make decisions with the approval of more than half of the members who are present at the meeting. The decision shall not be objected, denied or amended by the members of the Central Body who are not present at the meeting.

9. The Central Body may, if necessary, invite the relevant Ministry, the Union Minister or the Deputy Minister, the technical experts and other essential persons to the meeting.

10. The meeting of the Central Working Body shall be convened at least quarterly. .

11. The chairman of the Central Working Body shall act as a chairman of the meeting. The vice-chairman shall chair the meeting when the chairman is not available. In the absence of chairman or vice-chairman, the meeting shall not be convened.

12. The quorum of meeting shall be valid, if more than half of the members of the Central Working Body are present.

13. The Central Working Body shall make decisions by the approval of more than half of the members who have attended the Central Working Body meeting. The decision shall not be objected, denied or amended by the members who are not present at the meeting.

14. The Central Working Body may, if necessary, invite the relevant Ministry, the Union Minister or the Deputy Minister, the technical experts and other essential persons to the meeting.

15. The Management Committee shall convene the meetings at least twice a month.

16. The chairman of the Management Committee shall act as a Chairman of the meeting. The Vice-Chairman shall chair the meeting when the Chairman is not available. In the absence of Chairman and Vice-Chairman, Secretary shall chair the meeting.

17. The quorum of the meeting shall be valid, if more than half of the members of the Management Committee are present.,.

18. The Management Committee shall make decisions by the approval of more than half of the members who have attended the Management Committee meeting. The decision shall not be objected, denied or amended by the Management Committee members who are not present at the meeting.

19. The Management Committee may, if necessary, invite the head of department of the relevant Ministry, the technical experts and other essential persons to the meeting.

Chapter IV
One Stop Service Centre (OSSC)

20. The relevant Management Committee shall form One Stop Service Center (OSSC) with the officials from the following government departments, and government organizations:

(a) Customs Department;

(b) Department of Commerce and Consumer Affairs;

(c) Directorate of Investment and Company Administration (DICA) or department or organization which is responsible for incorporation and affairs of company;;

(d) Internal Revenue Department;

(e) Labour Department;

(f) Department of Immigration and National Registration;

(g) Any relevant department of the Ministry of Industry;

(h) Any relevant department of the Ministry of Construction;

(i) Department of Food and Drugs Administration (FDA);

(j) Any relevant department of the Ministry of Electric Power;

(k) Any other organization as the Management Committee may think fit relating to the requirement of business activities.

21. One Stop Service Center (OSSC) shall be administered and supervised by the Management Committee and it shall jointly be opened at the office of the relevant Management Committee.

22. The representatives from the relevant Ministries who are appointed at One Stop Service Center (OSSC) shall issue the required license permits and permission to Developers and Investors without getting any approvals and recommendations from the relevant Ministries. Those representatives shall be fully authorized by the respective Ministries for making decisions and signing to issue the relevant license and permit.

23. One Stop Service Center (OSSC) shall carry out the followings in accordance with the guidance of the relevant Management Committee in order to provide the Investors with the smooth and

comprehensive administrative services (a) issuance of the required permit, license and permission to do the businesses within the Special Economic Zone;

(b) carrying out for registration of company and activities relating to it;

(c) issuance of entry visa and residency for foreigners and their accompanying families;

(d) issuance of permit and license for exports and imports;

(e) issuance of certificate of origin;

(f) carrying out tax collection and related matters;

(g) carrying out matters relating to labor and worker registration;

(h) issuance of permit to construct the factory and carrying out for industrial registration;

(i) issuance of the permit for the construction of a building, factory and other constructions;

(j) controlling and preservation not to demage the environment ;

(k) issuance of work permit for foreign workers;

(l) inspection and issuance of certificates for food and drug safety and prevention of Contagious Diseases;

(m) drawback claims of customs duties and other taxes;

(n) customs clearance for exports and imports, including Post Clearance Audit;

(o) Issuance of any other permit, license and permission required for the investment and businesses of the developers and the investors in the Special Economic Zone with the cooperation of the relevant Management Committee.

Chapter V

Establishment of Special Economic Zone

24. (a) The selected developer shall submit a detailed development project for the establishment of a Special Economic Zone with FORM-A to the Management Committee within 6 months from the date of nomination.

(b) The Management Committee shall submit the detailed project proposal for the establishment of a Special Economic Zone to the Central Working Body within 15 days from the date of receipt from the developer.

(c) The Central Working Body shall check and submit the project proposal to the Central Body within thirty days from the date of submission of the Management Committee;

(d) The Central Body shall decide whether it approves or denies such development project within thirty days from the date of submission by the Central Working Body.

25. The Management Committee shall issue permit with FORM-B to the selected Developer, together with stipulated conditions, after the Central Body had approved the selection.

26. If the selection has been done more than one individual developer to carry out the development of the Special Economic Zone, each selected developer shall carry out for the development of each designated part of the Special Economic Zone.

27. The developer shall perform its best efforts in the development works in the time limited by the Management Committee.

28. In issuing the permit to the Developer according to these rules, the relevant Management Committee may allow the type of business by the approved procedures to begin the business.

29. The developer shall apply to the Management Committee for the extension of the permitted period of the business with FORM-C. The Management Committee shall scrutinize as may be necessary and give the extension, if it is found that it is appropriate to extend, within 15 days from the date of receipt of application prescribed the period of it. . The permit shall be informed and recorded to the nearest Central Working Committee meeting.

30. The developer shall submit a quarterly report with FORM-D to the Management Committee about the progress of development of the Special Economic Zone.

Chapter VI

Demarcation of Zone in the Special Economic Zone

31. Export-oriented manufacturing businesses shall be allocated as a priority in a Free Zone. Supporting industries supplying directly to the export-oriented manufacturers may also be allocated in the Free Zone or Free Zone Activity may be defined.

32. The Management Committee may separately allow \ the suitable service industries among the service businesses prescribed in the rule 54 to be allocated in the Free Zone or Free Zone Activity may seperately be defined. .

33. The developer shall fence a Free Zone with the minimum height of **two hundred and forty** centimeter together with the minimum height of sixty centimeter barbed wire fencing on top of the wall or as separately specified by the Customs Department.

34. An entry and an exit of Free Zone in above rule 33, shall be placed be as designated by the Customs Department and be fully monitored by the customs officers who are attached to the One Stop Service Center (OSSC) of the relevant Special Economic Zone.

35. Only the persons authorized by the Management Committee shall enter into the Free Zone prescribed in rule 33.

36. The Management Committee shall not allow any retail business and services business to situate in Free Zone ,except some services which are, as required, allowed to provide to the investors in the Free Zone prescribed in rule 33.

37. The Management Committee may allow any other manufacturing Business based on domestic market, within the Promotion Zone.

38. If there is no demarcation of the Free Zone and Promotion Zone in the Special Economic Zone, then the other businesses except Free Zone Activites shall be deemed as the businesses within the Promotion Zone.

Chapter VII

Boundary Demarcation and Land Use

39. An establishment of the Special Economic Zone shall have a contiguous area of at least one thousand hectares, but not exceeding twenty thousand- five hundred hectares.

40. The developer or the investor shall apply the permission to rent or use the land required for the development of the Special Economic Zone to the relevant Management Committee.

41. The Developer shall not have the right to sell the land in the Special Economic Zone.

42. The Developer shall give the right to use land to the Investors who have the permit.

43. The Developer or the Investor shall have the right to sublease the land which they are entitled to lease or use in accordance with the prescribed terms and conditions of the Land Lease Agreement.

44. The Developer shall transfer the land in terms of sub-lease or any other way only to a person or an entity holding a valid permission issued by the Management Committee.

45. The Developer or Investor may sell, mortgage, lease, exchange and give the right to use land to the other party within the permitted period. In this regard:

(a) the Developer shall obtain approval of the Central Body with the form specified by the Management Committee;

(b) the Investor shall obtain the permit of the Management Committee.

46. The vacant land within the Promotion Zone, which has no infrastructure, such as, roads in the zone, water supply, electricity supply, etc., shall not be leased to any other person for either business or social purposes such as schools, hospitals, hotels, recreation and entertainment related residential and business complexes. Provided that the development of this area conducted by a Sub-Developer which is a partner or contractor of the Developer selected through tender by the Developer shall not be applied with this restriction.

Chapter VIII
Submission of Proposal

47. An investor or promoter who wants to obtain the investment permit within the Special Economic Zone shall directly apply with 5 copies of application

FORM-E to the relevant Management Committee of Special Economic Zone. FORM-E shall be submitted together with the detailed data and information of the followings:

(a) Lay out plan of land and industrial area in the Special Economic Zone;

(b) water supply system;

(c) electricity installation system;

(d) building construction plan;

(e) mechanical and machinery installation plan;

(f) environmental conservation plan;

(g) detailed investment proposal of the investment business;

(h) other requirements.

Chapter IX

Issuance of Permit

48. The Management Committee shall:

(a) decide to permit or permit with remarks or reject the proposal within thirty days from the date of receipt of the investment proposal together with the required documents and facts prescribed in the Myanmar Special Economic Zone Law and the Myanmar Special Economic Zone Rules;

(b) inform in writing with the reason to the applicant when the proposal is permitted with remarks or rejected ..

49. The decision of the Management Committee in respect of the issuance of permit shall be final and conclusive.

50. If the proposal is permitted, the Management Committee shall issue the permit with FORM-F. The permit shall include the terms and conditions stipulated by the Management Committee with regard to trading, warehousing, selling of the goods to be produced and product within the Domestic Tariff Area.

51. The Management Committee may allow doing the following business within the Special Economic Zone:

(a) other businesses except the restricted businesses;

(b) trading goods after storage to distribute in accordance with the instruction of the cargo owner with or without trademarks by the accountability of the overseas supplier, packaging and repackaging of the goods without producing;

(c) importation and storage of goods which must be refrigerated;

(d) complete Knock-Down and Semi Knock-Down by importing the materials or semi fitted materials according to the production procedure.

52. The following Businesses shall not be allowed in the Special Economic Zone:

(a) manufacturing and fixation business of arms, weapons and explosives, and services rendering for military purposes;

(b) production, packaging and services business hazardous to the environment and ecosystem;

(c) the waste management services to abroad;

(d) production and packaging of psychotropic substances and narcotic drugs;

(e) importing or production and packaging of poisonous chemicals, other goods including hazardous radioactive substances and agricultural pesticide and insecticide which are prohibited by International Regulations or the World Health Organization, which affect the public health and environment;

(f) business utilizing the industrial wastes imported from abroad;

(g) production and packaging business of prohibited substances which may destroy ozone layer;

(h) production, packaging and sale of goods which are made of asbestos;

(i) production and packaging of polluted substances hazardous to the public health and environment.

53. The proposed businesses which implicate the following facts shall not be allowed: :

(a reuse of plastic or solid wastes which are not complied with the international standards of recycling and waste management systems;

(b) reuse of used clothing and garments or used clothing, used textiles materials and garments, industrial wipers, shoddy wool, yarn, blankets and shawls;

(c) repairing or renovating to be used in local after imported used materials;

(d) exportation and importation of chemicals, organisms, materials, industrial machinery and technology which are inconsistant with the provisions in the existing Laws, rules and regulationsof the Union;

Chapter X

Types of Conductible Investment Businesses and Requirements

54. The following investment businesses may be carried out in the Special Economic Zone:

(a) trading;

(b) infrastructure development business, including real estate, hotel and sales centre;

(c) technology and design;

(d) warehousing and logistics services;

(e) research and development services;

(f) computer software programming services;

(g) information services such as venues for business meeting and conferences, information and data processing portal, human resource services, insurance claiming service, data portal for legal facts, medical records, records of financial transactions, remote control service, tax and revenue records, supporting/techanical assistance centres, websites service, computer effects and graphic designs;

(h) distribution service including wholesales and retail;

(i) financial service;

(j) professional service except legal service and accounting service;

(k) servcies for short term and long term lease;

(l) other services including consultancy service;

(m) construction and other related services;

(n) education services;

(o) services relating to environmental conservation;

(p) hospital and health services;

(q) tourism and other related services;

(r) recreation and entertainment services;

(s) culture and sports services;

(t) transportation and related services.

55. In order to obtain the permit from the Management Committee, the investor shall:

(a) conclude the land lease or land use agreement when the approval of Management Committee and written approval for land use to invest from the developer are received;;(b) send a copy of land lease agreement to the Management Committee, within six months after receiving the permit. The Management Committee may revoke the permit when the investor fails to do so;

(c) perform in accordance with the standards of environmental conservation and control of air pollution if it is required;

(d) submit the evidence of residency in the country, passport and other required documents of directors of his comapany or persons from the business partner organizations to the Management Committee;

(e) submit the tax clearance certificate issued by the relevant department or auditted balance sheet for last three following years of the company.

56. In respect of service businesses to the overseas enterprises:

(a) the foreign enterprises shall supply free of charge for raw materials, including capital goods, consumer goods, semi-processed goods, spare parts, and semi-finished goods;

(b) businesses may establish with the loan system or lease system for the capital goods;

(c) the foreign entrepreneur may carry out and instruct in accordance with requirement for the importation of finished products or transfered the products to the bonded warehouse before customs clerance has been done;

(d) the business has right to receive the convertible foreign currency from the organizations in abroad for the production of their products;

(e) the business shall keep the personal account and separate accounts for production and services.

57. The Investor shall fulfill the following requirements in order to obtain the permit from the Management Committee for the investment in the Special Economic Zone.

(a) manufacturing Business in a Free Zone or manufacturing Free Zone Activity shall export at least seventy-five percent of the total production to the foreign country. The required minimum paid up capital should be equivalent to seven hundred and fifty thousand United States Dollars;;

(b) a supporting Free Zone Activity shall supply at least 80 percentof the total production to the exporting businesses. The required minimum paid up capital should be equivalent to three hundred United States Dollars;

(c) services which related with export including trading business and supplying business within the free zone shall have minimum paid-up capital equivalent to fifty hundred United States Dollars ;

(d) the International trade exhibition center within a Free Zone shall have minimum paid up capital equivalent to ten million United States Dollars;

(e) manufacturing industries within a Promotion Zone shall have minimum paid up capital equivalent to three hundred United States Dollars;

(f) service industries within a Promotion Zone shall have minimum paid up capital equivalent to three hundred United States Dollars;(g) business for real estate development within a Promotion Zone, including shopping malls, condominiums, residences, etc. shall have minimum paid up capital equivalent to five million United States Dollars;;

(h) hotels within a Promotion Zoneshall have minimum 3-star level;

(i) invesment of training schools, vocational training schools and educational institutions within a Promotion Zone shall have minimum paid up capital equivalent to two million United States Dollars;

(j) hospitals within a Promotion Zone shall have minimum one hundred beds with modernized treatment, high technology examination equipments and machinery, laboratories and operation theatre;

(k) if livestock industries arecarried out in a Promotion Zone, he shall obtain advice from the Management Committee;

(l) if fishery industries are carried out in a Promotion Zone, he shall have minimum one hundred hectors of land area;

(m) if forest products industries are carried out in a Promotion Zone he shall have minimum space of five hundred hectors for the establishment of forest plantation;

(n) if agro-based products industries are carried out in a Promotion Zone, it shall be carried out with the permission of relevant Management Committee.

58. In coordination with the investors, the relevant Management Committee shall stipulate other requirements for business other than specified in rule 57.

The relevant Management Committee may, according to the sub-section (f) of section 11 of the Myanmar Special Economic Zone Law, issue notifications, orders, directives and procedures in accordance with the international standard in the area of trade, environmental conservation, investment and business to be abided by the investor.

59. The investment businesses within the Free Zone shall annually submit audited report of the auditor appointed by them with regard to the direct or indirect sales and services at the end of the financial year to the Management Committee to monitor to be in line with clause (a) and (b) of rule 57.

60. The investment business which is absent to submit the audited report as per rule 59 for any financial year is not entitled to enjoy exemptions and reliefs for that absent financial year.

61. The investor shall apply to the Management Committee at least four weeks in advance before the end of financial year if the type of business has been changed from the Free Zone Activity to Promotion Zone Business.

Chapter XI

Procedures for Establishment of Businesses

62. The Management Committee may allow the investment proposal for the various productions of finished goods from raw materials, enhancement of production capacity and change of type of manufacturing goods or services if it is in line with rule 55.

63. The Management Committee may allow the submission of the investor to transfer business, based on the proven ability of upcoming investor who takes over the assets and undertakes the liabilities of the existing investment business64. An investor holding the permit issued under rule 50 shall be entitled to set up a Business either in a Free Zone, or a Promotion Zone or other Zone or both Zones with the permission of the Management Committee.

65. The Investor shall commence the permitted business operation within one year after getting the permit and shall inform the date of commencement of the commercial operation or the production of goods to the Management Committee.

66. The Investor shall request the extension of construction period to the Management Committee not later than thirty days before the expiry date of stipulated period if the business operation may not be commenced within one year. The Management Committee may grant extension for appropriate period not longer than two years, if it thinks the explanation of the request credible reason. 67. The permitted term will be expired if the Business has not commenced productions or services activity within the date of expiry of stipulated period as per above rules 65 and 66. The permit may be obtained throughout the period of business operation if the Business has commenced its business operation within the stipulated period of time as per rules 65 and 66.

68. The investor shall open and maintain separate accounts for businesses operated in both Free Zone and Promotion Zone.

Chapter XII

Exemption and Relief

69. The investment business permitted by the Foreign Investment Law, Myanmar Citizen Investment Law and other investment laws shall not be entitled to enjoy the exemptions and relief stated under the Myanmar Special Economic Zone Law if the said investment business has been transferred to the Special Economic Zone, enjoyed period of all exemptions and reliefs under such laws. If the period of exemptions and relief allowed under theMyanmar Special Economic Zone Law is longer than the period of other investment laws, the balance period shall be enjoyed by the investor.

70. The Investor shall be entitled to enjoy the exemptions and relief as per the Myanmar Special Economic Zone Law for the investment expansion of same or different business in the Special Economic Zone without transferring the existing investment business permitted under the Foreign Investment Law, Myanmar Citizens Investment Law, and other Investment Laws.

71. An Investor and a Developer shall maintain proper list of commodities which are imported from Domestic Tariff Area with specific quantity and value for a yearly basis. Such accounts shall clearly include quantity and value of the goods imported from Domestic Tariff Area, consumption or utilization of such goods, production of goods, waste or scrap or remnants, the quantity of export, sales and supply of manufactured goods or to the Promotion Zone or the Domestic Tariff Area and balance in stock.

72. The Investor and the Developer shall maintain such records prescribed in rule 71 for a period of seven following years starting from the end of relevant financial year.

73. An Investor engaged in both trading and manufacturing activities shall maintain separate records for each business activity respectively.

74. The Investor shall submit the Quarterly Performance Reports with FORM-G to the Management Committee.

75. The Developer shall submit the quarterly report on import and procurement of goods from the Domestic Tariff Area, utilization of the same and the stock in hand with FORM-D to the Chairman of the Management Committee and the Specified Customs Officer.

76. Businessmen in a Promotion Zone or other supplying business in a Domestic Tariff Area, when they export or sell the finished or semi-finished goods produced by themselves using imported raw materials to a Business in a Free Zone or a Free Zone Activity or Developer, shall submit the triplicate copies of the assessed export declaration which is under tariff reduction scheme and shall attach the recommendation letter of the relevant Specified Customs Officer.. The import tax for the imported raw materials shall be paid the balance after deduction of prepaid duties.

77. A Developer or a business in the Free Zone or Free Zone Activity shall repay exemptions and relief enjoyed tax benefit of duty free and other tax free or exemption or tariffs reduction upon the goods which are imported when such goods are not used for their businesses.

Chapter XIII
Settlement of Dispute

78. If any dispute arises between Developers and Investors, or Developers and the relevant Management Committee, or Investors and the relevant Management Committee, or between Developers, or between Investors in respect of the investment business, arising dispute shall be settled amicably.

79. If such dispute may not be settled in accordance with this rule 78:

(a) it shall be dealt with in accordance with the dispute settlement mechanism stipulated in the relevant agreement;

(b) if the dispute settlement mechanism is not stipulated in the relevant agreement, it shall be dealt with in accordance with the relevant existing laws of the Republic of the Union of Myanmar.

80. If dispute arises between the Developer and Investor, they shall inform and summit with expressing the cause of dispute to the relevant Management Committee.

81. The Developer or Investor may establish the documents issued by the Management Committee as evidence, if necessary, in the settlement of the dispute. , If it is necessary for other evidence related to the Management Committee, they may apply to it for such evidence.

82. The Developer or the investor shall submit and request the permission to the Management Committee, if it arises that any staff from the Management Committee Office is to appear before the court as witness.

Chapter XIV

Regulations relating to Duty and Tax

83. The commercial tax or value added tax must be paid to the Department of Internal Revenue of One Stop Service Center (OSSC) before the 10th waxing of a month commencing from the expiry of the exemption.

84. Where a non-resident foreigner has no incorporated business in Myanmar but has ownership of business and intellectual property right in the Special Economic Zone:

(a) a business or a developer who makes the payment to the non-resident foreigner shall deduct the withholding tax as prescribed under the existing Income Tax Law and shall pay it to Department of Internal Revenue of One Stop Service Center (OSSC) by the name of recipient;(b) the above withholding taxes are final levy.

(c) a Business or a Developer who makes the payment to a non-resident foreigner shall deduct the withholding tax from rental fees and other similar incomes as prescribed under the existing Income Tax Law and shall pay it to the Department of Internal Revenue of One Stop Service Center (OSSC) of the Special Economic Zone by the name of recipient.

85. The Investor or Businesses shall deduct the income tax from the salaries and other incomes of foreign officers , managers, staffs and workers employed in the Special Economic Zone as provided by the existing Income Tax Law, with the currency stipulated by the Central Body, and pay it to Department of Internal Revenue of One Stop Service Center (OSSC) of the Special Economic Zone. An income tax statement of monthly deductions shall be furnished to Department of Internal Revenue of One Stop Service Center (OSSC) within 7 days from the date of deductions. The annual statement of salaries paid to employees shall be submitted within 3months after the end of financial year, namely April, May and June.

86. Withholding Tax, other than the salaries, shall be paid to the Department of Internal Revenue of One Stop Service Center (OSSC) of the Special Economic Zone, in accordance with the regulations provided in the Income Tax Law.

87.

87. According to the section 49 of the Myanmar Special Economic Zone Law, a custom officer of department of internal revenue of the One Stop Service Center (OSSC) of the Special Economic Zone scrutinize application of the Investor or the Developer relating to the paid income tax on profit accrued from the Authorized Operations and may accept it to exempt tax for dividends of their shares.

88. When any Business and a Developer in a Special Economic Zone lose, the losses shall be set off and carried forward from their income up to five following financial years, ifa Certified Public Accountant authenticate such losses.

89. According to the section 52 of the Special Economic Zone Law, a business within the Free Zone or Free Zone Activity is permitted to deduct the actual expenses for providing vocational or management training to the skilled workers, unskilled workers, managerial staffs and other employees from the taxable income. The documents in respect of training expenses shall be submitted as evidence to a custom officer of Department of Internal Revenue of the One Stop Service Center (OSSC) of the Special Economic

Chapter XV

Bank and Insurance

90. The entrepreneur or the Developer doing business transactions within or outside the Special Economic Zone with Myanmar Currency (Kyat) shall also have the right to open Myanmar currency (Kyat) account at any Authorized Dealer Bank.

91. A Developer or an Investor may transfer capital and net profit in accordance with the provisions of the Foreign Exchange Management Law and rules.

92. Insurance companies owned by the citizens or the foreigners,or jointly owned by the citizen and the foreigner may set up their representative offices

and insurance businesses in a Promotion Zone. It can also open representative offices and insurance business as other business if there is no demarcation as a Free Zone and a Promotion Zone.

93. The said representative offices and insurance businesses are allowed to sell their insurance policies to the Investors, Developer and other related businesses within the Special Economic Zone in accordance with the Myanmar Insurance Law, rules, and orders and directives of the Supervising Board of Myanmar Insurance Enterprises.

94. The foreign insurance company (branch) within the Special Economic Zone may appoint auditor, lawyer, examiner and negotiator for calculation of the compensation at the outside of the Special Economic Zone.

95. The insurance companies which are going to set up their branch representative offices and insurance businesses in the Special Economic Zone shall be in line with the standards and qualification stipulated by the Supervising Board of Myanmar Insurance Enterprise.

96. The insurance company which is in line with the standards and qualification stipulated by Supervising Board of Myanmar Insurance Enterprise and going to set up and carry out therepresentative offices and insurance businesses in the Special Economic Zone shall apply with FORM-E to obtain the permission of the Management Committee.

Chapter XVI

Movement of Goods into a Free Zone or for Free Zone Activities

97. Any goods imported or procured from the Domestic Tariff Area, required for the Authorized Operations, shall be admitted into a Free Zone subject to the following conditions, namely:

(a) the goods imported or procured from the Domestic Tariff Area shall be brought into the premises of Investors or designated place within the Special Economic Zone. Subject to the type of transaction, the goods may be sent and carried out to sub-contractor for out-sourcing. ;

(b) the goods unnecessary for carrying out the Authorized Operations shall not be allowed into a Free Zone without the permission of the Management Committee. The reasons shall be recorded if the Management Committee has permitted;

(c) the list of goods shall, prior to importing, be submitted to register at the Management Committee;

(d) hazardous goods shall be placed at the specific area designated by the Management Committee or at the installation area within the premises of the Investor.

98. The documents relating to admission of the goods into and out of the Free Zone shall be submitted to the relevant Authorized Customs Officer.

99. The goods imported or procured from the Domestic Tariff Area by the Free Zone Activities shall be applied to the provisions in the rules 97 and 98.

100. The Investor or the Developer shall use the goods admitted into a Free Zone only for carrying out the Authorized Operations. If the admitted goods are utilized for other business other than for the Authorized Operations or the Investor or the Developer fails to abide by the provisions for the goods under these rules, duty shall be chargeable on such goods as if these goods have been cleared for domestic use.

101. In the case of a Business in a Free Zone is unable to utilize the goods imported or procured from Domestic Tariff Area, it may export the goods to the

foreign country or sell such goods to other Business in a Free Zone without payment of duty, or as necessary, dispose of such goods on payment of applicable duties and other taxes on the basis of an import declaration form submitted by the buyer from Domestic Tariff Area. .

102. The provisions described in the rules 100 and 101 shall be applied only to the goods imported or procured from the Domestic Tariff Area with duty free.

103. The Business in a Free Zone or Free Zone Activities shall maintain the account and balance of the entire goods with duty free by means of imported or export or sales or supplies in Domestic Tariff Area or transfer to other Business in a Free Zone or Free Zone Activities. .

104. The Business in a Free Zone or the Free Zone Activities shall regularly maintain records for the movement of goods with duty free and shall submit when the relevant Authorized Customs Officer has officially requested for inspection.

105. The investor shall utilize, export and disposed of the goods admitted to a Free Zone Activity within the validity period of the permit issued to such Free Zone Activity or in the case of a Developer within a period of 3 years or extended period as may be allowed by the Management Committee.

106. In the case of failure to utilize or export or dispose of the goods within the period allowed under rule 105, payment of duty of such goods shall be liable, considered as if such goods had been removed to Domestic Tariff Area, starting from the date of expiry.

107. The Management Committee may allow Businesses in a Free Zone to utilize or export or dispose of the goods in accordance with their desire in accordance with stipulation.

108. The duty-free goods admitted into a Free Zone or services, manufactured or semi-manufactured goods, may be transferred or borrowed to an Investor or Developer within the same Free Zone or in another Free Zone or to a Free Zone Activities without payment of duty, subject to the following conditions, namely:

(a) an Investor or a Developer who is the transferred or lessee shall be an authorized business operator to receive or purchase the duty-free goods;

(b) an Investor or a Developer who is the transferred or lessee shall maintain the proper list of transferred or borrowed goods;

(c) the transferred goods other than the raw material procured from Domestic Tariff Area shall be accounted as an import by the receiving Investor or Developer while the value of the same shall be deducted from the import of the transferring Investor or Developer;

(d) transfer or borrowing of goods to Investors or Developers in other Special Economic Zone or to Free Zone Activities shall be allowed with the prior permission of the relevant Authorized Customs Officer in accordenance with the stipulation.109. After informing in advance not less than 7 days to the relevant Authorized Customs Officer an Investor in a Free Zone or Free Zone Activities may destroy goods, including Capital Goods procured from Domestic Tariff Area or goods imported or goods manufactured or produced by the Investor, including rejects or waste or remnants within the Special Economic Zone without payment of duty.

110. The Investor shall undertake the matters of environmental conservation as required for such destroying of the goods.

111. Where it is not possible to carry out destruction of goods within the Special Economic Zone as prescribed at the rule 109, the process shall be carried

out, with the permission of the relevant Authorized Customs Officer, in the presence of the Specified Customs Officers outside the Special Economic Zone.

112. When it is not possible in the presence of Authorized Customs Officer at the site of destruction, the Specified Customs Officer may allow the Investor to adduce the alternative means that such destruction has been properly carried out.

113. The precious stone or the part of precious stone or the precious metals shall not be destroyed.

114. If a Business in a Free Zone or a Free Zone Activity is consistent the following, they may be allowed to make sub-contract its part of production or any production process, to the Business in the Domestic Tariff Area or Business in a Free Zone or Free Zone Activity to be transferred without any further permission of the Specified Customs Officer of customs section of One Stop Service Center (OSSC) in the Special Economic Zone, based on annual account : :

(a) the finished goods requiring further processing or semi-finished goods taken outside a Free Zone for sub-contracting shall be brought back into the Business within one hundred and twenty days or within the period extended by the relevant Specified Customs Officer. The reasons for such extension shall be recorded in writing.;

(b) a business shall bring back molds, jigs, tools, fixtures, drawings taken with the permission of the relevant Specified Customs Officer to the premises of sub-contractor(s) before expiry of such sub-contracting agreement to the premises of the original business.. ;

(c) raw materials, components and consumables except fuel may be sent along with these goods, or separately.

115. The Businesses engaging trading or warehousing shall not be allowed to do sub-contracting of production or production process in the Domestic Tariff Area.

117. 116. Based on the document expressing list of materials and the incoming and outgoing under sub-contract, the movement of goods and the record of quantity and value of the materials to be used to produce each and every product shall be kept in accordance with the format designated by the Management Committee., . The Management Committee may permit sub-contracting of part of the production process to be done in abroad and in such cases, the goods may be exported abroad from the premises of sub-contractor subject to following conditions, namely:

(a) sub-contracting charges shall be declared in the export declaration forms, invoices and other related documents;

(b) the profit of export shall be fully repatriated in favor of the original Business.

118. An Investor or a Developer or their authorized representative, , may also temporarily remove the goods procured or imported duty free by them for their authorized operations, to a place in the same Domestic Tariff Area or a business in another Free Zone or Free Zone Activity , for a sub-contracting process, with prior permission of and subject to the conditions prescribed by the Management Committee.

119. A Business in a Free Zone may take goods, including finished goods requiring further processing or semi-finished goods to the premises of sub-contractor..

120 With regard to the part of the production process:

(a) the Investor shall also, if necessary, apply for sub-contracting permission at the time of initial application for development project approval and based on such initial approval to the Specified Customs Officer attached to the One Stop Service Center (OSSC) in the Special Economic Zone, he shall scrutinize and permit sub-contracting of part of production process or part of the production;

(b) where the permission for subcontracting has not been taken at the time of project approval or a new permission is sought, the Investor shall file an application containing the name and address of the subcontractor, details of the processes to be carried out at the sub contractor─s premises in the Domestic Tariff Area and self-certified input and output ratio for the said processes;

(c) after examination of details under subRule (b), the Specified Customs Officer attached to the One Stop Service Center (OSSC) in the Special Economic Zone may grant annual permits for any production process or sub-part of the business, executed subcontracting;

(d) moving raw materials, consumables and components, except imported or domestically purchased fuel into the Domestic Tariff Area for sub-contracting, the Business in a Free Zone shall furnish the bank guarantee to cover the duty foregone on such materials being taken out for subcontracting to the

Specified Customs Officer attached to the One Stop Service Center (OSSC) in the Special Economic Zone. Provided that bank guarantee shall not be required for the Business in a Free Zone is not the black list within two years.

(e) after receipt of goods from the subcontractor, the relevant Authorized Customs Officer may check either at the subcontractor─s premises or at the gate of the Free Zone for the purpose of verification of goods which were sent and received.

(f) after executing subcontract, the Authorized Customs Officer at the Free Zone shall inspect the identification marks of the goods for verification of the goods at the appointed area near the gate when received back from the subcontractor. Where very important items are sent out for subcontracting, based on the background or past performance of the Investor, the Specified Customs Officer attached to the One Stop Service Center (OSSC) in the Special Economic Zone shall, if required, keep sample.

(g) the goods sent out for subcontracting shall be returned to the Investors within one hundred and twenty days from the date of movement or within such period as may be extended by the Specified Customs Officer attached to the One Stop Service Center (OSSC) in the Special Economic Zone. The reasons for granting such extension shall be recorded in writing;

(h) The Specified Customs Officer shall carry out to collect the customs duties upon the goods from the subcontractor which are

not brought back within the designated period of time to the Investor.

121. The relevant Specified Customs Officer may allow the Business in a Free Zone to export the finished goods directly from the premises of subcontractor. . In giving such permit::

(a) the subcontractor shall be a person who is doing Free Zone Activity; ;

(b) export of finished goods shall be done directly from the premises of the subcontractor. It is not allowed to export through third party;

(c) sample of goods exported from the premises of subcontractors shall be sent by the subcontractor under sealed condition, to the Specified Customs Officer for inspecting to compare to the original sample goods;

(d) the manifest for duty-free goods shall be processed at the port of export as in the case of normal export and the name of the Investor and subcontractor shall be entered into the such manifest;

(e) goods which are inspected and sealed by the Authorized Customs Officer may be allowed to export from premises of the subcontractor. In the case of subcontracting to be done in abroad, the goods shall either be returned to the original business or may be sold to buyers in the country of such subcontractors or any third country.

122. Waste, scrap or remnants generated during process at the premises of subcontractors may either be returned to the Investor or may be cleared on payment of duty as if the said waste or scrap or remnants have been cleared by the Investor or may be destroyed at the premises of subcontractors according to

the instruction of the Specified Customs Officer.. Provided that where the premises of subcontractors are located abroad, the scrap, waste or remnants generated at the premises of subcontractors may either be returned to the Investor or may be disposed of at abroad.

123. A Business in a Free Zone may execute subcontract to do subcontracting for part of the production or production process in another Business within the same Free Zone. Raw material imported or procured by the Investor to manufacture the Capital Goods may be transferred to another Investor for use in manufacturing or fabricating. 124. The Developer or his representative, , shall follow the same procedure for subcontracting by a Business in a Free Zone prescribed in the rule 120 for subcontracting in Domestic Tariff Area or a Business in other Free Zone or a Free Zone Activity.. The Bank Guarantee covering the duty foregone on the materials sent for subcontracting shall be requested only in case of temporary removal of goods by the contractor from the Free Zone.

125. When a Business in a Free Zone or a Free Zone Activity undertakes of subcontracting for export on behalf of exporter in the Domestic Tariff Area, on the basis of annual permission from the Specified Customs Officer,,:

(a) all the raw materials including semi-finished goods and consumables, including fuel shall be supplied by the exporter from the Domestic Tariff Area;

(b) finished goods shall be exported directly by the Business in a Free Zone or a Free Zone Activity on behalf of the exporter from the Domestic Tariff Area; (c) the name of the exporter from the Domestic Tariffs Area and name of the Business in the Free Zone or the Free Zone Activity shall be mentioned together with the export document;

(d) the exporter from the Domestic Tariff Area has the right to refund of duty paid on the inputs by way of duty drawback.

Chapter XVII

Import Procedures

126. The Business in a Free Zone or a Free Zone Activity or a Developer shall submit in advance the list of goods to be imported to the Management Committee, although the import license need not be applied for those imported goods. Such import list may be changed according to market requirements from time to time.

127. Business in a Promotion Zone or Other Activity shall submit in advance a list of goods to be imported which are required for the authorized business operation to the Management Committee. No import license shall be required for the import of such entered goods.

128. Business in Promotion Zone or other Activity shall apply import license for the goods which are not entered in advance at the Management Committee. The Management Committee shall ease the conditions of import license.

129. In coordination with the relevant department, the Management Committee shall issue notification in advance for import of goods in the certain special case in which shall be required to be prohibited according to the international suggestions. and shall also issue permit and license necessary for importation of such goods at One Stop Service Center (OSSC).

130. Import procedures in the Special Economic Zone shall be carried out with the Myanmar Automated Cargo Clearance System (MACCS) after the 'MACCS' is introduced.

131. An Investor or Developer may import goods directly to the Special Economic Zones through the following modes of supply:

ports or airports;

inland customs posts;

inland container depots;

foreign post offices;

authorized couriers; or

a person who is authorized by the Business.

132. Direct transfer by means of full loaded container or combined container load or other means of packaging of goods imported through ports or airports or inland customs posts or inland container depots shall be allowed from such port or airport or inland container depot or inland customs post to the Special Economic Zone.

133. The Investor or Developer may also procure goods required for the Authorized Operations from the bonded warehouses designated in the Domestic Tariff Area or International Trade Exhibitions held in Myanmar.

134. The goods imported by Business in a Free Zone or Free Zone Activity or Business in Promotion Zone or other Activity or Developer shall be allowed to be transshipped from the port or airport to the Special Economic Zone without checking by the Customs Authorities at the relevant port or airport. Provided that such goods may be inspected when there is specific information or intelligence information.

135. The goods imported by an Investor or Developer shall be directly transshipped to the Special Economic Zone only by the registered logistic firm or its agent.

136. The Investor shall abide by the following procedures for the importation of goods and services:

(a) the Investor shall submit the **5** copies of import declaration with the stamped namely 'Special Economic Zone Cargo' along with Bill of Lading or Airways Bill, invoice and packing list to the Authorized Customs Officer;

(b) if the Import Declaration is not assessed on the date of application , the goods shall be allowed to be transferred to the Investor on the basis of the registered Import Declaration, after an endorsement to this effect has been made by the Authorized Customs Officer;

(c) if the goods including Capital Goods are supplied free of cost or on loan or lease basis, the Import Declaration shall be entered into jointly the name of the Investor and the supplier;

(d) if the goods including Capital Goods are supplied on loan or lease basis by a domestic supplier, the Import Declaration shall be entered into jointly the name of the Investor and domestic supplier;

(e) the registered Import Declaration shall be submitted to the Authorized Customs Officer of the Special Economic Zones. If finished, it shall be deemed to be permitted for transfer of goods to the Investor;

(f) in case of sealed container, the goods shall be transferred to a Special Economic Zone without customs escort after verification of the seal on the basis of registered or assessed

Import Declaration;

(g) in case of other cargo, goods shall be allowed to be transferred to a Special Economic Zone on the basis of registered or assessed Import Declaration, according to the transshipment procedure;

(h) the transshipment permission shall be stamped on the fifth copy of the Import Declaration without separate documents or transshipment bond for transshipment to file ;

(i) on arrival of cargo either in the form of container or sealed truck, seal on the container or the truck, as the case may be, shall be verified by the Authorized Customs Officer in the Special Economic Zone;

(j) on arrival of cargo either in the form of combined container load or other form of packaging, verification of marks and numbers of the container shall be carried out as appropriate by the Authorized Customs Officer at gate of the Special Economic Zones or a designated place in the Special Economic Zone;

(k) if verification of marks and numbers of container may not be undertaken at the gate of the Special Economic Zone or a designated place of the Special Economic Zonethe goods shall be allowed to send directly to the premises of the Investor and verification shall be undertaken at those places;

(l) the Investor shall submit fifth copy of Import Declaration bearing endorsement of the Authorized Customs Officer that the goods have been received in the Special Economic Zone to the

customs officer in charge of the airport or port or inland container depot or post office or warehouses of the custom office, as the case may be, within forty-five days from the date of clearance of goods. When the Investor fails to do so, the officer in charge of such airport or port or inland container deport or inland customs post or post office or warehouse of custom office, as the case may be, shall notify to the Specified Customs Officer in the relevant Special Economic Zone for levying duty from the Investor in a Free Zone, if any;

(m) after endorsement regarding verification of mark of product and quantity in case of combined container load or in other form of packaging or inspection of seal in the case of full loaded container or sealed truck by the Authorized Customs Officer attached to the One Stop Service Center (OSSC) of the relevant Special Economic Zone, such goods shall be transferred to the investor. It shall be deemed the completion of the customs procedure with regard to the importation of cargo when the investor receives the goods.

137. Any inspection of cargo shall be carried out at the premises of the investors if the Customs Department considers it is required to check.

138. Notwithstanding contained in the provisions under the rule 136, the Customs Department has the right to exercise the Post-Clearance Audit (PCA)..

139. Investor in a Promotion Zone or Free Zone Activity or any Other Activity shall follow the same customs clearance procedures as applicable to the goods imported or procured from Domestic Tariff Area by the Developer.

140. The Developer may import or procure goods and services from outside of the Special Economic Zone, enjoyed exemptions and reliefs for the Authorized operations. .

141. After getting the permit for the Authorized Operation, the Developer or the Investor, shall apply permit to the Management Committee for the list of goods and services, including construction materials, heavy machinery, equipments and machines necessary for the Authorized Operations.

142. The Developer or an Investor shall declare the warehouse within the Special Economic Zone to the Specified Customs Officer.

143. In case of the storage has been done outside of the Free Zone but within the Special Economic Zone, safeguard measures necessary for security comply with as stipulated by the Specified Customs Officer.

144. The developer shall keep the goods imported or procured from outside of the Special Economic Zone for Authorized Operations at the designated area to be inspected by the Authorized Customs Officer before such goods are brought into use.

145. The Developer shall maintain a proper account of the import or procurement, consumption and utilization of goods and submit report to the Management Committee with FORM-D once in every three months.

146. The Developer shall move goods from the Special Economic Zone to the Domestic Tariff Area only after payment of concerned duty except the permission of the Specified Customs Officer.147.The Developer shall apply the procedures applicable to the Investor in a Free Zone on import or procurement of goods and services, their admission, clearance of goods. However, Developer may move the goods imported or procured from Domestic Tariff Area to any place of the Special Economic Zonefor carrying out the Authorized Operations.

148. The Management Committee shall monitor the utilization of the goods imported or procured from the Domestic Tariff Area by the developer. .

149. A Developer may send or transfer components and the capital goods, including construction equipment which will no longer use or are surplus to another Developer or Investor after obtaining the permission of the Management Committee.

150. The Investors in a Free Zone may import, with the exemption of either custom duties or other taxes or both, precious goods namely gold or silver or platinum or gem and jewellery from abroad through an authorized representative. When such goods are imported, (a) the authorized representative bringing the precious goods shall declare with duplicate copies of the import declaration form to the authorized officer at the airport arrival hall;

(b) the authorized representative shall hand over the invoice and packing list of the goods indicating name and address of the importing Investors to the Authorized Customs Officer at the airport for detention in the airport warehouse with the receipt;

(c) the customs officer at the airport shall issue the detention receipt;

(d) the Investor shall submit Import Declaration together with a copy of invoice, a copy of packing list and the detention receipt number issued by the customs officer at the airport to the Authorized Customs Officer;

(e) the Authorized Customs Officer shall retain original Import Declaration ,after assessment of Import Declaration and hand over the copies of such Import Declaration to the authorized representative of the Investor to present the Authorized Customs Officer at the airport warehouse to release the goods. After

receiving the original detention receipt together with the authorization letter from the Investor, the Authorized Customs Officer at the airport warehouse, making entries in the warehouse register and detention receipt register, the Authorized Customs Officer shall allow the goods to release for clearance;

(f) after release, the goods shall be transferred to either the Investor or the authorized representative of the Investor after sealing under the customs escort;

(g) the goods shall be allowed to send to the premise of Business after verification of marks and number of packages by the Authorized Customs Officer at gate of the Free Zone in the Special Economic Zone.

151. An Investor may import when the exported goods are found either defective or damaged by the overseas buyer or such goods have not been taken by the overseas buyer or the payment is not settled from the buyer as per agreed schedule after delivery of goods or when buyers return goods due to change of market factors subject to the following conditions, namely.

(a) the Investor shall identify the goods which are original export goods at the time of reimport;

(b) the period of reimported goods shall be within the warranty period or the validity period of the amended contract or a period of one year from the date of export , among them the latest period.

152. If it is found that the imported goods are error or defective, replacement of such goods shall be allowed by identifying the correctness

of the goods imported through a Business in Free Zone or Free Zone Activity or domestic authorized dealer ~~of~~ appointed by the overseas supplier.

153. The supplier of goods within the Domestic Tariff Area shall submit the documents relating to the payment of tax and duty for the importation of supplies which are provided for the Business within the Free Zone or for the Authorized Operation of a Developer and claim for tax refund of such supplies.
154. Duty-free goods procured or imported by a Business in a Free Zone or a Free Zone Activity or a Developershall be allowed to admit into the premises of the Business in the Free Zone or Free Zone Activity.

155. When the Business in Free Zone or Free Zone Activity or the Developer procure the goods from the Domestic Tariffs Area,the supplier of the goods or the buyer of Business within the Free Zone or Free Zone Activity or Developer on behalf of the seller from Domestic Tariffs Areas shall submit import declaration to the Authorized Custom Officer before the arrival of the goods.
156. The Specified Customs Officer shall detain the goods at the designated area if the goods have been arrived before filing and checking the Import Declaration. The goods shall be released to the Business in a Free Zone or the Free Zone Activity or the Developer only after completion of the filing and assessment of the Import Declaration.

157. The Authorized Customs Officer shall approve the comprehensive import declaration where there are frequent deliveries of goods to the investors in a Free Zone.

158. A copy of Import Declaration with an endorsement by the Authorized Customs Officer for the permitted goods already delivered to the Business in a Free Zone or the Free Zone Activity or the Developer shall be transferred to the

excise officer having jurisdiction over the supplier from Domestic Tariff Area within forty-five days. If it is failed to do so, the respective excise officer shall request for payment of duty against the supplier from Domestic Tariff Area.

159. The Business in a Free Zone or the Free Zone Activity or the Developer shall apply to the Specified Customs Officer for the claim of refund duty for the import declaration filing under the claim of refund. The benefit of the refund duty is transferable to the supplier from Domestic Tariff Area from the Business in a Free Zone or the Free Zone Activity or the Developer.

160. The Import Declaration shall be assessed in accordance with the instructions and procedures laid down by the Department of Customs. At the time of assessment, it shall be specifically examined whether the goods are required for the Authorized Operations of the Developer or the Business in a Free Zone or the Free Zone Activity or not, with reference to the permit or the list of goods approved by the Management Committee..

161. The Authorized Customs Officer shall examine the goods obtained from the Domestic Tariff Area on arrival at the gate of Free Zone or the premise of the Business in the Free Zone in respect of description, quantity, marks and other relevant particulars given in the invoice, Export Declaration and packing list and shall also examine as per the examination norms laid down in respect of exported goods in cases of the goods are being procured under claim of an export entitlement.

162. The supplier from the Domestic Tariff Area shall be allowed to sell the goods under tax refund system if the payment for the goods purchased is settled directly from the Foreign Currency or Myanmar Kyats Account of the Business in a Free Zone or the Free Zone Activity or the Developer.

163. A copy of the Export Declaration with an endorsement of the Authorized Customs Officer for the goods which have been received by the Business in the Free Zone or the Free Zone Activity or the Developer shall be deemed as proof of export.

164. According to its desire, the Business in a Free Zone or the Free Zone Activity or the Developer may also procure goods from Domestic Tariff Area without availing exemptions or drawbacks on the basis of invoice or transport documents issued by the supplier.

165. Such invoices or transport documents shall be endorsed to the effect that no exemptions and drawbacks have been availed on the said supplies.

166. Procedures for the receiving of goods from the bonded warehouse are as follows:

(a) Business in a Free Zone or Free Zone Activity or the Developer shall submit an Import Declaration to the Authorized Customs Officer when the goods are claimed from the bonded warehouse;

(b) the Business in a Free Zone or the Free Zone Activity or the Developer shall submit the Import Declaration assessed by the Authorized Customs Officer to the customs officer in charge of the bonded warehouse to be claimed the goods;

(c) the customs officer in charge of the bonded warehouse shall allow clearance of the goods from the bonded warehouse which are supplied to the Business in a Free Zone or the Free Zone Activity or the Developer without payment of duty on the basis of Import Declaration duly assessed by the Authorized Customs

Officer;

(d) where the delivery certificate approved and signed by the Authorized Customs Officer is not received by the customs officer in charge of bonded warehouse within forty-five days from the date of clearance of the goods from the warehouse, the customs officer in charge of the bonded warehouse shall proceed to demand applicable duty from the supplier.

167. According to the procedures prescribed by the rule 166, a business in Free Zone or Free Zone Activity or a Developer may:

(a) procure goods from international exhibitions held in the Union;

(b) procure goods and services from a Business in a Free Zone or the Free Zone Activity or the Developer without payment of duty.

168. A Business in a Free Zone or the Free Zone Activity or the Developer may procure goods and services from another business in a Free Zone or a Free Zone Activity within the same or any other Special Economic Zones subject to the following conditions. In procuring:

(a) the receiving Business or Developer shall file the Import Declaration to the Authorized Customs Officer, in quintuplicate together with the description of the goods, an invoice and packing list for assessment;

(b) on the basis of such assessed Import Declaration, the goods shall be allowed to be transferred to the receiving Business or Developer under transshipment permit;

(c) there shall be no requirement to file any additional document or bond(s) for the purpose of transshipment of goods and the

transshipment permission shall be stamped on the Import Declaration itself;

(d) the supplying business shall submit the delivery certificate to the Specified Customs Officer having jurisdiction over that supplying business within forty-five days. In case of failing to submit, the Specified Customs Officer of the supplying business shall inform by writing letter to the Specified Customs Officer of the receiving business or Developer for demand of duty from the receiving business or Developer;

(e) where the supplying and receiving business or Developer are located in the same Special Economic Zone, the provisions of subrules (a) to (d) shall not be applied and the movement of goods shall be allowed and such transactions shall be recorded in the regular books of accounts of the receiving business or Developer and the supplying business and no Import Declaration shall be required for filing.

Chapter XVIII
Export Procedures

169. Export license shall not be required for export from Special Economic Zone.

170. Export of special chemicals, plant and animals, materials, equipment and technologies to be controlled by international suggestion shall be abided by the existing laws, rules and the international conventions in which Myanmar participates .

171. Export procedures in Special Economic Zones shall be carried out by the Myanmar Automated Cargo Clearance System (MACCS), when it is implemented.

172. A business may export goods or services, includin agro-products, semi-finished goods, sub-assemblies and components under the terms and conditions prescribed in permit, except the items prohibited by of the existing Laws and rules. A manufacturing business may also export by-products, rejects, waste, and scrap arising out of the manufacturing process.

173. A business engaged in computer software and related business may export computer software and technical know-how services through information and telecommunications links or freight forwarding or courier service.

174. The minimum export price shall not be restricted to the export products except export of raw materials procured from domestic without any further processing or manufacturing activities. .

175. A Business may export free samples, including molds made with wax or silver or non-precious metal alloy or rubber without limitation of the quantity through any permissible modes of export.

176. Supplies from the Domestic Tariff Area to an Authorized Operations in a Free Zone or Free Zone Activity or Developer may be enjoyed export benefits under the Myanmar Special Economic Zone Law and these rules.

177. The procedure for export from a Special Economic Zone through seaports or airports or inland container depot or container freight station or by Courier or by private logistic firm is as follows:

(a) a consignor shall submit Shipping Bill in quadruplicate together with export declaration, invoice, packing list and other required documents as per mode of export to the Authorized Customs Officer;

(b) the Shipping Bill or airway bill shall be registered, assigned a running serial number and assessed by the Authorized Customs

Officer in the manner and procedure as followed in case of exports under free-shipping bill without any requirement of the counter signature;

(c) the Authorized Customs Officer shall check and seal the goods at the premises of the business. If services are exported in non-physical form, the export value is to be furnished by the Business on self-certification basis;

(d) the Authorized Custom Officer shall not recheck the sealed goods at the port or airport or inland container depot. Provided that the Authorized Custom Officer may check such goods with the permission of Director General of Custom Department when there is specific intelligence information. . . (e) the consignor may export through inland container depot within the Special Economic Zone, or through any port or airport or inland container depot. Provided that in case of export of large quantities of cargo from the Special Economic Zone may not be possible for continuous loading in one consignment, the Specified Customs Officer may allow the export of such cargo with the undertaking given by the Business which shall be exported within ninety days. The business shall pay as per undertaking for the amount of applicable duty on the goods which are failed to export;

(f) notwithstanding contained in clause (d) of this rule, when the goods are not checked or sealed by the Authorized Customs Officer at the premises of the business, such goods shall be subjected to check by the customs officer in charge at the port or airport or inland container depot.

178. The export of gems and jewellery shall apply the following procedures:

(a) the following information shall be included when submitting the Bill of Lading (B/L), invoice, packing list to the Authorized Customs Officer:

(i) description of the gems and jewellery, and quantity;

(ii) weight and percentage of purity, carat of precious stones and jewellery such as gold, silver, platinum, diamond, ruby, sapphire, cubic zircon, etc;

(iii) FOB Price, quantity and total value of each and every type of gems and jewellery;

(b) the Business may export jewellery with the set price issued by Designated Agency for the Gems and Jewellery based on the national standard rate. That price shall be based on the prevailing market rate of Gold or rate of exchange from U.S. Dollar to Myanmar Kyats. Provided that the certificate issued by the Designated Agency shall not precede 3 working days from the date of shipment or as may be notified by the Union Government;

(c) a Business may export the goods through foreign post or courier service as per the procedure of post or courier business;

(d) a Business may export of goods and services, through another Business or consignor or Free Zone Activity subject to following conditions, namely:

(i) goods or services shall be manufactured or developed in the Business concerned;

(ii) a Business shall abide by regulations with regard to the Authorized Operations;

(iii) a Business shall abide by the provisions of this rule when the export orders are received and the goods shall be directly

transferred from the Business premises to the airport or port of shipment;

(e) the procedure for export through a merchant exporter are as follows;

(i) when the goods are exported directly from the Special Economic Zone or through any other port, the movement of goods can be done directly from the Special Economic Zone to the said port of export as the movement of goods from one warehouse to another;

(ii) the name of business and the name of the exporter shall be mentioned in the export documents;

(f) a Business in a Free Zone or Free Zone Activity may transfer goods, including goods imported or procured from Domestic Tariff Area, to another Business in a Free Zone or Free Zone Activity, subject to the following procedures, namely:

(i) the transfer of goods shall be done with the sealed container or sealed trucks between the receiving business and supporting business which are located at different Special Economic Zone;

(ii) the suppling Business shall submit the purchasing contract and necessary documents for transfer of goods, invoice and packing list to the Authorized Customs Officer in the Special Economic Zone. The Authorized Customs Officer shall issue the permit for transfer of goods and seal the containers or trucks to transfer the goods to another Special Economic Zone;

(iii) the receiving Business shall file purchasing contract, required documents for the purpose of transfer of goods, invoice and packing list together with the permit issued by theAuthorized

Customs Officer in charge of the Special Economic Zone located in supplying business to the Authorized Customs Officer of the receiving business located in the Special Economic Zone; ;

(iv) the transferred goods shall be cleared by the Authorized Customs Officer after assessment of documents submitted by the receiving business;

(v) the receiving Business shall submit the delivery certificate to the Authorized Customs Officer of the Special Economic Zone where the supplying business is located within forty-five days. If failed , the Authorized Customs Officer where the supplying business is located, shall communicate to the Customs Officer having assessment from the receiving business for demand of applicable duty

(vi) where supplying and receiving Businesses in a Free Zone or Free Zone Activity are located in the same Special Economic Zone, movement of goods including raw materials shall be allowed subject to maintenance of accounts by both receiving and supplying Business in a Free Zone or Free Zone Activity and no other documents shall be required to be filed.

Chapter XIX

Rules for distribution of movable goods from the Special Economic Zone to the Domestic Tariff Area

179. Manufacturing Businesses within a Free Zone shall be allowed to sell maximum twenty-five percent in value of their products manufactured by themselves or any other goods imported by themselves into a Free Zone to the Domestic Tariff Area including a Promotion Zone. In such sale, buyer in a Promotion Zone or in local market shall pay the duties and other taxes on such goods as imported from abroad.

180. The sale of finished products manufactured by Free Zone Activity to the Domestic Tariff Area shall apply the provision under the rule 179.

181. Rule 179 shall be applied when the goods imported by the Businesses within a Free Zone have been sold , re-invoiced or reexported g to anyone in the Domestic Tariff Area.

182. The import procedures for payment of customs duties for the same goods imported by a Business within a Free Zone or Free Zone Activity shall be applied for the sale of goods and services, including rejects or wastes or scraps or remnants or by-products arising during the manufacturing process by a Business within a Free Zone or Free Zone Activity to the Domestic Tariff Area.

183. Goods procured from the Domestic Tariff Area and sold without being any manufacturing process shall not be required import license. 184. When surplus of electricity generated from the Power Plant of Developer in the Special Economic Zone may be sold to the Domestic Tariff Area, except the Promotion

Zone or other Business in the Special Economic Zone, the duty and taxes shall be paid upon the consumable inputs and raw materials used for generation of power.

185. When the Management Committee receives the proposal for sale of surplus electricity, , if necessary, in consultation with the responsible Ministry, it shall examine for the electricity supply. . It is not required in consultation with the responsible Ministry for sale of electricity in the same Special Economic Zone.

186. The Management Committee shall set the standards and norms for electricity generation by a Business within a Special Economic Zone.
187. Sale of surplus electricity power to Developers or Investors in the same or other Special Economic Zone shall not be paid for duty.

188. The sale of electricity to the Domestic Tariff Area shall obtain permissions from the Managemnet Committee and the relevant Ministry. 189. Duty and taxes on sale of surplus electricity to the Domestic Tariff Area shall be paid under provisions contained in these Rules.

190. Relating to the matters of goods purchased for the domestic use,:

(a) the buyer from the Domestic Tariff Area shall submit the Import Declaration mentioning the description, model number and serial number of the goods together with the invoice and packing list to the Authorized Customs Officer;

(b) a Business within the Free Zone or Free Zone Activity on behalf of the buyer, by the permission of the buyer from the Domestic Tariff Area may submit the Import Declaration related to these goods to the Authorized Customs Officer.

191. Valuation of the goods cleared into Domestic Tariff Area shall be determined in accordance with the provisions of Tariff Law and rules as applicable to the imported goods.

192. If the goods procured from the Domestic Tariffs Area by the Business within a Free Zone or a Free Zone Activity have been sent back to the Domestic Tariffs Area in the form of originally purchased goods or not much changes of processing, deemed as reimport goods and the procedures of reimport goods from the outside of country shall be followed. The import duty is exempted for such reimport goods. Import benefit shall not be paid for those goods as well. The import declaration shall not be required for such case that those goods may be reimported to Domestic Tariff Area according to the original invoice.

193. A Business within a Free Zone or a Free Zone Activity may transfer the Capital Goods which were imported and used for their Authorized Operations in the Special Economic Zone, to Domestic Tariff Area by payment of customs duty exempted at a time of import.

194. In case of selling of Capital Goods imported with the duty free by the trading business or logistics business in a Free Zone to the Domestic Tariff Area , duty and other taxesshall be levied on such goods as required at the time of import.

195. Goods supplied by a Business within .a Free Zone or a Free Zone Activity to Domestic Tariff Area on payment of duty may be brought back to the Business within a Free Zone or Free Zone Activity for the purpose of repair within a period of 6 months from the date of clearance, or within a period extended by the Specified Customs Officer or within the warranty period or within among them , the latest period, on payment of duty on the value of repairs if the Specified Customs Officer is satisfied after verifying such goods.

196. The Business within a Free Zone or the developer may temporarily remove the following goods to the Domestic Tariff Area without payment of duty, namely: (a) high value machineries and equipments used in the construction work for short term;

(b) capital goods and its parts for repairs and return thereof;

(c) sample goods for display, or the goods displayed in the exhibition for export promotion and return thereof;

(d) goods for test, repair, refining and calibration and return thereof;

(e) computers and other products can be used like computer or personal goods for official employees of the businesses within the Special Economic Zone and the Developer;

(f) the goods received the prior permission by the Management Committee.

197. The goods imported for the purpose of repair or replacement or quality testing or research or enhancing quality or calibration from the Free Zone may be transferred to Domestic Tariff Area or abroad, if it transfers, by submitting to the Specified Customs Officer and on maintenance of records for movement of such goods.

198. A Business within a Free Zone or Free Zone Activity may transfer goods for quality testing or research or technical development purposes, to any recognized laboratory or institution, without payment of duty, on giving an undertaking to the Authorized Customs Officer for the return of such goods. If such goods have been consumed or destroyed in the process of testing or at the time of research and development, the Business within a Free Zone or Free Zone

Activity shall submit a certificate from the laboratory or institution to that effect to the Specified Customs Officer.

199. The Business within a Free Zone or Free Zone Activity or the Developer shall undertake the movement of goods under the rules 196 to 197, based on the serially numbered document, authenticated by the Managing Director or owner of the company or secretary of the company or the authorized representative of the company.

200. Before using of authenticated serial numbered document, these serial numbers shall be presented in advance to the Authorized Customs Officer.

201. Identification marks, models, serial numbers and specifications of the goods received back after such use, test or repair or calibration should match with those mentioned in the authenticated documents issued by the authorized representative of the Business within a Free Zone or a Free Zone Activity or the developer and signed by the Authorized Customs Officer at the time of taking out such goods into Domestic Tariff Area.

202. The goods shall be brought back to the Free Zone within one hundred andtwenty days from the date of taking the goods out of the Free Zone or within the extended period permitted by the Specified Customs Officer.

203. If a Business within a Free Zone or a Free Zone Activity or the Developer fails to bring back the goods within the period specified in above rule 202, the applicable duty on such goods shall be paid .

204. Under the provisions of above rule 203, the Business within a Free Zone or a Free Zone Activity may remove the goods including the capital goods to another Business at the same Free Zone or to Domestic Tariff Area for test or repair or calibration or re-conditioning or return. Such movement of goods within

the same Special Economic Zone shall be undertaken by maintaining the records at the supplying and receiving places.

Chapter XX
Procedures for the Inspection of Contagious Diseases

205. The Contagious Diseases inspection shall be carried out, if necessary, the Authorized Customs Officer of the One Stop Service Center (OSSC) at the Special Economic Zones shall inform to the responsible person from the Ministry of Health.

206. The responsible person from the Ministry of Health attached to the One Stop Service Center (OSSC) may carry out regular inspection.

207. The Management Committee shall consult with the relevant Ministry for further detailed inspection to be carried out as required and shall invite the respective technicians to the One Stop Service Center (OSSC). It shall let them carry out such inspection.

208. The Management Committee shall carry out as the procedures of the relevant Ministry if it is found necessary to be taken further action under inspection.

Chapter XXI
Labor and Employment

209. The Management Committee shall carry out the labor matters in the Special Economic Zone as follows:

(a) The Management Committee supervises to ensure that the employment agreements are made in accordance with the existing Labor Law and regulations. The rights and duties of the employer

and employee shall be described in the employment agreements. Moreover, employment matters, including minimum wages, salary, leave, holiday, overtime fees, compensation for dismissal from work and workmen–s compensation shall be administered in accord with the existing Labor Law and regulations. The Investors and the Developer shall develop their own Internal regulations on labour recruitment and shall submit it to the Management Committee;

(b) The Management Committee shall inspect and supervise to ensure not to lose and to protect the rights of the employees, technicians and staffs. The Management Committee shall inform twentyfour hours in advance to the investor or the developer for the inspection. Such inspection shall be carried out together with the representatives from labor section of One Stop Service Center (OSSC) of the Special Economic Zone.

210. Investor or Developer in the Special Economic Zone shall submit their own employment recruitment disciplines to the Managment Committee of the relevant Special Economic Zone if they use it.. The relevant Management Committee may issue notification, order, directives and procedures for the labour recruitments matters for the relevant Special Economic Zone.

211. The disciplines in the work place shall be informed clearly to the citizen or the foreigner, who has been appointed at a suitable post, at the time of executing Employment Contract between the Developer or Investor and the employees.

212. The Investor or the Developer shall apply to the Management Committee in the event that they want to recruit foreign experts and technicians more than the quantity stipulated under the section 75 of the Law to perform the Authorized Operations.

213. According to the rule 212, Management Committee may give permission after scrutinizing the followings facts when receiving the application:

(a) whether Myanmar Citizens undertake the responsibilities to be given to the foreigner to be appointed or not ;

(b) whether the responsibilities to be given to the foreigner shall be suitable with the Authorized Business Operation or not.

214. The Investor or the Developer shall obtain in advance the work permit for the foreigners to be employed in the Special Economic Zone from the authorized person of the labor section of the One Stop Service Center (OSSC) of a Special Economic Zone before commencing the business operation.

215. The labor section of the One Stop Service Center (OSSC) of a Special Economic Zone shall provide service for the labour registration for both citizen and foreigner before commencing the business operation.

216. Any employer in the Special Economic Zone shall be responsible to provide the trainings arrangement necessary for the improvement of job skills, technical skills, administrative skills of the employees and the staffs. The Management Committee shall ask for the arrangement of trainings for the employees and reports from the employer, from time to time.

217. Foreigners employed in the Special Economic Zones shall apply for the related matters of immigration such as, renewal of the entry visa, residency to the immigration section of the One Stop Service Center (OSSC).

218. The employer shall inform, if any labor dispute arises between the employer and employees, the technicians and the staffs in the Special Economic Zone, to the Management Committee within twenty-four hours of the occurrence of such dispute.

Chapter XXII
Miscellaneous

219. The Investor or the Developer who is desirous of terminating or winding up its Business or reducing its paid-up capital shall notify and submit to the relevant Management Committee.

220. The relevant Management Committee shall issue the identity card for validity period of five following years as the FORM-H to the business owners and their employees appointed at their authorized business operations for the regular entry to the Free Zone at the Special Economic Zone.

221. Such Identidy Card holder shall:

(a) return all issued identity cards, commencing from the day on which business shut down when such business is terminated; (b) return the identity card to the relevant Management Committee by any employee who has been resigned the job from the current Business or the Developer.

222. The relevant Management Committee shall issue identity cards to the contractors and their visitors as FORM-H. A proper record of such entries shall be maintained at the Free Zone Gate.

223. Unless otherwise specified in these rules, self-declaration of all inward or outward movement of goods into or from the Special Economic Zone shall be made by the Investor or the Developer. There may be no routine inspection of such goods unless the specific order is issued by the Management Committee.

224. The Management Committee may form a supporting group with the representatives from the relevant ministries and government organizations or the representatives of Investors and Developers, others relevant personnel and

personnel from private organizations. For such formation may be formed, if necessary, as per provisions of Myanmar Companies Act or Special Company Act or their successive laws.

225. When these rules are issued, a Development Business or an Investment Business shall apply to the provision under these rules.

Union Minister

Ministry of National Planning and Economic Development

FORM-A

APPLICATION TO ESTABLISH A SPECIAL ECONOMIC ZONE

[Subrule (a) of Rule 24]

1. Full Name and address

   (a) Name of the Applicant

   (b) Full Address

   (Regd. Office and Head Office)

   (c) Zip Code (sign/mark)

   (d) Tel. Number

   (e) Fax Number

   (f) E-Mail Address

   (g) Name and address of each of the Directors/

   Partners/ Promoters

2. Nature of the Business to be applied

   (a) Public Limited Company

   (b) Private Limited Company

   (c) Proprietorship

   (d) Partnership

   (e) Others (please specify)

Note: Copy of certificate of incorporation along with Article of Association and Memorandum of Association in case of companies and partnership deed in case of partnership firms shall be attached.

3. Location of the proposed Special Economic Zone:

4. Details of the proposed Special Economic Zone:

   (a) Distance from the nearest Sea Port or Airport or Rail or Road head to the proposed Special Economic Zone.

   (b) Indicate the area of the proposed Special Economic Zone (in hectares)

   (c) To furnish the documents for possession if the applicant is owner of the land

   (d) In the case of lease hold land, frunish the lease conditions.

   (e) If the land is not in ownership or possession, furnish activities being taken for acquisition of land.

   (f) Furnish whether the area is contiguous or not or whether there is any thoroughfare or not .

5. Proposed financial and investment details:

   (a) Cost of the lease of land, soil type and quality

   i.e. waste and barren land, suitable for single crop or double crop etc.

   (b) Cost of proposed infrastructure, namely:

      (1) Development of land

      (2) Boundary walls, roads, drainage, water supply, electricity, etc

      (3) Ready built up factory premises (Rental factory)

(4) Port

(5) Airport

(6) Others, (if any, in details).

(c) Total investment

(In US$)

6. Financial situation

(a) Paid up equity capital

(b) Loan

(c) External Commercial Loan, if any, furnish in details

(d) Other sources

Total

7. Foreign Direct Investment (FDI)

(a) Amount of investment(US$ million)

(b) Source of FDI (Country and Company in details).

8. Equity capital including foreign investment

(a) Authorized Capital (Amount in Thousand Kyat)

(1) Amount of Capital to be contributed

(2) Subscribed

(3) Type of Capital

Note: If it is existing company, furnish the classification of the existing and proposed capital structure

(b) Pattern of share-holding in the paid-up capital (Amount in Thousand Kyat) or (Thousand US $)

(1) Foreign shareholding

(2) Myanmar company/non-resident foreigner individual holding

(3) Resident holding

(4) Total

9. Development of identified area as Special Economic Zone in Myanmar furnishes the followings in details:

Area (in hectares)

(a) Proposed area for development of the Special Economic Zone

(b) Proposed area for Free Zone

(c) Proposed area for Promotion Zone

(d) Proposed area for production (to classify the production in Free Zone and Promotion Zone)

(e) Development activities to be undertaken in the Special Economic Zone, namely: (1) Site development

(2) Demarcation (3) Construction of roads

(4) Installation of water supply, waste water treatment and sewage systems

(5) Power distribution system

(6) Telecom facilities

(7) Construction of factory buildings and warehouses

(8) Any other activity which may be required in the Free Zone.

(f) Activities proposed in Promotion Zone, namely:

(1) Residential housing (2) Commercial complex

(3) Recreation facilities

(4) Corporate Social Responsibility activities (in details)

(5) Others requirements

(g) Standard operation and maintenance of the facilities proposed10. To indicate exports produced directly and indirectly during the first five year period.

(To attach a project report, and economic and commercial feasibility of the proposal)

11. Has the applicant obtained any permission or approval from the Union Government for establishing any other Special Economic Zones , if so, details may be given and/or whether any such application is pending by the Union Government?

Place:

Date:

Name ----------

Signature of the Applicant---------

Tel.No----------

Fax----------

E-mail----------

Web-Site, (if any) ----------

Full Residential Address----------

UNDERTAKING

I/We hereby undertake to abide by the provisions of the Myanmar Special Economic ZoneLaw,rules and orders made thereunder. I/We hereby declare that the above statements are true and correct to the best of my/our knowledge and belief. I/We will abide by any other condition, which may be stipulated by the Union Government. I/We fully understand that any Letter of Approval granted to me/us on the basis of the statement furnished is liable to cancellation or any other action that may be taken having regard to the circumstances of the case if it is found that any of the statements or facts therein are incorrect or false. An affidavit duly sworn in support of the above information is enclosed.

Place: ----------

Date: ----------

Signature of the Applicant----------

Name (in Block Letters) ----------

Designation----------

Official Seal/Stamp----------

Tel. No----------

E-mail----------

Web-Site----------

Full Residential Address----------

FORM –B

PERMIT FOR DEVELOPER OF THE SPECIAL ECONOMIC ZONE

[Rule 25]

THE GOVERNMENT OF THE REPUBLIC OF THE UNION OF MYANMAR

THE MANAGEMENT COMMITTEE OF THE SPECIAL ECONOMIC ZONE

Date……

To:

Subject: Setting up of Special Economic Zone

Reference:

Your proposal/s No.....dated.....

Sir/Madame,

With reference to your above mentioned application, the Government of the Republic of the Union of Myanmar approve your proposal for development, operation and maintenance of the Special Economic Zone (SEZ) at .....village,.....District in the State of ....., as per details given below:

1. PROPOSAL and PROJECT details:

   To set up a Special Economic Zonewith the area of .....at.....

   (Place , District and Name of the State).

2. DEVELOPER: ..... (Name of the developer)

3. General Conditions:

(a) The Developer shall develop, operate and maintain the Special Economic Zone in terms of the Myanmar Special Economic Zone Law and the rules made thereunder.

(b) The Developer shall implement and operatethe project in terms of the Myanmar Special Economic Zone Law, rules and orders made thereunder.

(c) The Developer shall obeyto the environmental requirements.

(d) The Developer shall abide by the local Laws, rules, regulations and by-Laws in regard to area land planning, sewerage disposal, environmental conservation, labourlaws and any other regional activities.

(e) The Developer may raise the required funds for establishment of Special Economic Zone.If it is necessary to borrow external loan, he shall abide by the regulations of the Government of the Republic of the Unionof Myanmar.

(f) The Developer shall carry out the business within the approval period 1 year. The report of business implementation and progress report shall be submitted to the Union Government every six months.

(g) The permit maybe suspended in case of violation of any regulations and by-laws stipulated herein.

(h) The operation and maintenance of the services shall be made as per the standards specified in the proposal and to the satisfaction of the users.

(i) The Developer shall haveadequate human resources to provide the facilities.

(j) The Investment charges may be negotiated and incurred between the Developer and Investor under the advice of the Management Committee. This fact maybe altered under the agreement of the said persons.

(k) The Developer shall obtain the approval of the Management Committee for enabling to carry out the development, operation and maintenance of Special Economic Zone. After getting the approval of the management committee and declaring as the Special Economic Zone, the Developer shall be entitled for duty-free import or domestic procurement of goods for the approved activities.

(l) In carrying out the permitted authorized operations mentioned in the proposal, it shall be carried out in accordance with the restriction mentioned in the Myanmar Special Economic Zones Law, rules and regulations thereof..

(m) No duty-free goods shall be available for personal use of, or consumption by officials, workers, staff or owners of the Investor or Developer.

(n) Normally, the implementation period of the business shall be allowed not exceeding three years. Any request, however, may be considered by the Central Body for the Myanmar Special Economic Zone, on merits. Such request shall be appliedto the Union Government within **six (6) months before expiry** of the approval period.

4. Privileges of Developer:

(a) The Union Government may grant the privileges to the Developer in the implementation of the approved business according to section 40 and clause (a) of section 44 of the Myanmar Special Economic

Zone Law (The Pyidaungsu Hluttaw Law No.1/2014) enacted on the 23rd January, 2014.

(b) The other stipulations as approved by the Central Body as mentioned in the Annex to this letter shall also be obeyed

(c) The Developer shall inform the acceptance of all facts mentioned above **within thirty days** from the date of receipt of this letter. If required to communicate, it shall be addressed to the Chairman of the Management Committee.

(d) The Developer may send the facts in detail, including the map indicating the Special Economic Zone area permitted by the Union Government.

5. The Developer shall submit the interests on import, procurement and utilization of goods to the chairman of the Management Committee , based on the Myanmar Special Economic Zone Rules.

Chairman

TheManagement Committee of the Special Economic Zone

FORM –C

APPLICATION FOR EXTENSION OF VALIDITY OF BUSINESS OPERATION

[Rule 29]

1. Name and address of the Developer:

2. Letter of Permit No. and Date:

3. Issuance Date of Permit:4. Expiry date of permitof the Special Economic Zone:

5 Whether application for extension has been made before the expiry date of permit or not ,if yes, date of application:

6. Period of Extension:

7. Whether the Special Economic Zone has been declared or not.If yes, date of Decleration:

8. If it isdeclared as the special Economic Zone, the Management Committee of the Special Economic Zone shall declared as the Free Zone and the Promotion Zone:

9. Development project to beimplementated for 3 years performances of business shall be listed. List the default operations carried out like boundary walls, preparation of site, administrative block, electrification, roads, water pipelines, other authorized activities etc for implementing the Special Economic Zone shall be listed in descriptive details:
10. Proposed time frame for completion of thework:
11. Reasons forapplication of extension:

I/We hereby declare that the above statements are true and correct to the best of my/our knowledge and belief. I/We will abide by any other condition, which may be stipulated by the Government of the Republic of the Union of Myanmar. I/We fully understand that any Letter of permit issued to me/us on the basis of the statement furnished is liable to cancellation or any other action that may be taken having regard to the circumstances of the case if it is found that any of the statements or facts therein is incorrect or false.

Place: ----------

Date: ----------

Signature of the Applicant----------

Name (in Block Letters)----------

Designation----------

Official Seal/Stamp----------

Tel. No----------

E-mail----------

Web-Site, if any----------

Others----------

Full Residential Addres----------

Permission of the Chairman of the Management Committee

The proposal has been examined and my permission is as follows:

Signature of the Chairman of the Management Committee

FORM-D

QUARTERLY REPORT TO BE FURNISHED BY THE DEVELOPER TO THE MANAGEMENT COMMITTEE

[Rule 30]

PERIOD OF REPORTING:

QUARTERLY (APRIL-JUNE)(JULY-SEPTEMBER) (OCTOBER-DECEMBER) (JANUARY-MARCH)

1. Name and address of the Developer
2. Permit No. and Date
3. Details of Authorized Operations approved by the Central Body
4. Land
   (a) Proposed total areas (b) Areas now in possession and future development plans (c) Area earmarked for processing area
   (d) Details of processing area developed
5. (a) Details of imports or procurement of goods made for Authorized Operations, from inception till last quarteropening balance
   (b) Details of imports or procurement of goods made for Authorized Operations during the current quarter
   (c) Details of consumption of goods imported or procured [(a)+(b)]

(d) Details of imported goods held in stock at the end of the quarter(a) + (b) - (c)

6. Details of infrastructure developedin the processing area and the non-processing area

7. Other details of progress of implementation of the project

(SIGNATURE)

Developer

FORM-E

APPLICATION FORM FOR SETTING UP BUSINESS IN SPECIAL ECONOMIC ZONE

[Rule 47]

Reference:

Date:

PART – I

1. Applicant

(a) Name of the applicant/ company

(b) Full address of the Registered Office/Head Office for applicant/company

(c) Tel. No.

(d) Fax No.

(e) Web-Site (if any)

(f) Official Representative

Name

(Male/Female)

Date of Birth

Citizen

Passport No. , Issued Organization and Issued Date

Designation

Permanent address

Home Address

Telelphone No.

Fax

(g) Authorized capital and permitted capital

(h) Business to be undertaken actually (Types of business)

(i) Types of Production / Services

(j) The location of business and the type of business in each situation (Including the business in foreign)

(k) Number of Staff (origin country/others)

(l) Company History (Summary)

(m) The specific facts of Company

(n) The files attached with

(1) Memorandum of Association and Articiles of Association (if it is a company, express in English)

(2) The pamphlet of company

(3) The report by Certified Public Accountant (describe for 3 years)

2. **Business to be undertaken inthe SPECIAL ECONOMIC ZONE** According to the current programme, describe the followings

(a) Company to undertaking a business

(b) Address of the Head Office

(c) Legal Representative

(1) Name

(2) (Male/Female)

(3) Date of Birth

(4) Citizen

(5) Passport No.,Issued Organization and Issued Date

(6) Designation

(7) Permanent address

(8) Home Address

(9) Telelphone Number (in Myanmar)

(10) Fax

(d) Applied type of business (to make mark)

(1) Business within Free Zone

(2) Free Zone Activity

(3) Business within Promotion Zone

(4) Other Activities

(e) Type of business:

-Production

-Service.

(f) Location of the business and land area to be used

(g) Period to do business

(h) Factory construction plan

(i) Type of production and service

(j) Initial capital to do the business

(Kyat in thousand orUS$ in thousand)

	Foreigner	Citizen	Total
Permitted Capital (Percentage)			
Foreign Loan (Percentage)			
Total (Percentage)			

Remark: To furnish the name of borrower, period of loan, interest rate and plan for repayment, if it is foreign loan.

(k) Contribution of the main shareholder to Authorized capital

(Kyat in thousand or US$ in thousand)

Name of Shareholder	Contribution Amount	Foreigner/Citzen	Share Percentage

(l) Sales, Profit and Loss (Kyat in thousand or US$ in thousand)

	1st year	2nd year	3rd year	4th year	5th year
Balance					
Export					
Domestic					
Machinary					
Export					
Domestic					
Gross Profit					
Management Cost					
Profit Before Tax					

Note: Year means an operation year after the commercial operation.

(m) Capital goods to be used in the business. (Goods and machinery, others)

Capitalgoods, machinery and others		Number (Unit)	Remark (detail description, special characteristics etc:)
	Import materials		
	Local purchasing		
	Import materials		

	Local purchasing		
	Import materials		
	Local purchasing		

Note: The Management Committee shall formulate forms for next steps in the registration of details of the import materials to be used in the business.

(n) Raw materials/ other inputs to be used in the business

(Unit)

Component materials/ Semi-finished goods/ Raw material		Quantity				
		1st year	2nd year	3rd year	4th year	5th year
	Import material					
	Local purchasing					

Note: Year means an operation year after commercial operation. The Management Committee of---------Special Economic Zone shall formulate the details including components, semi-finished goods, raw material with forms for next steps.

(o) Process of Production and explanation

(p) Appointment ofemployee

(Employment)

Year	Occupation	Foreigner	Citizen	Total
1st year	Administration			
	Expert			
	Labour			
	Total			
2nd year	- -			
3rd year	- -			
4th year	- -			
5th year	- -			

(q) Requirement of Infrastructure

Infrastructure	Requirement amount	
	Initial Period	Normal Operation
(1)Water(in Cubic meter) (a)For manufacturing process (b)Fordrinking purpose (c) Others(to mention) (d) Total requirement		
(2)Electricity (Describe by KVA)		

(3) Participation of foreigners (Describe briefly if it is done by agreement and not necessary to mention in money valueconcluded)

(a) Technicial Agreement

(b) License Exchange Agreement

(c) Administrative Agreement

(d) Market Cooperation Agreement

(e) Others

(r) Envionmental conservation and protection plan and reduction of social impact

(1) Volume and nature of solid waste and plan for disposal

(2) Describe if there is a system for waste management

(s) Plan for dormitory, transport, lunch and other supplementary rights (Furnish current plan)

(t) Vocational training programme to support citizen workers (Furnish current plan)

(u) Other Factors

(1) If the applicant was issued license in accordance with the Foreign Investment Law, the complete facts, reference, issued date, type of products and progress report of the each project which are relating to the license.

(2) Describe if the applicant, or the shareholders or the directors of other companies or organizations were prohibited to obtain license in occordance with the Foreign Investment Law or Foreign Trade Law or Foreign Exchange Management Law or Customs Acts.

Place

Date

Signature of the Applicant----------

Name----------

UNDERTAKING

I/We hereby declare that the above statements are true and correct to the best of my/our knowledge and belief. I/We shall abide by any other condition, which may be stipulated by the Chairman of the Management Committee.

I/We fully understand that any permit and permission granted to me/us on the basis of the statement furnished is liable to cancellation or any other action that may be taken having regard to the circumstances of the case if it is found that any of the statements or facts therein are incorrect or false.

I/We shall strictly follow the provisions stipulated by the developer in the ----- zone of ------- Special Economic Zone and also follow the policy of anti-corruption.

Place: Signature of the Applicant----------

Date: _____ Name in Block Letters----------

Designation----------

Official Seal/Stamp ----------

Tel. No.----------

E-mail----------

Full Address----------

PART-II

If sub-contracting is envisaged in the manufacturing operations, furnish following details:

(i) Sub-contracting permission is required for :

(a) part of the production process (quantity)

(b) any particular production process (give details)

(ii) Name and address and other particulars of sub-contractor (if there is the sub-contractor)

(a) Domestic Tariff Area

(b) Business in Promotion Zone

(c) Free Zone Activities(d) Other Special Economic Zone Activities

FORM-F

PERMIT OF INVESTMENT BUSINESS

THE MANAGEMENT COMMITTEE OF THE SPECIAL ECONOMIC ZONE

[Rule 50]

..... Town

Dated.....

Subject: Proposal for setting up a Business in the Special Economic Zone

Reference: Application No. …of ….Company.dated.....

Dear Sirs,

With reference to the above mentioned application, the Management Committee .....Special Economic Zone permits …..Company to do investment businesssubject to the provisions of the Myanmar Special Economic Zones Law and the rules and orders ..... for undertaking Authorized Operations, especiallyservices ,including manufacturing and trading as under:

Authorized Operations

1. Items of manufacture:
2. Service activities:

Authorized Location of Business

1. Free Zone
2. Promotion Zone

Supports for Investment

If the approval of the Management Committee of Special Economic Zone has been obtained, the Authorized Operations of the relavant company is allowed to entile the privileges under Sections 32, 44 and 49 of the Myanmar Special Economic Zone Law. Terms and Conditions:

(i) It shall export the manufactured goods, import, and procure for trading and services under the provisions of the Myanmar Special Economic

Zones Law and Rules ;

(ii) It shall abide by facts laid downby the Enveronmental Conservation Department for not impacting the environment.;

(iii) It may import or procure all the goods all the items in the Domestic Traffic Area, except those prohibited by the Management Commmittee;

(iv) It may export or sell goods or services in the Domestic Tariff Area,in accordance with the provisions of the Myanmar Special Economic Law, rules and orders;

(v) Thispermit is valid within a period of 3 years from its date of issue. It may implement the Authorized

Operations and the projectswithin 3 year period.extended period ;

(vi) Date of commencement of Authorized Operation shall be intimated to the Chairman of the Management Committee;

(vii) This Permit shall be valid throughout the validity period or extended validity period of the Authorized Operation;

(viii) The permit shall be decided based on the detail proposal furnished by the investor.;

(ix) The provisions of Myanamar Special Economic Zones Law, rules and orders shall be abided by and exercised.;

(x) If the authorized operation may not commerce within validity period or extended period to carry out ,the permit of such operation shall be void at the time of the end of the validity period;

(xi) If it fails to comply with the above conditions stipulated , the permit shall be avoided ;

(xii) If it is required to alter the terms and conditions of the permit, it shall be addressed to the Chairman of the Management Committee.

Notification of the situations and restrictions

1. Taking a foreign loan or other conduct to borrow or making documents there are assumed to take a loan without prior approval of the Central Bank shall not be allowed and conditions stipulated by the Central Bank shall be abided. It should be learnt of the para 48 to 52 contained in Foreign Currency Exchange Management Procedure promulgated in 30th September, 2014 relating to taking a foreign loan.
2. The investor shall take the building permit of the relevant departments,the certificate of the fire security, and the permit of the environment conservation from One Stop Service Centre of Special Economic Zone before building factory.

Chairman,the Management Committee

..... Special Economic Zone

Copy forwarded to:

Vice Chairman .....Special Economic Zone

FORM-G

QUARTERLY PERFORMANCE REPORT TO BE SUBMITTED BY THE INVESTOR TO THE MANAGEMENT COMITTEE

[Rule 74]

PERIOD OF REPORTING: (APRIL-MARCH)

Period.....

Part " I

1. Name of the Investor:

2. Item of manufacture/service activity:

3. Export (In thousand MMK)

   (a) FOB value of exports for the Year

   (Indicate items of exports)

   (b) Cumulative value of exports for the five-year period

   (c) Countries of exports

4. Import (In thousand MMK)

   (a) Raw materials and other inputs utilized

      (1) Opening balance of imported raw materials, consumables, components, packing materials etc.

      (2) Cost, Insurance and Freight (CIF) value

      (3) Cumulative value ofimports for the five year period (a+b)

      (4) The value of goods and services received from other investor in Special Economic Zone during such quarterly or the above import.(5) Total (c+d)

(6) The value of goods and services transferred to other investors in the Special Economic Zone during such quarterly period or the above imports(7) Closing balance of the above imports.

(8) Import and value of components acutally utilized during quarterly period {(e)-[f+g]}

(b) Capital goods(1) Cost, Insurance and Freight (CIF) value of imports

(2) Value of imported capital goods and components received from other Investors in Speical Economic Zone during quarterly period

(3) Total (1+2)

(4) Value of imported capital good, and components during quarterly period (3+4)(5) Total value of imported capital goods and components during quarterly period (3-4)

(6) Proportionate amortized value of imported capital goods taken for Net Foreign Exchange Earnings calculations.

5. Other outflow of Foreign Exchange (Royalty, technical know-how fee, repatriation of Dividend/Profits, Payment of Sales Commission, Interest on overseas borrowings, etc.) during quarterly period

6. Total outflow [4.A (8) +4.B (6) +5]

7. Net Foreign Exchange Earnings for quarterly period [3(a)-6]

8. Net Foreign Exchange earning position at the end of previous year

9. Cumulative Net Foreign Exchange Earnings for the five year period [7+8]

Part - II

1. Domestic Tariff Area Sales Value (In thousand MMK)

   (a) Sale of finished goods/services

   (b) Sales of rejects

   (c) Sale of by-product

   (d) Sale of Waste/Scrap

   (e) Total

2. Capital structure of the enterprise

   (a) Capital

      (1) Authorised capital

      (2) Paid up capital

   (b) Overseas investments:

      (1) Approved

      (2) Actual Inflow during the year

      (3) Cumulative actual investment for 5 years

3. Employment Male/ Female

4. Investment in the Special Economic Zone (in thousand MMK)

(a) Building: .....

(b) Plant and Machinery: .....

(1) Internal : .....

(2) Import (Cost, Insurance and Freightvalue): .....

(3) Total (1) + (2): .....

5. Other Information

(a) Foreign commercial borrowing pending at the end of last year:

(1) Loans less than three years; (Amount in $)

(2) Loans more than three years; (Amount in $)

(b) Cases pending for obtaining the foreign exchange realization, if any.

Date of export…….

Name of importer …….

Address……

Total Amount……

(SIGNATURE)

with Seal of Co.

Note: The information given in the formats should be authenticated by the authorized representative of the Investor and certified by a Certified Accountant.

FORM-H

PERMANENT IDENTITY CARD (ID card)

[Rule 220]

PHOTO

Serial Number: Date of Issue:

Valid until:

1. Name of the Unit (as mentioned in photo) or Name of the Contractor (as mentioned in the photo of temporary registration card), address and License number.
2. Name of the Card Holder
3. Designation

Signature of the Officer……..

Management Committee

INSTRUCTIONS

1. This card should be worn by the pass holder all the time inside the Free Zone.
2. This card is not transferable.
3. This card shall be shown when it is asked by the Security and Customs (responsible person) staff.
4. The card holder and his/her vehicle should be checked for Security purpose at the gate.

5. The loss of this pass shall immediately be reported to the Security Officer.

6. This card shall be surrendered to the Security Officer,when it is being on expiry.

ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE

The Government of the Republic of the Union of Myanmar

Ministry of Environmental Conservation and Forestry

Notification No. 616 / 2015

Nay Pyi Taw, the 3rd Waning Day of Nadaw, 1377 M.E.

(29 December, 2015)

The Ministry of Environmental Conservation and Forestry,in exercise of the power conferred by sub-section (b) of Section 42 of the Environmental Conservation Law, hereby issues the following Procedure.

CHAPTER I.

Title and Definitions

1. This Procedure shall be called the **Environmental Impact Assessment (EIA) Procedure**.

2. The expressions contained in this Procedure shall have the same meanings as are assigned to them under the Environmental Conservation Law and Rules. In addition thereto, the following expressions shall have the meanings given hereunder:

   (a)**Project** means any commercial, economic, agricultural, social, academic, scientific, political or other project, activity, program, business, service or undertaking, whether regarded individually or in the aggregate, the performance of which requires any approval or is licensed, restricted, or otherwise regulated to any extent by any part of the Union Government and which may have an Adverse Impact.

   (b) **EIA Type Project** means a Project judged by the Ministry as being likely to have potential for Adverse Impacts. It means generally those which:

      Involve multiple components and many or varied pollution sources and/or pollutant types, requiring integrated EMP to be tailored specifically to mitigate such pollution;

Are characterized by a high risk of significant, adverse environmental or social impact;

Are of a type or size for which there is a lack of prior knowledge and experience as to what the potential adverse impacts may be and their size or significance; or

Where the significance of the potential environmental or social impacts or the sensitivity/vulnerability of the recipients of those impacts requires a high level of environmental and social management expertise and skills, and continued strict control and supervision throughout the life of the Project.

(c)**Initial Environmental Examination or IEE Type Project** means a Project judged by the Ministry to have some Adverse Impacts, but of lesser degree and/or significance than those for EIA Type Projects. It means generally those which:

Are limited in scope or size;

Have well known environmental and social impacts that for the most part are temporary, local and reversible; or

Have impacts which can be mitigated and managed by well-proven and available technologies and practices but with respect to which specific controls, measures and alternatives must be assessed, designed and implemented.

(d) **Non IEE or EIA Type Project** means a Project which is neither an IEE Type Project nor an EIA Type Project.

(e)**Complex Project** refers to a Project that has substantial impacts on the environment, which may include impacts beyond the borders of the jurisdiction under consideration, or a cumulative impact on other projects, or in which complex technology is applied.

(f)**Project Affected Person** or **PAP** means a natural person, legal entity, or organization that is, or is likely to be, directly or indirectly affected by a Project or a proposed Project, including without limitation effects in the nature of legal expropriation of land or real property, changes of land category, and impacts on the ecological and environmental systems in the settlement areas of such person, entity or organization.

(g)**Adverse Impact** means any adverse environmental, social, socio-economic, health, cultural, occupational safety or health, and community health and safety effect suffered or borne by any entity, natural person, ecosystem, or natural resource, including, but not limited to, the environment, flora and fauna, where such effect is attributable in any degree or extent to, or arises in any manner from, any action or omission on the part of the Project Proponent, or from the design, development, construction, implementation, maintenance, operation, or decommissioning of the Project or any activities related thereto.

(h)**Environmental Impact** means the probable effects or consequence on the natural and built environment, and people and communities of a proposed Project or businesses or activities or undertaking. Impacts can be direct or indirect, cumulative, and positive or adverse or both. For purposes of this Procedure, Environmental Impacts include occupational, social, cultural, socio-economical, public and community health, and safety issues. Moreover, social impacts include Involuntary Resettlement and relating to Indigenous People.

(i)**Cumulative Impact** in relation to a Project means the impact or impacts of a Project that in itself or themselves may not be significant but may become significant when added to the existing and potential impacts eventuating from similar or diverse Projects or undertakings in the same geographic area or region.

(j)**Best Available Techniques** or **BAT** means the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing in principle avoidance, prevention, reduction, mitigation and compensation as the basis for Emission Limit Values designed to prevent and, where that is not practicable, generally to reduce emissions and the impact on the environment as a whole, where:

> **‘Best’** shall mean most effective in achieving a high general level of protection of the environment as a whole;
>
> **‘Available’** techniques shall mean those developed on a scale which allow implementation in the relevant industrial sector, under economically and technically viable conditions

taking into consideration the cost and advantages, as long as they are reasonably accessible to the operator; and

'Techniques' shall include both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned.

(k)**Good Practice** means that practice which is recognized by a consensus of relevant stakeholders (including without limitation government, industry, labour, financiers, and academia) as having been adopted by leading, reputable companies of international standard, which is capable of being adhered to within the Republic of the Union of Myanmar, and which, when carried out by or in respect of the Project, can be expected further to reduce the Adverse Impacts arising from the Project and activities related thereto.

(l) **Alternatives**in relation to a proposed Project, means different realistic and feasible means of meeting the general purpose and requirements of the Project, which may include lower-impact alternatives to:

i) the property on which or location where it is proposed to undertake the Project,

ii) the type of Project to be undertaken,

iii) the design or layout of the Project,

iv) the technology to be used in the Project,

v) the operational aspects of the Project, and

vi) any other substantive characteristic or aspect of the Project as deemed necessary or appropriate by the Ministry.

(m)**Biodiversity** means the variability among living organisms from all sources including, inter alia, terrestrial, atmospheric,and marine and other aquatic ecosystems and the ecological complexes of which any such ecosystem is a part; this includes diversity within species, between species, and of ecosystems.

(n)**Emission** means the direct or indirect release of any emission from individual or diffuse sources into the air, water, land or any

subterranean area. Emissions include emissions of solid waste, effluent, gas, noise, odor, light, radiation, vibration or heat.

(o)**Emission Limit Values** or **ELV** is a figure specifying the concentration or load of a pollutant allowed to be emitted or discharged to the environment from a specific installation in a given period of time or per unit of production.

(p)**IEE Report** means a report on an IEE Type economic activity prepared in accordance with the requirements stipulated in Article 36 and having a focus on: systematic identification and assessment of potential Adverse Impacts including Cumulative Impacts of the proposed Project, business, service or activity; systematic assessment of feasible Project alternatives; and determination of appropriate measures to mitigate potential Adverse Impacts. IEE Reportshall include an EMP.

(q)**EIA Report** means a report on an EIA Type economic activity prepared in accordance with the requirements stipulated in Article 63 and having a focus on: systematic identification and assessment of potential Adverse Impacts including cumulative impacts of the proposed Project, business, service or activity; systematic assessment of feasible Project alternatives; and determination of appropriate measures to mitigate potential Adverse Impacts. EIAReport shall include an EMP.

(r)**EIA Report Review Body** means that body to be formed by the Ministry in accordance with Article 58 of the Rules, comprising technical experts from relevant government departments, government organizations, technical organizations and civil society responsible to review and provide comments and recommendations on an EIA Report.

(s)**Construction Phase EMP** means a detailed and comprehensive EMP for the construction phase of a Project. Such plan shall present all relevant commitments, Emission Limit Values, Environmental Quality Standards and other environmental requirements. The plan shall include a description of the construction works,installations, and infrastructure, and shall present an overview of Adverse Impacts, present mitigation measures and monitoring programs together with time schedules, projected budget use, overview maps, images, aerial photos, satellite images, site layout plans, cross-sections, transects,

environmental management and monitoring sub-plans for each construction site, thematic sub-plans, and management procedures, as appropriate.

(t)**Operational Phase EMP** means a detailed and comprehensive EMP for the operational phase of a Project. Such plan shall present all relevant commitments, Emission Limit Values, Environmental Quality Standards and other environmental requirements. The plan shall include a description of the Project operations, installations, and infrastructure, and shall present an overview of Adverse Impacts, present mitigation measures together with time schedules, projected budget use, overview maps, images, aerial photos, satellite images, site layout plans, cross-sections, transects, environmental management and monitoring sub-plans for each Project site, thematic sub-plans, and management procedures, as appropriate.

(u)**Environmental Compliance Certificate** or **ECC** is a document having legal effect, through which the Ministry approves an IEE Report, an EIA Report, or an EMP.

(v)**Indigenous People** means people with a social or cultural identity distinct from the dominant or mainstream society, which makes them vulnerable to being disadvantaged in the processes of development.

(w)**Involuntary Resettlement** means the mandatory physical displacement of a PAP from their home arising from a Project, or the unavoidable loss by a PAP of productive or income-generating assets occasioned by a Project.

(x)**Ministry** means the Ministry of Environmental Conservation and Forestry.

(y)**Department** means the Environmental Conservation Department.

(z) **Project Proponent** means any natural person, legal entity, or organization, from the public or private sector, intending to undertake, or having commenced to undertake, as relevant, a Project or any aspect of a Project (including study, survey, design, development, pre-construction, construction, operation, decommissioning, closure, and post-closure) within the territorial borders of the Republic of the Union of Myanmar, and during the

period of such undertaking which has an ownership interest (legal or equitable) in the Project, or which intends (or could reasonably be expected to intend) to derive financial or other benefits from the Project of the sort which an owner would ordinarily derive.

(aa)**Project Proposal** means a written document, in form, content and structure in accordance with the Ministry's requirements and guidance, accurately setting forth the key aspects and relevant details (including, inter alia, the nature and size of all known or foreseeable Adverse Impacts) of a Project or Project expansion, as the case may be, which a Project Proponent wishes to undertake, or having commenced to undertake.

(bb) **Rules** means the Environmental Conservation Rules.

(cc)**Residual Impacts** meanspredicted or actual Environmental Impacts that remain after mitigating measures have been applied, including after Project closure.

(dd)**Scoping** means the process contemplated in Chapter Vof this Procedure for determining the scope of an EIA (i.e. the data that need to be collected and analyzed to assess the potential Adverse Impacts of a Project) and producing a terms of reference (ToR) for preparation of an EIA Report.

(ee) **Prior Permission** means the permission issued by the Ministry in respect of Projects listed in Annex 1 'Categorization of Economic Activities for Assessment Purposes', setting forth environmental conservation terms and conditions in accordance with Section 24 of the Law.

(ff) **Inspector** means any consultant assigned by the Ministry, and the Department's own officers at national, regional, state, Nay Pyi Taw Union Territory and/or local offices, to conduct monitoring and inspections of a Project and activities related thereto in order to control and determine compliance by the Project with all applicable environmental and socio-economical requirements and, where possible, to prevent violations of the Project's obligations according to the Procedure. The Ministry may also, for the implementation of monitoring and inspections, enlist the assistance of officers from other relevant government departments and organizations according to the Procedure.

(gg) **Strategic Environmental Assessment** refers to a range of analytical and participatory approaches that aim to integrate environmental into policies, plans and programs and evaluate the inter-linkages with economic and social considerations. The principle is to integrate environment, alongside economic and social concerns, into a holistic sustainability assessment.

CHAPTER II.

Establishment of the Environmental Impact Assessment Process

3. Pursuant to Section 21 of the Law and Articles 52, 53 and 55 of the Rules, all Projectsand Project expansions undertaken by any ministry, government department, organization, corporation, board, development committee and organization, local government or authority, company, cooperative, institution, enterprise, firm, partnership or individual (and/or all Projects, field sites, factories and businesses including expansions of such Projects, field sites, factories and businesses identified by the Ministry, which may cause impact on environmental quality and are required to obtain Prior Permission in accordance with Section 21 of the Law, and Article 62 of the Rules) having the potential to cause Adverse Impacts, are required to undertake IEE or EIA or to develop an EMP, and to obtain an ECC in accordance with this Procedure.

4. Any Project, field site, factory or business which is identified by Section 21 of the Law and Article 62 of the Rules requires Prior Permission, including those which exist prior to the issuance of this Procedure.

5. In accordance with Article 68 of the Rules, small-scale Projects, field sites, factories or businesses which are not specifically identified by the Ministry, but which may impact on environmental quality and as such are required to obtain Prior Permission in accordance with Section 21 of the Law or Article 62 of the Rules, and which are also not included in Annex 1 ‘Categorization of Economic Activities for Assessment Purposes’, shall obtain the recommendation of the Department as to whether or not such a Project has Environmental Impacts and shall comply with the terms and conditions prescribed by the Department before

applying for a permit or license from the relevant ministry or governmental organization.

6. The ECC issued by the Ministry shall reflect any terms and conditions that are contained in any relevant Prior Permission.

7. Projects that involve Involuntary Resettlement or which may potentially have an Adverse Impact on Indigenous People shall comply with specific procedures separately issued by the responsible ministries. Prior to the issuance of any such specific procedures, all such Projects shall adhere to international good practice (as accepted by international financial institutions including the World Bank Group and Asian Development Bank) on Involuntary Resettlement and Indigenous Peoples.

8. Any Project already in existence prior to the issuance of the Rules, or the construction of which has already commenced prior to the issuance of the Rules, and which, in either case, shall be required to undertake, within the timeframe prescribed by the Department, an environmental compliance audit, including on-site assessment, to identify past and/or present concerns related to that Project's Environmental Impacts, and to:

    a) develop an EIA or IEE or EMP;

    b) obtain an ECC; and

    c) take appropriate actions to mitigate Adverse Impacts in accordance with the Law, the Rules, and other applicable laws.

9. Any Project already in existence prior to the issuance of the Rules, or the construction of which has already commenced prior to the issuance of the Rules, shall be required to carry out an IEE or EIA as determined by the Ministry in accordance with this Procedure in respect of any proposed extension or expansion of such Project which would increase the Project size or production or would necessitate additional construction, renovation, installation or other extension or expansion related activities, if the nature and scale of such extension or expansion are such that, regarded as an independent Project without reference to the nature or scale of the Project already in existence or under construction, they would have been subject to the requirement to carry out an IEE or EIA. If no IEE or EIA is required to be carried

out in respect of such Project extension or expansion, then the EMP and ECC for such Project shall be revised as necessary within the timeframe prescribed by the Department to take into consideration such extension or expansion.

10. IEE or EIA Type Projects funded with external aid which have been approved by the Parliament prior to the issuance of the Rules and which must be implemented within a predetermined period of time, and IEE or EIA Type Projects implemented by any ministry or government organization by itself or cooperatively or jointly with other organization, shall:

    a) if construction has already commenced prior to the issuance of the Rules, comply with Article 8or shall,

    b) if construction has not yet commenced prior to the issuance of the Rules, be required to carry out an IEE or EIA as this Procedure may require and within the timeframe prescribed by the Department, and shall obtain the relevant ECC prior to the submission of such Project to the Cabinet.

11. Any expansion in respect of a Project implemented after the issuance of the Rules and which does not require an IEE or EIA (as the case may be), but such expansion would cause that Project to require an IEE or EIA (as the case may be), then the Department shall determine whether an IEE or EIA (as the case may be) of that Project shall be required and/or whether an updated, revised EMP shall be required, and then report to the Ministry.

12. For any preliminary activities to be carried out by or on behalf of a Project Proponent before the Ministry has determined whether the Project is obliged to carry out an IEE or EIA, the Ministry shall have the right to establish and impose requirements with respect to those preliminary activities, which the Project Proponent shall be obliged to comply with as a prior condition to engaging in those preliminary activities such as to ensure that such preliminary activities do not cause Environmental Impacts.

13. The Project Proponent shall:

    a) arrange for appropriate public consultation through all phases of the IEE and EIA process as required by Articles 34, 50, and 61, and

b) disclose to the public in a timely manner all relevant Project-related information in accordance with this Procedure except that which may relate to National Security concerns as informed by the Ministry.

14. The Ministry shall be responsible for the application and interpretation of this Procedure.

15. The Ministry has the power and exclusive authority to:

a) define Project screening criteria;

b) approve technical guidelines for IEE and EIA;

c) review and approve IEE Reports;

d) provide guidelines for and approve the ToR of EIA;

e) review and approve EIA Reports;

f) review and approve EMP, Construction Phase EMP and Operational Phase EMP;

g) determine and impose Environmental Impact related conditions which will be applicable to any approval of an IEE, EIA or EMP;

h) monitor and enforce compliance with the conditions set forth in an ECC and monitor and enforce the implementation of EMP, including any amendments thereof occasioned once the detailed design of the proposed Project has been finalized or by or on account of experience during implementation of the Project;

i) require any Project to update its EMP and to submit such updated EMP to the Ministry for review and approval according to a schedule defined by the Ministry;

j) identify and notify the registration conditions and/or procedures for a Third Person or Organization who wishes to undertake IEE or EIA; and

k) perform other duties and functions relating to IEE and EIA as stipulated by the Union Government.

16. The EIA Report Review Body shall have the following responsibilities:

a) When requested by the Ministry, to review the EIA of any Project.

b) Within the timeframe prescribed by the Ministry, to prepare an EIA Review report in regard to an EIA Report.

c) In each case, prescribe the scope and content of the EIA Review report. Such scope and content may include, among other things, assessments of the following questions:

(i) Does the EIA Report comply with this Procedure?

(ii) Does the EIA Report comply with the Scoping Report and the ToR for the EIA?

(iii) Does the EIA Report comply with explicit guidelines, standards, timing and criteria for review?

(iv) Does the EIA Report recognize and consider the views of stakeholders?

(v) Is the EIA Report complete? Does it contain sufficient, suitable and reliable information?

(vi) Have all applicable environmental and social requirements been adequately identified, addressed, referred to and fully complied with in the preparation and content of the EIA Report?

(vii) Have all foreseeable Adverse Impacts been identified and addressed in the preparation and content of the EIA Report?

(viii) Is it likely that the measures to prevent, mitigate or minimize Adverse Impacts of the Project specified in the EIA Report will ensure that the environmental requirements will be fully complied with?

(ix) Are the measures to prevent or minimize pollution from the Project effective and based on BAT and Good Practice?

(x) Are there any measures or procedures which are non-compliant, or which risk leading to non-compliance, with environmental and social requirements?

(xi) Can the Project as described and presented in the EIA Report be constructed and operated without causing unacceptable Adverse Impacts?

d) The EIA Review report shall identify any defects in the EIA investigations or in the EIA Report and shall give recommendations as to which further studies, investigations, consultations or assessments the Project Proponent must undertake and report.

e) The EIA Review report shall, where relevant, give recommendations on conditions of the ECC.

f) If requested by the Committee or the Ministry, the EIA Report Review Body shall present its findings at a meeting.

Requirements concerning Third Person or Organization undertaking IEE and EIA

17.

(a) If specific terms, conditions and/or registration procedures have not been separately issued by the Ministry, any Third Person or Organization, whether foreign or domestic, who wishes to prepare an IEE and EIA shall first apply to the Department together with the information and supporting evidence indicated below, to complete such registration. Such application shall include:

i) the name, contact address and profile of the person or organization,

ii) relevant experience of the person or organization, and

iii) for key personnel, an outline of each person's experience in the field of environmental assessment, academic credentials, relevant certificates and accreditations.

(b) If specific terms, conditions and/or registration procedures have been separately issued by the Ministry, any Third Person or Organization who wishes to prepare an IEE or EIA shall first apply to the Department in accordance with the terms, conditions and/or procedures for such registration.

18. The Department will review the materials submitted by applicants seeking to be registered in accordance with Article 17, in order to determine each applicant's suitability to carry out such assessments. Based upon the materials submitted by an applicant, the Department may register the applicant as deemed to be suitable on payment of the application fee or may refuse to register the applicant if deemed to be unsuitable in accordance with Ministry guidance. Any applicant whose registration application has been rejected may re-apply for registration after the applicant has resolved or corrected the defect(s).

19. Registration, once completed, shall be valid for a period of three (3) years. Three (3) months prior to expiration of registration, the applicant may apply to the Department for an extension. The Department can extend the registration, with the approval or the Ministry, and on payment of the registration fee.

20. With the guidance of the Ministry, the Department may suspend or cancel the registration of any person or organization who has been registered in accordance with Article 18or any prior requirements, and may impose such other corrective or punitive measures as may be lawfully available to it, if the Department determines that such person or organization has violated any provision of Republic of the Union of Myanmar law, or if the assessments of such person or organization contain significant errors or are materially misleading or have not been prepared in accordance with recognized standards generally applicable to such work and services and/or relevant provisions of the Law, the Rules, this Procedure or other applicable Republic of the Union of Myanmar laws. A notification of suspension or termination of registration shall be issued.

21.

(a) No person or organization who/which has not been registered by the Department shall prepare, submit or allow the submission to the Ministry of any EIA Report contemplated in this Procedure.

(b) Persons or organizations who/which are in the process of preparing an EIA Report contemplated in this Procedure prior to the issuance of this Procedure are required to

complete registration within three (3) months of issuance of the Procedure.

22. The Department shall maintain and publish from time to time a list of all persons and organizations who/which have been registered by the Department for the preparation of IEE Reports andEIA Reports.

CHAPTER III.

Screening

23.

(a) The Project Proponent shall submit the Project Proposal to the Ministry for Screening. In accordance with this Procedure, the submission of the Project Proposal for Screening is the same as the submission of an application for Prior Permission.

(b) The Ministry will send the Project Proposal to the Department to determine the need for environmental assessment.

(c) Following the preliminary Screening and verification that the Project Proposal contains all required documents and related materials, subject to Articles 8, 9, 10, 11, 26 and 27 the Department shall make a determination in accordance with Annex 1 ‘Categorization of Economic Activities for Assessment Purposes’, taking into account Article 25 and the additional factors listed in Article 28 in order to designate the Project as one of the following, and then submit their designation to the Ministry:

i) an EIA Type Project, or

ii) an IEE Type Project, or

iii) A Non IEE or EIA Type Project, and therefore not required to undertake any environmental assessment.

24. The Ministry shall also make a determination whether an EMP shall be required in respect of any Project.

25. An EIA is required in all cases where the Project will be located in or will have foreseeable adverse effects on any legally protected national, regional or state area, including without limitation: (i) a forest conservation area (including biodiversity reserved area); (ii) a public forest; (iii) a park (including marine parks); (iv) a mangrove swamp; (v) any other sensitive coastal area; (vi) a wildlife sanctuary; (vii) a scientific reserve; (viii) a nature reserve; (ix) a geophysical significant reserve; (x) any other nature reserve nominated by the Minister; (xi) a protected cultural heritage area; and (xii) a protected archeological area or area of historical significance.

26. Notwithstanding any categorization set forth in Annex 1 ‘Categorization of Economic Activities for Assessment Purposes’, the Ministry reserves the right to change the type of the Project as necessary, if the Ministry determines that special circumstances so warrant to require a Project that would otherwise be required to complete and submit an IEE or an EIA or to exempt a Project from completing any IEE or EIA assessment.

27. For purposes of Screening, the Ministry may at its discretion elect to treat Projects that are logically or economically linked, or which have the same or related proponents, or which are sequential in time, as a single Project. Components of basic infrastructure (such as an access road, transmission tower or waste disposal facility) that are required for a larger Project (such as a mine or a power plant) shall be considered to be part of that larger Project. In such circumstances, the Ministry may determine whether an IEE or an EIA will be required for the Projects that are treated as a single Project.

28. In accordance with Article 23, in making its determination as to the type of environmental assessment a Project or Project expansion will require, the Department shall in addition to the provisions in Article 25 and the type and size categorization in Annex 1 ‘Categorization of Economic Activities for Assessment Purposes’ consider the following factors in accordance with Ministry guidance:

    a) the need for the Project to deal with an emergency situation;

    b) the interest of public health and safety;

c) the interest of national security;

d) the lifespan of the Project;

e) protection of cultural and religious norms, and historical and religious heritage;

f) protection of areas having a fragile ecosystem;

g) areas affected by cyclones, strong storms, flooding, earthquake (including the Sagaing Fault) and areas vulnerable to natural disaster;

h) protection of water resources (lakes, reservoirs, rivers, groundwater aquifers) that serve or may in the future serve as primary sources of public drinking water;

i) recreation zones and pearl production areas;

j) conservation and protection of biodiversity;

k) introduction of exotic or alien species;

l) adoption of new technologies;

m) population density;

n) national, regional and global climate change conditions;

o) likely trans boundary impacts;

p) likely residual impacts or effects occurring some years after Project closure; and

q) other factors as the Ministry may determine.

29. Within fifteen (15) working days of receiving the complete Project Proposal, the Department shall determine the type of environmental assessment (EIA, IEE, or none) which the Project will require, and the Department shall inform the Project Proponent in writing as to such determination in accordance with the Ministry guidance.

30. The Ministry shall periodically review and, as it may deem necessary, revise Annex 1 ‘Categorization of Economic Activities for Assessment Purposes’.

CHAPTER IV.

Initial Environmental Examination

31. The IEE process is outlined in the diagram set forth in Annex 2 ‘Environmental Assessment Procedure Flowchart’.

32. Prior to commencement of an IEE, the Project Proponent shall inform the Department in writing as to the identity of the person(s) and/or organization, if any, who will undertake the IEE and reporting. The Project Proponent may carry out the IEE and reporting by itself or may appoint a registered person or organization according to the Article 18 to do so.

33. Within seven (7) working days of its receipt of information about the identity of any proposed person(s) and/or organization selected by the Project Proponent to undertake the IEE, the Department will confirm in accordance with the Ministry approval whether such person(s) and/or organization are/is in good standing with the Department.

34. The Project Proponent shall undertake the following public consultation process in regard to an IEE Type Project:

    a) Immediately upon commencement of the IEE, disclose relevant information about the proposed Project to the public and civil society through the Project or Project Proponent’s website(s) and local media, including by means of the prominent posting of legible sign boards at the Project site which are visible to the public, and comply with technical guidelines issued by the Ministry; and

    b) arrange the required complement of consultation meetings as advised by the Ministry, with local communities, potential PAPs, local authorities, community based organizations, and civil society, and provide appropriate and timely explanations in press conferences and media interviews.

IEE Report Requirements

35. The Project Proponent shall issue a letter of endorsement in a format prescribed by the Ministry. Such letter shall be submitted to the Department together with the IEE Report prepared either in the Myanmar language, or in the English language with an

accompanying, accurate summary in the Myanmar language, and confirming:

a) the accuracy and completeness of the IEE,

b) that the IEE has been prepared in strict compliance with applicable laws including this Procedure, and

c) that the Project will at all times comply fully with the commitments, mitigation measures, and plans in the IEE Report.

36. The IEE Report shall contain the following:

a) Project description in reasonable detail with description of the project size, installations, technology, infrastructure, production processes, use of materials and resources, generation of waste, emissions and disturbances together with overview maps and site layout maps (using aerial photos and satellite images in proper scale) for each Project phase and, where relevant, project alternatives for each Project phase;

b) identification of the Project Proponent including (where the Project Proponent is not a natural person but a company or other juridical entity) the identification of the owners, directors (if any) and day to day management and officers of the Project Proponent;

c) identification of the IEE experts, including which expert is responsible for which part of the IEE Report;

d) description of applicable laws, decrees, regulations, standards, guidelines and corporate policies related to environmental and social matters of the Project together with the relevant government agencies involved and their roles and responsibilities vis-à-vis the Project.

e) description of the surrounding environmental and social conditions of the Project including maps of all relevant physical, biological, social, socio-economic and cultural features;

f) identification and assessment of potential Environmental Impacts including assessment and description of Adverse Impacts and Residual Impacts with presentation of the

spatial and temporal characteristics of the impacts using maps, images, aerial photos and satellite images;

g) results of the public consultation and public participation processes, recommendations received from the public, and the Project Proponent's written responses to comments received during that process;

h) the environmental protection measures of the Project which are intended to mitigate Adverse Impacts clearly presented together with applicable environmental and social requirements and any Residual Impacts;

i) the EMP; and

j) the persons, organizations and budgets needed for implementation of the EMP.

Submission of IEE Report

37. After completing all investigations and public consultation and participation processes required for IEE Type Projects, the Project Proponent shall submit the IEE Report for the Project to the Department in both digital form and complete paper copies, together with the required service fee as prescribed by the Department.

38. Not later than fifteen (15) days after submission of the IEE Report to the Department, the Project Proponent shall disclose the IEE Report to civil society, PAPs, local communities and other concerned stakeholders: (i) posting on the Project or Project Proponent’s website(s), (ii) by means of local media (i.e. newspapers); (iii) at public meeting places (e.g. libraries, community halls); and (iv) at the offices of the Project Proponent.

Review and Approval Process for IEEs

39. Upon receipt of the IEE Report from the Project Proponent, the Department shall:

a) disclose the IEE Report to the public on the Ministry and/or Department website(s), and/or through other appropriate media;

b) invite comments and suggestions on the IEE Report from all relevant parties including relevant government

organizations, institutions, civil society organizations, and PAPs, as appropriate;

c) arrange public consultation meetings at the local level, at which the Project Proponent shall present the IEE Report; and

d) collect and review all comments and recommendations received, and forward the same to the Ministry to enable it to make a final decision on approval of the IEE Report.

40. If it is determined by the Ministry that the IEE Report does not satisfy requirements, then the Project Proponent shall be called upon by the Department to undertake necessary amendments and/or to provide supplementary information as directed by the Ministry.

41. Upon completion of its review of the IEE Report, the Ministry shall;

a) approve the IEE Report, subject to any conditions it may prescribe, and issue an ECC; or

b) require that the Project carry out an EIA, citing the reasons for this decision and informing the Project Proponent of its decision; and, in either case

c) publicly disclose its decision.

42. The Department shall deliver the final decision of the Ministry within sixty (60) working days of receipt of an IEE Report. If the Ministry requires an IEE Report to be amended, then the due date for delivery of the Ministry's decision shall be extended accordingly.

43. All costs incurred in completing the IEE Report disclosure and review, including the public consultation process, shall be borne by the Project Proponent.

CHAPTER V.

Environmental Impact Assessment

EIA Process

44. The EIA process is outlined in the diagram in Annex 2.

45. The Project Proponent must appoint a registered Third Person or Organization to carry out the EIA investigation and reporting. Prior to commencement of the EIA, the Project Proponent shall inform the Department in writing as to the identity of the duly registered person(s) and/or organization it has selected to undertake the EIA investigation and reporting.

46. Within seven (7) working days of its receipt of information about the identity of the person(s) and/or organization selected by the Project Proponent to undertake the EIA, the Department will confirm in accordance with the Ministry approval whether such person(s) and/or organization are in good standing with the Department.

Scoping

47. All EIA Type Projects shall undergo Scoping.

48. The Project Proponent shall be responsible to ensure that the Scoping and the preparation of the ToR for the EIA Report are undertaken in a professional manner and in accordance with this Procedure and any applicable guidelines issued or adopted by the Ministry.

49. The Scoping of the proposed Project shall:

    a) define the study area, area of influence, time boundaries, Project phases, and potential stakeholders;

    b) start the process of understanding the applicable regulations and standards, and their context for Project design and completion of the EIA;

    c) make a provisional identification of Environmental Impacts, focusing in particular on the environmental, social and health issues that need to be addressed in subsequent EIA studies;

    d) provide an indication of the depth and breadth of the subsequent EIA investigations including what baseline data

and information are required, what further studies and investigations must be carried out, and how such data collection, studies and investigations shall be undertaken;

e) provide an opportunity for consultants, relevant authorities, project developers, and interested and affected parties to express their views and concerns regarding the proposal before an EIA proceeds;

f) enable an efficient and comprehensive assessment process that saves time, resources, and costs and avoids delays; and

g) identify potentially affected communities and other stakeholders with an interest in the Project.

50. As part of the Scoping, the Project Proponent shall ensure that the following public consultation and participation process is carried out:

a) disclose information about the proposed Project to the public and civil society through posting on the Project or Project Proponent's website(s) and local media, including by means of the prominent posting of legible sign boards and advertising boards at the Project site which are visible to the public; and

b) arrange the required complement of consultation meetings as advised by the Ministry, with local communities, potential PAPs, local authorities, community based organizations, and civil society, and provide appropriate and timely explanations in press conferences and media interviews.

51. The Project Proponent shall prepare a Scoping Report either in the Myanmar language, or in the English language with an accompanying, accurate summary in the Myanmar language, with the following content:

a) Executive Summary

b) Context of the Project

c) Overview of the Policy, Legal and Institutional Framework

d) Project Description and Alternatives

e) Description of the Environment together with maps in proper scale indicating all relevant features, images, aerial photos and satellite images

f) Key Potential Environmental Impacts and Mitigation Measures

g) Public Consultation and Disclosure

h) Conclusions and Recommendations

52. Based on the Scoping, the Project Proponent shall prepare the ToR for the EIA investigations in accordance with applicable guidelines issued or adopted by the Ministry.

53. The Project Proponent shall submit the completed Scoping Report and ToR to the Department for review and approval.

54. Within fifteen (15) working days of receiving the complete Scoping Report and ToR, the Department, in accordance with Ministry guidance, shall either

a) approve the Scoping Report and ToR with or without conditions, or

b) require the Project Proponent to revise the Scoping Report and/or ToR in accordance with comments of the Department.

EIA Investigation

55. The Project Proponent shall ensure that the EIA investigation properly addresses all Adverse Impacts and is undertaken in accordance with the ToR as approved by the Department.

56. The EIA investigation shall consider all biological, physical, social, economic, health, cultural and visual components of the study area, together with all pertinent legal matters relating to the environment, people and communities (including land use, resources use, and ownership of and rights to land and other resources) that may be affected by the Project during all Project phases including pre-construction, construction, operation, decommissioning, closure, and post-closure, and shall identify and assess all Adverse Impacts, risks, Cumulative Impacts and Residual Impacts for environment, social and, if relevant, health that potentially could arise from the Project.

57. The investigations shall include all necessary data collection, technical studies, modeling, field surveys, field sampling, laboratory analysis, engineering designs and calculations, and consultations to determine and document that all feasible measures are taken to ensure that all Residual Impacts are within applicable limits and are acceptable to the Ministry and interested and affected persons.

58. The investigation shall also include an analysis of Alternatives. Such analysis shall include a description of each Alternative, and an assessment and comparison of the Adverse Impacts, required mitigation measures and Residual Impacts of the Alternatives.

59. The Project Proponent is obliged to use, comply with and refer to applicable national and international standards adopted by the Union Government and/or the Ministry, or, in the absence of relevant national or adopted international standards, such standards as may be agreed with the Ministry.

60. The EIA shall consider the views, concerns, and perceptions of stakeholders, communities and individuals that could be affected by the Project or who otherwise have an interest in the Project. The EIA shall include the results of consultations with the public, affected populations and other stakeholders on the environmental and social issues. The concerns raised during such consultations shall be considered in assessing impacts, designing mitigation measures, and in the development of management and monitoring plans.

61. As part of the EIA investigations, the Project Proponent shall undertake the following consultation process:

    a) timely disclosure of all relevant information about the proposed Project and its likely Adverse Impacts to the public and civil society through local and national media, the website(s) of the Project or Project Proponent, at public places such as libraries and community halls, and on sign boards at the Project site visible to the public, and provide appropriate and timely explanations in press conferences and media interviews;

b) arrange consultation meetings at national, regional, state, Nay Pyi Taw Union Territory and local levels, with PAPs, authorities, community based organizations and civil society;

c) consultations with concerned government organizations including the Ministry, the concerned sector ministry, regional government authorities and others; and

d) field visits for the Ministry and concerned government organizations.

EIA Report Requirements

62. The Project Proponent shall issue a letter of endorsement in a format prescribed by the Ministry. Such letter shall be submitted to the Department together with the EIA Report prepared either in the Myanmar language, or in the English language with an accompanying, accurate summary in the Myanmar language, confirming:

a) the accuracy and completeness of the EIA;

b) that the EIA has been prepared in strict compliance with applicable laws including this Procedure and with the ToR for the EIA; and

c) that the Project will at all times comply fully with the commitments, mitigation measures, and plans in the EIA Report.

63. The Project Proponent is responsible for the preparation of an EIA Report which shall contain the following:

1.0 Executive Summary

2.0 Introduction

2.1 Presentation of the Project Proponent

2.2 Presentation of the Environmental and Social Experts

2.3 Presentation of the Health Experts for Projects with Health Impacts

3.0 Policy, Legal and Institutional Framework

3.1 Corporate Environmental and Social Policies (if applicable)

3.2 Policy and Legal Framework, including existing applicable laws and rules, International Conventions, Treaties and Agreements, and national and international standards and guidelines

3.3 Contractual and other Commitments

3.4 Institutional Framework

3.5 Project's Environmental and Social Standards

3.6 Health Standards for Projects with Health Impacts

4.0 Project Description and Alternative Selection

4.1 Project Background

4.2 Project Location, overview map and site layout maps

4.3 Project Development and Implementation Time Schedules

4.4 Description of the project size, installations, technology, infrastructure, production processes, use of materials and resources and generation of waste, emissions and disturbances, including the devises and measures to control emissions and disturbances, all together with overview maps and site layout maps and design drawings for each Project phase (pre-construction, construction, operation, decommissioning, closure and post-closure)

4.5 Description of the selected Alternative(s) by Project phase (pre-construction, construction, operation, decommissioning, closure and post-closure)

4.6 Comparison and Selection of the preferred Alternatives

5.0 Description of the Surrounding Environment

5.1 Setting the Study Limits

5.2 Methodology and Objectives

5.3 Public Administration and Planning: Identification and summary of the main relevant elements in socio-economic development plans, spatial plans, and sector plans at Union Government, State or Region, City and Township levels

5.4 Legally protected national, regional or state areas, including without limitation: (i) forest conservation areas (including biodiversity reserved areas); (ii) public forests; (iii) parks (including marine parks); (iv) mangrove swamps; (v) any other sensitive coastal areas; (vi) wildlife sanctuaries; (vii) scientific reserves; (viii) nature reserves; (ix) geophysically significant reserves; (x) any other nature reserve nominated by the Minister; (xi) protected cultural heritage areas; and (xii) protected archeological areas or areas of historical significance.

5.5 Physical Components: Description with data and maps of (i) topography; (ii) water resources; (iii) geology and soils, hydrology/hydrogeology; (iv) environmental quality; (v) climate; (vi) vegetation cover; and (vii) natural hazards including earthquakes, tsunamis, extreme weather events, flooding, drought, wildfires and others

5.6 Biological Components: Descriptions and maps on fauna and flora including abundance, spatial distribution of rare, endangered and vulnerable species, and species of economic and health/nutritional values, and maps and description of valued or sensitive environmental areas and habitats

5.7 Infrastructure and Services: Location and size or capacity of transport infrastructure, public utilities and services

5.8 Socio-Economic Components: Income and livelihoods, living conditions and access to public services and natural resources, land use maps, population distribution maps, maps and charts of other socio-economic indicators such as poverty, employment and education

5.9 Public Health Components: Mortality and morbidity, occurrence of diseases, accidents and injuries, and social health determinants

5.10 Cultural Components: Description and maps of cultural, historical, and religious sites, structures and objects, and objects with high aesthetic value; description of traditional knowledge and beliefs, and cultural practices

5.11 Visual Components including where applicable landscape, city scape and sea scape using three dimensional models

6.0 Impact and Risk Assessment and Mitigation Measures

6.1 Impact and Risk Assessment Methodology

6.2 Impact and Risk Identification, Assessment and Mitigation. For each Project phase (pre-construction, construction, operation, decommissioning, closure, and post-closure):

6.2.1 Identification and assessment of potential Environmental Impacts including (i) physical, biological, social, socio-economic, health, cultural, and visual impacts; (ii) potential impacts on climate change such as greenhouse gas emissions and loss of carbon sinks or stocks; and (iii) identification of impacts of climate change on the Project based on available climate change predictions from designated national authorities or international scientific research bodies

6.2.2 Identification and assessment of the likelihood and severity of natural and industrial hazards relevant to the Project

6.2.3 The design, layout, functioning, management and implementation of appropriate impact and risk mitigation measures

6.2.4 Characterization and assessment of any Residual Impacts and risks and comparison with applicable regulations, standards and guidelines

6.2.5 Comprehensive monitoring plan

6.3 Relevant maps, aerial photos, satellite images in proper scale clearly indicating the location of sources of Adverse Impacts, the spatial and temporal distribution of such impacts and with reference to the Description of the Surrounding Environment, the components that are likely to be impacted and the nature of the impacts.

7.0 Cumulative Impact Assessment

7.1 Methodology and Approach

7.2 Cumulative Impact Assessment

7.2.1 Brief description and map of relevant existing and future private and public projects and developments

7.2.2 Identification and assessment of the potential cumulative impacts on the components in the surrounding environment and the Project's contribution to such impacts

7.2.3 Determination of the leverage and influence that the Project may have over the significant and project related cumulative impacts

7.2.4 Description of measures to mitigate the Project's contribution to the cumulative impacts

8.0 Environmental Management Plan

8.1 Project Description by Project phase (pre-construction, construction, operation, decommissioning, closure and post-closure)

8.2 Project's Environmental, Socio-economic and, where relevant, Health Policies and Commitments, legal requirements and institutional arrangements

8.3 Summary of Impacts and Mitigation Measures

8.4 Overall budget for implementation of the EMP

8.5 Management and Monitoring Sub-Plans by Project phase (pre-construction, construction, operation, decommissioning, closure and post-closure); the Management and Monitoring Sub-Plans shall address and satisfy all relevant environmental and social management and monitoring issues such as but not limited to noise, vibrations, waste, hazardous waste, wastewater and storm water, air quality, odor, chemicals, water quality, erosion and sedimentation, biodiversity, occupational and community health and safety, cultural

heritage, employment and training, and emergency response

8.6 Content of each Sub-Plan

8.6.1 Objectives

8.6.2 Legal Requirements

8.6.3 Overview maps and site layout maps, images, aerial photos, satellite images

8.6.4 Implementation Schedule

8.6.5 Management Actions

8.6.6 Monitoring Plans

8.6.7 Projected Budgets and Responsibilities

9.0 Public Consultation and Disclosure

9.1 Methodology and Approach

9.2 Summary of consultations and activities undertaken

9.3 Results of Consultations

9.4 Further ongoing Consultations

9.5 Disclosure

Submission of EIA Report

64. After completing all investigations and public consultation and participation processes required for EIA Type Projects, the Project Proponent shall submit the EIA Report to the Department in both digital form and complete paper copies, together with the required service fee as prescribed by the Department.

65. Not later than fifteen (15) days after submission of the EIA Report to the Department, the Project Proponent shall disclose the EIA Report to civil society, PAPs, local communities and other concerned stakeholders: (i) by means of national media (i.e. newspapers); (ii) the website(s) of the Project or Project Proponent; (iii) at public meeting places (e.g. libraries, community halls); and (iv) at the offices of the Project Proponent.

66. Upon receipt of the EIA Report, the Department will make the EIA Report publicly available.

Review and Approval Process for EIA Report

67. Upon receipt of the EIA Report from the Project Proponent, the Department shall:

    a) submit the EIA Report to the EIA Report Review Body for comment and recommendations;

    b) invite comments and suggestions on the EIA Report from all relevant parties including involved government organizations, institutions, civil society organizations, and PAPs, as appropriate;

    d) arrange public consultation meetings at national, regional, state, Nay Pyi Taw Union Territory and local levels where the Project Proponent shall present the EIA Report; and

    e) collect and review all comments and recommendations received, including those of the EIA Report Review Body, and forward the same to the Ministry to enable it to make a final decision on approval of the EIA Report.

68. If it is determined by the Ministry that the EIA Report does not satisfy requirements, then the Project Proponent shall be called upon by the Department to undertake the necessary amendments as directed by the Ministry. The Ministry shall deliver its final decision within ninety (90) working days of receipt of the EIA Report. In case of Complex Projects, or if the Ministry requires the EIA Report to be amended, then the timeline will be extended accordingly.

69. All costs incurred in completing the EIA Report disclosure and review, including the public consultation process, shall be borne by the Project Proponent.

70. Upon completion of its review of the EIA Report, the Ministry shall;

    a) approve the EIA Report with the guidance of the Committee, subject to any conditions as may be prescribed, and issue an ECC; or

    b) inform the Project Proponent of its decision to reject the EIA Report and cite reasons for doing so (grounds for rejection of an EIA Report shall be in accordance with guidance from the Ministry); and, in either case

c) publicly and timely disclose its decision by appropriate means.

CHAPTER VI.

Appeal Process

71. Within thirty (30) days of public disclosure that the EIA Report has been approved or rejected by the Ministry, any Project Proponent, person or organization which submitted the EIA Report in accordance with this Procedure, and any other person or organization potentially affected by any Adverse Impacts of the Project, shall have the right to file an appeal to the Committee through the Ministry with respect to the Ministry decision to reject or approve such EIA Report, provided, however, that:

    a) no appeal of a decision by the Ministry to reject an EIA Report shall be allowed, except where the appellant has specifically alleged that such rejection was not duly made in accordance with this Procedure or that such rejection was based upon an unsubstantiated or unjustified decision by the Ministry;

    b) not more than one (1) appeal on the same case shall be allowed with respect to a decision by the Ministry; and

    c) no condition prescribed by the Ministry shall be subject to appeal by a Project Proponent.

72. With respect to any appeals allowed that are received by the Ministry within the appeal submission period, the Ministry shall, within fifteen (15) days of receipt of such appeals, forward the appeals to the Committee for consideration.

73. The Committee shall, within thirty (30)working days of its receipt of a forwarded appeal from the Ministry, consider that appeal and make a decision to:

    a) uphold the decision of the Ministry, or

    b) instruct the Ministry to require the Project Proponent to revise and resubmit the EIA Report to the Ministry, or

    c) instruct the Ministry to alter, revise or cancel its decision on the EIA Report and cite its grounds for such instruction.

74. The decision of the Committee shall be final.

75. The Ministry shall inform the Committee decision to the appellant and the Project Proponent. Upon receipt of the decision from the Committee, the Ministry shall publicly disclose any reversal or modification of its decision concerning an EIA Report.

CHAPTER VII.

Environmental Management Plan

76. For Project types which require EMP according to the Article 55 (a) of the Rules or Article 24 of the Procedure, the Project Proponent may prepare an EMP by itself or may appoint a person or organization who/which is registered according to the Article 18.

77. The Project Proponent shall issue a letter of endorsement in a format prescribed by the Ministry according to the Article 63. Such letter shall be submitted to the Department prepared either in the Myanmar language, or in the English language or both. The Project Proponent shall submit the EMP to the Department in both digital form and complete paper copies, together with the required service fee as prescribed by the Department, and confirming:

    a) the accuracy and completeness of the EMP;

    b) that the EMP has been prepared in strict compliance with applicable laws including this Procedure; and

    c) that the Project will at all times comply fully with the commitments, mitigation measures, and plans in the EMP.

78. Upon Receipt of the EMP from the Project Proponent, the Department shall review and submit to the Ministry to enable it to make a final decision on approval of the EMP.

79. If it is determined by the Ministry that the EMP does not satisfy requirements, then the Project Proponent shall be called upon by the Department to undertake necessary amendments and/or to provide supplementary information as directed by the Ministry.

80. Upon completion of its review of the EMP, the Ministry shall;

a) approve the EMP, subject to any conditions it may prescribe, and issue an ECC; or

b) require that the Project carry out an IEE or EIA, citing the reasons for this decision and informing the Project Proponent of its decision; and, in either case

c) publicly disclose its decision.

81. The Department shall deliver the final decision of the Ministry within thirty (30) working days of receipt of an EMP. If the Ministry requires an EMP to be amended, then the due date for delivery of the Ministry's decision shall be extended accordingly.

82. Any additional costs associated with reaching a determination regarding Project types which require EMP shall be borne by the Project Proponent.

CHAPTER VIII.

Environmental Consideration in Project Approval

Project Approval Requirements

83. For Projects that require an IEE or EIA, before any permit is granted or issued by any ministry, or any other competent authority in respect of any application to proceed with implementation of such Projects, an ECC shall first have been duly issued by the Ministry in accordance with this Procedure.

84. All Projects and activities, whether categorized in Annex 1 ‘Categorization of Economic Activities for Assessment Purposes’ as requiring an IEE, an EIA, nor neither: (i) are obliged to obtain all required authorizations, permits, licenses and approvals and to comply with all applicable laws, regulations, procedures, ministerial directives, zoning, planning requirements, and other governmental requirements, and (ii) shall remain subject to any environmental and/or social conditions which the Ministry may impose as a condition to the commencement or continuation of construction or operation of that Project or activity.

85. Any proposed Project or activity which has been determined not to require an EIA or IEE (whether because it is below the indicated IEE threshold or is not listed in the categorization below) shall nonetheless be subject to the imposition of any

conditions deemed appropriate by the Ministry as part of the review, approval and permitting procedure of the Government.

86. When the relevant ministry or authority has given approval (prior permission, license, permit or register) to a Project for which an ECC has been issued, it shall notify the Ministry of such approval.

Environmental Compliance Certificate, Conditions and Revisions to Conditions

87. Upon receipt of the written approval from the relevant authority, the Project Proponent shall commence implementation of the Project strictly in accordance with the conditions attached to the ECC and including the EMP, within such time as may be prescribed by the Ministry.

88. An ECC is granted in respect of a specific, clearly identified Project. The ECC must specify:

    a) the registered name and registered office address of the Project Proponent to whom the ECC is issued;

    b) the documentation (IEE Report/EIA Report) that the Project Proponent submitted to the Ministry and on the basis of which the ECC has been issued;

    c) a map, images, aerial photos and satellite images showing the geographic location(s) of the Project and each of its components;

    d) the Project type and layout with an overview of activities, installations, operations, production capacity, production methods, and waste generation; and

    e) Project phases and timing (the commencement and conclusion dates of each).

89. The Ministry may prescribe conditions of an ECC. Such conditions may encompass any or all of:

    a) General management: (i) procedures and management systems to identify, control, prevent or minimize all Adverse Impacts; (ii) procedures to ensure compliance with all environmental and social commitments; (iii) procedures to implement the measures described in the EMP, Construction Phase EMP, and/or Operational Phase EMP,

as the case may be; (iv) procedures to improve the environmental and social performance of the Project; (v) organization with qualified environmental and social personnel; and (v) documentation, reporting and information disclosure procedures;

b) Emissions: (i) Emissions not allowed, (ii) Emission Limit Values in terms of types, substances, loads, concentrations, rates, timing, duration, frequency, seasons, and Project phase, (iii) Emission points, (iv) form and media, (v) recipients, (vi) contribution to Environmental Quality Standards, and (vii) statistical methods for determining compliance;

c) Use of energy and natural resources: amounts, type, origin of resource, rates, effectiveness of use, and waste generation;

d) Pollution Prevention: Effectiveness of production or construction methods or waste storage and treatment facilities to prevent or, where this is not practicable, to minimize pollution, and to prevent or minimize the risk of pollution;

e) Nature conservation and management: (i) protection and rehabilitation of sites, environments or species, (ii) effectiveness of environmental measures to prevent or minimize Adverse Impacts on certain environments or species; and (iii) biodiversity offsets;

f) Cultural resources: (i) protection of cultural heritage sites, structures and objects, and (ii) procedures for dealing with archeological finds;

g) Hazardous or toxic materials including waste: (i) limits to the types, categories, and amounts; and (ii) methods and systems of collection, storage, handling, transport, treatment and disposal;

h) Waste management: (i) limits to the types, categories, and amounts of waste (liquid, solid, atmospheric) generated; (ii) methods and systems of collection, storage, handling, transport, treatment and disposal; and (iii) recycling or reuse of wastes;

i) Transport and access: (i) access points; (ii) means of transport of materials and people to and from the Project; (iii) transport routes for products, materials or waste; and (iv) access control measures;

j) Decommissioning, rehabilitation, clean up and closure: (i) sites, areas/ environments and facilities; (ii) objectives and standards; (iii) site conditions and after use; (iv) timing; and (v) controls and monitoring;

k) Control measures: (i) prevention of accidents and responses to emergency conditions; (ii) measures and procedures in case of accidents, incidents, and operational irregularities; (iii) control and maintenance of pollution prevention/ minimization measures; and (iv) safety zones;

l) Monitoring: (i) parameters; (ii) methods; (iii) sampling and analyses; (iv) point of monitoring; (v) frequency; (vi) timing; (vii) data management; (viii) maintenance and control of monitoring equipment; and (ix) documentation and reporting;

m) Documentation and reporting: (i) parameters and issues that must be documented and reported; (ii) types and methods; (iii) frequency and timing; (iv) quality controls; and (v) recipients;

n) Financial guarantee: (i) type of guarantee; (ii) amount; (iii) timing; (iv) application; and (v) type and financial capacity of guarantor;

o) Funding of inspection by the Ministry: (i) amounts; (ii) payment procedure; and (iii) timing and frequency; and

p) Contributions to the Environmental Management Fund in accordance with Article 30 of the Rules: (i) pollution charges (emissions, waste), and (ii) charges on the use of natural resources and benefits from ecosystem services.

90. The Ministry may, upon joint application of a Project Proponent and a proposed transferee, transfer to the proposed transferee an ECC or any part of an ECC.

91. An ECC issued by the Ministry shall be valid for a period of five (5) years from the date of issuance. Six (6) months prior to

expiration of an ECC issued by the Ministry, the Project Proponent may apply to the Ministry for an extension.

92. The Ministry may unilaterally modify conditions in the ECC and/or require the Project Proponent to revise and resubmit the EMP to the Ministry for review and approval, if at any time the Ministry determines that:

a) the mitigation measures are insufficient or inadequate to mitigate the actual or likely impacts of the Project;

b) new information becomes known as to how harmful the Adverse Impacts of the Project are, or are likely to be or become;

c) the Project has Adverse Impacts which could not be foreseen at the time the originally approved IEE Report / EIA Report and EMP were approved;

d) the Adverse Impacts of the Project are greater than those anticipated impacts that formed the basis for the preparation, submission, and approvals of the original IEE Report/EIA Report and EMP and the issuance of the ECC and conditions therein;

e) new techniques conforming to the definition of BAT are available which would significantly reduce the Adverse Impacts of the Project;

f) the Adverse Impacts of the Project can be reduced through adherence to Good Practice without commercially significant extra cost to the Project; or

g) the measures/conditions are unnecessary to mitigate the Adverse Impacts.

93. The Ministry shall, upon consideration of the supplemental documentation, if any, make a decision on modifications to the conditions in the ECC or require that a new EIA, IEE or EMP, as the case may be, shall be prepared and submitted.

94. The Project Proponent shall commence substantial implementation of the Project within the first two (2) years after the issuance of the ECC, and not later than thirty (30) days after such commencement shall notify the Department in writing of the

date of commencement, and identify the activities constituting substantial implementation of the Project.

95. The Project Proponent shall be required to carry out and submit for the Ministry's approval a new assessment (IEE or EIA, as the case may be) if substantial Project commencement has not occurred within two (2) years after obtaining the ECC, unless the Project Proponent has applied in writing providing reasons why it has not been able to commence substantial implementation of the Project, indicating what further period of time is needed before substantial commencement of the Project can take place, and the Ministry has in its discretion granted an extension.

96. In case of major changes in size, scope, location, layout, technology, risk associated with foreseeable Adverse Impacts, production methods or pollution prevention/mitigation measures of the Project, or an expansion or second phase development is proposed, the Project Proponent shall notify the Ministry and provide supporting documentation of such changes within the timeframe as may be prescribed.

97. For EIA Type Projects with comprehensive construction works, the Ministry may include as a condition in the ECC that the Project Proponent shall prepare and submit to the Department a detailed Construction Phase EMP for review and approval prior to the intended start of construction works of the Project.

98. For EIA Type Projects, the Ministry may include as a condition in the ECC that the Project Proponent shall prepare and submit to the Department a detailed Operational Phase EMP for review and approval prior to the intended start of operations of the Project.

99. The Department may require that a Construction Phase EMP or Operational Phase EMP, as the case may be, shall be periodically updated and resubmitted to the Department in accordance with Ministry guidance for its review and approval.

100. The Project Proponent shall incorporate all relevant environmental commitments and requirements set forth in the EIA Report, Construction Phase EMP and/or Operational Phase EMP as the case may be, and in the ECC, applicable Emission Limit Values and Environmental Quality Standards, into detailed

designs, construction contract specifications, and contracts on Project operations related to any part of the Project.

101. In case the Department finds that changes to the Project, the Project site or Adverse Impacts of the Project warrant revisions to the EMP, Construction Phase EMP, or Operational Phase EMP as the case may be, then the Department may require the Project Proponent to prepare and submit a revised EMP, Construction Phase EMP, or Operational Phase EMP, as the case may be to the Department for review and approval.

Responsibility for all Adverse Impacts

102. The Project Proponent shall bear full legal and financial responsibility for:

a) all of the Project Proponent's actions and omissions and those of its contractors, subcontractors, officers, employees, agents, representatives, and consultants employed, hired, or authorized by the Project acting for or on behalf of the Project, in carrying out work on the Project; and

b) PAPs until they have achieved socio-economic stability at a level not lower than that in effect prior to the commencement of the Project, and shall support programs for livelihood restoration and resettlement in consultation with the PAPs, related government agencies, and organizations and other concerned persons for all Adverse Impacts.

103. The Project Proponent shall fully implement the EMP, all Project commitments, and conditions, and is liable to ensure that all contractors and subcontractors of the Project comply fully with all applicable Laws, the Rules, this Procedure, the EMP, Project commitments and conditions when providing services to the Project.

104. The Project Proponent shall be responsible for, and shall fully and effectively implement, all requirements set forth in the ECC, applicable Laws, the Rules, this Procedure and standards.

105. The Project Proponent shall timely notify and identify in writing to the Ministry, providing detailed information as to the proposed Project's potential Adverse Impacts.

CHAPTER IX.

Monitoring

106. The Project Proponent shall, during all phases of the Project (pre-construction, construction, operation, decommissioning, closure and post-closure), engage in continuous, proactive and comprehensive self-monitoring of the Project and activities related thereto, all Adverse Impacts, and compliance with applicable laws, the Rules, this Procedure, standards, the ECC, and the EMP.

107. The Project Proponent shall notify and identify in writing to the Ministry any breaches of its obligations or other performance failures or violations of the ECC and the EMP as soon as reasonably possible and in any event, in respect of any breach which would have a serious impact or where the urgent attention of the Ministry is or may be required, within not later than twenty-four (24) hours, and in all other cases within seven (7) days of the Project Proponent becoming aware of such incident.

108. The Project Proponent shall submit monitoring reports to the Ministry not less frequently than every six (6) months, as provided in a schedule in the EMP, or periodically as prescribed by the Ministry.

109. The monitoring reports shall include:

a) documentation of compliance with all conditions;

b) progress made to date on implementation of the EMP against the submitted implementation schedule;

c) difficulties encountered in implementing the EMP and recommendations for remedying those difficulties and steps proposed to prevent or avoid similar future difficulties;

d) number and type of non-compliance with the EMP and proposed remedial measures and timelines for completion of remediation;

e) accidents or incidents relating to the occupational and community health and safety, and the environment; and

f) monitoring data of environmental parameters and conditions as committed in the EMP or otherwise required.

110. Within ten (10) days of completing a monitoring report as contemplated in Article 108 and Article 109 in accordance with the EMP schedule, the Project Proponent shall make such report(except as may relate to National Security concerns) publicly available on the Project's website, at public meeting places (e.g. libraries, community halls) and at the Project offices. Any organization or person may request a digital copy of a monitoring report and the Project shall, within ten (10) days of receiving such request, submit a digital copy via email or as may otherwise be agreed upon with the requestor.

Monitoring and Inspection by the Ministry, Relevant Government Departments and Organizations

111. The Ministry has the right, using the Department's officers at national, regional, state, Nay Pyi Taw Union Territory and/or local offices, the services of any consultant, or both, to conduct monitoring and inspections of a Project and activities related thereto in order to control and determine compliance by the Project with all applicable environmental and socio-economical requirements and, where possible, to prevent violations of the Project's obligations. The Ministry may also, for the implementation of monitoring and inspections, enlist the assistance of other relevant government departments and organizations.

112. If, upon inspection, the Ministry identifies any non-compliance with the conditions in the ECC, the Ministry may require the Project Proponent to undertake remedial measures and/or may impose penalties as provided for in this Procedure.

113. For purposes of monitoring and inspection, the Project Proponent:

a) shall grant to the Ministry and/or its representatives, at any time during normal working hours, access to the Project's offices and to the Project site and any other location at which the Project activities or activities related to the Project are performed; and

b) from time to time as and when the Ministry may reasonably require, shall grant the Ministry access to the Project's offices and to the Project site and any other location at

which the Project activities or activities related to the Project are performed.

114. In carrying out any inspection, the Ministry may take photographs and make other audio and video recordings of any type, take soil, sediment, water, and air samples, and examine computers, copy documents including digital files, interview persons, and carry out any other investigation which the Ministry believes to be necessary or appropriate. The Ministry, as it deems necessary, may carry out such inspection in coordination with any other ministries.

115. In the event of an emergency, or where, in the opinion of the Ministry, there is or may exist a violation or risk of violation of the compliance by the Project with all applicable environmental and social requirements, the Project shall grant full and immediate access to the Ministry at any time as may be required by the Ministry.

116. The Ministry's inspections may include without limitation sites, facilities, vehicles, computers, archives, documents and all other forms and types of media and information storage, and persons.

117. The Project Proponent shall further ensure that the Ministry's rights of access hereunder shall extend to access by the Ministry to the Project's contractors and subcontractors.

118. Where, in the opinion of the Ministry, the Project is not in compliance with its obligations, the Ministry shall promptly inform the Project.

119. The Ministry may recommend and warn the Project to strictly implement its obligations. The Ministry reserves the right to post any warning on the Ministry and/or Department websites or to require the Project to post and retain such warning on the Project's website, or both, or to effect disclosure to the public in other appropriate ways.

120. The Ministry shall indicate the manner in which environmental and social obligations are not being complied with by the Project Proponent, and shall give the Project a specified time period (determined by the Ministry to be reasonable under the circumstances) within which to bring the Project into compliance.

121. Where, in the opinion of the Ministry, the Project Proponent is not in compliance with, or is likely not to comply with, its environmental and social obligations, the Ministry may take such enforcement actions as the Ministry thinks appropriate as are set out in any applicable law, including without limitation the right to suspend the Project operation, and the right of the Ministry to employ any qualified third party to correct such non-compliance at the Project Proponent's sole expense.

122. All costs of the Ministry to conduct inspection and monitoring of the Project shall be borne by the Project Proponent. Such costs shall not exceed that which is necessary to ensure the Project's compliance with the Project commitments as set out in the EMP and in the ECC.

CHAPTER X.

Strategic Environmental Assessment

123.

a) To ensure the achievement of a generally high level of environmental and social protection with respect to Projects and other economic activities in and throughout the Republic of the Union of Myanmar and its political and geographic subdivisions, and to facilitate the prompt and effective integration of relevant environmental and social considerations into public policy and planning, the Ministry may require that policies, strategies, development plans, frameworks and programs that are prepared or contemplated by Union Ministries, the governments and authorities of Regions, States,, Self-Administered Zones, Self-Administered Divisions, the Nay Pyi Taw Union Territory, Cities and Townships, and other individuals or organizations shall be screened for potential environmental and social impacts in accordance with strategic environmental assessment guidelines issued by the Ministry.

b) Where such Screening indicates that any such policy, strategy, development plan, framework or program may have a significant environmental or social impact, the Ministry may require the authority responsible for such policy, strategy, development plan, framework or program to

undertake a properly scoped study to identify and assess the potential environmental and social impacts, and to prepare and incorporate into such policy, strategy, development plan, framework or program an environmental and social management and monitoring framework comprehensively addressing such impacts.

124. The Ministry may require that Projects and other economic activities that derive from such policy, strategy, development plan, framework or program that are prepared or contemplated by Union Ministries, the governments and authorities of Regions, States, Self-Administered Zones, Self-Administered Divisions, the Nay Pyi Taw Union Territory, Cities and Townships, and other individuals or organizations and which have been required to undertake a study to identify and assess the potential environmental and social impacts (as stipulated above) shall be developed and implemented (sited, designed, constructed and operated) in accordance with the environmental and social management and monitoring framework of such policy, strategy, development plan, framework or program.

CHAPTER XI.

Administrative Punishment

125. The Ministry shall have the right to impose penalties on a Project for any breach by the Project, the Project Proponent, or any contractor or subcontractor of the Project or any other Person acting on behalf of the Project, of commitments as set forth in the Prior Permission. In addition it shall take action in imposing other administrative punishment.

126. The imposition of such penalties and administrative punishment on the Project shall be subject to:

a) with respect to the first occurrence of any such breach, violation or performance failure, receipt by the Project Proponent of prior written notice and expiration of a reasonable cure period not exceeding sixty (60) days.

b) the Project Proponent shall not be entitled under (a) to receive any warning or receive the benefit of any cure period with respect to the recurrence of any such breach, violation

or performance failure that occurs within five (5) years from the date of the initial breach, violation or performance failure prior to the imposition of applicable penalties by the Ministry.

127. Penalties are imposed and required to be paid in addition to any costs of remediation, clean up, and compensation that may be incurred by the Ministry. Penalties imposed pursuant to this Procedure are in addition to any penalties that may be imposed under any other applicable law or regulation, the Rules or this Procedure.

128. The payment of penalties by the Project Proponent shall not relieve the Project of liability, if any, for claims that may be asserted against the Project by third parties with respect to damage incurred and/or injury suffered arising out of the Project's performance or any breaches or performance defects by the Project.

129. Penalties payable to the Ministry and administrative punishments under this Procedure are as set forth in Annex 3 'Prescribed Penalties Under Procedure' hereto.

130. The Department shall prepare and submit to the Ministry the list of administrative punishments applicable to Projects.

131. With respect to Projects which continue to be non-compliant with this Procedure after the imposition of administrative punishment, the Ministry shall both contemplate criminal punishment provided for under Article 32of the Law, and inform the relevant government departments and organizations having authority to issue licenses, permits or registrations, to take necessary action.

(Win Tun)

Union Minister

ANNEX 1

Categorization of Economic Activities for Assessment Purposes

a. This Annex provides guidance as to whether an IEE or EIA is required for any proposed project or activity. If, as a result of that determination, an IEE or an EIA is determined to be required, then the proponent of the project or activity will be obliged to prepare, obtain approval for, and implement an appropriate EMP in respect of the proposed project or activity. Any appeal from such determination must be made in accordance with the EIA Procedure.

b. If a Project Proponent of an existing project or activity intends to expand that project or activity, then the Department shall consider and use the type and size thresholds specified in the categorization below as the basis for determining whether such expanded project or activity will be required to conduct any additional assessment, either in the form of an IEE, an EIA or an EMP.

c. If a production capacity included in the categorization below has not been explicitly expressed as a total production capacity (e.g. installed capacity for energy production), then the applicable production capacity threshold shall be the total production output under normal operations.

d. The Ministry reserves the right to interpret, clarify and amend this Annex from time to time as and when it deems necessary in accordance with the Article 30 of the Procedure.

No.	Type of Economic Activity	Criteria for IEE Type Economic Activities	Criteria for EIA Type Economic Activities
SPECIAL INVESTMENT PROJECTS			
1.	Projects in which investment is decided by the Parliament or the government cabinet or the President	-	All sizes
ENERGY SECTOR DEVELOPMENT			
2.	Hydro Power Plants	Installed capacity ≥ 1 MW but < 15 MW and Reservoir volume (full supply level) < 20,000,000 $m^3$and Reservoir area (full supply level) < 400 ha	Installed capacity ≥ 15 MW Or Reservoir volume (full supply level) ≥ 20,000,000 m^3 Or Reservoir area (full supply level) ≥ 400 ha
3.	Nuclear Power Plants	-	All sizes
4.	Natural Gas or Bio Gas Power Plants	Installed capacity ≥ 5 MW but < 50 MW	Installed capacity ≥ 50 MW
5.	Coal-fired Power Plants	Installed capacity ≥ 1 MW but < 10 MW	Installed capacity ≥ 10 MW
6.	Power Plants from Waste Products	Installed capacity ≥ 50 MW	All activities where the Ministry requires that the Project shall undergo EIA
7.	Geothermal Facilities	Installed capacity ≥ 5 MW but < 50 MW	Installed capacity ≥ 50 MW

8.	Combined Cycle Power Plants (gas & thermal)	Installed capacity ≥ 5 MW but < 50 MW	Installed capacity ≥ 50 MW
9.	Thermal Power Plants (other than the types in items 4, 5, 6, 7 and 8)	Installed capacity ≥ 5 MW but < 50 MW	Installed capacity ≥ 50 MW
10.	Wind Power Plants	Installed capacity ≥ 5 MW but < 50 MW	Installed capacity ≥ 50 MW
11.	Solar Power Plants	Installed capacity ≥ 50 MW	All activities where the Ministry requires that the Project shall undergo EIA
12.	Onshore Oil and Gas Seismic Surveys	All sizes	
13.	Onshore Oil and Gas Exploration Drillings	-	All sizes
14.	Onshore Oil and Gas Production drilling and production activities; transportation activities including pipelines; pump stations, compressor stations and storage facilities; ancillary and support operations; and decommissioning	-	All sizes
15.	Offshore Oil and Gas Seismic Surveys	All sizes	-
16.	Offshore Oil and Gas Exploration Drillings	-	All sizes
17.	Offshore Oil and Gas Production drilling and production activities; offshore pipeline operations, offshore transportation, compressor stations and storage facilities; ancillary and support operations; and decommissioning	-	All sizes

18.	Petroleum Refineries or Natural Gas Refineries(including manufacturing of liquefied petroleum gas, motor gasoline, kerosene, diesel oil, heating oil, fuel oil, bitumen, asphalt, sulphur, and intermediate products e.g. propane/propylene mixtures, virgin naphtha, middle distillate and vacuum distillate for the petrochemical industry)	-	All sizes
19.	Natural Gas Processing Plants; Production of liquid products from natural gas (this may include methanol and petroleum liquid products such as naphtha, gasoline, kerosene, diesel fuel, waxes, and lubes)	-	All sizes
20.	Natural Gas Liquefaction Plants	-	All sizes
21.	Oil or Natural Gas Terminals	-	All sizes
22.	Petroleum Depotsor Liquid Gas Depots	Storage capacity Petroleum < 10,000 t; Liquid gas < 2,500 t	Storage capa city Petroleum ≥ 10,000 t; Liquid gas ≥ 2,500 t
23.	Oil or Gas Transmission or Distribution Systems	< 10 km	≥ 10 km
24.	Filling Stations (including liquefied petroleum gas and compressed natural gas)	≥ 10 m^3 (10,000 l) fuel storage capacity	All activities where the Ministry requires that the Project shall undergo EIA

25.	Petroleum-based Organic Chemicals Manufacturing	-	All sizes
26.	Electrical Power Transmission Lines ≥ 115 kV but < 230 kV	≥ 50 km	All activities where the Ministry requires that the Project shall undergo EIA
27.	Electrical Power Transmission Lines ≥ 230 kV	All sizes	All activities where the Ministry requires that the Project shall undergo EIA
28.	High Voltage (230 kV and 500 kV) Transformer Substations	≥ 4 ha	All activities where the Ministry requires that the Project shall undergo EIA
AGRICULTURE, LIVESTOCK AND FORESTRY DEVELOPMENT			
29.	Plantation Industrial/Crop Production (e.g. rubber, palm oil, cocoa, coffee, tea, bananas, sugar cane)	≥ 200 ha but < 500 ha	≥ 500 ha
30.	Annual Crop Production (e.g. cereals, pulses, roots, tubers, oil-bearing crops, fibre crops, vegetables, and fodder crops)	≥ 500 ha but < 3,000 ha	≥ 3,000 ha
31.	Livestock Farms (e.g. cows, buffaloes, horses, goats, sheep and others)	≥ 500 livestock units but < 3,000 livestock units	≥ 3,000 livestock units
32.	Farms for Poultry and Other Commercially Raised Fowl	Fowl (poultry, ducks, turkeys) ≥ 5,000 but < 20,000 Ostriches ≥ 50 but < 200 Quail ≥ 25,000 but < 100,000	Fowl ≥ 20,000 Ostriches ≥ 200 Quail ≥ 100,000

33.	Pig Farms	≥ 2,000 pigs but < 5,000 pigs	≥ 5,000 pigs
34.	Inland Fish Raising and Aquaculture (in rivers, lakes, ponds; including shrimp raising)	Total water surface ≥ 1 ha but < 25 ha	Total water surface ≥ 25 ha
35.	Marine and Coastal Fish Raising and Aquaculture	Total water surface ≥ 1 ha but < 100 ha	Total water surface ≥ 100 ha
36.	Oyster Raising and Pearl Production	≥ 50 ha but < 200 ha	≥ 200 ha
37.	Raising and Caring for Wild Animals	All sizes	All activities where the Ministry requires that the Project shall undergo EIA
38.	Reptile Farms	Alligators, monitor lizards or pythons < 1,000 reptiles other reptiles< 5,000 reptiles	≥ 1,000 alligators, monitor lizards or pythons ≥ 5,000 snakes or other reptiles
39.	Clear-cut Logging	< 500 ha	≥ 500 ha
40.	Concession Forest	< 10,000 ha	≥ 10,000 ha
41.	Irrigation Systems	≥ 100 ha but < 5,000 ha	≥ 5,000 ha
Manufacturing			
Food and Beverage Manufacturing			
42.	Meat Processing Plants (slaughter of cattle, pigs, sheep and other livestock)	≥ 15 t/d but < 50 t/d carcase production	≥ 50 t/d carcase production
43.	Poultry Processing Plants (slaughter of poultry and other commercially raised fowl)	≥ 15 t/d but < 50 t/d carcase production	≥ 50 t/d carcase production
44.	Fish Processing Plants	≥ 15 t/d but < 75 t/d	≥ 75 t/d

	(fish, crustaceans, gastropods, cephalopods, and bivalves; includes by-products such as fish oil and fish meals)		
45.	Food and Beverage Processing Facilities (processing of beef, pork, mutton and poultry meats, vegetable, and fruit raw materials into value-added food and non-fermented beverage products for human consumption)	≥ 10 t/d but < 20 t/d	≥ 20 t/d
46.	Dairy Processing Plants (reception, storage, and industrial processing of raw milk and the handling and storage of processed milk and dairy products)	≥ 200 t/d raw milk on annual average basis	All activities where the Ministry requires that the Project shall undergo EIA
47.	Manufacture of Animal Feeds	≥ 100 t/d but < 300 t/d Product and < 600 t/d if production is operating a maximum of 90 d/a	≥ 300 t/d product or ≥ 600 t/d if production is operating a maximum of 90 d/a
48.	Vegetable Oil Production and Processing Facilities	≥ 100 t/d but < 300 t/d Product and < 600 t/d if production is operating a maximum of 90 d/a	≥ 300 t/d product or ≥ 600 t/d if production is operating a maximum of 90 d/a
49.	Manufacture of Starches and Starch Products	≥ 100 t/d but < 300 t/d product and	≥ 300 t/d product or

		< 600 t/d if production is operating a maximum of 90 d/a	≥ 600 t/d if production is operating a maximum of 90 d/a
50.	Manufacture of Grain Mill Products (grain milling, rice milling, production of rice flour, vegetable milling, coffee and cocoa milling, manufacture of flour)	≥ 100 t/d but < 300 t/d product and < 600 t/d if production is operating a maximum of 90 d/a	≥ 300 t/d product or ≥ 600 t/d if production is operating a maximum of 90 d/a
51.	Monosodium Glutamate (seasoning powder) Factories	≥ 50 t/d but <100 t/d	≥ 100 t/d

52.	Sugar Manufacturing Plants	≥ 50 t/d but < 300 t/d and < 600 t/d if production is operating a maximum of 90 d/a	≥ 300 t/d refined sugar or ≥ 600 t/d if production is operating a maximum of 90 d/a
53.	Alcohol, Wine and Beer Production Factories	≥ 50,000 l/d but < 300,000l/d product and < 600,000 l/d if production is operating a maximum of 90 d/a	≥ 300,000l/d product or ≥ 600,000l/d if production is operating a maximum of 90 d/a
54.	Non-Alcohol Factories (soda, soft drink, mineral water production)	≥ 20,000 l/d	All activities where the Ministry requires that the Project shall undergo EIA
55.	Ice Factories	≥ 500 t/d but < 2,000 t/d	≥ 2,000 t/d
56.	Drinking Water Factories (for bottled refined water)	≥ 100,000 l/d	All activities where the Ministry requires that the Project shall undergo EIA
57.	Tobacco Processing Plants	≥ 1 t/d but < 15 t/d Product	≥ 15 t/d product

Garments, Textiles and Leather Products			
58.	Textile Manufacturing Facilities (production of yarn, fabric, garments and finished goods based on natural fibers, synthetic fibers and/or regenerated fibers)	All sizes	All activities where the Ministry requires that the Project shall undergo EIA
59.	Pre-treatment (washing, bleaching, mercerization) or Dyeing of Textiles or Fibres	≥ 1 t/d but < 10 t/d	≥ 10 t/d
60.	Leather Products Manufacturing (includes synthetic leather, handbags, luggage, saddle, footwear)	≥1,000 t/a	All activities where the Ministry requires that the Project shall undergo EIA
61.	Tanning and Leather Finishing	< 12 t/d finished products	≥ 12 t/d finished products
Wood Manufacturing			
62.	Sawmilling and Manufactured Wood Products	Sawmills: input ≥ 3,000 m^3/a but < 50,000 m^3/a Wood products: input ≥ 1,000 m^3/a but < 15,000 m^3/a	Sawmills: input ≥ 50,000 m^3/a Wood products: input ≥ 15,000 m^3/a
63.	Board and Particle-based Products Manufacturing(board and particle-based products, plywood and glued and laminated products, board from other raw materials such as sugar cane bagasse, straw, and linen)	< 600 m^3/d or < 420 t/d	≥ 600 m^3/d or ≥ 420 t/d
64.	Pulp and/or Paper Mills	≥ 20 t/d but < 50 t/d	≥ 50 t/d

65.	Printing or Other Surface Treatment Facilities (using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating)	≥ 6 kg/h but < 150 kg/h consumption of organic solvents	≥ 150 kg/h or ≥ 200 t/a consumption of organic solvents
Chemicals Manufacturing			
66.	Large Volume Inorganic Compounds Manufacturing and Coal Tar Distillation (includes ammonia, acids [nitric, hydrochloric, sulphuric, hydrofluoric, phosphoric acid], chlor-alkali [e.g. chlorine, caustic soda, soda ash], carbon black, and coal tar distillation [naphthalene, phenanthrene, anthracene])	-	All sizes

67.	Petroleum-based Polymers Manufacturing Plants	-	All sizes
68.	Coal Processing Plants(processing of coal into gaseous or liquid chemicals including fuels)		All sizes
69.	Chemical Fertilizer Manufacturing Plants	-	All sizes
70.	Pesticide Manufacturing, Formulation, and Packaging Plants	-	All sizes
71.	Oleo chemicals Manufacturing Plants (production of fatty acids, _lycerine, and biodiesel using fats and oils from vegetable or animal sources)		All sizes

72.	Pharmaceuticals and Biotechnology Manufacturing Plants	< 50 t/a	≥ 50 t/a
73.	Other Basic Organic Chemicals Manufacturing Plants	-	All sizes
74.	Other Basic Inorganic Chemicals Manufacturing Plants	-	All sizes
75.	Other Chemical Products Manufacturing Plants(e.g. paints, inks, varnishes, soap, detergents, perfumes, pyrotechnic products, photographic chemicals)	≥ 5 t/d but < 10 t/d	≥ 10 t/d
76.	Explosives Manufacturing Plants	-	All sizes
77.	Manufacturing of Extinguishers and Other Firefighting Products	All sizes	All activities where the Ministry requires that the Project shall undergo EIA
78.	Manufacturing of CO2Gas and Filling and Liquefying Industrial Gas	≥ 1,000 t/a but < 3,000 t/a	≥ 3,000 t/a
Manufacture of Glass and Ceramics			
79.	Glass, Glass Fibre or Mineral Fibre Manufacturing Plants	All sizes	All activities where the Ministry requires that the Project shall undergo EIA
80.	Ceramic Tile and Sanitary Ware Manufacturing Plants	≥ 1,000 t/a fine ceramics ≥ 10,000 t/a ceramic tiles	All activities where the Ministry requires that the Project shall undergo EIA

Manufacture of Construction Materials			
81.	Cement and Lime Manufacturing Plants	Cement ≥ 10 t/h but < 30 t/h Lime ≥ 20 t/d but < 50 t/d	Cement ≥ 30 t/h Lime ≥ 50 t/d
82.	Clinker Plants	All sizes	All activities where the Ministry requires that the Project shall undergo EIA
83.	Other Construction Supplies and Materials Production	≥ 30,000 t/a but < 50,000 t/a	≥ 50,000 t/a
84.	Asphalt Production Plants	< 100 t/d	≥ 100 t/d
Metal, Machinery and Electronics			
85.	Base Metal Smelting and Refining Plants (base metal smelting and refining of lead, zinc, copper, nickel, and aluminium)	Non-ferrous metal < 20 t/d melting capacity, except for lead and cadmium < 4 t/d melting capacity	Non-ferrous metal ≥ 20 t/d melting capacity, except for lead and cadmium ≥ 4 t/d melting capacity
86.	Manufacture of Pig Iron, Raw and Low Alloy Steel from Iron Ore or Scrap Metal	< 2.5 t/h	≥ 2.5 t/h
87.	Foundries(casting ferrous [iron and steel] and nonferrous [primarily aluminium, copper, zinc, lead, tin, nickel, magnesium, and titanium] metals)	Ferrous metal < 20 t/d production capacity Non-ferrous metal < 20 t/d production capacity except for lead and cadmium < 4 t/d production capacity	Ferrous metal ≥ 20 t/d production capacity Non-ferrous metal ≥ 20 t/d production capacity except for lead and cadmium ≥ 4 t/d production capacity

88.	Non-ferrous Metal Melting, Smithy and Filigree	Production capacity ≥ 5 t/d but < 20 t/d	Production capacity ≥ 20 t/d
89.	Shipyards and Ship Building Enterprises	< 1 ha and < 20,000 t lifting capacity	≥ 1 ha or ≥ 20,000 t lifting capacity
90.	Locomotives and Other Railway Rolling Material Manufacturing, Repairing and Assembling	-	≥ 100 vehicles/a
91.	Metal, Plastic, Fibre and Rubber Products Manufacturing Plants(material processing operations common to multiple industries engaged in the manufacture of metal, plastic, fibre, and rubber products)	≥ 5,000 m^2 production area, or ≥ 6 kg/h consumption of organic solvents	All activities where the Ministry requires that the Project shall undergo EIA
92.	Rubber and Latex Processing Plants	≥ 2,000 t/a	All activities where the Ministry requires that the Project shall undergo EIA
93.	Vehicle Tire Manufacturing Plants	≥ 5,000 m^2 production area, or ≥ 6 kg/h consumption of organic solvents	All activities where the Ministry requires that the Project shall undergo EIA
94.	Semiconductors and Other Electronics Manufacturing Plants(manufacturing of semiconductors, printed circuit boards, printed wiring assemblies, screens, passive components, and magnetic devices)	≥ 5,000 m^2 production area, or ≥ 6 kg/h consumption of organic solvents	All activities where the Ministry requires that the Project shall undergo EIA
95.	Electronic and Electric Equipment Manufacturing Plants(computers, communication equipment,	≥ 5,000 m^2 production area, or	All activities where the Ministry requires that the Project shall

	consumer electronics (cooking, washing, food, warm and cooling domestic and public electronic, laboratory equipment, electric motors, electric lightning etc.)	≥ 6 kg/h consumption of organic solvents	undergo EIA
96.	Batteries and Accumulators Manufacturing Plants	< 3,000 t/a	≥ 3,000 t/a
97.	Machinery, Vehicles and Equipment Manufacturing Plants	≥ 5,000 m^2 production area, or ≥ 6 kg/h consumption of organic solvents	All activities where the Ministry requires that the Project shall undergo EIA
98.	Motor Vehicle and Motor Bike Assembly Plants	≥ 5,000 m^2 production area, or ≥ 6 kg/h consumption of organic solvents	All activities where the Ministry requires that the Project shall undergo EIA
99.	Motor Vehicle Accessories, Related Equipment and Engine Manufacturing Factories	≥ 5,000 m^2 production area, or ≥ 6 kg/h consumption of organic solvents	All activities where the Ministry requires that the Project shall undergo EIA
100.	Motor Vehicle Maintenance Workshops	Utilization area ≥ 5,000 m^2	All activities where the Ministry requires that the Project shall undergo EIA
101.	Car Breaking	< 10 vehicles/d, < 50 motorbikes/d	≥ 10 vehicles/d ≥ 50 motorbikes/d
102.	Weapons and Ammunition Manufacturing Plants	-	All sizes

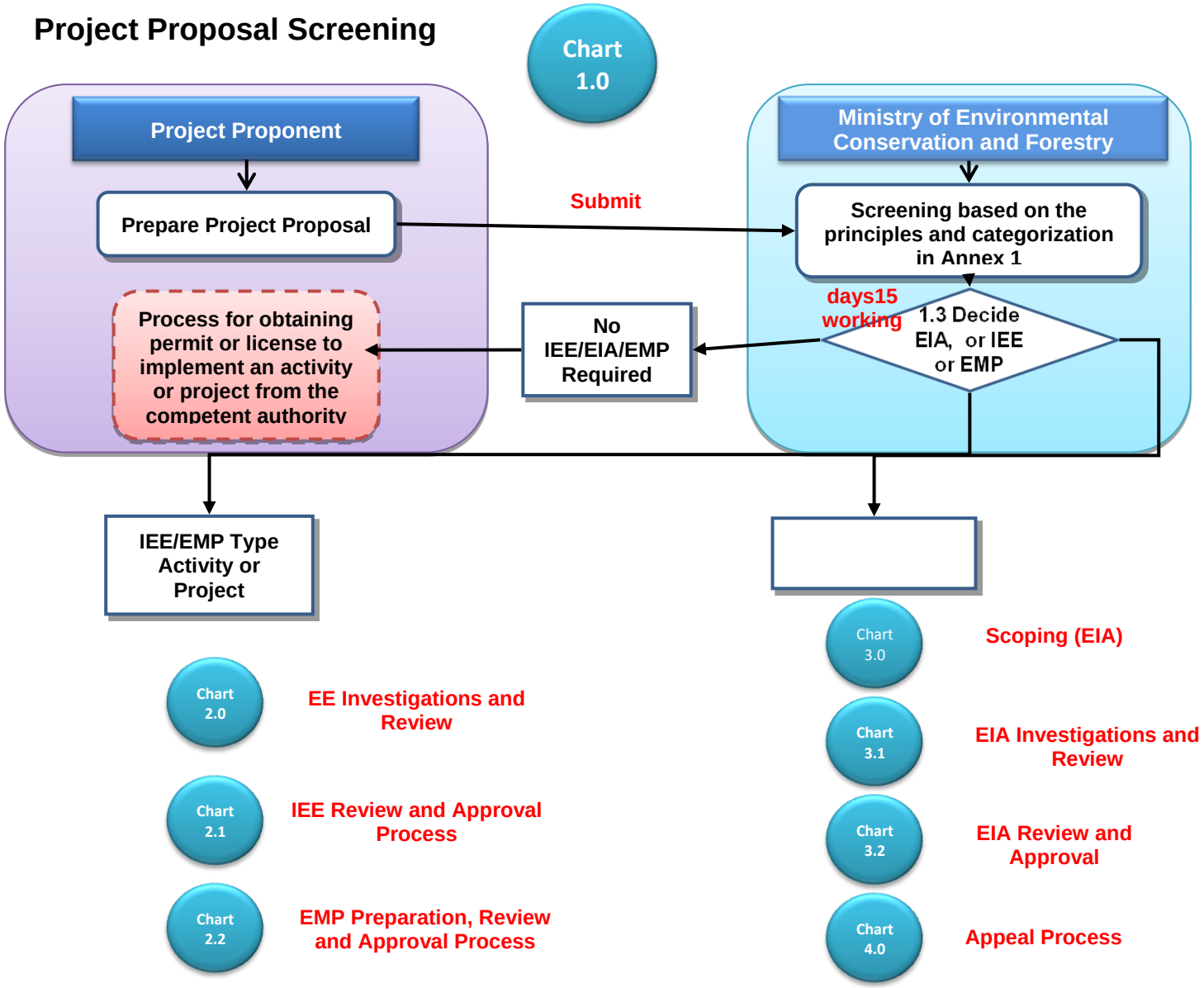
Waste Management			
103.	Non-Hazardous Waste Disposal Facilities	Landfills < 10 t/d and total capacity < 25,000 t Others < 50 t/d	Landfills ≥ 10 t/d or total capacity ≥ 25,000 t Others ≥ 50 t/d
104.	Non-Hazardous Waste Incinerators	< 3 t/h	≥ 3 t/h
105.	Non-Hazardous Waste Recycling, Recovery or Reuse Facilities	< 50 t/d	≥ 50 t/d
106.	Hazardous Waste Disposal Facilities	-	All sizes
107.	Hazardous Waste Recycling, Recovery or Reuse Facilities	< 10 t/d	≥ 10 t/d
108.	Wastewater Treatment Plants (centralized systems)	-	All sizes
109.	Wastewater and Storm Water Collection Systems	Length ≥ 1 km but < 10 km	≥ 10 km
Water Supply			
110.	Groundwater Development for Industrial, Agricultural or Urban Water Supply	< 4,500 m^3/d	≥ 4,500 m^3/d
Infrastructure and Service Development			
111.	Dams and Reservoirs	Dam height < 15 m and Reservoir area < 400 ha	Dam height ≥ 15 m or Reservoir area ≥ 400 ha
112.	Lake, River and Channel Land Filling which	Area < 50 ha	Area ≥ 50 ha

	Impacts on the Public		
113.	Other Large Civil Works Construction (embankments, seawalls, offshore breakwater)	Length < 2 km and Area < 25 ha	Length ≥ 2 km or Area ≥ 25 ha
114.	Dredging	Total < 500,000 t	Total ≥ 500,000 t
115.	River Channel Conservation (surface water & water volume control)		All sizes
116.	Shipping(operation and maintenance of ships used for the transport of bulk cargo, and goods, and ship breaking)	All sizes	All activities where the Ministry requires that the Project shall undergo EIA
117.	Ports, Harbours, and Terminals(ports, harbours, and terminals for cargo and passengers transfer)	Area < 25 ha	Area ≥ 25 ha
118.	Industrial Zone Construction and Development	-	All sizes
119.	Hospitals	All sizes	All activities where the Ministry requires that the Project shall undergo EIA
120.	Cemeteries and Crematoria(for burial, incineration and other forms)	All sizes	
121.	Tourism and Hospitality Development	≥ 80 rooms but < 200 rooms or total utilization area ≥ 200,000 m^2 but < 500,000 m^2	≥ 200 rooms or total utilization area is ≥ 500,000 m^2
122.	Golf courses	9 holes	18 holes

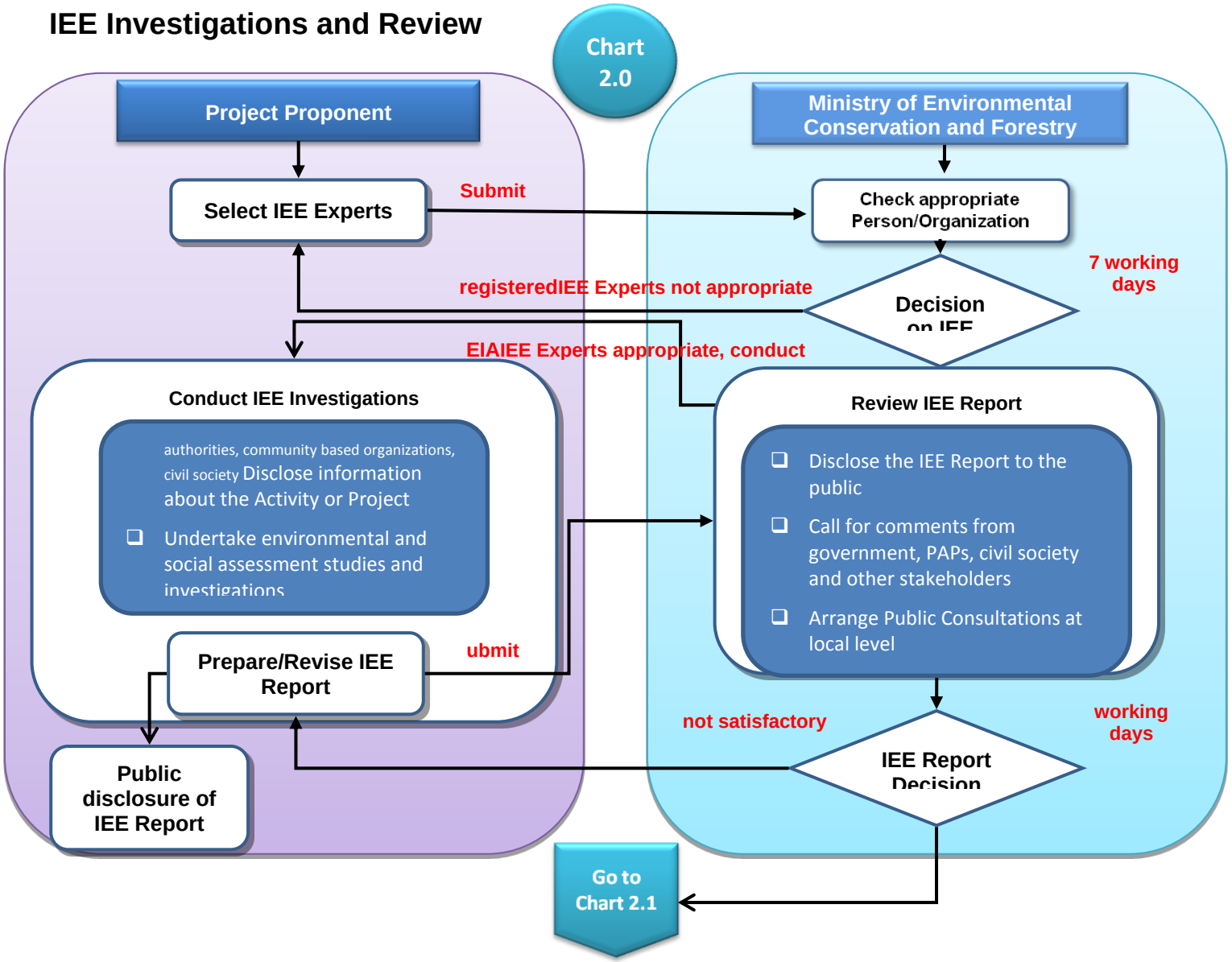
Transportation			
123.	Railways and Tramways (construction and maintenance of rail infrastructure and operation of rolling stock)	Length <5 km	Length ≥ 5 km
124.	Cable Cars	Length < 0.5 km	Length ≥ 0.5 km
125.	Airports and Runway Construction	Runway length < 2,100 m	Runway length ≥ 2,100 m
126.	Bridges, River Bridges and Viaducts (new construction)	Length ≥200 m but <2km	Length ≥2 km
127.	Bridges, River Bridges and Viaducts (upgrading)	Length ≥ 300 m	All activities where the Ministry requires that the Project shall undergo EIA
128.	Tunnels	Length < 1 km	Length ≥ 1 km
129.	Expressways and Highways (ASEAN Highway Standard; new construction or widening)	Length ≥ 2 km but < 50 km	Length ≥50 km
130.	Other Roads (state, region, urban; new construction or widening)	Length ≥ 50 km but < 100 km	Length ≥100 km
131.	Road Improvement (upgrading from seasonal to all weather surface, widening of shoulders)	Length ≥ 50 km	All activities where the Ministry requires that the Project shall undergo EIA
Mining			
132.	Extraction of Rock, Gravel or Sand from a River or Marine Waters	≥ 1,000 m^3/a but < 50,000 m^3/a	≥ 50,000 m^3/a
133.	Construction, Building and Ceramic Minerals Extraction (aggregates, limestone, slates, clay,	< 200 acre and	≥ 200 acre or

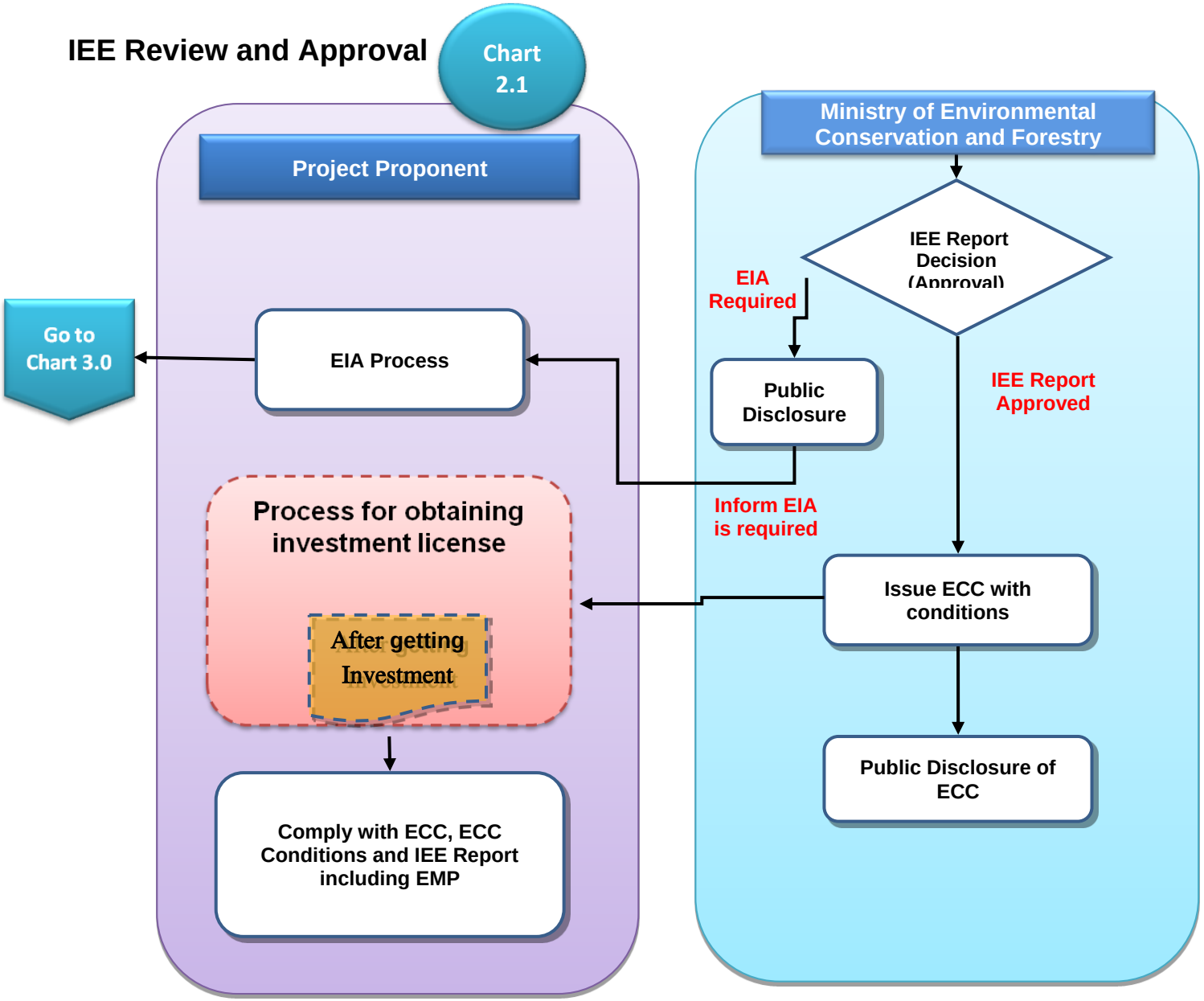
	gypsum, feldspar, silica sands, granite, kaolin, bentonite, marble, and quartzite)	< 100,000 t/a	≥ 100,000 t/a
134.	Extraction and Refining of Industrial Minerals(barite, fluorite, phosphate, potash, salt, soda ash, asbestos)	< 200 acre and <100,000 t/a ore	≥ 200 acre or ≥ 100,000 t/a ore
135.	Extraction of Ferrous, Non-Ferrous Metal and Precious Metal Ore Except Gold (iron, manganese, silver, copper, tin, antimony, lead, nickel, zinc, chromium, bauxite), and Precious Stone	<50 acre and < 50,000 t/a	≥ 200 acre or ≥ 50,000 t/a
136.	Refining of Metal Mineral Ore (without using hazardous chemicals)	<50,000 t/a	≥50,000 t/a
137.	Refining of Metal Mineral Ore (using hazardous chemicals)	<25,000 t/a	≥25,000 t/a
138.	Extraction and Refining of Gold Ore (without using hazardous chemicals)	<20 acre	≥ 20 acre
139.	Extraction and Refining of Gold Ore (using hazardous chemicals)	<20 acre and <25,000 t/a	≥20 acre or ≥25,000 t/a
140.	Coal Mining (underground and surface)	< 100,000 t/a coal	≥ 100,000 t/a coal
141.	Mining, including Dredging of Heavy Mineral Sands(tungsten, ilmenite, rutile, zircon, titanium, monazite)	≥ 1,000 m^3/a but < 50,000 m^3/a	≥ 50,000 m^3/a

Project Proposal Screening



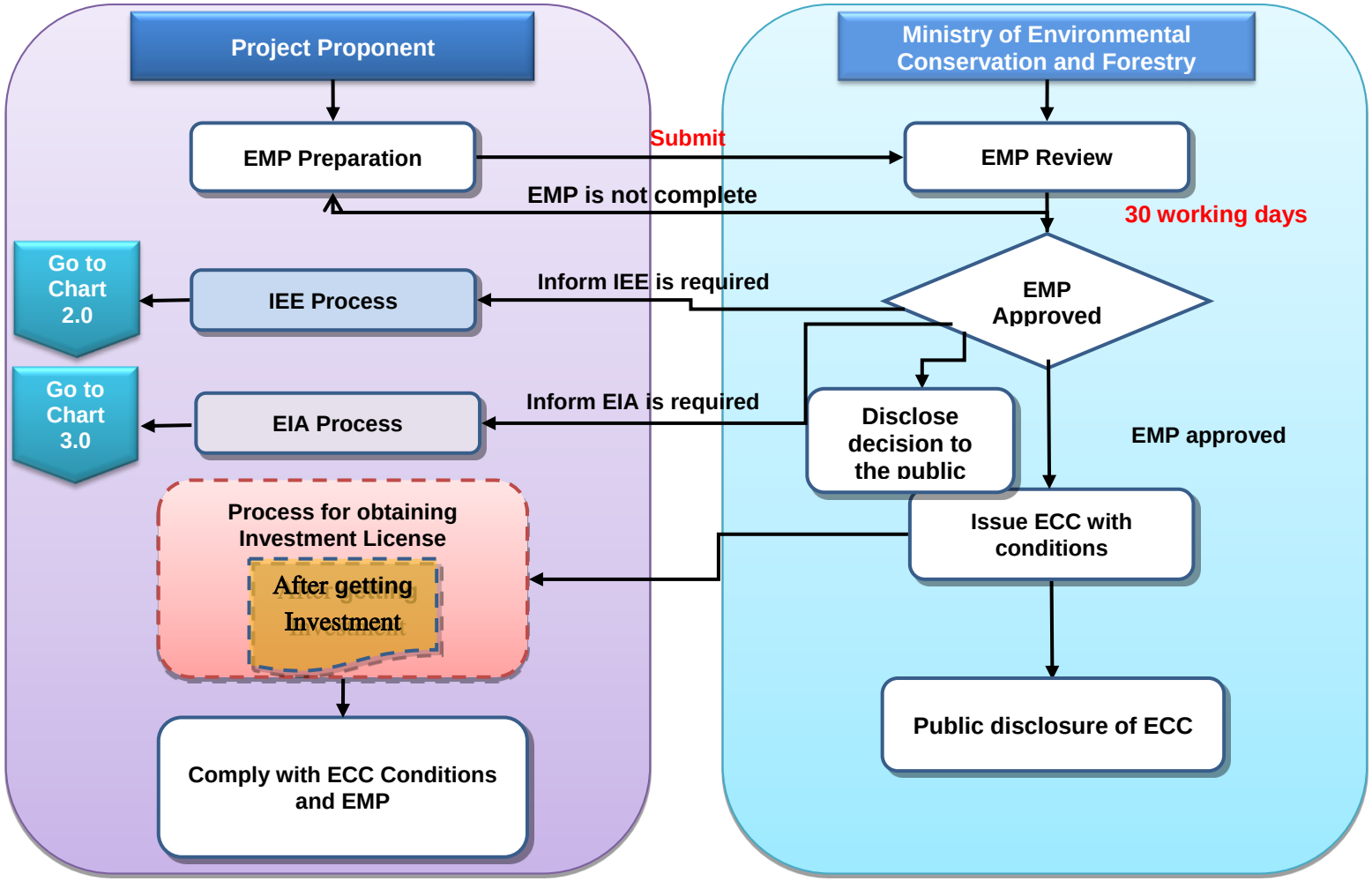
IEE Investigations and Review




IEE Review and Approval
Chart 2.1
Project Proponent
Ministry of Environmental Conservation and Forestry
IEE Report Decision (Approval)
EIA Required
IEE Report Approved
Go to Chart 3.0
EIA Process
Public Disclosure
Inform EIA is required
Process for obtaining investment license
After getting Investment
Issue ECC with conditions
Public Disclosure of ECC
Comply with ECC, ECC Conditions and IEE Report including EMP

EMP Review and Approval

Chart 2.2



Scoping (EIA)

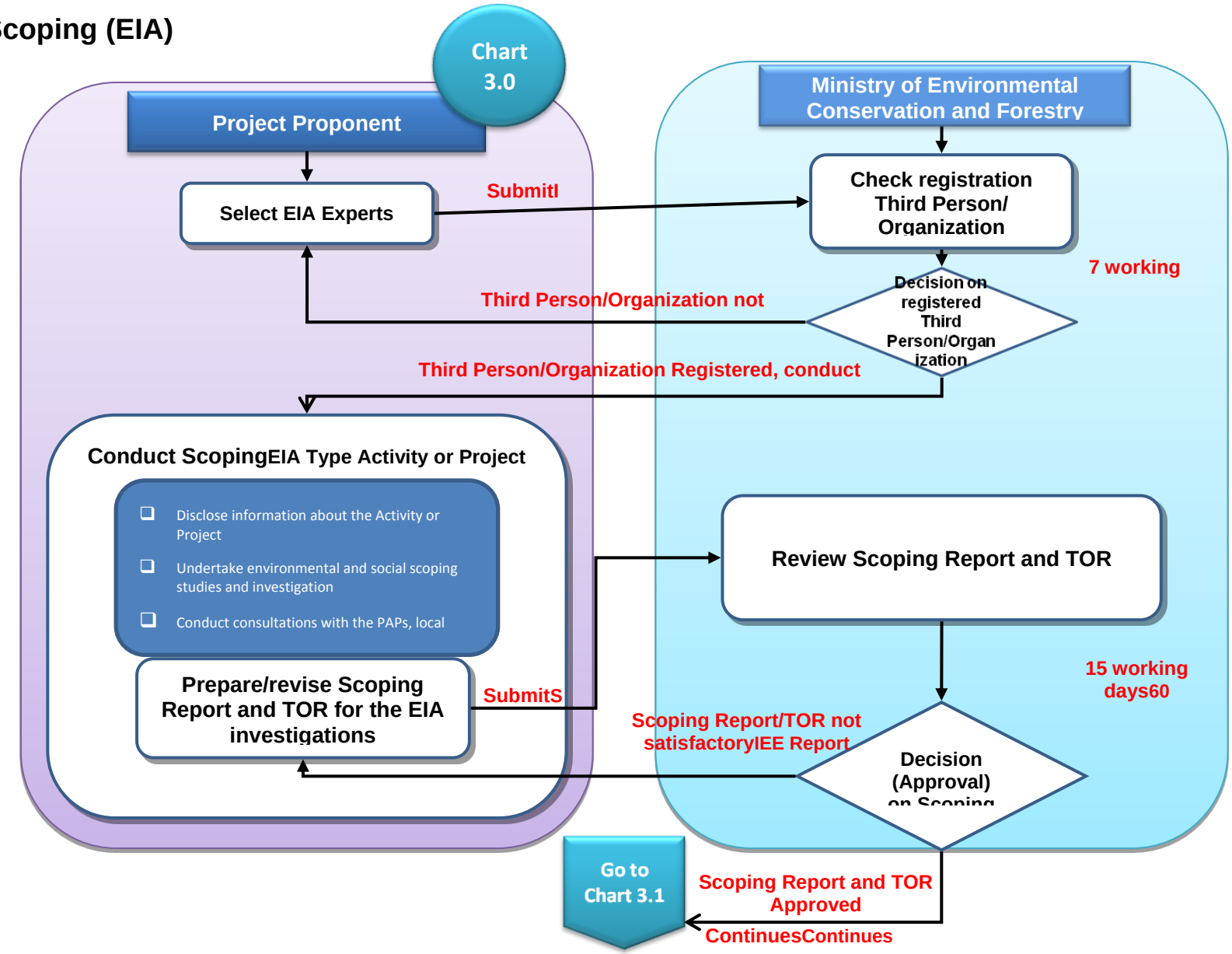
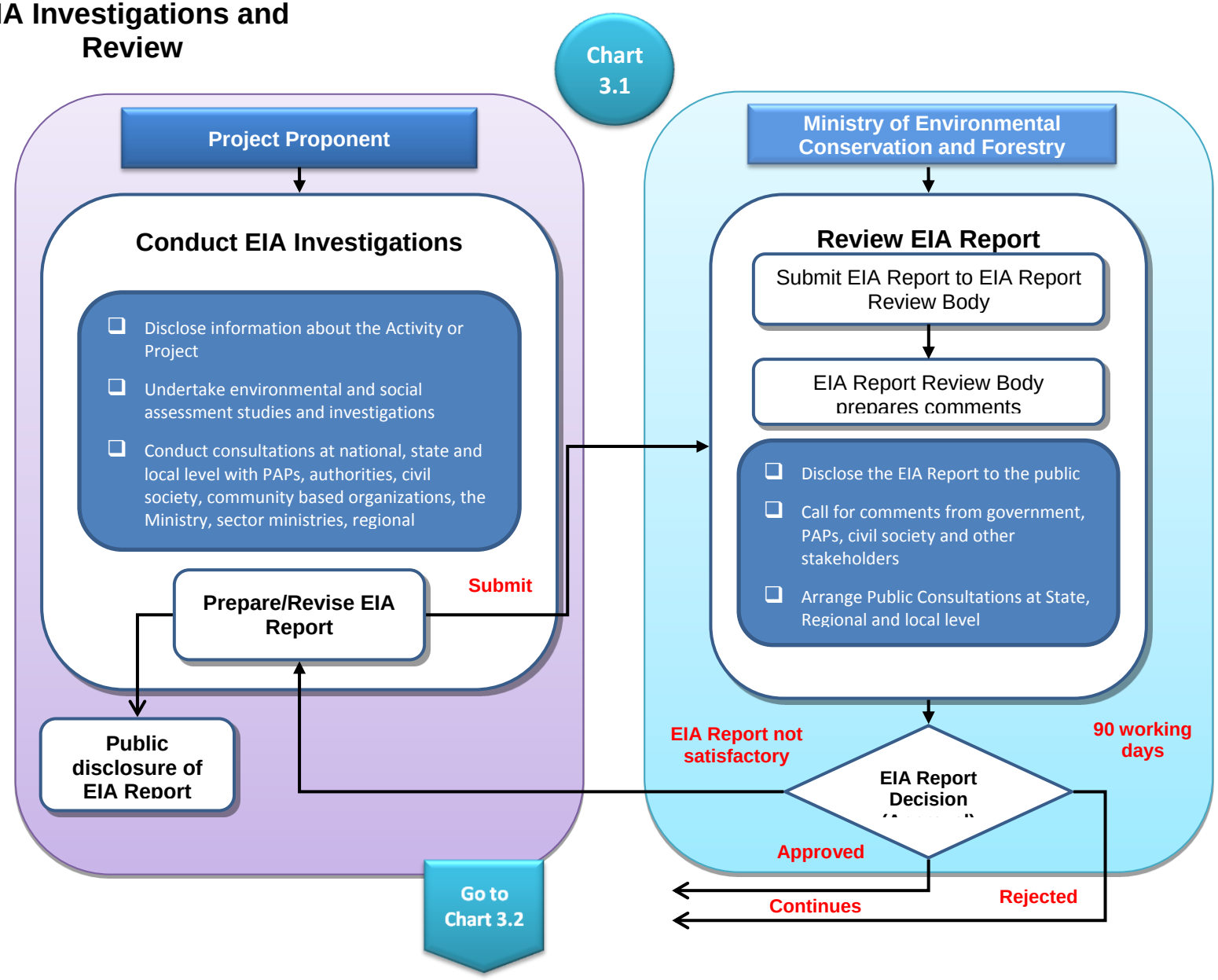
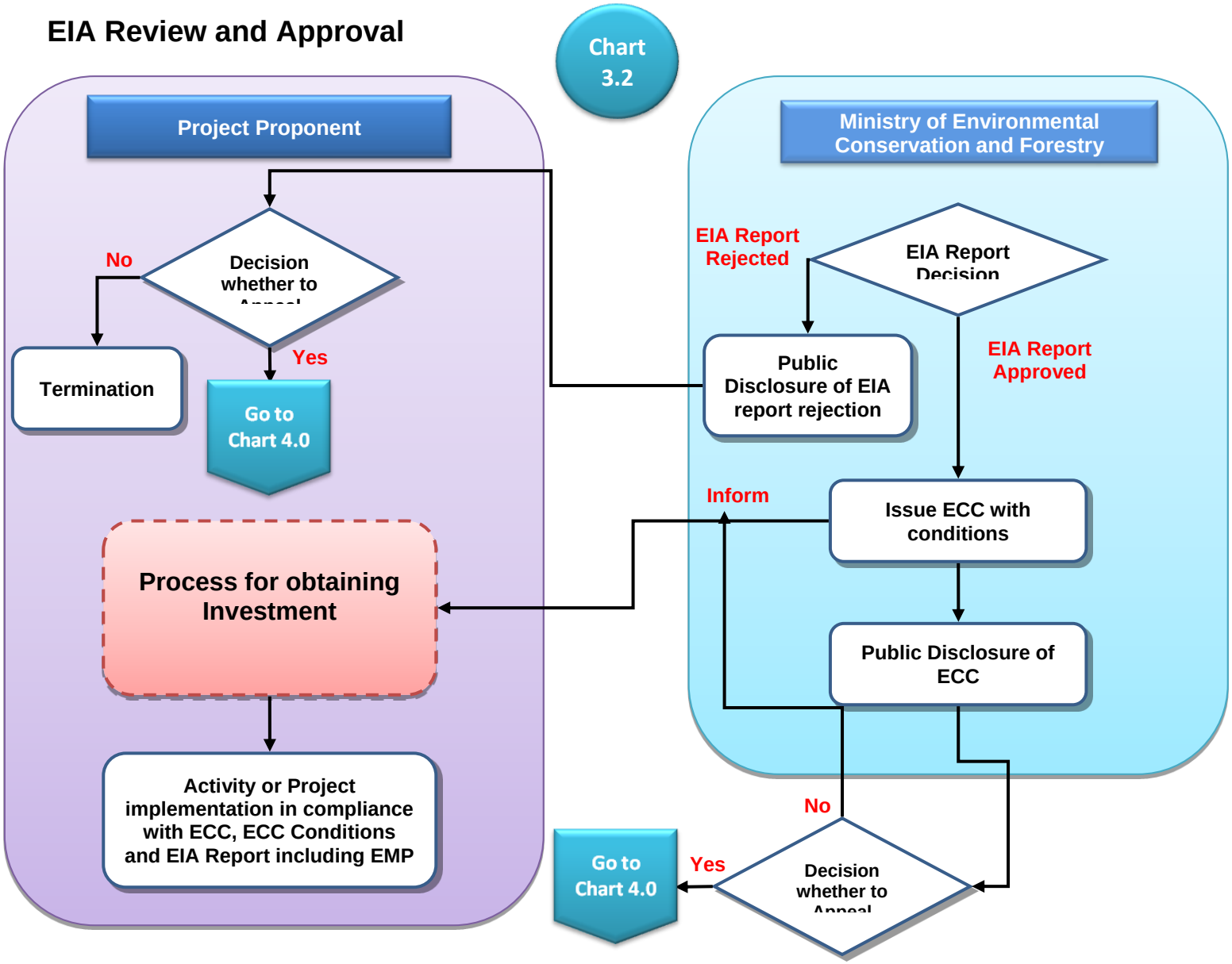


Chart 3.0
Project Proponent
Ministry of Environmental Conservation and Forestry
Select EIA Experts
SubmitI
Check registration Third Person/ Organization
7 working
Decision on registered Third Person/Organ ization
Third Person/Organization not
Third Person/Organization Registered, conduct
Conduct ScopingEIA Type Activity or Project
Disclose information about the Activity or Project
Undertake environmental and social scoping studies and investigation
Conduct consultations with the PAPs, local
Review Scoping Report and TOR
15 working days60
Prepare/revise Scoping Report and TOR for the EIA investigations
SubmitS
Scoping Report/TOR not satisfactoryIEE Report
Decision (Approval) on Scoping
Go to Chart 3.1
Scoping Report and TOR Approved
ContinuesContinues

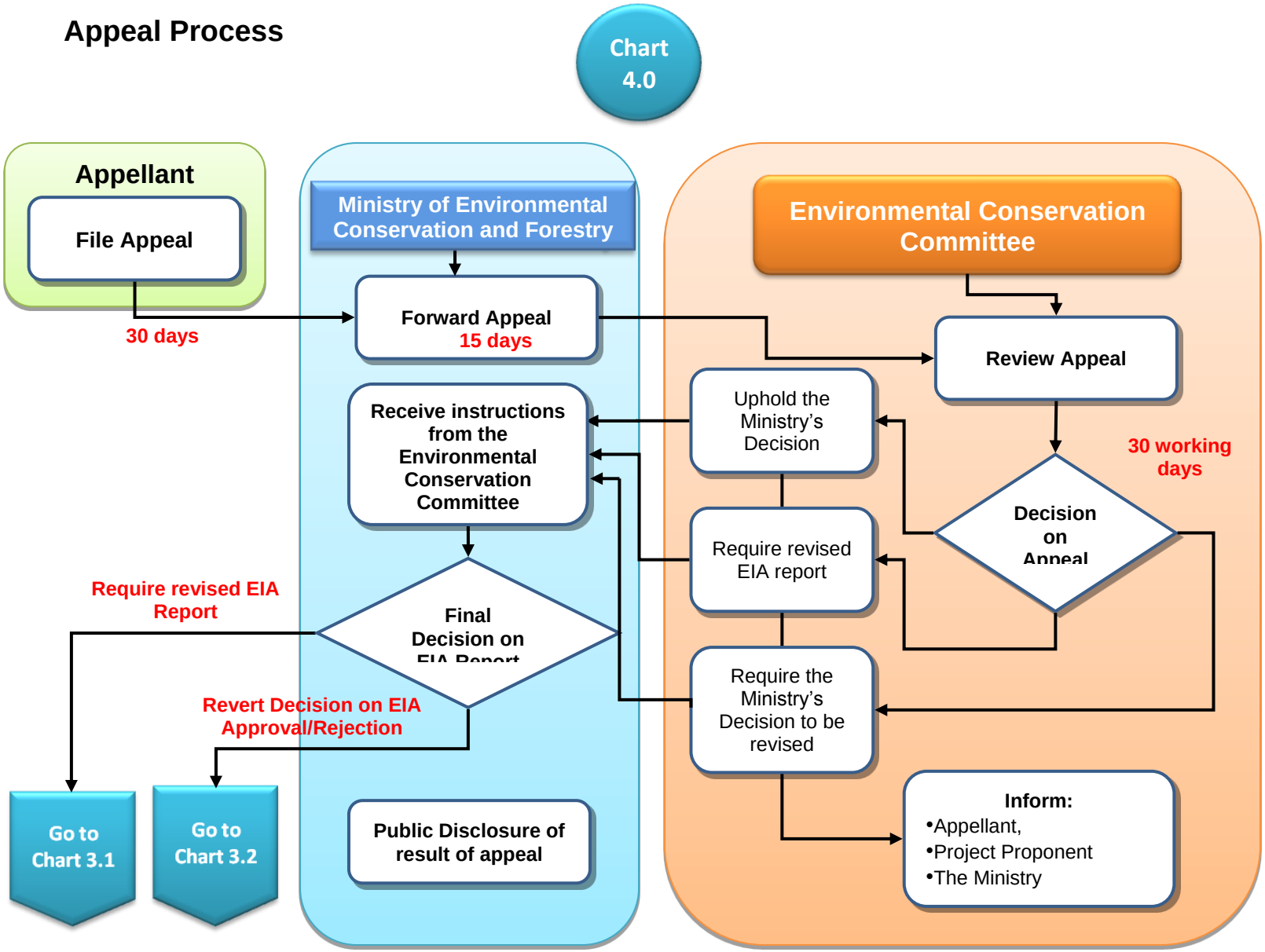
EIA Investigations and Review



EIA Review and Approval



Appeal Process



ANNEX 3

Penalties and other Administrative Punishment

No.	Non-Compliance	Penalties	Specific Administrative Punishment of the Ministry
1	Failure or delay in timely submission of reports within period prescribed by Ministry	100 to 500 US$ or equivalent Myanmar Kyat + 10-25 US$ / day until curedor equivalent Myanmar Kyat	– Issue Enforcement Notice
2	Obstruction or interference with an official in the course of their duties	250 to 5,000 US$ or equivalent Myanmar Kyat	– Issue Enforcement Notice – Criminal prosecution
3	Failure to provide information to the Ministry or any representative	1,000 to 5,000 US$ or equivalent Myanmar Kyat	– Suspension of Approval of EMP, EMP-CP, EMP-OP in whole or in part – Revocation of Approval of EMP, EMP-CP, EMP-OP in whole or in part – Criminal prosecution

No.	Non-Compliance	Penalties	Specific Administrative Punishment of the Ministry
4	Failure to provide information to Ministry Inspector or any representative when requested in regard to inspection and monitoring	250 to 5,000 US$ or equivalent Myanmar Kyat	– Issue Enforcement Notice
5	Undertaking or allowing any preparatory or other construction works without the prior approval by the Ministry of a revised EMP or EMP-CP	1,000 to 5,000 US$ or equivalent Myanmar Kyat + 50 to 500 US$ / day until cured or equivalent Myanmar Kyat	– Criminal prosecution
6	Operating/implementing without a permit, or approval by the Ministry of an EMP or EMP-OP	1,000 to 5,000 US$ or equivalent Myanmar Kyat + 50 to 500 US$ / day until cured or equivalent Myanmar Kyat	– Criminal prosecution
7	Non-compliance with an Enforcement Notice or Suspension Notice issued by the Ministry	2,000 to 10,000 US$ or equivalent Myanmar Kyat + 100-500 US$ / day until cured or	– Suspension of Approval of EMP, EMP-CP or EMP-OP in whole or in part – Revocation of Approval of EMP, EMP-CP or EMP-OP

No.	Non-Compliance	Penalties	Specific Administrative Punishment of the Ministry
		equivalent Myanmar Kyat	in whole or in part
8	Failure to notify to the Ministry of any knowledge of any event of an imminent threat of environmental damage	1,000 to 5,000 US$ or equivalent Myanmar Kyat	– Issue Enforcement Notice – Suspension of Approval of EMP, EMP-CP or EMP-OP in whole or in part – Revocation of Approval of EMP, EMP-CP or EMP-OP in whole or in part
9	Failure to take reasonable steps to prevent an imminent threat of damage to the environment, social, human health, livelihoods, or property, where applicable based on the EMP, EMP-CP or EMP-OP	2,500 to 10,000 US$ or equivalent Myanmar Kyat	– Issue Enforcement Notice – Suspension of Approval of EMP, EMP-CP or EMP-OP in whole or in part – Revocation of Approval of EMP, EMP-CP or EMP-OP in whole or in part
10	Failure to comply with conditions in the ECC and allowable Emission Limit Values	1,000 to 10,000 US$ or equivalent Myanmar Kyat	– Issue Enforcement Notice – Suspension of Approval of EMP, EMP-CP or EMP-OP in whole or in part – Revocation of Approval of EMP, EMP-CP or EMP-OP in whole or in part

No.	Non-Compliance	Penalties	Specific Administrative Punishment of the Ministry
11	Failure to pay compensation amounts required in respect of social impacts	1,000 to 10,000 US$ or equivalent Myanmar Kyat	– Issue Enforcement Notice – Suspension of Approval of EMP, EMP-CP or EMP-OP in whole or in part – Revocation of Approval of EMP, EMP-CP or EMP-OP in whole or in part
12	Failure to fully restore social conditions upon resettlement	1,000 to 10,000 US$ or equivalent Myanmar Kyat	– Issue Enforcement Notice – Suspension of Approval of EMP, EMP-CP or EMP-OP in whole or in part – Revocation of Approval of EMP, EMP-CP or EMP-OP in whole or in part

Notes:

1. All penalty amounts set forth in this Annex are denominated in United States Dollars (US$) and are subject to annual inflation adjustment
2. Abbreviations are as follows:

    EMP = Environmental Management Plan

    EMP-CP = Environnemental Management Plan - Construction Phase

    EMP-OP=Environmental Management Plan - Operational Phase

The Law Amending the Commercial Tax Law
(The Pyihtaungsu Hluttaw Law No. 16/2014)
The 9th Waning day of Dabaung, 1375 M.E
(24th March, 2014)

The Pyihtaungsu Hluttaw hereby enacts the following law :

1. This Law shall be called the Law Amending the Commercial Tax Law.

2. The provisions of this Law shall be effective in the whole country commencing from the 2014-2015 financial year.

3. The word "Region or State Revenue Officer or Head of the Companies' Circle Tax Office" in Commercial Tax Law shall be substituted by the word "Area Revenue Officer of the Union or Region or State Revenue Officer or Head of the Companies' Circle Tax Office or Head of the Assessment Office".

4. In section 3 of the Commercial Tax Law:

   (a) Sub-section (b), (d), (i) and (q) shall be substituted as follows:

   "(b) Assessee means a person who is responsible to pay tax under this Law. \]

   (d) Services means the rendering of a service for remuneration, a fee or consideration.

   (i) Importer means a person who imports goods or services by any method from a foreign country

   (q) Township Revenue Officers means the officer-in-charge of the relevant Township Revenue Office who is assigned duty to assess the tax which shall be paid by the assessee. This expression includes Staff Officers or Deputy Staff Officers who are assigned duty to assess the tax under section 10 of the Commercial Tax Law.

   (b) After sub-section (q), sub-section (r), (s) and (t) shall be inserted as follows :

   "(r) Trade means commercializing goods by a system of cash-payment, credit, deferred payment, pre-selling, exchange and sale-and-return.

   (s) Trade means a person who trades on his own behalf or as a representative or by any other means.

   (t) The Union Tax Law means the tax law that shall be submitted yearly by the Union Government to the Pyihtaungsu Hluttaw under the provisions of the Constitution."

5. Section 4 of the Commercial Tax Law shall be substituted as follows :

   "4. Commercial tax as specified in the Schedule shall be imposed on anybody engaging in the following activities : (a) Domestic manufacturing and distribution, (b) Importing, (c) Trading, (d) Providing services."

6. Section 5 of the Commercial Tax Law shall be substituted as follows :

"5. The tax due under section 4 : (a) Shall be paid by the importer for importing (b) Shall be paid by the producer, trader, importer or service provider if they sell [domestically] produced or imported goods or resell goods or provide services; these persons must collect the tax, together with the net purchase price or the net service fees, from the purchaser or the recipient of the services; (c) Shall be paid by the manufacturer or importer of Special Goods.

7. Section 6 of the Commercial Tax Law shall be substituted as follow :

"6. For any year : (a) Expressions and tax rates in the Schedule may be amended, added and abrogated by the Union Tax Law.

(b) The amounts of sales proceeds and revenue from services on which no commercial tax is assessed may be specified.

8. After Section 7 of the Commercial Tax Law, the following explanation shall be inserted :

"Explanation – Charitable actions include actions to improve education and health, helping the poor and victims of natural disasters as long as the supply or donation are for the benefit of the people.

9. Section 8 the Commercial tax Law shall be substituted as follows :

"8. (a) The Union Tax Law may provide for the following :

(1) Grant of tax exemption or relief and withdrawing of any category of goods or services or assesses;

(2) In respect of any newly established or ongoing enterprise, the following may be stipulated : (aa) Grant of tax exemption or relief on the import of machineries, equipment and other articles that are imported in order to use or install them in new or ongoing construction;

(bb) Grant tax exemption or relief of thirty six consecutive months at most, starting from the date of commencement of commercial operation of the production or services business;

(3) Grant of tax exemption or relief in respect of any category of goods produced in the country and exported or sold. (b) The Union Government may grant commercial tax exemption and relief in respect of the following items :

(1) Donations by local and international donors or internal organizations for social, religious, health or educational purposes;

(2) Goods supplied by local or international organizations to the State;

(3) Equipment from donors or international organizations that is imported in order to be used by scholars or practitioners who are engaged in the development of the States.

(4) Goods used by diplomats if the exemption or relief is granted reciprocally."

10. After Section 15(c) of the Commercial Tax Law, Sub-section (d) shall be inserted as follows :

"(d) Person who pays a monthly fixed rate."

11. After Section 15 of the Commercial Tax Law, Section 15A shall be inserted as follows :

"15A. Anybody leaving the Republic of the Union of Myanmar shall, in the manner prescribed by the regulations, obtain a recommendation letter showing that he paid tax under this law. In respect of this matter, however, the Ministry of Finance of the Union Government may grant exemptions by notifications.

12. Section 19(b) of the Commercial Tax Law shall be substituted as follow:

"(b) An assessed dissatisfied with any other may appeal in accordance with the regulations. If the order was issued by the Township Revenue Officer, the assessee shall appeal within thirty days from the date of receipt of the tax collection letter or order with which the assessee is dissatisfied. If the objecting assessee or the Township Revenue Officer are dissatisfied with the order of the Area Revenue Officer of the Union or State or Region Revenue Officer or Head of the Companies' Circle Tax Office or Head of the Assessment Office, they have the right to appeal within sixty days from the date of receipt of the order with which they are dissatisfied. In counting the limitation period, the following periods shall be excluded : (i) Time required for obtaining the copy of the order against which the appeal is intended to be filed : (ii) time for filing a request to be entitled to appeal without paying the tax in full."

13. After Section 19 of the Commercial Tax Law, Section 19A shall be inserted as follows :

"19A. (a) The assessee or Area Revenue Officer of the Union or Region or State Revenue Officer or Head of the Companies' Circle Tax Office or Assessable Office may, if it is a question of law which arises from the order the Revenue Appellate Tribunal, propose to that Revenue Appellate Tribunal within sixty days from the date of the receipt of order with which they are dissatisfied to hand over the matter to the Supreme Court of the Union.

(b) if a proposal filed in accordance with sub-section (a) is rejected by the Revenue Appellate Tribunal, the person who filed the proposal may apply to the Supreme Court of the Union within sixty days from the date of the receipt of the order which rejects the proposal.

14. Section 21 of the Commercial Tax Law shall be substituted as follow :

"21. If any person, without sufficient cause, default in any of the following matters, the Township Revenue Officer shall cause him to pay a fine at the following stipulated percentage.

When causing him to pay fine, the fine mentioned in sub-section (f) shall be collected separated before the end of the financial year :

(a) a fine equivalent to ten percent of the tax payable in the relevant assessment for the failure to register or to send intimation of commencement of the operation of the enterprise;

(b) a fine equivalent to ten percent of the tax payable in the relevant assessment for each of the following failures : failure to pay the monthly tax within the stipulated time, to submit the quarterly return or the annual return;

(c) a fine equivalent to ten percent of the additional tax payable in the relevant assessment for each of the following failures : failure to pay in accordance with the annual return, failure to comply with a notice requesting personal attendance for an examination relating to the assessment;

(d) a fine equivalent to ten percent of the additional tax payable in the relevant assessment for the failure to pay tax within the stipulated period or within the extended period;

(e) a fine equivalent to ten percent of the additional tax payable in the relevant assessment for the failure to keep receipts or documents showing acceptance of the money that are required to be kept according to the Commercial Tax Regulations;

(f) a fine equivalent to hundred percent of the tax payable in the relevant assessment if the Township Revenue Officer finds out that [the taxpayer] failed to give the receipt or document showing acceptance of the money to the purchaser or recipient of the services in spite of [the taxpayer] having kept such receipt or document.

15. Section 27 of the Commercial Tax Law shall be substituted as follows :

"27. The Union Tax Law may, for any year, prescribe the tax rate for [revenue in] foreign currency if foreign currency is received as purchase price for the sale of any goods or as remuneration for the rendering of any service.

16. The word "the producer, service provided or importer" that is mentioned in Section 30 shall be substituted by the word "the producer, trader, service provider or importer".

17. After Section 30 of the Commercial Tax Law, Section 31, 32 and 33 shall be inserted as follow :

'31. The Union Government may, except for money collected on export, give a stipulated percentage of the money collected in Myanmar currency as commercial tax from a Region or State to the fund of this Region or State.

32. The producer, trader, importer or service provider shall, after having collected the tax together with the net purchase price for the sale of domestically produced goods, bought goods or imported goods or the net fee for the service, give a receipt or a document showing acceptance of the money to the purchaser or recipient of the service.

33. Regulations may be issued with regard to the sale, production, distribution and import of special goods where a tax stamp is affixed.

I hereby sign under the Constitution of the Republic of the Union of Myanmar.

(Sd.) Thein Sein

President

The Republic of the Union of Myanmar

The Consumer Protection Law

(The Pyidaungsu Hluttaw No.10, 2014)

(The 14th Waxing of Taboung, 1375 M.E.)

(14th , March, 2014)

The Pyidaungsu Hluttaw hereby enacts the following Law:

Chapter (I)

Title and Definition

1. This Law shall be called as the Consumer Protection law.

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

(a) "Consumer" means person who takes or uses goods or services not for trading.

(b) "Consumer Protection" means giving legal protection, giving guaranteeing in health and safety to the consumers in respect of goods or services.

(c) "Goods" means object tangible or insufficiently tangible, movable or immovable, consumable or inconsumable which is enable to trade for use and consume by general public.

(d) "Services" means an action which fulfills the need of consumer in the form of work or performance in the society.

(e) "Trade" means buying and selling goods or services determined the value and aiming to obtain interest.

(f) "Advertisement" means the activity that publicizes the goods produced and services provided by and individual, any organization or any business. The activity by media also includes in this expression.

(g) "Entrepreneur" means an individual person or organization conducting production, distribution, storage, transportation, sale, reproduction, exportation, importation, resale of goods, providing services or advertisement.

(h) "Fraud" means the act which is not in good faith of wrong statement or incorrect advertisement with the intention to mislead the consumer related to goods or services and the act done dishonestly to believe wrongfully by public of natural quality, manufacturing process, activity process, characteristic, specified standard, intention or quantity relating to goods or services.

(i) "Damage" means death, injury and loss to a person, and injury and loss to any property movable or immovable.

(j) "Sale Promotion" means activity aiming at to buy or use more widely the goods or services by the consumer.

(k) "Consumer Dispute Settlement Body" means a body formed under this Law to coordinate and settle the dispute arises relating to goods or services between entrepreneur and consumer.

(l) "Ministry" means the Ministry of Commerce of the Union Government.

(m) "Central Committee" means the Central Committee of Consumer Protection formed under this Law.

(n) "Department" means the Department of Commerce and Consumer Affairs.

Chapter II

Objectives

3. The objectives of the Consumer Protection Law are as follows:

(a) to enable to understand and claim the own rights as a consumer and not to cause sufferance from fraud in using the goods or services;

(b) to cause occurrence of a system effectively protect the rights of the consumer;

(c) to cause occurrence of consumer protection scheme including protecting by Law distributing and informing correct transparent information to the consumer;

(d) to cause behaviours taking responsibility in carrying out with regard upon consumer protection activity by the entrepreneur;

(e) to cause fulfillment of goods or services that enable to ensure the high quality for safety, health, satisfaction of the consumer.

Chapter III

Formation of the Central Committee

4. The Union Government:

(a) shall form the Consumer Protection Central Committee comprising the Union Minister of the Ministry of Commerce as Chairman, the Deputy Ministers from the respective Ministries, the Heads from respective government departments and organizations, the representatives from the non-government organizations and experts as members and persons assigned duty by the chairman as secretary and joint-secretary;

(b) the Central Committee formed under sub-section (a) may amend and form as may be necessary.

Chapter IV

Functions and Duties of the Central Committee

5. The functions and duties of the Central Committee are as follows:

(a) implementing the objectives of this Law to be in success;

(b) tendering advice, recommendations and assistance to the Union Government in laying down and carrying out the policies of consumer protection;

(c) surveying for safety of consumer regarding goods and services;

(d) enabling to form non-governmental consumer protection organizations and encouraging for development of functions thereof;

(e) distributing information through media for the interest of consumer;

(f) settling the complaints related to consumer protection from the consumer, consumer protection organizations and other organizations;

(g) conducting survey by collecting statistics related to consumer protection business and reviewing the said surveys and performing for the interest of consumers as may be necessary;

(h) communicating with the international organizations and regional organizations;

(i) informing to the relevant department, organization for enabling to prohibit regarding goods that are unsuit for consumption;

(j) coordinating with the Ministry of Science and Technology for enabling to form in accord with the stipulations, if necessary, the standardization experts groups and laboratories of goods or services;

(k) educating the entrepreneurs to protect the interest of consumer and effectively carry out their affairs;

(l) deciding the appeal case on administrative penalty passed by the Consumer Dispute Settlement Body;

(m) co-operating with non-governmental consumer protection associations formed in accord with the existing law.

Chapter V

Rights and Duties of the Consumer

6. (a) The rights of the consumer are as follows:

(i) enabling to use safety of the goods or services;

(ii) enabling to choose the goods or services and enabling to obtain the promised value, terms and conditions and warranty;

(iii) having right to obtain completely and correctly of information relating to the condition and warranty of the goods or services;

(iv) claiming to hear and settle on dispute related to goods or services used by the consumer, enabling to obtain consumer protection and enabling to obtain correct settlement.

(v) receiving fair relationship that is non-discriminatory treatment and service.

(b) The duties of the consumer are as follows:

(i) complying with the information and guideline related to goods or services intended and expressed to cause safety;

(ii) complying with the decisions of the Consumer Dispute Settlement which settle properly in consumer disputes;

(iii) avoiding false accusation intended to detriment on entrepreneurs;

(iv) avoiding the saying, writing and acting in order to detriment on relevant entrepreneurs by mean of media or by other mean while relevant persons is settling the consumer dispute.

Chapter VI

Rights and Duties of the Entrepreneurs

7. (a) The rights of the entrepreneur are as follows:

(i) receiving payment in accord with agreements, value in sale of goods or services;

(ii) having right of defence under law in consumer dispute;

(iii) enabling to make regain of goodwill if the injury and loss of the consumer is not because of his goods or services;

(iv) enabling to regain goodwill if it is provable in accord with the law that the injury and loss of the consumer is not because of goods or services that he has purchased;

(b) The duties of the entrepreneurs are as follows:

(i) acting the business accord with business ethics;

(ii) giving clear and proper information on goods or services;

(iii) treating honestly and properly with non-discrimination to the consumers;

(iv) guaranteeing the goods or services traded or produced based on stipulated standard and quality;

(v) providing opportunity to test on goods or services which require to test quality before purchasing;

(vi) taking responsibility as guaranteed in respect of damage due to consuming goods or using services during the warranty period;

(vii) taking responsibility as agreed terms and conditions if received or used goods by consumer are inconsistent with the agreement;

(viii) complying exactly with the agreed agreement or promise in the agreement in doing service business;

(ix) avoiding the saying, writing and acting to cause detriment on the relevant consumer by means of media or by other means while relevant person is settling the consumer dispute.

Chapter VII

Prohibitions for Entrepreneurs

8. The entrepreneur shall not carry out the production, trade of the followings:

(a) goods that are not in conformity with the information or condition stated on the label, warrantee, distinctive, efficacy, net weight, net volume, total amount, quality, grade, position, mode, style of the relevant goods;

(b) goods that are not in conformity with the statement contained in the ingredients of label or advertisement and sale promotion;

(c) goods without name, size, net weight, volume, composition, instruction, manufactured date and batch number, expiry date, side effect, poisonous materials, name and address of manufactured company, name of distribution, trademark, information and preparation;

(d) goods without stating in Myanmar language or jointly in Myanmar and other language, the information or instruction related to use commencing from the date stipulated by the Central Committee;

(e) goods mentioned improperly in respect of place of yield or place of production;

(f) goods that are not in conformity with the recommendation of acknowledged department or organization of domestic and abroad; or the prescribed standard;

(g) goods that are stated the guarantee of health and nutrition without reference of scientific research finding by the respective organization;

(h) goods that are not in conformity with the prescribed standards and norms;

(i) service that is not in conformity with stated condition, guarantee, distinct, term, efficacy in respect of the relevant service;

(j) service that is not in conformity with the statement contained in the advertisement and sale promotion.

9. The entrepreneur shall not offer for sale, promote sale and advertise with intent of misleading the buyer or user in the following conditions;

(a) being goods discounted or fixed special price that are not in conformity with the referred quality standard, style or mode, distinct characteristic, use;

(b) being goods that are not in fresh and good condition;

(c) making firm sponsor and approval to goods or services of any other company;

(d) being goods or services that are not useful or available;

(e) being goods or services that the defect and need are concealed;

(f) disparaging directly or indirectly other goods or services;

(g) using exaggeration not approved with complete information;

(h) being goods or services that are sold or given by offering with uncertain promises.

10. The entrepreneur shall, in selling and buying, not deceive or mislead the consumers with any of the following conditions:

(a) stating incorrectly that the goods or services meet the prescribed standard, quality;

(b) concealing and stating the need of the goods or services;

(c) selling by substituting the other goods which is not the proposed goods;

(d) increasing the price of the goods or services before sale promotion of the goods or services;

(e) selling by redecorating and mixing the goods that are expired;

(f) selling by mixing goods that are similar and lower in quality; and the goods that are different and unsafe to consume.

11. The entrepreneur shall not offer for sale, promote sale or advertise on special price within on certain period without arrangement to sell the goods or services within the designated period or according to the amount as offered, promoted sale, advertised.

12. The entrepreneur shall not offer for sale, promote sale or advertise the goods or services if not enable to give actually although promised to give other goods as prize or give service free of charge.

13. The entrepreneur shall not offer for sale, or advertise the goods or services by using any mode which causes annoyance to physical or mental of the consumer.

14. The entrepreneur shall not advertise the following kinds of advertisement:

(a) advertisements that are deceived to the consumers in respect quality of goods, quantity, ingredients in goods, mode of use to goods, price of goods, rate of service and time to be enable to deliver the goods or services;

(b) advertisements that are deceived on warranty of the goods or services;

(c) advertisements containing false informations in respect of goods or services;

(d) advertisements that are not informed the risk of using the goods or services;

(e) advertisements used on any person or any incident without the permission of the person concerned;

(f) advertisements that violate the provisions of Law, ethics.

15. The entrepreneur or advertiser shall be liable to the consequences of own advertisements.

Chapter VIII

Formation of the Consumer Dispute Settlement Body and Functions and Duties thereof

16. The Central Committee shall, in order to carry out systematically the functions of consumer protection and to settle the disputes of consumers, form the Consumer Dispute Settlement Bodies in Regions or States, Districts, Townships with suitable persons.

17. The functions and duties of the Consumer Dispute Settlement Bodies are as follows:

(a) mediating and conciliating consumer disputes;

(b) distributing knowledge to consumer relating to consumer protection;

(c) accepting and examining the complaint in writing or oral of consumer relating to the goods or services;

(d) carrying out duties conferred by the Central Body from time to time.

Chapter IX

Settlement of Consumer Dispute

18. The Consumer Dispute Settlement Body shall, in settling the consumer disputes, carry out the followings:

(a) examining the entrepreneur who is accused of violation;

(b) examining the person who knows the consumer dispute, eye-witnesses and expert;

(c) examining and assessing the documents required in inquiry and other exhibits;

(d) examining and deciding whether or not there is loss at consumer's side;

(e) notifying the decision related to consumer protection to the entrepreneur who has violated against it in dispute;

(f) taking action if violates the provisions in section 8.

Chapter X

Right To Take Action of The Consumer Dispute Settlement Body

19. The Consumer Dispute Settlement Body may, if finds out that the entrepreneur fails to comply any duty mentioned in sub-section (b) or section 7 or violates any mentioned in section 8, pass decision and take any one or more of the following actions:

(a) warning;

(b) severe warning;

(c) remedy;

(d) prohibiting the sale and distribution of goods that are disputing in limited period;

(e) causing to recall the goods in market;

(f) destroying the goods that are enable to cause danger to consumers;

(g) coordinating with the relevant Ministries if required to revoke license temporarily or permanently of business permit.

20. The person who is not satisfied with the decision passed relating to taking actions contained in section 19 may appeal to the Central Committee within 60 days from the date of passing decision.

21. The Central Committee may confirm, amend or cancel the decision passed by the Consumer Dispute Settlement Body. The decision of the Central Committee shall be final and conclusive.

22. The Department, shall have the right to collect as arrears of revenue on the person who fails to pay compensation under the order passed in accord with the provisions contained in this chapter. In collecting so, any suitable official may be assigned duty as the collector.

Chapter XI

Offences and Penalties

23. Any entrepreneur who violates any provision contained in sections 9,10,11,12,13 or 14 shall, on conviction, be punished with imprisonment for a term not exceeding 3 years or with fine not exceeding 5,000,000 kyats or with both.

24. The consumer may sue for their injury under civil litigation although convicted under section 23.

Chapter XII

Miscellaneous

25. The seller of goods shall give a receipt to the lawyer for purchase of goods. It shall contain total amount of payment, model number of goods, place of manufacture, other dates determined by whom it concerns including buyer's address, name, date of purchase, type of purchasing goods, quantity, amount of money paid for each item, specific statement such as tax in the receipt.

26. The entrepreneur shall have the burden of proof that there is no intention to mislead contained in section 9.

27. Matters relating to the provisions contained in this Law shall be carried out only in accord with this Law.

28. The Central Committee may, in implementing the provision contained in this law, carry out the standardizations for the goods or services by forming separate expert groups or by selecting the inspection groups, established laboratories under the relevant existing laws.

29. (a) The Central Committee may recognize the department and organization that examined chemical whether or not in conformity with standardization related to goods or services.

(b) The chemical examination result of the department and organizations recognized by the Central Committee under sub-section (a) shall be final evidence.

30. The Consumer Dispute Settlement Body may, in deciding and settling the consumer disputes, cooperate with the consumer protection associations which are non-governmental organization formed in accord with the existing law and obtain advice if necessary.

31. For enabling to carry out the provisions contained in this Law:

(a) the Ministry may issue Rules, regulations and by-laws with the approval the Government as may be necessary;

(b) the Ministry and the Central Committee may issue notifications, orders, directives and procedures and the Department may issue orders and directives as may be necessary.

I hereby signed under the Constitution of the Republic of the Union of Myanmar.

Sd/

Thein Sein

The President of the Union

The Republic of the Union of Myanmar

The Republic of the Union of Myanmar

Ministry of Environmental Conservation and Forestry

ENVIRONMENTAL CONSERVATION RULES

Date: June, 2014

The Republic of the Union of Myanmar

Ministry of Environmental Conservation and Forestry

Notification No. 50 / 2014

The 8th Waxing Day of Nayon 1374 M.E.

(5th June, 2014)

The Ministry of Environmental Conservation and Forestry, in exercise of power conferred under sub-section (a) of section 42 of the Environmental Conservation Law, hereby issues the following rules with the approval of the Union Government.

Chapter (I)

Title and Definition

1. These rules shall be called the **Environmental Conservation Rules.**
2. The expression contained in these rules shall have the same meanings as contained in the Environmental Conservation Law. Moreover, the following expressions shall have the meaning as follows:
   (a) **Law** means the Environmental Conservation Law;
   (b) **School** means any university, college, school opened by any Government department, Government organization or private and private organization which got recognization of the opening by the Government;
   (c) **Environmental management** means the management of human activities, which affect all living and non-living things and influence living things around the world and their relations;
   (d) **Environmental Impact Assessment** means the process of systematic study which is required as part of the decision making process on the proposed project, business, service or activity whether there are potentials or impact processes that may cause an impact on physical environment, human and living things, social and socio-economic because of the project;
   (e) **Meaning of Third Party** means an individual or an organization who does not develop or approve a project, business, service or activity;
   (f) **Initial Environmental Examination** means the evaluation whether the impact of a project, business, service or activity is evident, the environmental Impact Assessment is required to carry out and other specified documents and certificates are necessary to prepare;
   (g) **Environmental Management Plan** means the method and the plan to be adopted to protect, avoid and mitigate environmental impacts due to each project phase like planning, implementation, operation, decommissioning and after decommissioning of a project, business, service or activity or any other reasons because of the project. Such plan includes monitoring plan to monitor the change of environmental condition and environmental conservation activities and precautionary measures in response of environmental emergency;

(h) **Form** means the form contained in these rules;

(i) **Environmental Conservation Officer** means the staff officer and above level officers from Environmental Conservation Department.

Chapter (II)

Adopting Policy Relating to Environmental Conservation

3. The Committee shall prepare the necessary policies relating to environmental conservation for each relevant sector in coordination with suitable organization or an individual from the Government department, Government organization and private sector concerned and submit them to the Union Government. Environmental conservation policies approved by the Government shall be disclosed to the public with suitable means.
4. The Committee shall, if it considers that policies relating to environmental conservation should be modified according to the guidance of the Union Government or the submission of an advice by the Ministry or the advice of the relevant Government department, Government organization, private sector and the public, modify it with the approval of the Union Government.
5. The Ministry shall, when it considers that it is necessary to adopt or modify the policies relating to environmental conservation, submit its finding of such adoption or modification of policies and advice to the Committee.
6. The Ministry shall implement the Myanmar National Environmental Policy and other environmental policies for conservation issued by the Committee according to the section 3 with the approval of the Union Government.

Chapter (III)

Environmental Conservation

7. The Committee shall implement the following environmental conservation educational trainings, environmental conservation development activities in coordination and cooperation with the relevant Government departments, Government organizations, social organizations and private organizations:
    (a) Arranging and holding talks relating to environmental conservation in schools;
    (b) Dissemination of knowledge of environmental conservation through media such as newspaper, journal, magazine, periodical, radio, television, internet, etc…;
    (c) Drawing schedules for talks and discussions relating to environmental conservation in urban and rural areas in co-ordination with the relevant administrative organizations, school administrators, organizations relating to environmental conservation;
    (d) Carrying out the development of environmental conservation studies and research works;
    (e) Carrying out other educational activities relating to environmental conservation.

8. The Committee may carry out the following activities relating to environmental conservation in coordination and cooperation with Government departments, Government organizations and other organizations relating to environmental conservation:

(a) Growing tree, inserting fish species and supporting environmental conservation activities;

(b) Exhibiting environmnental conservation shows and exhibitions, conducting competitions, plays, concerts and entertainments relating to environmental conservation;

(c) Carrying out coordinated cleaning activities;

(d) Holding memorial days relating to environmental conservation;

(e) Carrying out other activities relating to environmental conservation;

(f) Protecting endangered species and reintegration and regeneration them in their habitats.

9. The Committee:

(a) May suggest and encourage, if necessary, the relevant departments to insert and amend the school lessons on environmental conservation;

(b) Shall scrutinize, from time to time, the progress of implementation developed by the advice of the relevant Government department and Government organization.

10. The Committee may, if any of the following situations arises, send necessary advice or encouragement to the relevant Government department and Government organization:

(a) Guidance of the Union Government relating to environmental conservation;

(b) Asking advice from the relevant Government departments and Government organizations;

(c) Finding out by means of investigation of environmental conservation;

(d) Considering by itself, according to any report or by his own motion, that it is necessary for conservation of environment.

11. The Committee may assign the Ministry to scrutinize whether the relevant Government department and Government organization follows the advice or encouragement given in section 10.

12. The Committee, for the conservation and enhancement of environment:

(a) May ask necessary proposals, advices, remarks from the relevant Government departments, Government organizations, international institutions, local and oversea non-governmental organizations, social organization, experts and the public for a particular case or general;

(b) May guide to the Department to hold workshops, conferences if it is necessary;

(c) May accept and obtain local or foreign technical assistances;

(d) May ask the Ministry to prepare and maintain a record, apply and manage the technical assistances obtained in sub-section (c);

(e) May ask the relevant Government department to obtain local or foreign technical assistances and providing necessary assistances for enabling to do so;

(f) Shall coordinate with the relevant Government department and Government organization, which receives technology, to inform to the Committee about the technology received and the progress at the time of completion or annually.

13. The Committee, relating to occurrence of the situation which damages to the environment or which are likely to damage the environment:

(a) May inform to the Government department and Government organization concerned if it is found that it is occurred because of the Government department, Government organization owned project, factory, workshop, work centre, service or place; to the relevant owner and the Government department and Government organization which issued permission, licence, permit and an order to develop such project if it is found that it is occurred because of the private-owned or public company owned factory, workshop, work centre, service or place, to handle as necessary within the stipulated period not to cause environmental damage;

(b) Shall inform to the relevant Government department and Government organization to take action of terminating business, if it does not comply with the notice under sub-section (a) within the stipulated time;

(c) Shall ask the policy from the Union Government to carry on if it is necessary.

14. The Ministry shall implement the environmental management work programs for the whole country or for a region in respect of environmental management with the approval of the Union Government.

15. The Ministry shall cooperate and coordinate so that the relevant Government departments, Government organizations, Nay Pyi Taw Council, Region or State Government, Self-administered Division or Self-administered Region, District General Administrator of the General Administration Department or Township General Administrator of the General Administration Department, Ward or Village-tract Administrator, Private organization and the Public can implement the work programmes for environmental management described in section 14 in accordance with stipulations.

16. The Ministry:

(a) Shall adopt the necessary programs, with the approval of the Committee, for the conservation and enhancement of environment, protection, control and reduction of pollution in the environment, and reconservation;

(b) May assign duty to the relevant department and the organization under its Ministry or other relevant Government department and Government organization with the guidance of the Committee to implement the programs contained in sub-section (a);

(c) May form an inspection team in the department or organization under the Ministry or in any other relevant Government department and Government organization with the guidance of the Committee to monitor and inspect the implementation of programs contained in sub-section (a);

(d) May give an advice about environmental conservation if the relevant Government department, Government organization, private organization and an individual asks for an advice about the conservation and enhancement of environment, protection, control and reduction of pollution in the environment, or if it considers that it is necessary.

17. The organization which has a responsibility to monitor, inspect and supervise the implementation of the programs contained in sub-section (c) of rule 16 shall submit their work performance report to the Ministry.

18. The Ministry:
    (a) May assign duty to the Department to prepare and submit proposals about potential methods and conditions for economic incentives which do not affect or has minimum impact on the environment for continuous growth in addition to legal affairs and guidelines relating to environment;
    (b) Shall scrutinize proposals submitted by the Department and submit them to the Committee with its remark.

19. The Ministry:
    (a) May assign duty to the Department to support in handling issues smoothly if an environmental dispute arises between the Government department and Government organization; between Government department and private organization or public; between an individual and private organization; between an individual, private organizations and the public;
    (b) May form a conciliation body, if it is necessary, comprising representatives from the relevant Government department, Government organization, representatives of both parties, and suitable citizens, to conciliate and handle the dispute. Moreover, it may determine the functions and duties of such body;
    (c) May reform the conciliation body if the formation of the conciliation body is objected with reason by one parties of the dispute or both parties;
    (d) Shall submit and ask the guidance of the Union Government for the disputes which cannot be handled by the conciliation body.

20. The Ministry shall, according to the power contained in sub-section (h) of section 7 of the Law, determine the categories of hazardous substances which may significantly affect the environment at the present situation or in short term or in long term to prohibit import, export, production, storing, transporting and trading in accordance with the international conventions and international agreements relating to environmental conservation accepted by Myanmar.

21. The Ministry may assign duty to the Department to implement policy, order, work programs and guidelines relating to management, conservation and enhancement of environment for the matters of protection of the ozone layer, conservation of biological diversity, conservation of coastal environment, mitigation and adaptation of global warming and climate change, combating desertification and management of non-depleting substances and other environmental matters.

22. The Ministry shall, when the Union Government assigns other functions and duties relating to environmental conservation, implement them itself or, if it is necessary, in coordination and cooperation with the relevant Government departments, Government organizations and individuals.

23. The Department:
    (a) shall negotiate and draw the short term, medium term and long term projects for environmental management relating to the whole country or relevant local area and carry out implementation, supervision and scrutinization of implementation with the approval of the Ministry;

(b) Shall implement the plans for environmental conservation and enhancement, protection of pollution in environment, control and reduction of pollution in environment in accordance with the guidance of the Ministry;

(c) Shall monitor the implementation of projects and plans contained in sub-sections (a) and (b), if it is necessary in cooperation and coordination with other Government departments, Government organizations and non-governmental organizations, and submit the work performance report to the Ministry.

24. The Department shall prepare and submit proposals about potential methods and conditions for economic incentives which do not affect or has minimum impact on the environment to the Ministry for continuous growth in addition to legal affairs and guidelines relating to environment;

25. The Department shall prepare necessary information for the Ministry to prescribe the categories of hazardous substances which may affect significantly at the present situation or in short term or in long term on the environment to prohibit import, export, production, storing, transporting or trading in accordance with the international conventions and international agreements relating to environmental conservation accepted by Myanmar and submit them to the Ministry.

26. The Department shall also carry out the following functions and duties for conservation of environment:

(a) Collection and compiling of data for the conservation and enhancement of the environment, doing research and conducting training programs;

(b) Making plans to be carried out according to mitigation of climate change and adaptation policy;

(c) Implementing the dissemination of environmental information and enhancement of environmental awareness;

(d) Managing and carrying out environmental conservation awareness education and broadcasting works for enabling to teach environmental subjects in schools and public participation in environmental conservation activities;

(e) Scrutinizing and submitting so as to enable to issue necessary permissions relating to business, factory and workshop which has an impact on environmental quality and would be implemented by the Government departments, Government organizations, private individuals and private organizations;

(f) Scrutinizing and giving remark in response to the request of the relevant departments, organizations relating to import, export and transportation of hazardous substances, which can damage the environment and are restricted or prohibited by international agreements and local existing laws;

(g) Determining and declaring guidance relating to the Environmental Impact Assessment procedure;

(h) Preparing Environmental Impact Assessment system and submitting to the Ministry;

(i) Preparing and submitting an environmental situation report for the whole country;

(j) Declaring the environmental situation to the whole country, to each region or for a particular case to the public in accord with the guidance of the Ministry.

Chapter (IV)

International, Regional and Bi-lateral Cooperation Relating to Environmental Conservation

27. The Committee may, if it considers that it is necessary to conclude international, regional and bilateral agreements, instruments relating to matters of environmental conservation, assign the Ministry to proceed as appropriate after obtaining an approval from the Union Government.

28. The Committee, in order to carry out conservation and enhancement of the environment according to international convention, regional and bilateral agreements relating to environmental conservation which shall be implemented by Myanmar:
    (a) May discuss with the relevant Government departments and Government organizations;
    (b) May arrange for cooperation and participation of the Ministry and relevant Government departments and Government organizations for implementation.

Chpater (V)

Environmental Management Fund

29. The Committee, for conservation of environment:
    (a) May accept the donation, aid and others in cash or by account ransfer or any other means;
    (b) Shall deposit donation, aid and others contained in sub-section (a) to the environmental management fund;
    (c) Shall expend the environmental management fund only for environmental conservation matters except that the Committee decides to use in other case;
    (d) Shall instruct the Ministry to maintain the receipts under sub-section (a) with statistics, to use, inspect and manage them.

30. The Ministry:
    (a) May determine necessary facts including conditions and the amount of compensation paid by the polluter, who make a damage to the environment, with the approval of the Committee;
    (b) May determine, with the approval of the Committee, necessary facts including the amount of money which shall be contributed by organizations which obtain benefit from the natural environmental service system and businesses which explore, trade and use the natural resources from a part of the benefit for the fund to be used in environmental conservation works.

31. The Ministry shall establish the environmental management fund with the following receipts to implement environmental conservation activities effectively :
    (a) Receipts from the Union Consolidated fund;
    (b) Receipts from the Ministry by carrying out its duties relating to environmental conservation;
    (c) Loan, donation, grant and other lawful receipts from the Committee and the Ministry from local and overseas;

(d) Compensation by the polluter under sub-section (o) of section 7 of the Law and section 30 of the Rules, and contribution of organizations which obtain benefit from natural environmental service system and contribution of businesses, which explore, trade and use the natural resources from a part of the benefit the for the fund for environmental conservation works.

32. The Ministry may assign duty to the Department to carry out depositing, managing, withdrawing to use, transferring and keeping financial records of the environmental management fund according to section 31, in accord with the guidance of the Committee.

33. The Department, regarding the environmental management fund in accord with the guidance of the Ministry,
    (a) Shall set up a withdrawl account at any State-owned bank;
    (b) Shall set up an account for each category of material, donation and grant and make a record;
    (c) Shall manage in accordance with the financial regulation;
    (d) Can withdraw, use and transfer the fund for expenses

34. The Department shall carry out depositing money to and withdrawing money from the environmental management fund , keeping financial records and reporting to the Ministry monthly.

35. The Ministry may contribute and expend the environmental management fund for the expenditure for special matters relating to management, conservation and enhancement of environment for the matters of protection of the ozone layer, conservation of biological diversity, conservation of coastal area, mitigation and adaptation of global warming and climate change, combating desertification, pollution control, management of non-depleting substances, doing research and development for environmental conservation and other environmental matters.

Chapter (VI)

Environmental Emergency

36. The Committee:
    (a) Shall, if it knows and belives by itself or if it receives reliable information from the Ministry or any other Government department or Government organization or by any other means that any situation of environmental emergency arises or likely to arise in the entire country or in Nay Pyi Taw or in any Region or State or in any area, inform immediately to the Union Government to enable to declare occurrence of an environmental emergency:
    (b) If it is considered that an emergency situation is over, it shall inform to the Union Government to enable to declare the termination of the environmental emergency.

37. The Ministry:
    (a) Shall prepare the emergency response plans for the environmental emergency in advance in coordination with the relevant Government departments and Government organizations;

(b) Shall carry out, as may be necessary, in coordination and cooperation with the relevant Government departments, Government organizations, Non-governmental organizations and Experts, in accord with the guidance of the Union Government, to enable to prevent damage to the environment which is caused or likely to cause by environmental emergency.

Chapter (VII)

Environmental Quality Standards

38. The Ministry:
    (a) May stipulate, with the approval of the Union Government and the Committee, the environmental quality standards contained in sub-section (d) of section 7 and section 10 of the Law for the whole country, for any area or urban or rural, area, any river, any stream, any lake, or a part of them for environmental conservation and enhancement by notification;
    (b) May coordinate and cooperate as necessary with the relevant Government department, Government organization, other Government departments, other Government organizations which are responsible to stipulate environmental quality standards, Nay Pyi Taw Council, Region or State Governments, City Development Committees, District Development Committees and Non-governmental organizations in stipulating the environmental quality standards under sub-section (a);
    (c) May modify such stipulation under sub-section (a), as may be necessary, for the interests of the public according to the time and area;
    (d) May carry out, as may be necessary, activities to encourage the public as well as the relevant Government departments and Government organizations to comply with the environmental quality standards stipulated under sub-section (a).

39. The Department:
    (a) Shall prepare the environmental quality standards for the Ministry in accordance with section 38 (a), in co-ordination with the relevant Government departments, Government organizations, other Government departments and organizations which are responsible to stipulate environmental quality standards, the Nay Pyi Taw Council, Regional or State Governments, City Development Committees, Regional Development Committees, Non-governmental organizations and Experts, as may be necessary, and submit them to the Ministry;
    (b) May conduct necessary special inspections and investigations at necessary time and place to enable to stipulate environmental quality standards.

Chapter (VIII)

Management of Urban Environment

40.

(a) The Ministry may give necessary advice about environmental conservation if the relevant Government departments and Government organizations, private organizations and individuals ask an advice about urban environmental management contained in section 17 of the Law in accord with the guidance of the Committee, or if it considers necessary;

(b) The Department shall submit an advice about urban environmental management with its comments to the Ministry if it is necessary.

Chapter (IX)

Waste Management

41. The Ministry shall specify categories and classes of hazardous wastes generated from the production and use of chemicals or other hazardous substances in carrying out industry, agriculture, mineral production, livestock and fisheries, waste disposal and other activities in coordination with the relevant Government department and Government organization.

42. The Ministry, to enable to promote the establishment of necessary facilities or centers for the treatment of solid waste, liquid waste and gas emissions which contain poisonous and hazardous substances, shall cooperate with the relevant Government departments, Government organizations and experts:

(a) May cause certain categories of business which release solid waste, liquid waste and gas emission containing prescribed amount of poisonous and hazardous substances to carry out treatment by establishing its own waste treatment factory or waste treatment station, or combined waste treatment factory or waste treatement station;

(b) May determine the period for the businesses, which were established before the issue of these rules and are responsible to establish its own waste treatment factory or waste treatement station, or combined waste treatment factory or waste treatment station, to establish factories and stations for waste treatment;

(c) May assign duty to the Department to inspect and report whether the businesses concerned comply with waste treatment under sub-section (a).

43. The Ministry:
    (a) May prescribe the terms and conditions relating to effluent treatment in industrial estate, special economic zones and other necessary places and buildings, and emissions of machines, vehicles and mechanisms;
    (b) May prescribe supervision methods relating to confiscation, storing, keeping safety measures, transportation, import, export, managing such material with advanced technology, treatment and disposal of hazardous waste;
    (c) May adopt necessary measures for improvement of destruction, storage, placment and transportation of solid waste in coordination with the relevant Government departments and Government organizations;
    (d) May adopt cleaner production methods and recycling method of natural resources and wastes in industries and businesses.

44. The Department shall specify the categories and classes of hazardous wastes generated from the production and use of chemicals or other hazardous substances in carrying out industry, agriculture, mineral production, livestock and fishery, waste disposal and other works, in coordination with the relevant Government departments and Government organizations, if necessary relevant non-governmental organizations according to the guidance of the Ministry and submit them to the Ministry.

45. The Department shall inspect whether the businesses which are responsible to establish a waste treatment factory or center under section 42 comply with terms and conditions of waste treatment according to the guidance of the Ministry and submit a report to the Ministry.

46. The Department:
    (a) Shall prepare the terms and conditions relating to effluent treatment in industrial estates, special economic zones, other necessary places and buildings, and emissions of machines, vehicles and mechanisms and submit them to the Ministry;
    (b) Shall prepare methods for supervision of confiscation, storage, keeping safety measures, transportation, import, export, managing that material with advanced technology, treatment and disposal of hazardous waste and submit them to the Ministry;
    (c) Shall cause to implement and supervise the measures adopted by the Ministry for the improvement of destruction, storage, placement and transportation of solid waste;
    (d) Shall submit a report to the Ministry after inspecting industries and businesses whether cleaner production methods and recycling method of natural resources and wastes stipulated by the Ministry are adopted.

Chapter (X)

Conservation of Natural Resources and Cultural Heritages

47. The department:
    (a) Shall scrutinize the situation of performance relating to conservation, management, beneficial use and sustainable use of natural resources and enhancement of regional cooperation implemented by the relevant Government departments and Government organizations in accord with the guidance of the Union Government and the Committee according to section 18 of the Law and report the progress to the Ministry;
    (b) Shall coordinate with relevant Government departments and Government organizations not to deplete the habitats of natural plants and living things when implementing facts contained in sub-section (a).

48. The Ministry may cooperate with the relevant Government departments and Government organizations or assign duty to cooperate them when carrying out environmental conservation activities for perpetuation of cultural heritage areas, natural heritage areas, cultural monuments, buildings and natural areas according to one of the exsiting Laws.

49. The Ministry may assign duty to the Department to cooperate with the relevant Government departments and Government organizations when making proper land use for perpetuation of natural resources and cultural heritages contained in section 18 of the Law.

50. The Ministry may communicate and coordinate with the international organizations, as may be necessary, to enable to obtain necessary technology, skill assistance for perpetuation of natural resources and cultural heritages.

Chapter (XI)

Environmental Impact Assessment

51. The Ministry may assign duty to the Department for enabling to adopt and implement the environment impact assessment system.

52. The Ministry shall determine the categories of project, business, service or activity which shall conduct environmental impact assessment.

53. The Ministry may cause the categories of proposed project, business, service or activity which are not included in the categories stipulated under section 52 to conduct an initial environmental examination so as to enable to scrutinize whether or not environmental impact assessment study is necessary to conduct for such projects.

54. Government department, organization or an individual who would develop the categories of project, business, service or activity stipulated under section 52:
    (a) Shall conduct an environment impact assessment for his project, business, service or activity;
    (b) Shall submit that the environment impact assessment is intended to conduct by which third party or an organization to the Ministry in advance;
    (c) Shall submit the environmental impact assessment report to the Ministry.

55. Government department, organization or an individual which has been established before the enaction of these rules and is responsible to coduct the environmental impact assessment or initial environmental examiniation for the project, business, service or activity:
    (a) Shall prepare the environmental management plan according to environmental impact assessment procedure and submit it to the Ministry;
    (b) Shall implement an environmental management plan with stipulated terms and conditions approved by the Ministry within the time stipulated by the Ministry.

56. Government department, organization or an individual who develops the project, business, service or activity shall manage to conduct environmental impact assessment by a third party or an organization with suitable qualifications accepted by the Ministry.

57. The Ministry shall, upon submission that the environmental impact assessment is intended to conduct by which third party or organization under section 54 (b) to the Ministry in advance, determine and decide after making scrutiny whether or not it is a suitable third party or an organization to conduct the environmental impact assessment. The decision of the Ministry relating to such matter is final and conclusive.

58. The Ministry shall form the environmental impact assessment report Review Body with experts from relevant Government departments and organizations.

59. If private experts are included in the environment impact assessment report Review Body, honorariums, expenses and allowances for them shall be borne from the environmental management fund.

60. The Ministry may assign the Department to scrutinize the report of environmental impact assessment prepared and submitted by a third party or an organization and report to the Ministry through the environmental impact assessment Review Body.

61. The Ministry may approve and reply the environmental impact assessment report or environmental management plan with the guidance of the Committee.

Chapter (XII)

Prior Permission

62. The Ministry shall determine and declare the categories of business, work-site or factory, workshop which may cause an impact on the environmental quality with the approval of the Committee and with the agreement of the Union Government.

63. The owner or occupier of the category of business, work-site or factory, workshop stipulated under section 21 of the Law and section 62 of the Rules shall apply the application (Form-1) to the Ministry to obtain the prior permission.

64. The Ministry shall, if the application for prior permission is allowed after scrutiny, issue the prior permission in Form-2 by stipulating terms and conditions. The business, work-site or factory, workshop which the Ministry issued prior permission shall be registered and kept as records.

65. The Ministry may, if it refuses any application to issue prior permission as it is not in conformity with the stipulations, allow such application to re-apply for the issue of prior permission after it is performed in conformity with such stipulations completely.

66. The Ministry may check whether or not it complys with stipulated terms and conditions when issuing prior permission:
    (a) May assign duty to the Department to scrutinize and inform;
    (b) May inform to the relevant Government department and Government organization to scrutinize and inform.

67. The investor shall obtain the approval of the Ministry concerning the environment impacts.

68. For improvement of environmental management, the small scaled private enterprise, factory and workshop which are not included in the categories stipulated in sections 52 and 53 and 62 shall obtain a comment from the Department concerning the environment impacts before applying a permission and a license to the Ministry concerned to construct or operate the business.

Chapter (XIII)

Prohibitions

69.
    (a) Any person shall not emit, ask to emit, dispose, ask to dispose, pile and ask to pile, by any means, hazardous waste or hazardous substances stipulated by notification according to any rules in this rules at any place which may affect the public directly or indirectly.
    (b) Nobody shall carry out any activity which can damage the ecosystem and the natural environment which is affected due to such system, except for the permission of the Ministry for the interests of the people.

Chapter (XIV)

Miscellaneous

70. The Committee may coordinate and cooperate to have a contact person or a division in relevant Government departments and Government organizations to enable to cooperate to carry out environmental conservation activities in each sector.

71. The Ministry may give a certificate of honor or an acknowledgement of good environmental management to the city, place, factory, workshop, project, etc... which is good in environmental management.

72. The Department which shall carry out the functions and duties of the Department according to these rules is the Environmental Conservation Department of the Ministry of Environmental Conservation and Forestry.

73. The Environmental Conservation Department may delegate to carry out his functions and powers of the Environmental Conservation Department to the relevant officer-in-charge of the Environmental Conservation Department in Region or State as necessary.

74. Any person who finds the commission of any act which may affect the environment or the violation of any prohibitions may, for environmental conservation, inform to the relevant Township General Administration Department, relevant department and organization or the office of the ward or village-tract administrator.

(Sd.) Win Tun

Union Minister

Ministry of Environmental Conservation and Forestry

Letter No. 2/ 220 (b) (6)/ (4301/ 2014)

Date: 5th June, 2014

Delivered to

The President Office

The Union Government Office

The Hluttaw Office

The Supreme Court of the Union

The Court of National Constitutional Law

The Office of Union Election Commission

The Office of Union Attorney General Office

The Office of the Auditor General of the Union

The Office of Union Gazetted Officers

All Union Ministries

Myanmar Central Bank

Naypyitaw Concil, State and Regional Ministers

Offices of State and Regional Government

Secretary, Myanmar Investment Committee

Managing Director, Printing and Publishing Enterprise

(A request to announce in the Myanma Gazette)

Office Copy

Myo Nyunt

Staff Officer

Ministry of Environmental Conservation and Forestry

Form (1)

Application for the Issue of Prior Permission

(Rule 63)

To

Union Minister

Ministry of Environmental Conservation and Forestry

Dated:…. Year…. Month…Day

Subject: Application for the issue of prior permission

1. I Mr./Ms…… residing at …..…… Region …..……Township…..…… City …..……Ward/Village-tract apply for the issue of prior permission according to section 64 of the Environmental Conservation Rules to carry out the following business.

2. The relevant facts are submitted as follows:

(a) Name of applicant owner ……

(b) Name of Father……

(c) National Registration Card (NRC) No.……..……
Passport No. ……..……..……

(d) Place of issuing NRC……
Place of issuing Passport……

(e) Nationality ……

(f) Place of birth ……

(g) Address ……

1) If he is a Myanmar nationality, local address……
……

2) If he is a foreigner, address in his own country ……
……

3) If he is a foreigner, address in Myanmar……
……

(h) The type of business for which the prior permission is requested ……
……
……..……

(i) The address of the business/ work-site/ factory/ workshop ……..……
……..……

(j) To attach the copy of the company registration if it is a company.

(k) To attach the copy of permission, license, permit of the business if it is obtained from other Government departments and Government organizations.

Applicant

(Mr. / Ms…..)

Form (2)

Prior permission

(Rule 64)

Subject: Issuing prior permission

1. Prior permission is given to U/ Daw…… who resides in ……..…… Country, ……..……..……..…… Region/ State, …… City, …… Township, ……. Ward or Village in response of requesting prior permission for a business which is described in the paragraph 2 with the condition that the applicant must follow the rules and regulations described in the paragraph 3 according to section 64 of the Environmental Conservation Rules.

2. Applied Business Information

(a) Type of business for which the prior permission is requested ……

….……..…

….……..….

(b) The address of the business/ work-site/ factory/ workshop……

……

…….……..…….

3. Rules and regulations

(a) Paying compensation with the amount of money decided by the Ministry if the project pollutes the Environment.

(b) If there is benefit from natural environmental service system, a specified amount of money decided by the Ministry should be contributed to the fund.

(c) If it is the extraction of natural resources, a part of the benefit must be contributed to the fund of environmental management for environmental conservation works according to the Ministry.

(d)……

…… …

(e)……

……

(f)……

……

Myanmar Special Economic Zone Law, 2014

(2014, The Pyidaungsu Hluttaw Law No. 1/2014)

8th Waning of Pyatho 1375 ME

(2014, January 23)

The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter I

Title, Relevance and Definition

1. This Law shall be called the **Myanmar Special Economic Zone Law, 2014**.

2. This Law is relevant to all the Special Economic Zones.

3. The following expressions contained in this Law shall have the meanings prescribed hereunder:

   (a) **Union** means the Republic of the Union of Myanmar;

   (b) **Union Government** means the Union Government of the Republic of the Union of Myanmar;

   (c) **Special Economic Zone** means the zone notified and established by the Central Body as the Special Economic Zone by demarcating the boundary and issuing the notification under this Law;

   (d) **Infrastructures** mean physical fundamental requirements connected with Special Economic Zone such as electric power supply, water supply, sewage treatment, transportation, road,

railway, port, airport and communication network and fundamental requirements that are not physical such as computer programmes management programmes which can carry out tasks in easy and effective ways**;**

(e) **Developer** means company, person or organization, as the case may be, which is permitted by the Management Committee to implement care by case in the development works, construction of infrastructure, operations or maintenance works of the Special Economic Zone in accordance with the provisions of this Law and rules, regulations, notifications, orders, directives, procedures issued under to this Law;

(f) **Investor** means citizen and foreigner who establish the joint venture business or citizen or foreigner who implements the investment business permitted by the relevant Management Committee case by case in the Special Economic Zone;

(g) **Citizen** includes the associate citizen and naturalized citizen. In this expression the economic organization formed by the citizens shall also be included by this Law;

(h) **Foreigner** means a person who is not the citizen. In this expression the economic organization formed by foreigners shall also be included by this Law;

(i) **Free Zone** means the area which is deemed to be situated outside the country which is stipulated by the relevant Management Committee and the Customs Department to be entitled to the

exemption of the customs duty and other taxes relating to the goods in the Special Economic Zone and the goods imported into this zone. In this expression also includes the Free Zone business manufacturing area, transportation area and international wholesale area;

(j) **Promotion Zone** means the internal taxation area situated within the Special Economic Zone and other activities which are not the activities of Free Zone;

(k) **Free Zone Activity** means activities situated within the Special Economic Zone and export-oriented activity which has the same rights as the factory activities in the Free Zone which are not separately prescribed as the Free Zone or the Promotion Zone;.

(l) **Other Activity** means activity which has the same rights as factory activity in the Promotion Zone situated within the Special Economic Zone which are not separately prescribed as the Free Zone or the Promotion Zone and the activities in the Promotion Zone;

(m) **Other Zone** means the zones stipulated by the Union Government from time to time except high-technology industrial zone, information and technology zone, export products manufacturing zone, port area zone, providing and transportation zone, science and technology research development zone, services zone, subsidiary trade zone;

(n) **Central Body** means the Central Body relating to the Myanmar

Special Economic Zone formed by the Union Government under this Law;

(o) **Central Working Body** means the Central Working Body relating to the Myanmar Special Economic Zone formed by the Central Body under this Law;

(p) **Management Committee** means the Special Economic Zone Management Committee formed under this Law to carry out the management, administration and supervision works in the relevant Special Economic Zone;

(q) **Focal Ministry** means the Union Ministry prescribed and assigned by the Union Government to take responsibility in implementing the necessary functions and duties under this Law;

(r) **Asset** means land, building, vehicle and capital assets of the business, the shares, promisory deed and other similar deeds of agreement;

(s) **Profit from the asset** means the profit received from selling, mortgaging, exchanging and leasing of the asset.

Chapter II
Objectives

4. The objectives of this Law are as follows:

(a) to support the main objectives of the national economic development plan;

(b) to affect employment for the people, to promote their living standards, to promote the export of goods with the improvement of production and to increase foreign exchange earnings;

(c) to encourage, promote and attract being for the balanced development of the industrial, economic and social sectors in the State;

(d) to promote cooperation in industrial, economic and commercial activities, services and financial transactions between the State and other countries, and to provide the opportunities for vocational training to the citizens;

(e) to encourage and attract domestic and foreign investments by building good foundations for the Developers and the Investors;

(f) to promote the flow of domestic and foreign investments in the Special Economic Zone and to establish linkages in continuity among the industries in and the Special Economic Zone with the creation of new jobs.

Chapter III

Formation of the Central Body and its Functions and Duties

5. The Union Government:

(a) shall form the Central Body relating to the Myanmar Special Economic Zone, comprising a suitable person as the chairman and from the relevant Union Ministers, governmental as departments and governmental organizations as members, for enabling to

carry out the functions and duties contained in this Law in respect of establishing and operating the Special Economic Zone;

(b) may reform the Central Body formed by subsection (a) as necessary;

(c) shall determine the functions and duties of the Central Body.

6. The functions and duties of the Central Body are as follows:

(a) stipulating the policies for the successful implementation of the Special Economic Zones in accordance with the provisions under this Law and giving instructions as necessary;

(b) transforming areas in the country which have been selected and designated into the business centres of special advanced industry economy and commerce, service, tourism, agro-based industry investment, finance and export-oriented industry business center;

(c) scrutinizing and obtaining the opinion of the relevant governmental departments and governmental organizations in relation to the proposal, the appropriate place, the required land area, the extent and boundary for the establishment of the Special Economic Zone, and submitting for the approval of the Union Government;

(d) Forming the Central Working Bodies and Management Committees with the approval of the Union Government, and determining their functions and duties;

(e) laying down the projects and programmes for the development and management of the Special Economic Zone, and determining

the work programmes and policy frameworks for the implementation and supervision;

(f) scrutinizing and approving the development plan of Special Economic Zone submitted by the Management Committee;

(g) having right to determine the amount of investment and categories of business in the Special Economic Zone;

(h) supervising the functions of the Management Committees, carrying out inspections from time to time, and coordinating with the relevant governmental departments and governmental organizations;

(i) determining the taxes and revenues, rental fees and land use premiums to be levied under this Law with the approval of the Union Government and giving exemptions and reliefs thereof;

(j) giving extension to the period of the tax exemptions and reliefs provided under this Law with the approval of the Union Government in order to develop the whole country;

(k) supervising and guiding in order to carry out the office works speedily at one stop service within the Special Economic Zone;

(l) forming organizations with the person from the relevant governmental departments and governmental organizations to carry out the matters relating to the administration, security, management and municipality, and determining the functions and duties of the organizations;

(m) assigning duties to the Management Committee to directly supervise the organizations formed under Subsection (l);

(n) submitting reports on the situation of the implementation of the Special Economic Zone to the Union Government from time to time;

(o) establishing new Special Economic Zones for the interests of the State and the Citizens, or upgrading the existing suitable industrial zones into a Special Economic Zone if it is in conformity with the stipulated prerequisites of the Special Economic Zone and approval by the Pyidaungsu Hluttaw after submitting with the agreement of the Union Government;

(p) carrying out other functions and duties assigned by the Union Government in relation to the Special Economic Zone.

Chapter IV
Formation of the Central Working Body and its Functions and Duties

7. The Central Body with the approval of the Union Government:

(a) shall form the Central Working Body relating to the Myanmar Special Economic Zone with persons from the stipulated governmental departments and governmental organizations to provide assistance in the implementation of the activities of the Special Economic Zone;

(b) shall determine and assign duties of the Chairman, Vice

Chairman, Secretary and Joint Secretary when forming under sub-section (a);

(c) may reform the Central Working Body formed by sub-section (a) as necessary.

8. The functions and duties of the Central Working Body are as follows:

(a) submitting the suggestion to the Central Body after scrutinizing the proposals for the construction of Special Economic Zone and investment business which are submitted by the Management Committee, the developer or the investor;

(b) scrutinizing the development project of Special Economic Zone submitted by the Management Committee for the implementation of Special Economic Zone and submitting the suggestion to the Central Body;

(c) submitting the suggestion to the Central Body after scrutinizing the types of the zone, priorities activities, the types of business to be carried out in each zone of the Special Economic Zone;

(d) submitting its advice to the Central Body, after observing on the matters relating to international special economic zone, in other special economic zones and sites which should be carried out in Myanmar;

(e) coordinating with the relevant organizations in order to undertake the investment businesses which will be done in the respective

Special Economic Zone with the approval of the Central Body in accordance with the stipulations;

(f) submitting the suggestion to the Central Body after scrutinizing the administrative, managerial, legal and other matters relating to the investment business in the Special Economic Zone;

(g) having right to assign the duties after forming other appropriate working bodies under the Central Working Body if necessary.

Chapter V

Formation of the Management Committee and its Functions

9. The Central Body:

(a) shall form each Management Committee for the respective Special Economic Zone with the persons from the relevant governmental departments and governmental organizations, the external persons and persons from external organizations to implement the functions and duties under this Law;

(b) shall include a representative from relevant region or state government as a member in the respective Management Committee;

(c) shall determine the Chairman, Vice Chairman, Secretary and Joint Secretary in forming under Subsection (a);

(d) may reform the Management Committee formed under Subsection (a) as necessary.

10. The Chairman of the Management Committee shall be responsible to the President through the Central Body.

11. The functions and duties of the Management Committee are as follows:

(a) obtaining the approval after submitting the development project for the implementation of the Special Economic Zone to the Central Body through the Central Working Body;

(b) making arrangement to enable the investment business in accordance with the stipulations;

(c) issuing the permit of allowing investment business within 30 days from the application date if the application of the intending investor under section 30 is completed with the requirements;

(d) supervising and carrying out inspection on the development matters of the Special Economic Zone such as implementation of the investment and development projects, land use, environmental conservation, education, health, finance, taxation, municipality, transportation, communication, security, electricity, energy and water supply, and coordinating with the relevant governmental departments and governmental organization;

(e) coordinating with the relevant governmental departments and governmental organizations as may be necessary to protect the properties, profits and other rights of the investors in conformity with the existing laws;

(f) stipulating the matters which are to be abided by the investors by issuing notifications, orders, directives and procedures;

(g) coordinating with the relevant governmental departments and governmental organizations, as may be necessary, for enabling to obtain the entry visa and residency for foreign investors and their employees, technicians, staff and family members if they are foreigners working in the Special Economic Zone;

(h) coordinating as may be necessary to facilitate implementation of financial management by the Central Bank in the Special Economic Zone, and exchanging of foreign currency for the investors, supervising the financial matters and communicating and operating with the banks which are authorized to carry out foreign banking businesses in Myanmar;

(i) giving permission in accordance with the stipulations in the Special Economic Zone to the developers, investors and the companies, and supervising their activities;

(j) supplementing, amending and repealing, from time to time, the stipulations relating to the registered investment business in the Special Economic Zone without affecting the registered investment business;

(k) determining the contagious zones and areas in the Special Economic Zone;

(l) establishing one-stop services centre the approval for investment, company registration, issue of the entry visa relating to the

business, issue of the certificate of origin, collection of taxation, approval of employment permit and permission, giving permission for factory construction and other investment and economic business licenses and permits can be provided;

(m) managing the departments formed by sub-section (l) directly and under its purview;

(n) determining to ensure that the construction work and designs of the Special Economic Zone are in conformity with the main project or not;

(o) determining the types of businesses, the minimum investment amount which must be invested for each type of investment, the minimum number of citizen employees to be employed, standardization of advanced technology and matters which have to be abided by in the Free Zone and the Promotion Zone;

(p) supervising and ensuring compliance with the existing laws relating to the conservation and protection of natural environment, scrutinizing the industrial waste disposal system from the factory, ensuring in conformity with the stipulations to the developer or investor in the Special Economic Zone;

(q) forming a supporting body if necessary with the representatives from the relevant governmental departments and governmental organizations, the representatives of the developer and investor and other suitable persons and persons from organizations;

(r) directing to improve the investment business and changing

management pattern based on the advice of the supporting body relating to the construction, operation, repair and maintenance of the investment projects in the Special Economic Zone;

(s) issuing rules and regulations to carry out the business operation and management in the respective Special Economic Zones in accordance with the stipulations;

(t) allowing the exemptions and reliefs to the investor or developer in accordance with Myanmar Special Economic Zone Law;

(u) carrying out the functions and duties specifically assigned by the Union Government and the Central Body.

Chapter VI
The establishment of Special Economic Zone

12. The Central Body may establish the Special Economic Zone by the approval of Pyidaungsu Hluttaw with the agreement of the Union Government in the suitable place or area for the development of State economy based on the following criteria:

(a) having international gateways such as port, airport, or can transport easily to international border or domestic markets;

(b) being the area designated for regional development by the Union Government;

(c) having the infrastructural pre-requisites or having the prospect for the implementation;

(d) availability of the water resource and electric power;

(e) having sufficient land area to establish the industries and the investment business;

(f) availability of the skilled workers, semi-skilled workers and trainable workers;

(g) able to arrange the training courses for the recruitment of required skilled workers;

(h) being the strategic area or land in the condition of transportation or linkage to the market in the country.

13. Notwithstanding the non-conformity of any of the criteria in section 12 , the Central Body may establish the Special Economic Zone by the approval of the Pyidaungsu Hluttaw with the agreement of the Union Government, if it considers that the establishment of the Special Economic Zone would be beneficial for the State and its people.

14. The Central Body may:

(a) select the developer by calling tender according to the international procedures;

(b) select the developer, as another way of selection, by giving priority to those who have managerial experience in the Special Economic Zone, considering on the benefits for the State and the citizens, favourable conditions for speedy implementation of the project, participation of the people and transparency.

15. Foreigner may carry out any other business approved by the relevant Management Committee, either as one hundred per cent foreign investment or a joint venture with the citizen.

Chapter VII
Stipulations of Free Zone and Promotion Zone

16. The relevant Management Committee in a Special Economic Zone:

(a) may stipulate any specifie demarcation as Free Zone or Promotion Zone as may be necessary;

(b) may stipulate other zones according to the market demand in addition to the Free Zone and Promotion Zone;

(c) may stipulate any export oriented activities as Free Zone Business on each activity if there is no specifie stipulations as Free Zone or Promotion Zone.

17. The Free Zone business stipulated by Section 16 Subsection (c) may obtain the privileges of the businesses located in the Free Zone, and other activities which are not stipulated as the Free Zone businesses in the Special Economic Zone may obtain the privileges of the businesses located in the Promotion Zone.

18. The Customs Department:

(a) shall protect the imported goods from overseas and the manufactured products of the Free Zone so as not to enter the domestic market or into the Promotion Zone without respective

clearance of customs duties;

(b) shall specify the entries and exits of the Free Zone and the ways to be applied in order to secure for the safety of the Free Zone boundary;

(c) shall carry out the matters of customs duty clearance in the Special Economic Zone in accordance with international norms which is clear and comprehensible customs duty procedures. If it is necessary, the Custom Department may carry out the actual inspection at the place where the investor's business is situated;

(d) may take action according to the relevant customs duty procedures in examining under sub-section (c), if it finds any non-conformity with the stipulations.

19. The Customs Department and the relevant department shall stipulate the procedures relating to customs duty clearance for the transportation of manufactured products of the Free Zone to the domestic market or to the Promotion Zone.

20. It shall be deemed that the goods transported from the Free Zone to the domestic or to the Promotion Zone as imported goods from overseas, and the transportation of raw materials from overseas to the Free Zone which are then manufactured in the Free Zone as finished or partly finished products and then transported to the domestic or to the Promotion Zone as importation to the domestic;

21. If there is no other provisions relating to the goods under section 20, the customs duties and other related taxation shall be paid

according to the existing laws.

22. The goods transported from the domestic region or the Promotion Zone to the Free Zone shall be deemed as the export products of the State.

23. The manufacturing business located in the Free Zone or Free Zone businesses shall mainly be export oriented manufacturing business. Such supporting business and export oriented business in the Special Economic Zone where there is no specifie stipulation on Free Zone and Promotion Zone may be determined as Free Zone business.

24. A hundred percent citizen investment or a hundred percent foreign investment or joint venture between citizen and foreigner can be carried out in the Free Zone.

25. The maximum percentage of the amount of goods manufactured in the Free Zone which may be delivered and sold to the domestic market or to the Promotion Zone may be prescribed by the Rules.

26. In the transportation of goods from the Special Economic Zone to other country, if passing the outside areas of the Special Economic Zone, shall be transported by the sealed containers.

27. A hundred percent citizen investment, or a hundred percent foreign investment or joint venture between citizen and foreigner can be carried out in the Promotion Zone.

28. (a) The Promotion Zone is the location of the business which is

based on the domestic market or the market in the Special Economic Zone and it is also the place where the business such as manufacturing business based on the domestic market, housing, departmental store, banking business, insurance business, school, hospital and recreatinal places can be invested.

(b) The manufacturing business in the Promotion Zone are mainly based on the domestic market , and they can be exported directly from such business and delivered to the Free Zone businesses.

(c) Other businesses situated in Special Economic Zone where there is no specific stipulation of Free Zone or Promotion Zone which are not the Free Zone business shall be specified as the business invested in the Promotion Zone.

Chapter VIII

Types of Investment Business, the Duties and the Exemptions of the Investor

29. The investor is entitled to carry out the following investment business in the Special Economic Zones in accordance with the stipulations:

(a) manufacturing finished products from raw materials, processing goods warehousing, transportation and providing services;

(b) transporting and importing raw materials, packaging materials, machinery instruments and equipment, and fuel oils to be used in the investment business from the domestic or overseas to the Special Economic Zone;

(c) trading the manufactured products from the investment business to the domestic and overseas in accordance with the stipulations;

(d) establishing and operating the offices for investment business and overseas service works at the stipulated place in the Special Economic Zone with the permission of the Management Committee;

(e) carrying out other economic business which are not prohibited by the State, with the permission of the Management Committee.

30. The person intending to invest in the Special Economic Zone shall apply to the Management Committee to obtain the investment permission in accordance with the rules and regulations stipulated under this Law

31. The investor shall complete the investment construction in the stipulated period and operate profitably the investment business. If the investment business is unable to be completed during the stipulated period, the investor shall submit the justification reason to the Management Committee in advance. If delay is found without any justification reason, the Management Committee may revoke the investment permission in accordance with the rules and regulations.

32. The investor is entitled to the following income tax exemption and reliefs:

(a) for investment business in the Free Zone or the Free Zone business, there shall be income tax exemption for the first seven years from the commencement of the commercial operation;

(b) for investment business in the Promotion Zone or other business in the boundary of the Special Economic Zone, there shall be income tax exemption for the first five years from the commencement of the commercial operation;

(c) for the investment business within the Free Zone and the Promotion Zone, there shall be fifty percent relief on the income tax rate stipulated under the existing law for the second five years;

(d) for the investment business within the Free Zone and the Promotion Zone there shall be fifty percent relief of the income tax rate stipulated by the existing law for the third five years on the profit which is obtained from the business if it is reinvested within one year in the business as a reserve fund.

33. After the expiry of the tax exemption and relief period under Section 32, if the tax exemption and relief under this Law are not permitted again, the investor shall pay the income tax at the rate stipulated by the existing law.

34. The investor shall:

(a) register the business, company, organizations to be operated in the Special Economic Zone in accordance with the stipulations at the Branch Office of Directorate of Investment and Companies Administration which is opened jointly with the Office of Management Committee within the Special Economic Zone;

(b) report the situation of the implementation on the investment

business to the Management Committee in accordance with the stipulations;

(c) compile and keep the business statistics, accounts and records accurately in accordance with the international standards;

(d) destroy the perished, unusable or sub-standard medicines and food stuffs of the investment business in accordance with the stipulations of the Management Committee at the stipulated place.

35. The investor shall not only abide by the environmental standards described in the Myanmar Environmental Conservation Law and international standards, but also carry out them in accordance with the existing laws in order not to have undesirable health and social impact.

36. The investor who has intention of terminating or liquidating the business or company or organization shall carry out in accordance with the stipulations after giving prior notice to the Management Committee.

37. The investor may re-register the transfer of part or whole of the shares of the business or company or organization after giving prior notice to the Management Committee.

Chapter IX

Development Business, Duties and Exemptions of Developer

38. Development business may be carried out as follows:

(a) it may be carried out as a developer by the private, or by the

government, or by incorporation of private and the government;

(b) Establishment of the Special Economic Zone may be carried out as a developer by a one hundred per cent citizen investment, or a one hundred per cent foreigner investment, or a joint venture investment of the citizen and the foreigner or intergovernmental investment.

39. The developer:

(a) may, after entering into a leasing contract with the relevant Management Committee, carry out the implementation of business in the Special Economic Zone, sub-leasing the land to the investors and making maintenance in the Special Economic Zone under the supervision of the Management Committee;

(b) may, if it is the Union Government, or Divisional or State Government, carry out the activities such as construction, management and maintenance in the Special Economic Zone, whether directly or by contracting out the work to other organizations in transparency;

(c) shall complete each of development in project the stipulated period. If it cannot be completed in the stipulated period, he shall submit sufficient justification in advance to the Management Committee. If finding of being delayed without sufficient justifications, the contract of land lease between the Management Committee and the developer shall be null and void;

(d) may carry out the infrastructures in the Special Economic Zone

by him self or by contracting out to other organizations;

(e) may develop by forming specifie organizations to construct any of the infrastructures with the agreement of the Central Body , in developing infrastructures related to the Special Economic Zone which are located outside the Special Economic Zone. These organizations shall have separate accounts. The developer of the related infrastructure may be entitled to the privileges of the developer of the Special Economic Zone. The development of related infrastructures such as road, railway, bridge and water supply which will take longer time to recoup the costs of investment may be granted more privileges with the agreement of the Central Body.

(f) shall, if a related infrastructure renders its services not only within the Special Economic Zone but also outside the Special Economic Zone, enter into contracts in respect of each sector with the relevant governmental organizations in relation to its services to outside the Special Economic Zone.

40. The developer is entitled the following income tax exemptions and reliefs:

(a) income tax exemption for the first eight years from the commencement of business operation;

(b) fifty per cent relief of the income tax rate stipulated by the existing law for the second five years; and

(c) fifty per cent relief of the income tax rate stipulated by the existing law for the third five years on the profit which is

obtained from the business if it is reinvested within one year in the business as a reserve fund.

41. The developer shall, after the expiry of the tax exemption and relief period under Section 40, if the tax exemption and relief under this Law are not permitted again, pay the income tax rate stipulated by the existing law.

42. If the developer who carries out the business operation by himself in the Special Economic Zone, he may sublease the land and buildings in the Special Economic Zone to the investors during the permitted period or during the period of land lease to operate the business by the Management Committee.

43. The developer shall pay the payable fees for the right to use land or the right to operate business activities either in one lump sum or regular instalment to the relevant department in accordance with the land agreement with the relevant Management Committee.

Chapter X

The Exemptions and Reliefs on the Import Revenue of the Developer and the Investor

44. The entitlement to the exemptions and reliefs on the import taxation shall be as follows:

(a) for the developer, the exemptions of customs duties and other relevant taxation on the import of the construction materials for the infrastructures and own offices; machine instruments; machinery; motor vehicles for work and work materials;

(b) for the investor of the Free Zone, the exemptions of customs duties and other relevant taxation for the import of raw materials for production, machinery instrument and necessary spare parts for production; construction materials and motor vehicles for building factory, warehouse and own office;

(c) for the investor of the Free Zone, the exemptions of customs duties and other relevant taxation on the import of trading goods, consignment goods, motor vehicles and other materials which are essential for the business for free-tax wholesale trading, export trading and services of provision and transportation;

(d) for the investor of the Promotion Zone, the exemptions of customs duties and other relevant taxation for five years from the business commencement on the import of equipment and instrument not for sales and their required spare parts, the construction materials for factory, warehouse and own office, the motor vehicles and other materials which are essential for the business, and fifty percent relief of the custom duties and other taxation for the consecutive five years.

45. The investor of the Promotion Zone:

(a) shall regularly pay the customs and other taxation upon the importation of raw materials and other goods for production;

(b) may apply to refund of the customs duties and other taxation paid at the time of importing those materials for the finished or semi-finished goods produced by the materials imported under

sub-section (a) are exported abroad or into the Free Zone.

46. The developer and investor:

(a) shall not sell and transfer the imported machinery, equipment, instruments and motor vehicles to the outside of the Special Economic Zone;

(b) shall repay the exemptions or relief which were enjoyed at the time of import if the materials were sold and transferred under sub-section (a) as a special case.

47. The developer and investor shall take the decision of the relevant Management Committee regarding the provisional period of import permission in relation to the import of large machinery and equipment in the short period for use in the initial of construction work.

48. The developer and the investor of the Special Economic Zone shall be permitted to manage to retrieve the losses for five years after the year of losses incurred.

49. In relating to commercial tax or value-added tax:

(a) The investor of the Free Zones may be given exemption of the commercial tax or valued-added tax;

(b) The investor of the Promotion Zone may be given exemption and relief of the commercial tax and value-added tax during the period of relief provided in this Law. After the end of the period of relief, the commercial tax and value-added tax shall be paid in

accordance with the relevant law.

(c) The investor may apply for the exemption of commercial tax or value-added tax for manufactured goods which will be exported.

(d) The investor of the Free Zone may apply the exemption for import tax or value-added tax for the goods imported from the local or Promotion Zone to the Free Zone.

50. Except for goods which are prohibited and restricted by the Union Government, the goods exported directly or indirectly or re-exported from the Special Economic Zone are entitled to exemption of taxes and other assessments.

51. The developers and investors may apply the exemption of income tax for the dividends distributed to each shareholders based on the profits accrued locally for which tax has been paid.

52. The actual expenses of conduating local training by the investor of the Free Zone to the skilled worker or semi-skilled worker or the staff of the management sector and providing the business research and development are deductible from the taxable income.

Chapter XI

The Settlement of Disputes

53. If any dispute arises in respect of the investment business, it shall be settled amicably between the disputing parties.

54. If it cannot be settled under Section 53:

(a) it shall be dealt with in accordance with the dispute settlement mechanism if it is stipulated in the relevant agreement;

(b) it shall be dealt with in accordance with the existing laws of the Union if the disputes settlement mechanism is not stipulated in the relevant agreement.

Chapter XII
Withholding Tax from the Source

55. If the non-resident foreigner has no business established in Myanmar but has the right to carry out business related to the Special Economic Zone under any property and intellectual property right:

(a) the payer shall deduct the withholding tax from the source of the royalty, interest and payments for the business services in accordance with the income tax rate prescribed under the Income Tax Law and pay it to the relevant authority;

(b) the payer shall deduct the withholding tax from the source of rental fee and other similar income in accordance with the income tax rate prescribed under the Income Tax Law and pay it to the relevant authority.

56. The respective investor shall collect and pay the income tax of local and foreign staff and workers employed in the Special Economic Zone from their salaries and incomes in accordance with the income tax rate prescribed under the existing law in the currency determined by the Central Body.

Chapter XIII

Bank and Finance Management and Insurance Business

57. The business which is operated in foreign currency in the Special Economic Zone shall have the right to open foreign currency account with any bank of foreign banking in Myanmar and carry out the matters of receipt and payment with the foreign currency in accordance with the stipulations.

58. The developer and the investor are entitled to exchange and remit their own foreign currency within the Special Economic Zone or abroad in accordance with the stipulations.

59. Insurance companies owned by the citizen, the foreigner, or jointly owned by the citizen and the foreigner are entitled to operate their agency offices and insurance business within the Special Economic Zone.

Chapter XIV

Management and Inspection of Goods by the Customs Department

60. The investor in the Free Zone or the Free Zone Business shall abide by this Law and rules, bye-laws, regulations, notifications, orders and directives issued by this Law, and the investors in the Promotion Zone or other business shall abide by the provisions of the existing customs duty law and related rules and regulations.

61. The Customs Department, in reducing the procedures and control of customs duty in the Free Zone, shall ensure the realization of economic and social security, the prevention of illegal trading and the

observance of international conventions, but shall not exercise excessive control.

62. The Customs Department shall make customs declaration, scrutinizing the documents and if necessary, examining the goods only once in accordance with international norm when raw material and machinery which are transported for manufacturing export products into the Free Zone or when export products are sent overseas.

63. The Customs Department shall, when inspecting the goods having risk imported into the Free Zone by using the way of customs inspection in accordance with customs procedures, inspect those goods not more than necessary measure.

64. If it is necessary for the Customs Department to conduct field inspection on the goods, although it has to inspect at the Investor's site, it shall reduce the customs procedures in order to expedite the inspection on goods. The customs officer, if necessary, may seal to avoid losses when transporting the inspected goods.

65. The Customs Department shall, after taking the goods causing the customs clearance work smoothly and quickly, have the right to use Post Clearance Audit system which allow inspection for book keeping, records, business system and commercial information maintained by persons who import or export and companies involved directly or indirectly at international trading until the satisfaction of Customs Department.

66. The matters regarding trading goods of designated trading area in the Free Zone or goods displayed at exhibition which showed manufactured products shall be carried out under the procedures of the Customs Department.

67. The Customs Department may monitor and inspect the matters regarding the transportation of goods used in the process of the manufacturing in the Free Zone according to the procedures.

68. The investors of the Free Zone may directly purchase raw materials, accessories, parts, equipment, packaging materials and semi-finished goods which need to produce export products or needed to use for export business from the local or the Promotion Zone. When such goods are transported to the Free Zone, the customs clearance procedures shall be abided by.

Chapter XV
Quarantine Inspection and Confinement so as not to spread Contagious Disease

69. The responsible person from the Quarantine Prevention Department of the Department of Health:

(a) shall carry out quarantine inspection and confinement as necessary not to spread contagious disease in transporting goods, vehicles, containers, animals and plants which are to be directly imported to the Special Economic Zone or directly transported from the Special Economic Zone to the outside, between the

ports, airports, railway stations and the Special Economic Zone;

(b) shall, carry out quarantine inspection and confinement so as not to spread contagious disease, as may be necessary, relating to the export, import items or investment business within the Specific Economic Zone.

Chapter XVI

Matters relating to Labour

70. The Management Committee for the matters relating to labour in the Special Economic Zone:

(a) shall supervise to ensure that the employment agreement is made in accordance with the stipulations;

(b) shall coordinate in determining the rights and duties of the employer and employee or terms and conditions relating to employment contained in the employment agreements for enjoying the rights in accordance with the existing labour laws including minimum wages, salary, leave, holiday, overtime charges, compensation for dismissal from work and workmen's compensation;

(c) shall inspect and supervise so as not to diminish or lose the rights and entitlements of the employees, technicians and staffs;

(d) may determine the minimum wages of employee and staff.

71. The investor may recruit freely from the Work and Labour Recruitment Office in the Special Economic Zone, or from local labour recruitment agents, or by his own arrangement relating to

labour recruitment.

72. In employing citizens skilled workers, technicians and staff in relation to the employment, the employment agreement shall be signed by the employer and employee and shall be employed in accordance with the existing Labour Laws and Rules.

73. The investor shall arrange the training and course relating to the relevant subjects by the type of business for the improvement of the skill of the citizen staff.

74. The investor shall employ only the citizens in the work where high technology and skill are not required.

75. The investor shall, in employing citizen skilled workers, technicians and staff who are required of high technology and skills, have appointed the citizens at least 25 percent the first two years from the commencing year of operation, at least 50 percent in the second two years, at least 75 percent in the third two years.

76. (a) The relevant Management Committee shall negotiate and mediate the disputes arising between the employer and the employee, the technician or the staff in the Special Economic Zone.

(b) If no settlement has been reached although negotiation and mediation were made by the relevant Management Committee under sub-section (a), such disputes shall be dealt with pursuant to the Trade Dispute Act.

77. The work permit for foreign employees working in the Special Economic Zone shall be issued by the representative office of labour department opened in operating as one stop services department in the Special Economic Zone.

78. The investor, if it is required to appoint more foreign employees than stipulated numbers based on the condition of his investment business, may appoint by the permission of the relevant Management Committee.

Chapter XVII
Land Use

79. The Management Committee may, after causing payment of fees to be made by the developer or the investor for the right to land lease or land use, permit for 50 years. If the investor is desirous of continuing to operate after the expiry of the permitted term, it may renew for 25 years.

80. The developer or the investors:

(a) shall bear the expenses of relocating and paying compensation in accordance with the agreements if houses, buildings, farms and gardens, orchards and fields, plantation on land permitted for land lease or land use are required to be relocated;

(b) shall, to relocate the persons so as not to lower their original standard of living, to fulfill the fundamental needs and for facilitating such works, coordinate and carry out with the relevant Management Committee as may be necessary;

(c) shall use the land which is entitled to lease or use in accordance with the prescribed terms and conditions;

(d) shall not modify or alter significantly, without permission of the relevant Management Committee, the topography or the contour of the land for which he obtained land lease or land use;

(e) shall report immediately to the Management Committee if natural mineral resources or antiques or treasure or mine not relating to the permitted enterprise which are not included in the original agreement are found above or under the land which he is entitled to lease or use. If the Management Committee permits, he may continue to operate on such land. If not, he shall move to the substituted arranged area;

(f) may sell, mortgage, lease, exchange or gift land lease, land use and buildings to a third party or other organizations enabling to operate the work within the approved term in accordance with the rules and regulations and with the agreement of the relevant Management Committee.

81. If the developer or the investor dissolves or winds up his investment, the permission to land lease or land use shall be revoked and the land must be returned back; if necessary, the developer or the investor shall remove the buildings on the land.

82. The Ministry of Home Affairs, shall carry out the take over or transfer of the lands in the region intended as Special Economic Zone by the Central Body in accordance with the existing laws.

Chapter XVIII

Miscellaneous

83. The assets, profits and other rights owned by the developer or investor shall be recognized and protected in accordance with the existing laws.

84. The prices of products, services or exported products manufactured from the Free Zone or the Promotion Zone shall not be restricted and controlled.

85. The developer or the investor and their workers, technicians, employees and family members who reside in the Special Economic Zone shall abide by other existing laws of the Republic of the Union of Myanmar in addition to the provisions of this Law.

86. It is guaranteed that the investment business in the Special Economic Zone shall not be nationalized during the permitted period.

87. The relevant Union Ministries and the Region or State Ministries shall implement the works relating to them contained in this Law.

88. The person who is assigned duty by the relevant Union Ministry and the Region or State government shall levy in accordance with the existing tax and revenue laws from the defaulter who was failed to pay taxes and fines recoverable under this Law.

89. Notwithstanding anything contained in any existing law, the matters relating to any provision of this Law shall be carried out in accordance with this Law.

90. The focal Ministry shall undertake to carry out the office works of the Central Body and bear the expenses.

91. The Union Government:

(a) may assign the duty to the focal Ministry or any other Union Ministry to carry out the office works of the Management Committee and to bear the expenses;

(b) may, by notification, if it is necessary to carry out the functions and duties of the Central Body for the Special Economic Zone, form any special committee with the suitable persons;

(c) may, by notification, form any management committee with the suitable persons to carry out the works of management and supervision;

(d) may stipulate the functions and duties of the committees contained in subsection (b) and (c).

92. The Central Body, the Central Working Body and the Management Committee relating to the Myanmar Special Economic Zone formed by the Myanmar Special Economic Zone Law (The State Peace and Development Council Law No. 8/2011) repealed by this Law shall be accepted as formed by this Law until the formation of the Central Body, the Central Working Body and the Management Committee under this Law.

93. The notifications, orders, directives and procedures issued by the Myanmar Special Economic Zone Law (The State Peace and

Development Council Law No. 8/2011) repealed by this Law shall have the right to exercise in so far as they are not contrary to this Law.

94. The notifications, orders, directives and procedures issued by the Central Body, the Central Working Body and the relevant Special Economic Zone Management Committee shall not affect the business registered to invest in the Special Economic Zone before issuing them.

95. In implementing the provisions of this Law:

(a) the responsible Union Ministry may issue rules, regulations and by-laws with the approval of the Union Government if necessary;

(b) the Central Body, the Central Working Body and the Management Committee may issue notifications, orders, directives and procedures as may be necessary.

96. The Myanmar Special Economic Zone Law (The State Peace and Development Council Law No. 8/2011) and The Dawei Special Economic Zone Law (The State Peace and Development Council Law No. 17/2011) are hereby repealed by this Law.

I hereby sign under the Constitution of the Republic of the Union of Myanmar.

sd/ Thein Sein
President
Republic of the Union of Myanmar

Law Amending the Income Tax Law

Pyidaungsu Hluttaw Law No. 15/2014

9th Waning of Tabaung, 1375 M.E

24th March, 2014

The Pyidaungsu Hluttaw hereby enacts this law.

1. (a) This law shall be called the Law Amending the Income Ta Law.

   (b) This law shall be effective from the 2014-2015 income year.

2. In the Income Tax Law –

   (a) The expression, "the region or state head of the internal revenue office or the head of the internal revenue office for companies," shall be respectively substituted with the expression, "the head of the Union territory internal revenue office or the region or state head of the internal revenue office or the head of the internal revenue office for companies or the head of the internal revenue office for large tax payers";

   (b) The expression "income from undisclosed sources" shall be substituted with the expression "income which has escaped assessment".

3. In section 3 of the Income Tax Law –

   (a) Sub-section (q) and (s) shall be substituted as follows –

   "(q) Capital assets means any land, buildings and the rooms therein, vehicles and any assets provided as a contribution to an enterprise. In this expression, shares, bonds, security papers and similar instruments are also included;

   (s) The township head of the internal revenue office means the officer in charge of the relevant township internal revenue office who is assigned duty to assess the tax payable by the tax payer, or the heads of the respective offices who are assigned duty to assess the tax in the internal revenue office for companies or in the internal revenue office for large tax payers under this law";

   (b) After sub-section (t), sub-sections (u), (v) and (w) shall be inserted as follows-

   "(u) Security papers means the security papers as defined in the Securities Exchange Law;

   (v) Assessment means calculation and assessment of tax by the head of the township internal revenue office under this law and, additionally, self-assessment by the tax payer in the income declaration form in accordance with the provisions stipulated in the law, as well as temporary assessment during the income year;

(w) The Union Tax Law means the law relating to taxes which is to be submitted to the Pyidaungsu Hluttaw yearly by the Union Government in accordance with the provisions stipulated in the constitution."

4. Section 4 of the Income Tax Law shall be substituted as follows-

"4.(a) Specifying, amending and substituting the following income and income tax rates according to the Income Tax Law for any assessment year –

(1) Total taxable income to be assessed;

(2) Income tax rate for each type of income;

(3) Income tax rate for income on which the tax is payable in a foreign currency.

(b) When specifications, amendments and substitutions are done in accordance with sub-section (a), all taxable total income earned during the income year related to the assessment year must be assessed and the specified rate must be applied for each type of income."

5. Section 5 of the Income Tax Law shall be substituted as follows –

"5.(a) This law does not apply to the following types of income –

(1) Income achieved by any religious or charitable organization and used exclusively for matters of religion or charity;

(2) Income achieved by a local authority;

(3) Money from the commutation of a pension, condolences payments *[which otherwise would have to be]* categorized under the head "salary";

(4) Compensation obtained for death or injury;

(5) Money obtained from an insurance;

(6) Income of casual, non-recurring nature with the following exceptions –

(aa) capital gains;

(bb) income from an enterprise;

(7) Share of the after-tax profit of an association.

(b) (1) Any person earning income for which the Union Tax Law grants tax exemption, relief or other benefits is entitled to such exemption, relief or benefit;

(2) The Union Government has the right to grant exemptions or relief from income tax or grant other benefits related to the tax for the following income types –

(aa) Income obtained from donations for social, religious, health or educational causes in the country from domestic or foreign employers or international organizations;

(bb) aid provided for the country by domestic or foreign organizations;

(cc) interest paid on soft loans or official development aid loans;

(dd) donated property or donations provided by domestic or foreign organizations in the event of natural disasters.

(c) An exemption from income tax must be granted to newly established small- and mid-sized businesses for three consecutive years, including the starting year, for income specified as exempted by the Union Tax Law;

(d) If a benefits relating to income tax are stipulated in any other existing law, the benefits must be granted in accordance with these stipulations."

6. In section 6 of Income Tax Law –

(a) The expression "by notification of the Ministry of Finance and Revenue issued with the approval of Union Government" contained in sub-section (a) shall be substituted with the expression, "in the Union Tax Law in any assessment year".

(b) Sub-section (b) and (d) of section 6 shall be deleted;

(c) After section 6, a section 6A shall be inserted as follows –

"6A. When assessing the taxable income, money donated for any religious or charitable organization sponsored by a state organization of any level or recognized by the Ministry of Finance of the Union Government by virtue of a notification may be deducted from the amount calculated in accordance with sub-section (c) of section 6. The deductible donation shall not exceed 25% of the total income of the tax payer.

Explanation: In the expression "charity", aid for the public good such as aid towards education and health and aid for the poor and persons affected by natural disasters are included."

7. In section 8 of the Income Tax Law-

(a) Sub-section (b) shall be substituted as follows-

"(b) Income from salary, income from profession, income from property, income from business and income from other means shall be aggregated and the tax shall be assessed on the total amount. Income under the remaining heads shall be assessed separately in accordance with each income head."

(b) Sub-section (c) shall be deleted.

8. The explanation of section 11 of the Income Tax Law shall be substituted as follows –

"Explanation: In the expression "business" –

(a) Any trading business, commercial business or production business and any similar business as well as any services business is included.

(b) Furthermore, buying or transferring security papers, or investing in security papers to obtain interest is included if such acts are performed repeatedly in a year as an economic business."

9. Section 14 of the Income Tax Law shall be substituted as follows –

"14. Tax under the head of "income which has escaped assessment" shall be assessed on the value of immovable or movable property (including money) if it cannot be ascertained how the respective person obtained this property.

The income shall be calculated in accordance with the rules stipulated under this section."

10. The expression "the wife and unmarried children" contained in section 14 (b) of the Income Tax Law shall be substituted with the expression "the spouse and unmarried children".

11. Section 16 of the Income Tax Law shall be substituted as follows –

"16 (a) Any person who is responsible to disburse the money shall, for any type of income, including income under the head "salary", withhold the tax to be paid from the disbursed money at the time of disbursement. The tax to be paid on the respective annual income of the relevant person under the respective head shall be estimated and withheld in the most equal installments possible. However, if more or less tax was withheld than would have been required according to the actual amount in the income year, the installment may be decreased or increased.

(b) The Ministry of Finance of the Union Government may issue notifications with the approval of the Union Government for withholding tax matters for any type of income under the remaining heads except for income under the head "salary".

(c) The person who withheld the money in accordance with sub-sections (a) and (b) shall pay the respective amount to the Union Government in accordance with the regulations within the stipulated time and by the stipulated method and shall abide by all the stipulations concerning this matter.

(d) Anyone failing to withhold and pay in accordance with sub-sections (a) and (b) without sufficient reason shall be regarded as defaulter who failed to pay this tax. The Ministry of Finance of the Union Government may, by notification, fix the fine to by paid for this default.

Explanation: The "person who is responsible to disburse the money" under this section means the owner himself if the business is owned by an individual and the association of persons if it is owned by this association. In case of the Union government or a regional authority, the relevant management staff is responsible to disburse the money."

12. After section 16 of the Income Tax Law, sections 16A and 16B shall be inserted as follows –

"16A (a) The tax payer must, for all heads of income with the exception of income for which tax is paid by the withholding mechanism in section 16, estimate how much income he will earn in the relevant income year and pay the tax in advance.

(b)The tax to be paid according to sub-section (a) shall be paid in accordance with the specified methods in quarterly installments before the end of the respective quarter.

(c) If the tax to be paid in accordance with this section is not paid or the amount paid is less than the tax assessed, 10% of the unpaid amount shall be additionally levied as a fine.

16B The Ministry of Finance of the Union Government may, with the approval of the Union Government, issue notifications specifying the methods to be followed for the payment of tax via the withholding mechanism or via advance payments."

13. Sub-section (b), section 19 of Income Tax Law shall be substituted as follows –

"(b) May request, at any time within 3 years after the end of the relevant assessment year from the person who has to pay income tax for the income year or at the time of income earned or from the person who has been requested by the head of the township internal revenue department to submit the income declaration form, to: produce supporting evidence, accounts, and a list of the property that is not included in the accounts. May request this person's attendance for the purpose of examination and assessment. The list of property mentioned in this sub-section may be prescribed by the Ministry of Finance in income tax regulations."

14. Sub-section (d) of section 19 Income Tax Law shall be substituted as follows –

"(d) The head of the township internal revenue department shall assess the income tax based on the available supporting documents with regard to anyone who failed to submit the income declaration form in accordance with sub-section (a) of section 17, sub-section (b) of section 17, or who failed to heed the request in the notice given in accordance with sub-section (b) of this section. The Ministry of Finance may issue notifications specifying the methods of assessment."

15. The expression "Union Government" contained in section 29 of the Income Tax Law shall be substituted with the expression "the Ministry of Finance of the Union Government."

16. Section 43 of Income Tax Law shall be substituted as follows –

"43 The head of the township internal revenue office, the head of the Union territory internal revenue office or the head of the region or state internal revenue office or the head of the internal revenue office for companies or the head of the internal revenue office for large tax payers, the committees formed in accordance with section 7 and the committees and persons who are assigned duty have the same powers as are vested in a civil court."

I hereby sign according to the Constitution of the Republic of the Union of Myanmar.

Signed

Thein Sein

President

The Republic of the Union of Myanmar

Government of the Republic of the Union of Myanmar

Microfinance Business Supervisory Committee

Directive No. 1/2014

14th Waxing Day of Pyartho, 1375 M.E. Nay Pyi Taw

14thJanuary, 2014

1. The Microfinance Supervisory Committee, in exercising the power conferred upon it under sub-section (b) of section 68 of the Microfinance Law, hereby issues this Directive No. 1/2014.
2. Microfinance Institutions shall, under the decisions of Meeting No. 1/2013 of Microfinance Business Supervisory Committee held on 17.5.2013 and Meeting No. 2/2013 of Microfinance Business Supervisory Committee held on 23.9.2013, precisely comply withthe following specifications:
   a) **Loan Size:** Loan Size of Microfinance Institutions shall not exceed kyat five hundred thousand;
   b) **Solvency Ratio for Microfinance Institutions which accept deposit:** to keep Solvency Ratio of Microfinance Institutions which accept deposit consistently not less than 15 percent;
   Explanation: in Total Equity includes paid up capital, premium for capital equity (premium equity for share investment), donated capital, variety of currency investment bonds, profit money which keep spare money and gross income of current year.

$$Solvency\ Ratio = \frac{Total\ Equity}{Total\ Assets} \geq 15\%$$

   c) **Liquidity Ratio for Microfinance Institutions which accept deposit:** to keep Liquidity Ratio of Microfinance Institutions which accept deposit consistently not less than 30 percent;
   Explanation: in calculating Liquidity Ratio of Microfinance Institutions which accept deposit, to calculate the amount of Cash in hand and Cash in bank depending on Total Voluntary Deposits Outstanding.

$$Liquidity\ Ratio = \frac{Cash\ in\ hand + Cash\ in\ bank}{Total\ Voluntary\ Deposits\ Outstanding} \geq 30\%$$

d) **Hire Purchase System:**Microfinance Institutions shall carry out the Hire Purchase System only for buying farmland material and light production material.

3. The above specifications shall be amended in accordance with market condition as it is necessary.

Win Shein

Chairman

Microfinance Business Supervisory Committee

Letter No. KaKa – 1/6 (464 / 2014)

Date: 14th January, 2014

Distribution

Every member of Rural Development and Poverty Reduction Working Committee

Every member of Microfinance Business Supervisory Committee

Union Government Office

Office of Hluttaw

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Government of the Republic of the Union of Myanmar

Microfinance Supervisory Committee

Directive No. 2/2014

4th Waning Day of Dabotdwe, 1375 M.E. Nay Pyi Taw

18th February, 2014

1. The Microfinance Supervisory Committee, in exercising the power conferred upon it under sub-section (b) of section 68 of the Microfinance Law, hereby issues this Directive No. 2/2014.
2. Microfinance institutions shall, under the decisions of Meeting No. 1/2014 of the Micro Private Cooperative Credit Development Supporting Committee held on 24.1.2014, exactly comply with the following:
   a) **Interest collection on the basis of the effective rate:** According to Directive No. 1/2011 of the Microfinance Supervisory Committee, the rate on micro loans is MMK 2.50 per month for MMK 100 and the rate shall not exceed MMK 30 per year. Some microfinance institutions are collecting a flat rate according to the loan period without taking into account that the loan is reduced [when it is repaid in installments], the actual interest thereby exceeding significantly the interest if it were calculated by the effective rate. Therefore, [microfinance institutions must] collect [interest] equally on the basis of the effective rate on the loan.
   b) **Microfinance institutions shall issue the following information every two month if there are no changes and immediately if there are changes.** The following facts must be issued:
      i. Type of loan;
      ii. Amount to be lent according to type of loan;
      iii. Period to repay according to type of loan;
      iv. Amount to repay in one installment and number of installments according to type of loan;
      v. Rate collected according to an installment of payment on loan, statement of total payment according to specified period of payment for the whole amount of loan, effective rate and system of collecting the rates;
      vi. Fine and other collections if overdue fines are specified;
      vii. System of collecting compulsory savings and form of calculating the rate on the loan;
      viii. Are there other fees to be paid for savings?; method of reimbursing the specified savings;

ix. When issuing information about savings and loans, statements shall be made not only in the language which is understood by the local people, but also in the Myanmar language so that the document can be inspected by inspectors.

3. The above items shall be amended in accordance with market condition whenever necessary.

Win Shein

Chairman

Microfinance Supervisory Committee

Letter No. KaKa – 1/6 (533 / 2014)

Date: 18th February, 2014

The Minimum Wage Law, 2013

(The Pyidaungsu Hluttaw Law No. 7/2013)

The 11th Waxing Day of 1374 M.E.

(22nd March, 2013)

Preamble

To meet with the essential needs of the workers, and their families, who are working at the commercial, production and service, agricultural and livestock breeding businesses and with the purpose of increasing the capacity of the workers and for the development of competitiveness, the Pyidaungsu Hluttaw hereby enacts this law.

Chapter I

Title and Definitions

1. (a) This Law shall be called **the Minimum Wage law, 2013.**

   (b) This Law shall be in force with effect from the day stipulated by the president.

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

   (a) **Worker** means a person who earns living by wage obtained by carrying out the work of permanent work, temporary work using his physical or intellectual power by conclusion of employment agreement with employer to work at any commercial, production and service, agricultural and livestock breeding business. In this expression, apprentices and trainees, clerks and staff, outside workers, house maids and drivers, security men, guards and sanitary workers and staff include. However, it does not include the following workers and staff:

      (i) Wife, husband, children, parents and blood brothers and sisters who are the members of employer and doing the work of employer by depending upon and living with the employer;

      (ii) Civil service personnel;

      (iii) Seafarers.

   (b) **Employer** means a person who is responsible to pay such worker after employing one or more workers under the employment agreement at the commercial, production and

service, agricultural and livestock breeding business. The expression includes the following persons as the employer:

(i) the Administrative representative of the employer;

(ii) the person who is responsible, on behalf of the employer, to manage or pay remuneration to the worker;

(iii) heir, successor or legal representative of the employer when he die;

(iv) if it is a partnership firm, each or all partners or the person who is delegated by the partnership firm to manage the work is the employer;

(v) if it is a company established under the Myanmar Companies Act, Board of Directors or directors or the person who is delegated by the company to manage the work in accord with law, is the employer;

(vi) if it is a cooperative society formed under the Cooperative Society Law, members of the executive committee or directors of the cooperative society are the employers.

(c) **Commercial business, production and service business** mean any commercial, production and service, commercial and industrial business, service or business related to such works, stipulated under section 6 of this Law, by notification of the National Committee;

(d) **Agricultural and Livestock breeding business** means a business of plowing in any paddy land, farm land, garden land, vacant land and virgin land; land preparing, planting, nursing, caring, preparing or reaping, picking up the agricultural product crops and vegetables; livestock breeding of domestic animals including breeding of chicken, duck, quail, bird and bee, animal breeding including the breeding of buffalo, cow, elephant, horse, mule, ass, sheep, goat and pig; aquaculture, manufacturing diary products and any service related to any of such works;

(e) **Wage** means the fee, wage or salary entitled to be obtained by the worker for carrying out hourly work, daily work, weekly work, monthly work or any other part-time work of the employer. This expression includes overtime fee or bonus given by the employer for the good work or character, or other remunerations or benefits which may be determined as income. However, it does not include the followings:

(i) travelling allowances;

(ii) pension salary and gratuity for service;

(iii) social security cash benefits;

(iv) allowances for accommodation and meal, electricity charges, water service charges and duties and taxes;

(v) medical treatment allowances and recreation allowances;

(vi) damages for dismissal from work and compassionate allowance;

(vii) Other fees stipulated by the Ministry of Labour, Employment, Social Securities, by notification, with the approval of the Union Government that it does not applied by the wage contained in this Law.

(f) **Organization** means a labour organization or employer organization formed under any existing law;

(g) **Representatives of worker and employer** means the representatives representing the labour organizations and employer organizations, or if there is no labour organization, the representatives representing the workers, if there is no employer organization, the representatives representing the employers;

(h) **National Committee** means the National Committee of tripartite committee formed with government representative, employer representative, and worker representative for determining the Minimum Wage, stipulated under this Law;

(i) **Union Committee, Region or State Committee** mean the Committee for determining Minimum Wage formed according to Union Committee, relevant Region or State Committee stipulated under this law;

(j) **Ministry** means the Ministry of Labour, Employment, Social Security of the Union Government;

(k) **Department** means a department assigned duty by the Ministry to carry out any function and duty contained in this Law;

(l) **Inspector** means any officer assigned duty under this Law to inspect a commercial, production and service, agricultural and livestock breeding business, relating to whether or not it complies and carries out in conformity with this Law, and rules and regulations, notification, order, directive and the procedure stipulated under this law.

Chapter II

Forming the National Committee

3. The President:
   (a) shall form the National Committee, by notification, in order to prescribe the minimum wage for the workers with representatives of the relevant Government Departments, Government Organizations, labour Organizations or representatives of Workers, Employer Organizations or representatives of Employer and other persons who are experienced, expert and fair in matters related to wage prescription;
   (b) in forming under sub-section (a), the Chairman and Secretary shall be determined simultaneously. If it is necessary, Vice-chairman and Joint-secretary may be determined;
   (c) the term of the National Committee determined under sub-section (a) shall be three years, and if it is necessary, it may be reorganized by substituting the members.
4. In forming the National Committee:
   (a) The representatives of the Government Departments and Organizations shall be the persons who are responsible persons relating to labour affairs, agriculture, livestock breeding, economics, commerce, production and social affairs;
   (b) The representatives of the worker and employer:
      (i) shall be the persons who are desirous to carry out for the interest of relevant organization or, for the interest of employer and workers;
      (ii) shall be in equal number in accord with the stipulation and the right to express the desire of such representatives shall also be equal.
   (c) One or more persons who are expert in wage affairs may be included and formed and he shall be well experienced and he shall be the person who used to carry out fairly between the worker and employer.

Chapter 3

The Duties and Powers of the National Committee

5. The Duties and Powers of the National Committee are as follows:
   (a) laying down national level policies relating to the particulars which should be based for determining minimum wage under this Law;
   (b) prescribing the duties and forming Union Committee, Region Committees or State Committees comprising the representatives of the Government Departments,

Government Organizations, representatives of worker and employer, and experts to enable to submit suggestions, after making study, assessment and calculation on the research work and assessment papers, for determining minimum wage;

(c) guiding the Union Committee, the Region Committees and State Committees in accord with adopted national level policies relating to submission of suggestions after making study, assessment and calculation on the research work and assessment papers for determining the minimum wage;

(d) doing research after collecting accounts, assessing and calculating, laying down projects and programmes, relating to the particulars which should be based for determining the minimum wage;

(e) publishing, by notification, for the public notice, the proposed rates of minimum wage which should be prescribed in conformity with the provisions contained in chapter 6 of this Law, after studying and scrutinizing the suggestions of the Union Committee, Region and State Committees for the determination of minimum wage in the whole country or, Region or State, or commercial, production and service, agricultural and livestock breeding business, and issuing and determining the rates of minimum wage with the approval of the Union Government;

(f) In the proposed rates of minimum wage to be published by notification under sub-section (e), prescribing wage per hour, a day, a week, a month according to the skill; or rate of minimum wage for any other part-time work after studying and scrutinizing the potential of occupational risk, mentioning thereof;

(g) If there is any objection on the proposed rate of minimum wage of the National Committee, it is to negotiate by the tripartite representatives of the relevant Union Committee, Region Committee or State Committee. Upon determining the suitable rate of minimum wage after scrutinizing the proposed rate of minimum wage by the tripartite representatives of the National Committee, submitting to the Union Government;

(h) Declaring the amending notification, on the stipulated rate of minimum wage, at a minimum of once in two years, with the approval of the Union Government, after scrutinizing, in conformity with the various changing situations by classifying the employment skill and occupational risk according to category of commercial, production and service, agricultural and livestock breeding business or according to region;

(i) After forming the necessary work committees prescribing duties thereof, relating to determination of minimum wage and review;

(j) Holding regular and special meetings of the National Committee in accord with the stipulations;

(k) Submitting the work performances of the National Committee to the Union Government from time to time.

Chapter IV

Determining the Categories of Work

6. The National Committee shall determine, by notification, commercial, production and service, agricultural and livestock breeding business which shall be applied by the provisions relating to minimum wage contained in this Law, in the whole country or relevant Union, Region or State. Moreover it may amend the said businesses in accord with the changing situation from time to time.

Chapter V

The particulars to be based in Determining the Minimum Wage

7. The following particulars shall be based and considered in suggesting by the Union Committee, Region and State Committees after making study, scrutiny and calculation or, in determining the minimum wage by the National Committee, relating to the determination of minimum wage:

(a) the needs of workers and their families;

(b) existing salaries;

(c) social security benefits;

(d) living cost and changes of such living costs;

(e) compatible living standard;

(f) employment opportunities in conformity with the needs for State's economy and development of production;

(g) gross domestic production value of the State and per capita income;

(h) hazardous to health and harmful to work, nature of the work;

(i) Other facts stipulated by the Ministry with the approval of the Union Government.

Chapter VI

Issuing the Notification which Determines the Minimum Wage

8. The relevant Union Committee, Region and State Committees shall submit suggestions on the rates which should be prescribed, after studying the particulars to be based in determining minimum wage and the particulars to be included and considered, to the National Committee in conformity with stipulated means.
9. Relating to the determination of minimum wage for the workers of the Special Economic Zones:
   (a) The relevant Special Economic Zone management committee shall submit the proposed rates of minimum wage which should be prescribed for the workers and staff according to the category of investment in the Special Economic Zone, to the National Committee;
   (b) The National Committee shall prescribe, with the approval of the Union Government, after carrying out in accord with the provisions contained in this Law, on the submission made under sub-section (a) relating to the determination of minimum wage.
10. The National Committee:
   (a) Shall, after considering the suggestion made under section 8 and 9, assign duty to the Department to publish the proposed notification for determining the minimum wage in the State's gazette and the newspapers in advance of a minimum of 60 days, to enable to know it by the public and to object, if any;
   (b) To prescribe, if there is no objection on the rate of minimum wage after obtaining the approval of the Union Government, ;
   (c) Shall ask the Union Committee, Region or State Committees to negotiate and resubmit the proposed rate, if there is objection on the proposed rate of minimum wage;
   (d) Shall ask the tripartite representatives to scrutinize and decide on the suitable rate of minimum wage after scrutinizing the rate of minimum wage re-proposed and resubmitted by the relevant Union Committee, Region or State committee under sub-section (c) and determine the rate of minimum wage after obtaining the approval of the Union Government;
   (e) Shall assign duty to the Department to publish and inform the rate of minimum wage stipulated under sub-section (b) or (d) to be known by the public in accord with sub-section (a), and to be known by the relevant organizations, employer and workers.

11. The person who is dissatisfied with the rate of minimum wage stipulated by the National Committee under sections 9 and 10 may apply to the Supreme Court of the Union to issue any writ and amend in accord with the Constitution of the Republic of the Union of Myanmar and the Union Judiciary Law.

Chapter VII

The Duties of the Employer

12. The employer:
    (a) shall not pay wage to the worker less than the minimum wage stipulated under this Law;
    (b) may pay more than the minimum wage stipulated under this Law;
    (c) shall not have the right to deduct any other wage except the wage for which it has the right to deduct as stipulated in the notification issued under this Law;
    (d) shall pay the minimum wage to the workers working in the commercial, production and service business in cash. Moreover, if the specific benefits, interests or opportunities are to be paid, it may be paid in cash or partly in cash and partly in property, with prevailing regional price, jointly according to the desire of the worker;
    (e) in paying minimum wage to the workers working in the agricultural and livestock business, some cash and some property at prevailing regional price may be paid jointly according to local custom or desire of the majority of workers or collective agreement. Such payment shall be for any personal use and benefit of the worker and his family and the value shall also be considerable and fair.
13. The employer:
    (a) shall inform the workers the rates of minimum wage relating to the business among the rates of minimum wage stipulated under this Law and advertise it at the workplace to enable to be seen by the relevant workers;
    (b) shall prepare and maintain the lists, schedules, documents and wages of the workers correctly;
    (c) shall report the lists, schedules and documents prepared and maintained under sub-section(b) to the relevant department in accord with the stipulations;
    (d) shall accept the inspection when summoned by the inspection officer. Moreover, he shall produce the said lists and documents upon asking to submit;

(e) shall allow the entry and inspection of the inspection officer to the commercial, production and service businesses, agricultural and livestock breeding workplaces and give necessary assistances;

(f) if the workers cannot work due to sickness, shall give them holiday for medical treatment in accord with the stipulations;

(g) if the funeral matter of the member of the family of worker or his parent occurs, shall give holiday without deducting from the minimum wage, in accord with the stipulations.

Chapter VIII

The Rights of the Workers Relating to the Minimum Wage

14. A worker working in any establishment relating to this Law:

(a) has the right to obtain the minimum wage stipulated under this Law or, if the employer pay more than the said wage;

(b) has the right to continue to enjoy the pay paid more, if the pay received is more than the minimum wage stipulated under this Law, before the coming into force of this Law;

(c) has the right to enjoy the minimum wage stipulated under this Law, if the minimum wage contained in the employment agreement is less than the minimum wage stipulated under this Law;

(d) has the right to enjoy not less than the minimum wage stipulated for each work where he is working when working in two or more works;

(e) has the right to enjoy the stipulated minimum wage for the time worked in the part-time job, hourly job;

(f) has the right to enjoy a holiday per week with pay in the salary-paid work. If he is employed in such holiday, he shall have the right to obtain over-time fee in accord with the existing law;

(g) if working less than the working hours per day stipulated in a daily-waged job is not due to reduced working according to the desire of the worker, or if work has to be paused due to the failure of employer to give job, the full wage shall be paid as if the work is done full-time;

(h) has the right to enjoy the stipulated minimum wage without discriminating between man and woman;

(i) has the right to enjoy the minimum wage in cash, if he is a worker working in the commercial, production and service business. Moreover, if the specific benefits, interests or opportunities are to be paid, it may be paid in cash or partly in cash and partly in property at prevailing regional price jointly according to the desire of the worker;

(j) if he is a worker working in the agricultural and livestock breeding business, the minimum wage may be enjoyed in some cash and some property at prevailing regional price jointly according to local custom or desire of the majority of workers or collective agreement for the worker and his family in accord with the stipulations.

15. The worker who is entitled to obtain the wage and other benefits under section 14:

(a) if he does not obtain all wages or other benefits entitled to be obtained, or obtains less than the stipulated minimum wage, may submit to the relevant Union Committee, Region or State Committee and Department within one year from the day he is entitled to obtain such injured wages and other benefits;

(b) he may sue for all the entitled wages civil proceeding.

16. If an employer is convicted by a court for his failure to pay the minimum wages and other benefits stipulated under this Law or for the payment to worker less than such minimum wage and although ordered to pay defaulted wages and other benefits to the relevant worker, if such worker does not obtain injured wages and other benefits which is entitled to obtain under section 14, it shall not affect the right to institute civil proceeding.

Chapter IX

Assigning Duty to the Inspection Officer, Inspection and Taking Action

17. The Ministry shall assign duty to the officers of the relevant department in order to inspect the commercial, production and service business, agricultural and livestock breeding businesses whether or not they comply with and carry out in conformity with the rule, regulation, by Law, notification, order, directives and procedures under this law.

18. The inspection officer:

(a) has the right to enter and inspect the relevant commercial, production and service workplaces, agricultural and livestock breeding workplaces and inspect whether or not they comply with and carry out in accord with the rules, notifications, orders, directives and procedures under this Law, whether or not the lists, schedules and documents,

wages relating to the workers are prepared correctly, and whether or not such lists, schedules and documents are reported to the Department in accord with the stipulations;

(b) may summon, inspect the relevant persons under the assignment of duty by the Department, asking and copying for the relevant lists, schedules and documents.

(c) if there are outside workers at employer, has the right to inspect information relating to such outside workers, their names and addresses and the right to ask for and copy their lists and documents and lists relating to minimum wage;

(d) in carrying out under sub-section (a), (b) and (c) relating to inspection, if required by the employer to produce the document, shall show the civil service identify card issued by the relevant department;

(e) report to the Department in accord with the stipulations relating to the finding under sub-sections (a), (b) and (c), and documents and papers called for.

19. The Department shall, after submitting to the Union Committee, Region or State Committee and according to its decision, claim and pay the minimum wages entitled by the worker from the employer who fails to pay minimum wage stipulated under this Law or the employer who is in arrears to pay minimum wage.

20. The Department shall, if the employer fails to pay the minimum wages within the stipulated time even though it was claimed under section19, assign duty to an inspection officer, with the approval of the relevant Union Committee, Region or State Committee, to institute such employer at the relevant court.

21. The inspection officers may institute at the court, the person who commit any stipulation under this law, under the directive and assignment of duty by the Department.

Chapter X

Prohibitions and Penalties

22. Any employer:

(a) shall not fail to pay the workers the minimum wage stipulated under this Law;

(b) shall not pay to the workers less than the minimum wages and other benefits which is entitled by the worker under section 14;

(c) relating to the accounts, schedules, documents and lists of wage of the workers:

(i)shall not make false entry, deceitful recording or false and deceitful reporting;

(ii)shall not fail to report to the relevant department in accord with the stipulations;

(iii)shall not fail to produce when required by the inspection officer;

(d) shall not fail to go and accept inspection when summoned by the inspection officer;

(e) shall not obstruct or interfere with the inspection officer who comes and inspects on duty.

23. Any employer who violates any of the prohibitions contained in section 22 shall, on conviction, be punished with imprisonment for a term not exceeding one year or with fine not exceeding 5 lakhs or with both.

24. Any employer:

(a) shall not violate any term and condition contained in the minimum wage notification;

(b) shall not fail to inform the workers relating to the rates of minimum wage concerning to his workers among the rates of minimum wage stipulated under this Law and announce at the place where the workers are able to see it in the work centre and workplace;

25. Any employer who violates any prohibition contained in section 24 shall, on conviction, be punished with imprisonment for a term not exceeding six months or with fine not exceeding kyat 3lakhs or with both.

26. The court shall, in sentencing a punishment under sections 23 and 25, pass the wage defaulted to pay by the employer as fine and give it to the worker.

27. Any person who violates any prohibition contained in the rules and orders issued under this Law shall, on conviction, be punished with imprisonment for a term not exceeding 3months or with fine or with both.

Chapter XI

Miscellaneous

28. The agreement relating to the minimum wage, contained in the employment agreement, employment oral contract or constructive contract less than the minimum wage stipulated under this Law before or after the coming into force of this law, shall be void as far as it is contrary to this Law.

29. (a) The members of the National Committee who are not civil service personnel have the right to enjoy honorarium stipulated by the Union Government;

    (b)The members of the Union Committee, Region and State Committees have the right to enjoy honorarium stipulated by the relevant Union Committee, Region or State Committee with the approval of the Union Government;

30. The various expenditures relating to the duties under this law of the National Committee shall be borne from the budget of the Union Government, the expenditures of Union Committee shall be borne from the budget of the Nay Pyi Taw Council, the expenditures of Region and State Committees shall be borne from the budget of the relevant Region and State Governments.
31. The Ministry shall arrange and carry out the office works relating to the functions and duties of the National Committee, and Union Committee, Region or State Committee.
32. The offences under this Law may be prosecuted at the relevant court only by the inspection officer assigned duty by the Department.
33. The members of the National Committee, Union Committee, Region or State Committee or, person or members of the organization who are assigned specific duty under this Law as it is necessary, who are not civil service personnel, shall be presumed as the civil service personnel while they are carrying out the duties under this Law.
34. No suit on civil proceeding or criminal proceeding shall be prosecuted against any member of the committee or inspection officer who carries out duties in good faith under this Law.
35. The Department shall submit the following particulars relating to the minimum wage to the Ministry:
    (a) Formation of committees which stipulate the minimum wage and ways of formation;
    (b) Business relating to minimum wage and estimated number of workers;
    (c) stipulated minimum wages;
    (d) such matters if there are other important matters relating to the rates of minimum wage.
36. In implementing the provisions contained in this Law:
    (a) the Ministry may issue necessary rules and regulations by law with the approval of the Union Government;
    (b) the National Committee and the Ministry may issue necessary notification, order, directive and procedure.

37. The following Acts are hereby repealed:

    (a) The Minimum Wage Act, 1949 (No. 66/49);

    (b) The Agricultural Worker Minimum Wage Act (No. 44/48)

I hereby sign according to the Constitution of the Republic of the Union of Myanmar.

(Sd.)

Thein Sein

The President

The Republic of the Union of Myanmar

Employment and Skill Development Law

(Pyidaungsu Hluttaw Law No. 29/2013)

9th Wanning of Wargoung 1375 M.E

30th August 2013

The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter 1

Title and Definitions

1. (a) This Law shall be called **the Employment and Skill Development Law**.

(b) This Law shall be in force 3 months after notification is announced.

2. The expressions contained in this law shall have the meanings given as under:

(a) **Employer** means the person who has the right to appoint the employee or the person who is delegated to appoint this employee in the Government department and Organization, the Co-operative society in which permanent or temporary employees of above the limited numbers are working, Private or Joint-venture business, any Organization, the Company.

(b) **Employee** means the person who works for remuneration of skill job, fairly skill job, nonskill job in the Government department and Organization, the Co-operative society, Private or Joint-Venture, any Organization, the Company. In this expression the apprentice is also included.

(c) **Industry and Service** means factory, one type or all types of workshops, one type work or all types' works, mill, branch workshop, branch work, branch workshop department and one type or all types of branch work department, which are situated in any location, stipulated by the Ministry of Labour, Employment and Social Security for the matters under this law.

(d) **Wage, Salary** mean in addition to normal wage, salary earned by working, overtime wage and allowance are included if overtime and allowance are entitled. In this expression the remuneration to cover the special expense due to the nature of the work is not included.

(e) **Training** mean pre worksite training, on job training, skill training, high skill training, training related to employment transfer, which open for the employment seekers and employees to enhance their knowledge, technical ability and skill development.

(f) **Training School** means the school founded and opened to give training for meeting the technical skill norm for the employment seekers and employees.

(g) **Skill** mean the technical capability required to work in accord with the stipulations.

(h) **Technical Skill Norm** means technical capability norm required to work in accord with the recognized or specified technical skill set up by the skill development body for all kinds of work under this law.

(i) **Central Body** means technical skill development central body formed under this law.

(j) **Registered Certificate** means the certificate issued to the training school and technical skill assessment departments by the technical skill development committee under this law.

(k) **Technical Skill Assessment Department** means the department recognized and power is entrusted by the technical skill development committee, as it meets the specified norm.

(l) **Technical Skill Certificate** means the certificate issued by the technical skill assessment department with the approval of technical skill development committee.

(m) **Skill Employee** means the employee who receives the technical skill certificate issued by the technical skill assessment department with the approval of the technical skill development committee.

(n) **Fund** means the technical skill development fund founded under this law.

(o) **Put in fee** means the money paid to the technical skill development fund by the relevant employer under this law.

(p) **The Ministry** means the ministry of employee, the employment and the social security.

Chapter 2
Seeking Employment and Employee

3. The Ministry shall arrange easy opportunities and jobs to assist in the job seeker to select job suitable to his age, capability, to get the job, to be stable in the job and to develop in the skill, to assist in the employer to get the suitable and compatible with the job.

4. (a) for any matter under section 3, the Ministry:

(1) shall set up employment and labour exchange office as necessary;

(2) shall carry out the necessary arrangement to reveal the employment opportunities, to assist in the employment seeker and to assist in the employer to get the employee who is suitable and compatible with the employment, to open government employment and labour exchange office, to allow the local private employment agency companies which are providing free service to the employment seekers, and other means.

(b) If the employment seeker refuse to accept the employment offered by the employment and labour exchange office giving the reason that regarding the said employment there is a dispute between the employee and employer, the remuneration earned by the other is more than the similar employment for him, he shall have the right to enjoy the other benefit and opportunities available in the said Labour Office.

(c) In connection with the employment which is vacant at present and going to be vacant, the Ministry shall arrange to ask the employer for informing the vacant employment in his business to the relevant employment and labour exchange office in accord with the stipulations.

Chapter 3
Signing Employment Agreement

5. (a) (1) If the employer has appointed the employee to work for an employment, the employment agreement shall be made within 30 days. But it shall not be related with government department and organization for a permanent employment.

(2) If pre training period and probation period are stipulated before the appointment the said trainee shall not be related with the stipulation of sub-section (1).

(b) The following particulars shall be included in the employment agreement:

(1) the type of employment;

(2) the probation period;

(3) wage, salary;

(4) location of the employment;

(5) the term of the agreement;

(6) working hour;

(7) day off, holiday and leave;

(8) overtime;

(9) meal arrangement during the work hour;

(10) accommodation;

(11) medical treatment;

(12) ferry arrangement to worksite and travelling;

(13) regulations to be followed by the employees;

(14) if the employee is sent to attend the training, the limited time agreed by the employee to continue to work after attending the training;

(15) resigning and termination of service;

(16) termination of agreement;

(17) the obligations in accord with the stipulation of the agreement;

(18) the cancellation of employment agreement mutually made between employer and employee;

(19) other matters;

(20) specifying the regulation of the agreement, amending and supplementing;

(21) miscellaneous.

(c) The worksite regulations contained in the employment agreement shall be in compliance with any existing law and the benefits of the employee shall not be less than those of the any existing law.

(d) According to the employment agreement, the Ministry shall issue the notification for paying the stipulated compensation to the employee by the employer, if the work is completed earlier than the stipulated period or the whole work or any part of it have to be terminated due to unexpected condition or the work has to be terminated due to various conditions.

(e) The employment agreement made under sub-section (a) shall be related with daily wage workers, piece rate workers who are appointed temporarily in the government department and organization.

(f) The worksite regulations and benefits contained in the employment agreement mutually made between the employer and employee or among the employees shall be amended as necessary, in accord with the existing law.

(g) The employer shall send a copy of the employment agreement made between the employer and employee, to the relevant employment and labour exchange office within the stipulated period and shall get the approval of it.

(h) The employment agreement made before the enforcement of this law shall be confirmed up to the end of the term of the original agreement.

Chapter 4
Forming Employment and Skill Development Teams and Their Duties and Responsibilities

6. The Union Government -

(a) shall form the central body for employment and skill development consisting of the following personnel:

(1) The Union Minister Chairman	Union Ministry of Labour, Employment and Social Security
(2) The Union Minister Member	The relevant Ministries
(3) The City Mayor Member	Nay Pyi Taw, Yangon and Mandalay City Development Committees
(4) The relevant Minister Member	Region or State Government
(5) Chairman Member	Union of Myanmar Federation of Chamber of Commerce And Industry
(6) Chairman Member	Union of Myanmar Labour Organizations
(7) Chairman Member	Union of Myanmar Employers Organizations
(8) Deputy Minister Secretary	The Ministry of Union Labour, Employment and Social Security.

(b) Vice chairman and joint secretary shall be appointed in forming under sub-section (a).

7. The Central Body shall lay down the policies in respect of the following duties –

(a) creating employment opportunities;

(b) reducing unemployed persons;

(c) promoting the disciplines and capability of the employees;

(d) promoting the skill development of the employees;

(e) forming employment and skill development teams and directing.

8. The Central body shall form the employment development team consisting of the following personnel with the approval of the Union Government –

(a) The Deputy Minister Chairman	Union Labour, Employment and Social security Ministry
(b) The Deputy Minister Member	The relevant Union Ministries
(c) The Director General or Managing Director Member	The relevant department or enterprise
(d) The representative Member	Union of Myanmar Federation of Chamber of Commerce and Industry
(e) The representative Member	Myanmar Labour Organizations
(f) The representative Member	Myanmar Labour Organizations
(g) The representative Member	Myanmar Employer Organizations

(h) Director General Secretary Labour Directorate

9. The duties and responsibilities of the employment development team are as follows:

(a) creating employment opportunities in the country;

(b) acquiring the employment for those who want to work;

(c) reducing unemployed persons;

(d) promoting the discipline and capability of the workers.

10. (a) the central body shall form the skill development team consisting of the following personnel with the consent of the Union Government –

(1) The Deputy minister Chairman	The Union Ministry which is empowered by the Union Government
(2) Director General or Managing Director	The relevant Department or Enterprise
(3) The Representative Member	The Union of Myanmar Federation of Chamber of Commerce And Industry
(4) The Chairman Member	The Technical Organizations
(5) The representative Member	Myanmar Labour Organizations
(6) The representative Member	Myanmar Employer Organizations
(7) Deputy Director General Secretary	The Labour Directorate

(b) In forming under sub-section (a), the technical expert relating to the skill development for labour shall be appointed as member.

11. The duties and responsibilities of the skill development teams are as follows:

(a) classification of employment skill norm, drawing and enacting;

(b) priority classification for the skill development of the employees and laying down the policies relating to the skill training;

(c) prescribing the arrangement relating to the skill assessment;

(d) issuing the registered certificate to the training school or skill assessment departments;

(e) laying down the arrangement relating to the issuing of skill assessment certificate;

(f) managing after forming the skill development fund for the employees;

(g) supervising the committees and sub-committees formed by it.

12. (a) the skill development team shall form the following committees to perform the duties –

(1) The committee for skill norm to be specified and training;

(2) The committee for skill norm assessment and acknowledgement.

(b) The skill development team shall form the sub-committees as necessary, under the committee of section 12 sub-sections (a).

13. In connection with the duties and powers of the respective committees formed under section 12 sub-sections (a) –

(a) The committee for skill norm to be specified and training and the committee for skill norm assessment and acknowledgement shall draw after coordinating, the relevant establishment committee-wise and the work program.

(b) The committee for skill norm to be specified and training shall perform the followings:

(1) drawing the type of employment and true and correct skill norm after referring with the international norms;

(2) drawing the syllabus in accord with the skill norm, specifying the training norm;

(3) specifying the quality of the training instructor;

(4) specifying equipment, apparatus and teaching aid norm;

(5) training school registration and kind of training registration;

(6) coordinating for the technical skill development;

(7) after scrutinizing, submitting to the skill development team relating to the application for register certificate.

(c) The committee for skill norm assessment and acknowledgement shall perform the followings:

(1) specifying the assessment norm in accord with the employment skill norm to be specified;

(2) registration of skill assessment department and registration of skill assessment program;

(3) after scrutinizing, submitting to the skill development team relating to the application for the registered certificate;

(4) specifying assessment method, specifying quality control systems and duties for the assessors and quality warranty of the skill assessment department;

(5) technological coordination for the skill development;

(6) specifying the grade and arranging the competition for the employment skill development;

(7) issuing acknowledgement certificate as the outstanding person if he performs in the competition significantly.

Chapter 5
Employee Skill Development and Doing Training Program

14. The employer shall carry out the training program in accord with the work requirement in line with the policy of the skill development team to develop the skill relating to the employment for the workers who are proposed to appoint and working at present.

15. The Employer:

(a) shall carry out the training for each work or compounding the work individually or group-wise by opening on-job training, training systematically at worksite, sending outside training and training by using information technology system, for arranging the training program to enhance the employment skill of the workers;

(b) appointing the youths of 16 years as apprentice, shall arrange the training for technology relating to the employment systematically in accord with the regulations prescribed by the skill development team.

Chapter 6
Registration and Founding of the Training School and Skill Assessment Departments

16. (a) The employer or the service provider shall apply through the relevant committees to the skill development team to acquire the registration certificate in accord with the stipulations.

(b)The foreigner who comes and wants to open the training school or any skill assessment department, he shall apply through the relevant committees to the skill development team to acquire the registration certificate in accord with the existing laws.

17. The skill development team:

(a) shall allow or refuse to issue the registration certificate after asking the relevant committees formed under section 12, to scrutinize whether it is in compliance with the stipulations or not, in connection with the application under section 16;

(b) shall issue the registration certificate to the applicant after paying for the registration fees in accord with the stipulated regulations, if it is permitted to issue it;

(c) shall allow to apply again within 30 days, if it is refused to issue the registration certificate.

18. The registered certificate holding training school and skill assessment departments shall apply through the relevant committee to the skill development team to extend the term of the registration in accord with the stipulations, if they want to continue the relevant work after expiring the term of the registration.

19. The skill development team shall have the right to cancel the registered certificate of the said training school or the skill assessment department, if it is found that they are not in compliance with the stipulations contained in the registered certificate.

20. The obligations of the registered training school are as follows:

(a) Receiving the consent after drawing the following training program and submitting to the skill development team;

(1) the skill norm,

(2) the syllabus,

(3) the statement for the location of the training school, the building and apparatus,

(4) the name of the instructor and his qualification,

(5) the training period,

(6) the training system for using in the training, the training aids,

(7) the training certificate,

(8) the training fee,

(9) the other particulars prescribed by the committee for the skill norm to be specified and training.

(b) signing the agreement relating to the trainee and the training;

(c) maintaining the curriculum vitae of the trainees;

(d) submitting the report relating to the training to the skill development team within 15 days after completing the training;

(e) submitting to the skill development team minimum 30 days in advance before transferring, if the training school is required to transfer to another person who wants to open the training school;

(f) transferring the trainees with the remaining training expanses to any other work similar training school, if the training school is required to close.

21. The founder of the registered training school:

(a) shall have the right to appoint the foreign experts and instructors who receive work permit issued by the relevant ministry. Their stay period shall be in accord with the existing law;

(b) shall have the right to import the teaching aids in accord with the existing laws;

22. The obligations of the registered skill assessment department are as follows:

(a) Receiving the consent after submitting the following skill assessment program to the skill development team;

(1) the assessment program based on the recognized skill norm,

(2) the statement of the location of the department, the building and the apparatus,

(3) the names of the assessors and their qualification,

(4) the assessment period,

(5) the assessment aids for using in the assessment department,

(6) the status of the questions to be assessed,

(7) the skill norm and method using in the assessment,

(8) the fees to be collected from the assessed persons,

(9) other particulars prescribed by the committee for skill assessment.

(b) To acquire the recognized certificate, fixing of the stipulated regulations for the applicant whose skill to be assessed and assessment program to be specified;

(c) To maintain the curriculum vitae of the assessed persons;

(d) To submit the report to the skill development team within 15 days after skill assessment have been made;

(e) To issue recognized certificate to the persons who passed the skill assessment with the approval of the skill development team;

(f) To transfer the assessed persons with the remaining expense to other similar type of skill assessment department, if the skill assessment department is required to terminate;

(g) To submit to the skill development team minimum 30 days in advance before transferring the skill assessed persons to other skill assessment department.

23. The registered skill assessment department:

(a) shall have the right to appoint the foreign experts and assessors who received the work permit issued by the relevant ministry. Their stay period shall be in accordance with the existing law;

(b) shall have the right to import the assessed aids in accord with the existing laws. Shall have the right to apply to the relevant skill assessment department to be assessed.

Chapter 7
Conducting the skill competition

24. The committee for skill assessment and recognition shall implement in accord with the stipulations to arise step by step skill competition for the skill development depending on the type of work. To carry out the research works through the results of skill competition.

25. The employee who received the skill recognized certificate is entitled to participate in the relevant skill competition held in the country and abroad.

Chapter 8

Founding and Using the Employee Skill Development Fund

26. Founding a fund for the skill development of the employees of industry and services business, the skill development team shall have the right to use for the following matters in accord with the stipulations:

(a) training for the skill development and skill enhancement for the employees;

(b) training again for the required skill for the employees who are terminated from service due to any reason and want to change any other work;

(c) loan or support money for the matters under sub-section (a) and (b).

27. The skill development team shall form the Fund management committee comprising of the government, the employer and the employee representatives.

28. The duties and responsibilities of the fund management committee are as follows:

(a) supervising the put in fees regularly to the fund;

(b) managing the fund with the consent of the skill development team;

(c) depositing the investing money out of the fund in any bank in accord with the financial regulations or buying and saving the debentures;

(d) receiving the donation with the approval of skill development committee if there is any donor;

(e) auditing to be received relating to putting in and using the fund.

29. The fund management committee shall have the right to use the fund for any of the following matter in accord with the regulation stipulated by the skill development team:

(a) sending to any part time or full time training for the skill development of the employee, opening the training and supporting or giving loan to the employer who shall extend the training program;

(b) reissuing after scrutinizing in accord with the stipulations if asking to pay the expenses incurred relating to the training for the said employees;

(c) performing other matters stipulated by the skill development team;

30. (a) The employer of the industry and service business shall put in to the fund monthly as put in fees without fail for the total wages of the subordinates and the supervisors' salary for not less than 0.5%;

(b) Put in money paid under sub-section (a) shall not be deducted from the wage and salary of the employees.

31. The skill development team:

(a) relating to the put in money which is to be paid to the fund by the employer under section 30, sub-section (a) shall specify based on the work sector, type of work, size of work and number of employees;

(b) shall have the right to exempt from putting into the fund if any employer can submit secure reason.

32. The skill development team shall supervise the training opened by the foreigner relating to the monetary matter in accord with the existing laws.

33. The skill development team shall form the advisory committee to acquire the advice relating to the management of the fund and using it.

Chapter 9
Offence and Penalties

34. If anyone is convicted of committing the imitation on skill recognized certificate, he shall be punished with imprisonment for not more than 7 years and with a fine.

35. If anyone is convicted of committing the conducting of employment exchange business without the permission of the ministry or receiving the fees from the employees, he shall be punished with imprisonment for not more than three years or with a fine or with both.

36. If anyone is convicted of violating any prohibition of the rules, regulations, by law, notification, order and directive under this law, he shall be punished with imprisonment for not more than one year or with a fine or with both.

37. If anyone is convicted of submitting the false statement or false saying knowing that it is not true, to any employment and labour exchange office or any representatives doing for the said office work to get the employment or employee, he shall be punished with imprisonment for not more than one year or with a fine or with both.

38. If any employer is convicted of committing any of the following matters, he shall be punished with imprisonment for not more than six months or with a fine or with both:

(a) failing to sign employment agreement under section 5, sub-section (a);

(b) failing to pay put in money under section 30, sub-section (a).

39. If anyone is convicted of violating any matters contained in the employment agreement, he shall be punished with imprisonment for not more than three months or with a fine or with both.

Chapter 10
Miscellaneous

40. If the employer fails to pay back the loan from the fund within the specified period, the said loan shall be collected as the arrears of land revenue.

41. In implementing the stipulations under this law:

(a) the ministry shall issue the necessary rules, regulations and by law with the consent of the Union Government;

(b) the ministry and the labour directorate shall issue the necessary notification, order, directive and the procedures.

42. Employment and Training Act, 1950 shall be repealed by this law.

I hereby sign according to the Constitution of the Republic of the Union of Myanmar.

Sd. Thein Sein

The President

The Republic of the Union of Myanmar

Unofficial Translation

Central Bank of Myanmar Law

(Pyidaungsu Hluttaw Law No. 16 / 2013)

The 4th Waxing Day of Waso, 1375 M.E.

(11th July, 2013)

Pyidaungsu Hluttaw hereby enacts this Law.

CHAPTER I

Title and Definition

1. This Law shall be called the Central Bank of Myanmar Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:-
   (a) **State** means the Republic of the Union of Myanmar;
   (b) **Government** means the Union Government of the Republic of the Union of Myanmar;
   (c) **Ministry** means the Union Ministry of Finance and Revenue;
   (d) **Central Bank** means the Central Bank of Myanmar established under this Law;
   (e) **Bank** means a bank established under the Financial Institutions of Myanmar Law;;
   (f) **Financial Institution** means a financial institution established under the Financial Institutions of Myanmar Law;

(g) **Currency Notes** means the currency notes issued by the Central Bank under the provisions of this Law or legal tender currency notes previously issued;

(h) **Coin** means coins issued by the Central Bank under the provisions of this Law and coins previously issued;

(i) **Foreign Exchange** includes the following:

(i) foreign currency in cash;

(ii) payment instruments payable in foreign currency cash or payable abroad;

(iii) deposits in intergovernmental financial institutions, central banks, treasuries and commercial banks abroad;

(iv) instruments used for the international transfer of funds:

(v) foreign currency accounts opened and maintained in domestic banks.

(j) **Gold** means gold bars, bullion and gold coins of certified fineness acceptable in the international transactions;

(k) **Currency in Circulation** means the currency in circulation with the exception of currency notes and coins held by the Central Bank;

(l) **General Reserve Fund Account** means an account created with an initial contribution from the State and at the end of each year, a certain portion of net profit shall be allocated to the account until it amounts to 100 per cent of the paid- up capital of the Central Bank

(m) **Special Reserve Fund Account** defines as an account created by the Central Bank for some specific purpose.

(n) **Discount Rate** means the interest rate charged by the Central Bank on the short-term loans borrowed by the eligible banks and

financial institutions at the discount window facility against the securities as collateral.

(o) **Reserve Requirement or Reserve Ratio** defines a Central Bank regulation that sets the minimum fraction of customer deposits that commercial banks and saving banks are required to deposit at the Central Bank;

(p) **Year** means the financial year of the State;

(q) **Person** includes any individual, or organization incorporated.

CHAPTER II

Establishment, Aim and Objective

3. The Central Bank of Myanmar is established under this Law as a legal entity having perpetual succession, capable of suing and being sued in its own name.

4. The Head Office of the Central Bank shall be in Nay Pyi Taw. The Central Bank may, with the approval of Board of Directors, open branches and agencies inside or outside the State.

5. The aim of the Central Bank shall be to preserve and maintain the domestic price stability.

6. The Central Bank shall, in accordance with its aim, also endeavor to attain the following objectives:

(a) to promote monetary stability

(b) to enhance financial system stability;

(c) to develop efficient payments and settlement system,

(d) to support the general economic policy of the Government conducive to the sustained economic development.

7. For the successful achievement of its aim and objectives, the Central Bank shall have autonomy and may exercise all the powers conferred upon in carrying out the functions under this Law.

CHAPTER III

Organization and Management

8. The Central Bank shall be governed by a Board of Directors.

9. (a) The Board shall be constituted with nine members appointed by the President with the consent of Pyidaungsu Hluttaw as follow:

(1)	the Governor of the Central Bank	Chairman
(2)	three Deputy Governors of the Central Bank	Member
(3)	five other persons of recognized professional appointed by the Government	Member

(b) The term of office of the Governor shall be 5 years. The term of office of the other members shall be 4 years. Such Chairman and members of the Board shall not be eligible for serving more than two consecutive terms;

(c) The Governor and the Deputy Governors shall devote their whole time to the functions and duties of the Central Bank and shall not engage in any other remunerated employment;

(d) The Board shall assign an officer of the Central Bank as Secretary of the Board.

(e) The Governor, the Deputy Governor and members shall have experience and professional standing in the field of central banking, economics, money and banking, law , accounting and auditing;

(f) The Board members shall disclose fully to the Board their pecuniary or business interest and those of the members of their families.

10. A persons shall not be appointed as a member of the Board if the person is:

(a) a person who is not a citizen;

(b) the spouse, parent, son, daughter, brother and sister of a board member;

(c) staff and directors of a company or a partnership firm, or a principal shareholder who owns more than 5 per cent of total equity interest in a company or a partnership firm;

(d) staff and directors of a bank or a financial institution , or a principal shareholder who owns more than 5 per cent of total equity interest in a bank or financial institution.

11. The Governor and the Deputy Governor shall be entitled to receive remuneration and allowances prescribed by the Board. Such remuneration and allowances shall be borne by the Central Bank.

12. The other non-executive members shall be also entitled to receive remuneration and allowances prescribed by the Board. Such remuneration and allowances shall be borne by the Central Bank.

13. If a Hluttaw representative or salaried personnel of the Government is appointed as a member of the Board of Directors, such person shall be deemed to have resigned from his or her seat in that Hluttaw, or retired from his or her office in accordance with the civil service rules from the day of appointment. Members of the Board shall not be a member of political party and shall not be involved in the activities of such parties.

14. The Governor shall serve as chief executive officer of the Central Bank and be responsible to the Board for the management and the implementation of the policy of the Central Bank.

15. The Governor shall have the powers to enter into contracts, and sign instruments and documents on behalf of the Central Bank. He may, in accordance with the resolution of the Board, delegate such powers to the officers of the Central Bank.

16. A member shall cease to be a member if he or she:

(a) infringes the restrictions mentioned in section 10;

(b) has been convicted with a sentence of imprisonment;

(c) has obtained permission of the resignation from the appointed authority ;

(d) is adjudged incapable of performing duties by the President;

(e) has failed to attend the Board meetings for three consecutive months without leave from the Board.

17. Any vacancy occurring by reason of the resignation or termination or death of any member of the Board shall be filled with any suitable person who meets the requirements under this law for the unexpired period of the term of office of the member concerned. Such vacancy shall be filled within three months from the date of occurrence of the vacancy.

18. The Board may establish committees with suitable persons for the effective performance of the functions and duties of the Central Bank. In so doing, the duties and powers of such committees shall be determined.

19. The Board shall prepare an organizational set-up for the performance of the functions and duties of the Central Bank. Officers and staff within such organizational set-up shall be appointed.

20. The Board shall prescribe the Central Bank Service Regulations relating to the personnel, and their benefits.

21. The Central Bank may carry out the followings with the approval of the Board:-

(a) granting different types of loans and advances to its staff with or without guarantee;

(b) establishing the welfare and provident funds or similar funds for its staff, family members and beneficiaries of the staff.

22. (a) The regular meeting of the Board shall be convened at least once a month. Provided that special meeting may be convened at any time call upon by the Governor or at the request of majority of the members;

(b) Half or more than half of the members attending the meeting shall constitute a quorum;

(c) The Governor or the authorized Deputy Governor in the absence of the Governor shall preside at the Board meeting;

(d) At the meetings of the Board, decisions shall be adopted by the majority of the votes of the members present. In the event of an equality of votes, the decision shall be adopted by the casting vote of the Chairman of the meeting.

(e) Deputy Minister for Ministry of Finance and Revenue and the Deputy Minister for the Ministry of National Planning and Development shall be invited to attend the meetings of the Board as observers.

23. A member shall refrain from voting on any matters related to his business interest which become the subject of Board action.

CHAPTER IV

Capital and Profit Allocation

24. The State shall be the sole shareholder of the Central Bank. The authorized capital of the Central Bank shall be three hundred billion kyats, of which one hundred billion kyats shall be fully paid up by the State. The authorized and paid up capitals of the Central Bank may be increased with the approval of the Government. No reduction of these capitals shall be made thereof.

25. When the value of the Central Bank's assets falls below the sum of the value of its liabilities and its paid-up capital, the Ministry shall transfer government securities to the Central Bank in the amount necessary as proposed by the Central Bank and approved by the Government.

26. The net profits of the Central Bank for each year shall be calculated after deducting the operating expenditure for the year and after making provision for bad and doubtful debts, depreciation of assets and funds for welfare and retirement of the staff. The Central Bank may make provision for such other purposes which it considers necessary, with the approval of the Government.

27. The Central Bank shall have established General Reserve Fund Account. At the end of each year, an amount equal to forty per cent of the net profits shall be allocated in multiples of one million kyats to the General Reserve Fund Account until it amounts to 100 per cent of the paid-up capital of the Central Bank. By authorization of the Government, the amount to be transferred to the General Reserve Fund Account may be increased to exceed the prescribed annual percentage or the total amount of the General Reserve Fund Account may be increased beyond the paid-up capital of the Central Bank.

28. After transfers to the General Reserve Fund Account have been made under section 27, the remainder of the net profit shall be used to redeem the government securities which have been issued under section 25, held by the Central Bank.

29. Any net losses at the end of each year shall be set off against General Reserve Fund Account established under section 27..

30. The balance of the net profits remaining after deductions under section 27 and section 28 have been made shall be paid in multiples of one million kyats to the Union Government Budget as soon as practicable after the end of the year.

31. No deduction permitted under section 27 and section 28 shall be made nor shall any payment under section 30 be made if, in the opinion of the Central Bank, the assets of the Central Bank after the deduction or payment will be less than the sum of its liabilities and paid-up capital.

32. For any net gains or loss arising from changes in valuation of the Central bank's asset or liabilities in, or dominated in gold, special drawing rights, or foreign currencies as a result of any change in the values or exchange rates of gold, special drawing rights, internationally recognized units of account, or foreign currencies in terms of the domestic currency, a special reserve account shall be established.

33. (a) Any net gains in any year of the Central Bank arising from the revaluation of the gold, special drawing rights, foreign currencies and internationally recognized units of account in terms of the domestic currency as a result of change in exchange rate shall be credited to a special reserve account;

(b) Any net losses in any year of the Central Bank arising from any change mentioned in sub-section (a) shall be set off against any credit balance in the special reserve account;

(c) The net gains referred to in sub-section (a) and the net losses referred to in sub-section (b) shall not be included in the computation of the annual net profits of the Central Bank.

34. The Central Bank shall be exempt from taxes on income, stamp duties or like dues and from assessment of tax related to banking operations.

35. The Central Bank shall:-

(a) stand on its own fund and carry out its operations with its own fund arrangement;

(b) prior to the commencement of each financial year, prepare its annual budget estimates and submit to the Board to obtain the approval and the approved annual budget shall be submitted to the Parliament and the Government at the same time;

(c) adopt the internal financial rules in order to implement the annual budget by the Board.

36. (a) The accounts of the Central Bank shall be audited by Internal Audit Department on quarterly basis. Audited reports shall be submitted to the Board.

(b) The accounts of the Central Bank shall be audited by the Union Auditor General Office at least once a year;

(c) The Central Bank shall prepare financial statements at the end of each year. The Central Bank shall submit its annual report to the Government together with its balance sheet and profit and loss statement certified by the Union Auditor General within 6 months after the end of the year;

(d) After submitting the annual report under sub-section (c), the Central Bank shall publish it for public information.

CHAPTER V

Accountability and Transparency

37. The Central Bank shall, at a minimum twice a year, submit the reports to the Government and PyiHtaungsu Hluttaw regarding the conduct of its monetary policy and financial stability policy, the implementation of its objectives, and the financial situation of the State. The Central Bank shall also furnish such report to the Ministry.

38. The Governor shall, from time to time, report to the PyiHtaungsu Hluttaw concerning monetary policy, financial system matters, the financial situation of the State or any other matters related to the objectives and functions of the Central Bank.

39. The Central Bank shall, with the approval of the Board of Directors, publish quarterly reports on monetary and financial stability for the public information.

CHAPTER VI

Functions and Powers of the Central Bank

40. The functions and powers of the Central Bank include:

(a) formulating and implementing monetary policy

(b) determining and implementing the exchange rate policy;

(c) advising to the Government in respect of such exchange rate regime;

(d) maintaining and managing the international reserves of the State;

(e) acting as the sole issuer of and managing the domestic currency;

(f) overseeing the financial system in order to maintain its stability;

(g) regulating and supervising financial Institutions;

(h) overseeing the money market and foreign exchange market to ensure orderly operation in such markets;

(i) promoting and overseeing a safe, sound and efficient payment system;

(j) acting as lender of last resort for banks;

(k) acting as a banker to the Government by maintaining the accounts of the Government;

(l) acting as financial advisor and fiscal agent to the Government;

(m) acting as a banker for the financial institutions and to foreign governments and international agencies;

(n) Opening accounts with and accepting deposits from financial institutions;

(o) performing the transactions resulting from the participation of the State in international financial institutions in the banking, credit and monetary sphere and undertaking all the responsibilities in the name of the Government dealing with the aforesaid organizations on behalf of the Government.

(p) carrying out such operations as may be consequential or incidental to the exercise of its powers and discharge of its duties under this Law.

41. The Central Bank is also authorized to carry out the following functions and duties:

(a) issuing securities in its own name and for its own account and buying from, selling to and dealing in such securities with financial institutions and the public;

(b) granting loans and advances against securities as collateral;

(c) dealing in financial market as it deems necessary;

(d) issuing license to bank and financial institutions;

(e) selling and realizing the value of movable or immovable property which may come into its possession in satisfaction of its claims;

(f) establishing credits and giving guarantees in any currency inside or outside the State on such terms and conditions as it may deem fit;

(g) giving decisions in matters where sanction to take legal action under this Law is requested;

(h) collecting and producing statistics and information in general and preparing the balance of payments and taking the necessary measures to ensure a stable and viable balance of payments position in particular;

(i) determining central bank rate as and when necessary in order to control the money supply;

42. The Central Bank may acquire, lease, maintain or sell in accordance with law such business premises and equipment as it deems necessary for carrying out its operations.

43. The Central Bank shall dispose of any equity interests it may acquire in the satisfaction of its claims from the debtor as soon as feasible.

44. The Central Bank shall not engage in the following:

(a) organizing companies or enterprises or activities whose sole objectives is profit-making, which is not consistent with the functions of the Central Bank under this Law and acquiring equity interests in such companies and enterprises;

(b) granting different types of loans and advances except as authorized under this Law.

CHAPTER VII

Maintaining Monetary stability

45. The Central Bank may, in implementing the monetary stability, be authorized to use the following monetary instruments and methods:-

(a) open market operations in the financial markets;

(b) stipulation of discount rate and rediscount rate;

(c) stipulation of minimum reserve requirements;

(d) other instruments including management of credit operation as it may deem necessary

46. The Central Bank shall, in respect of monetary policy instruments to be used under section (45) sub-section (a), determine the types of securities and collateral to be used for open market and credit operations and announce the conditions under which the Central Bank stands ready to enter into such transactions to the public.

47. The Central Bank may purchase from, sell to, discount and rediscount the following from the financial institutions:

(a) bill of exchanges and promissory notes;

(b) securities issued to the public or other securities issued or guaranteed by the government;

(c) financial instruments issued by the Central Bank.

48. The Central Bank shall from time to time determine and prescribe, its discount rate, rediscounts and interest rate on advances.

49. The Central Bank may set different liquidity and reserve ratios for different types of deposits and similar liabilities and may also determine the method of their computation. Provided that the required ratios and the method of computation shall be uniform for all institutions within the same class.

50. The Central Bank shall, from time to time require financial institutions to maintain required reserves and specified liquid assets, against such deposits and similar liabilities, by way of cash holdings or by way of deposits with the Central Bank or by both in such proportion.

51. The Central Bank may pay interest on the required reserves maintained in accordance with Section 50 of this Law.

52. Changes in minimum reserve requirements shall become effective from the date determined by the Central Bank. Provided that such date shall be at least 14 days earlier than the date of declaration by the Central Bank.

53. The Central Bank may, in order to fully implement its objectives, determine and use other appropriate monetary policy instruments. In so doing, the decision shall be made subject to the approval of majority members of the Board of Directors.

CHAPTER VIII

Foreign Exchange and International Reserves Management

54. In consultation with the Central Bank, the Government shall determine the foreign exchange regime.

55. The Central Bank shall determine and implement the exchange rate policy.

56. The Central Bank may, subject to such terms and conditions as prescribed from time to time, carry out the following:

(a) buying, holding, selling and dealing in gold or other precious metals;

(b) buying, holding, selling and dealing in foreign currencies, using any instrument which is generally used in foreign exchange transactions;

(c) buying, holding, selling and dealing in treasury bills and other securities issued or guaranteed by foreign governments or foreign central banks or in shares and securities issued by the international financial institutions and its international associations;

(d) opening and maintaining accounts with intergovernmental financial institutions, central banks, monetary authorities, and financial institutions outside the State;

(e) opening and maintaining accounts and acting as agent or correspondent for intergovernmental financial institutions, central banks, monetary authorities and financial institutions outside the State, and foreign governments and their agencies;

(f) borrowing, with the approval of the Government, in any foreign currency on such terms and conditions as it considers appropriate, and also giving security for such loans.

57. The Central Bank may, in its own name or on behalf of the Government or for the account of and by order of the Government, enter into payment and settlement agreements or any other similar contracts with public and private financial institutions established abroad.

58. The Central Bank shall be responsible for establishing and maintaining, on such terms and conditions as it may from time to time determine, and having due regard to the liquidity and risk associated with the relevant assets, international reserves which shall consist of some or all of the following:

(a) gold;

(b) foreign exchange;

(c) bills of exchange and promissory notes payable in such foreign currencies and in such places as the Central Bank may, for the purposes of this section approve;

(d) any internationally recognized reserve asset, including the following: -

(i) an international reserve position of the State held at the International Monetary Fund;

(ii) holdings of special drawing rights at the International Monetary Fund.

59. (a) The Central Bank shall use its best endeavors to maintain the international reserve established under section 58 at a level which the Central Bank considers is adequate for the State's international transactions;

(b) If the international reserve has declined or if the Central Bank considers that it is in danger of declining to such extent as to jeopardize its adequacy in terms of the State's international transactions, the Central Bank shall submit to the Government a report on the international reserve position and the causes which have led or may lead to such a decline including such proposals as it considers necessary to remedy the situation;

(c) Until such time as, in its opinion the situation has become normal, the Central Bank shall continue to submit reports and proposals at intervals not exceeding three months.

60. The Central Bank may advise the Government as to the measures to be taken, the terms and conditions, and other facts relating to the external indebtedness that the State may from time to time incur. In so doing, the Central Bank shall obtain from the Ministry, upon request up-to-date inventory of all the foreign indebtedness contracted or guaranteed by the State.

CHAPTER IX

Issuance of Currency

61. The monetary unit of local currency shall be the "**Kyat**". The Kyat shall be divided into one hundred units which shall be called a "**Pya**". The symbols in the English language for such currency shall be "K" and "P", respectively.

62. The Central Bank shall have the sole right to issue currency notes and coins. Currency notes and coins issued by the Central Bank shall be legal tender throughout the State.

63. Any instrument or transaction or liability relating to money or involving the payment of money in accordance with law shall, in the absence of any expressed agreement to the effect that was made in terms of foreign exchange be deemed to have been made in terms of the Kyat within the State.

64. The Central Bank shall arrange for the printing of notes and minting of coins, for the security and safe custody of unissued currency notes and coins, and for the custody and destruction as may be necessary of plates, dies, and retired currency notes and coins.

65. The denominations of currency notes and coins and their design, composition and other distinguishable characteristics shall be as determined by the Central Bank with the approval of the Government.

66. If it is necessary to call in any currency notes in circulation the Central Bank may do so with the approval of the Government and shall report the closet Union Hluttaw session of the situation.

67. (a) The Central Bank shall redeem currency at face value on demand of holders thereof;

(b) Banks shall exchange legal tender currency notes or coins, with other denominations on demand without charges;

(c) Notwithstanding anything contained in any existing law, no person shall as of right be entitled to demand from the Central Bank, the value of any lost, stolen, defective or defaced currency note and coin. Provided that the Central Bank may refund the value of any defective or defaced currency note and coin after examination in accordance with the procedures, regulations and bye-laws.

CHAPTER X

Maintaining Financial System Stability

68. For the purpose of financial stability, the Central Bank shall be responsible for issuing licence, withdrawing licence, inspecting, supervising and regulating financial institutions, and may give such directions as may be necessary to ensure the solvency and soundness of such institutions.

69. The Central Bank may, in inspecting and supervising financial institutions assign and designate the staff of the Central Bank or other qualified persons to carry out in the following manner:

(a) to visit the offices of financial institutions from time to time to examine accounts, books, documents and other records;

(b) to obtain periodic accounts, records and information of financial institutions to examine such information.

70. Financial institutions shall furnish the Central Bank with such information and records concerning their operations, at such intervals and in such manner as may be prescribed by the Central Bank, for the effective discharge of its functions and responsibilities;

71. The Central Bank may disclose information obtained under Section 70 in whole or in-part in aggregate form at such intervals as it considers appropriate. Provided that information concerning any individual and not relating to the public shall not be published.

72. The Central Bank may request any other supervisory authority overseeing the financial institutions to provide with the required information.

73. Where the Central Bank considers it necessary in the interest of financial system stability, the Central Bank may issue instructions in

writing requiring any financial institutions or its responsible person to take such measures to avert or reduce any risks to financial stability.

74. The Central Bank may set financial ratios including liquidity ratio and may determine method of computation of such ratios as may be necessary.

75. The Central Bank may establish or allow the establishment of a credit bureau to collect, in a manner and to such extent, as it thinks fit, credit information or any other information relevant in the assessment of the creditworthiness of the customers and to inform of these information to financial institutions.

CHAPTER XI

Oversight of the Money Market and Foreign Exchange Market

76. The Central Bank may, in overseeing the money market and foreign exchange market, assign and designate the staff of the Central Bank or other qualified persons to carry out in the following manner:

(a) to visit the offices of relevant persons from time to time to examine accounts, books, documents and other records;

(b) to obtain periodic accounts, records and information of persons as prescribed in sub section(a) to examine such information.

77. Persons who engage in money market and foreign exchange market, shall furnish the Central Bank with such information and records concerning their operations, at such intervals and in such manner as may be prescribed by the Central Bank, for the effective discharge of its functions and responsibilities.

78. The Central Bank may disclose information obtained under the section 77 in whole or in-part in aggregate form at such intervals as it

considers appropriate. Provided that information concerning any individual and not relating to the public shall not be published.

CHAPTER XII

Oversight of Payment and Settlement System

79. The Central Bank shall be responsible for issuing, refusing and revoking of licensing to the applicant, and the regulation and oversight of these payment institutions for the purpose of security and effectiveness of the payment and settlement system in accordance with provisions under this law and other related laws.

80. In order to facilitate the clearing of cheques and other instruments used as means of payment, the Central Bank may, in cooperation with financial institutions, allow the establishment of clearing houses in such places as it shall deem necessary.

81. Persons who engage in payment and settlement operations shall comply with procedures and guidelines issued by the Central Bank from time to time.

82. The Central Bank may, in overseeing the operations concerning the payment and settlement system, assign and designate the staff of the Central Bank or other qualified persons to carry out in the following manner:

(a) to visit the offices of payment, clearing and settlement systems and its participants from time to time to examine accounts, books, documents and other records;

(b) to obtain periodic accounts, records and information of persons as prescribed in sub section(a) to examine such information.

83. Persons who engage in payment and settlement operations, shall furnish the Central Bank with such information and records concerning their operations, at such intervals and in such manner as may be prescribed by the Central Bank, for the effective discharge of its functions and responsibilities.

84. The Central Bank may disclose information obtained under the Section 83 in whole or in-part in aggregate form at such intervals as it considers appropriate. Provided that information concerning any individual and not relating to the public shall not be published.

CHAPTER XIII

Lender of Last Resort

85. For the purpose of averting or reducing any risk to financial stability, the Central Bank may:-

(a) provide financial assistance to any banks;

(b) extend credit only to head offices of banks incorporated in Myanmar and to the main branches in Myanmar of foreign financial institutions;

(c) enter into consultation with other Central Banks to provide liquidity assistance to subsidiaries or branches outside Myanmar of any bank established in Myanmar.

86. In the circumstances of requesting for financial assistance to improve liquidity by the banks, the Central Bank may, on such terms and conditions as it may from time to time determine, grant financial assistance at

appropriate interest rate for periods not exceeding 92 days based on the followings:

(a) the bank is solvent and can provide adequate collateral to support the loan;

(b) the bank needs such financial assistance to preserve the stability of the financial system.

87. On the basis of a program specifying the remedial measures that the bank concerned will be taking, these credit operations may be renewed once for a period not more than 92 days.

88. The Central Bank may extend loan for more than one additional period when it considers that such a loan is needed in exceptional circumstance in order to meet the liquidity requirements of the borrower and to serve the public interest.

89. If the Central Bank ascertains that the assisted bank did not implement the remedial measures or that these measures did not achieve the results intended, the Central Bank shall take appropriate measures.

CHAPTER XIV

Relation with Government on Financial Matters

90. The Central Bank shall accept deposits of the Government and make payments on behalf of the Government against such accounts. The Central Bank may assign another bank to do so.

91. The Central Bank may provide loans and advances to the Government with the approval of Pyidaungsu Hluttaw. Such provision of loans and advances shall be in accordance with the following conditions:

(a) The terms and conditions for loan and advance shall be prescribed from time to time by consultation between the Ministry and the Central Bank;

(b) Such loans and advances shall be guaranteed by interest-bearing negotiable instruments of government securities with a maximum term of 92 days delivered by the Ministry to the Central Bank;

92. The Central Bank may purchase and sell government securities hold by financial institutions and the general public.

93. All outstanding credit to the State on the date this Law takes effect shall be converted into interest-bearing negotiable instruments of government securities, which the Government will transfer without delay to the Central Bank. The procedure of the redemption of such government securities shall be carried out by consultation between the Ministry and the Central Bank.

94. The Central Bank shall be entitled to receive essential financial and economic statistics, information and documents from the government departments and organizations, which the Central Bank shall have to analyze. The Central Bank shall present its views to the Government at the request of the Government or at its discretion.

95. The Central Bank shall advise the Government on the placement of its debt instruments with financial institutions and the public.

CHAPTER XV

Administrative Action

96. . The Central Bank may impose on and collect from any bank or financial institution which fails to maintain required reserves in the appropriate ratio determined in accordance with section 49 and section 50, a levy fine prescribed on the shortfall of required reserves in such bank or financial institution, as the case may be.

97. Any person or financial institution which fails to comply with the financial ratios set by the Central Bank shall be subject to administrative penalties including imposing fines under the provisions of this Law or under any other laws relating to financial institutions.

98. Any action taken by the Central Bank under section 96 shall be applicable uniformly to all financial institutions of a particular type without discrimination, and no action taken under section 96 shall have retrospective effect.

CHAPTER XVI

Prohibitions

99. No person shall, without the permission of the Central Bank do any of the following:

(a) cutting, tearing or in any other way defacing any currency note or coin;

(b) dealing in any denomination of currency notes and coins for the purpose of making profits.

100. Any member of the Board of Directors, personnel or agent of the Central Bank, shall not, without permission under the law disclose or publish information relating to the transactions, identity, amount of income

or source of income, profits, losses or expenditures of any person which they have learned in the performance of their duties, or allow such information to be seen or examined by another person.

101. No person shall use any counterfeit currency notes and coins or any type of negotiable instruments knowing that those are counterfeit money.

102. No person shall issue or counterfeit currency notes and coins or any type of instruments payable to bearer on demand, issued by the Central Bank or import the counterfeit currency notes and coins.

CHAPTER XVII

Offence and Penalty

103. Whoever violates the provision of Section 99 shall, on conviction be punished with fine or with an imprisonment term not more than 2 years or with both. In addition, the exhibits shall also be confiscated.

104. A member, personnel or agent of the Central Bank who violates the provision of Section 100 shall, on conviction be punished with fine or with an imprisonment term not more than 2 years or with both.

105. Whoever violates the provision of Section 101 shall, on conviction be punished with fine or with an imprisonment term not more than 3 years or with both.

106. Whoever violates the provision of Section 102 shall, on conviction be punished with imprisonment for a term which may extend from a minimum 10 years to a maximum of 20 years. In addition, the exhibits shall also be confiscated.

107. Whoever abets, attempts, or conspires in the commission of any offence under this Law shall be liable to the punishment provided in this Law for such offence.

CHAPTER XVIII

Miscellaneous

108. The position of the Governor and the Deputy Governor of the Central Bank shall be regarded as the Union Minister and the Deputy Minister.

109. Among offences prosecuted under this Law, the Section 103 and 104 are prescribed as cognizable offenses.

110. In taking legal actions under section 103 or section 104 prior sanction of the Central Bank shall be obtained.

111. Whoever commit any offence under this Law shall be liable to the punishment provided in this Law.

112. Notwithstanding anything contained in any existing law, debts owed to the Central Bank shall be given priority over all other claims except those of the State.

113. The provisions of the Myanmar Companies Act shall not apply to the Central Bank.

114. Article 149 of the First Schedule to the Limitation Act shall apply to all legal proceedings instituted by the Central Bank.

115. Movable and immovable properties belonging to the Central Bank of Myanmar established under the Central Bank of Myanmar Law (The State Law and Order Restoration Council LawNo.15/90), operations in the process of execution, operations which have been completed, assets and liabilities shall devolve respectively on the Central Bank.

116. The Central Bank shall exercise the power and independently perform the duties and responsibilities provided in this Law. In case where it cannot commence of operational functions assigned under this Law, the President of the State may allow a transitory period not exceeding one year for necessary adjustments and smoothen out the transitional process. The Central Bank may resume its duties and powers during this transitory period.

117. The contracts entered into or executed by the Central Bank of Myanmar established under the Central Bank of Myanmar Law (The State Law and Order Restoration Council LawNo.15/90), shall be deemed to be entering into or executed by the succeeding Central Bank under this Law.

118. The Central Bank of Myanmar Law (The State Law and Order Restoration Council Law No.15/90) is hereby repealed. Although the said Law is repealed, the Board of Directors of the Central Bank of Myanmar established under the said Law shall have the right to carry out the operations until the day the duties and responsibilities are handed over to the succeeding Board of Directors under this Law.

119. Rules, regulations, bye-laws, orders and directives made or issued under the repealed the Central Bank of Myanmar Law (The State Law and Order Restoration Council Law No.15/90) or under any other power shall, in so far as they are not inconsistent with the provisions of this Law, or are not repealed or superseded, continue to have effect and be deemed to have been made or issued in accordance with this Law.

120. A person who carries out the assigned duties in good faith shall not be taken criminal action or civil action in implementing the provisions of this Law.

121. For the purpose of implementing the provisions of this Law, the Central Bank may issue rules, regulations, bye-laws, notifications, orders, directives and procedures as may be necessary.

I hereby sign this Law under the Constitution of the Republic of the Union of Myanmar

(Sd.) Thein Sein
President
The Republic of the Union of Myanmar

Securities Exchange Certificate Transaction Law

(2013, Pyidaungsu Hluttaw Law No. 20)

The 9th Waning of Waso 1375. M.E

(30th July 2013)

The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter 1

Title and Definition

1. This law shall be called the Securities Exchange Certificate Transaction Law.
2. The expressions contained in this law shall have the meanings given here under:
   (a) The followings are included in the meaning of Securities Exchange Certificate –
      (1) treasury certificates, treasury bonds, credit bonds and debentures issued, or about to be issued, by the government or any government organization;
      (2) Treasury certificates, treasury bonds, credit bonds and debentures issued by international organizations or foreign governments and its organizations;
      (3) Shares, stocks, credit bonds and debentures issued, or about to be issued, by public companies, related privileges, option rights and share warrants;
      (4) Other securities exchange certificates and instruments prescribed as securities exchange certificate by notifications issued by the supervisory commission for the securities exchange certificate business.
   (b) Securities Exchange Certificate Business means any of the following activities:
      (1) Trading of Securities Exchange Certificates;
      (2) Acting as broker or agent in an securities exchange certificate business;
      (3) Taking responsibility for sub-distribution of Securities Exchange Certificates;
      (4) Advising on investing in Securities Exchange Certificates;
      (5) Offering clearing accounts for Securities Exchange Certificates;
      (6) Activities defined as securities exchange certificate business by notification of the Commission.
   (c) Trading of Securities Exchange Certificates means buying and selling of Securities Exchange Certificates using one's own money;

(d) Acting as broker or agent in an Securities Exchange Certificate Business means selling or buying Securities Exchange Certificates for the benefit of the clients for which the company acts as a go-between, after receiving commission fees or other service;

(e) Taking responsibility for sub-distribution means taking responsibility for selling all or some portion of the Securities Exchange Certificates to the public or helping the distributors with distribution to the public;

(f) Advising on investing in Securities Exchange Certificates means taking fees for advising for the purpose of investing in Securities Exchange Certificates;

(g) Offering clearing accounts means receiving the Securities Exchange Certificates entrusted by the clients, keeping them in safe custody, delivering them to the clients, assisting with, and providing services with regard to, the completion of clearing and distribution;

(h) Securities Exchange Certificate Market means a fixed place where Securities Exchange Certificate Business is conducted regularly. In this expression, working regularly with specific system is also included;

(i) Securities Exchange Certificate Company means a company established according to existing laws as a limited company;

(j) Stock Exchange means the Securities Exchange Certificate market at which Securities Exchange Certificate trading systems and mechanisms are collectively provided to allow registration of Securities Exchange Certificates;

(k) Over-the-Counter Market means an organized market at which the trading of unregistered Securities Exchange Certificates is done;

(l) Share means the share of the capital of a public company. In this expression, if share and stock are not differentiated, stock is also included;

(m) Warrant means a Securities Exchange Certificate granting the right to buy shares by a person for a prescribed price at a fixed day;

(n) The Contract Document means the explanation which contains the full, complete data on trading of the Securities Exchange Certificate and proves that the business has been successfully done. The securities exchange company which acts as broker or agent sends it to the clients and the distributing company in respect of trading of Securities Exchange Certificates;

(o) Registered Securities Exchange Certificate means the securities Exchange Certificate registered at the stock exchange for trading or [otherwise] legally allowed Securities Exchange Certificate;

(p) License means the Securities Exchange Certificate business license issued by Securities Exchange Certificate supervisory commission according to this law;

(q) Commission means the Securities Exchange Certificate business supervisory commission formed under this law;

(r) Ministry means the ministry of Finance of the Union Government.

Chapter 2

The Objectives

3. The Objective of this law is as follows :

(a) To promote the development of a market-oriented system;

(b) Systematic appearance of capital and investment in the securities exchange certificate market for the development of national economy;

(c) To raise state and private monetary business efficiently and to develop economic sectors widely;

(d) To supervise the smooth running of securities exchange certificate business so that it is carried out in an honest way;

(e) To safeguard the participants who take part in the securities exchange certificate market according to the law;

(f) To encourage the public in order to increase the public's financial investment and to support the state's monetary policy.

Chapter 3

Formation of the Commission and its Duties and Powers

4. The Union Government shall:

(a) form the commission consisting of at least 5 suitable persons;

(b) in forming the commission, chairman and secretary shall be appointed out of the commission members at the same time;

(c) the members who are not government employees have the right to enjoy a remuneration;

5. (a) Relating to the term of the commission, the two commission members shall alternately resign after the prescribed term once in two years;

   (b) The Union Government shall appoint another suitable person to the vacant position or may re-appoint the former member once or multiple times;

   (c) If the tenure of one of the commission members is over, he has to continue to perform his duty until a new member is appointed by the Union Government.

6. The commission chairman shall be the head of the commission and manage it.

7. The commission shall:

   (a) allow or refuse to issue the securities exchange certificate business license, after scrutinizing the proposal;

   (b) suspend or revoke the license, if the license holder breaches any duty or regulation;

   (c) extend, after scrutinizing the proposal, the license period upon application for extension;

   (d) collect the license fees and penalties fees in accordance with the stipulations.

8. The Commission shall:

   (a) allow or refuse to establish a stock exchange, after scrutinizing the application;

   (b) suspend or revoke the license with a notice period, if the stock exchange breaches any duty and regulation;

   (c) revoke the permit if any situation arises as below:

      (1) cease of the stock exchange business due to any matter;

      (2) dissolution of the stock exchange activity;

      (3) decrease of the number of securities exchange certificate companies in the stock exchange below the number stipulated as minimum;

      (4) in accordance with the prohibition contained in chapter (9), if there are considerable effects on the benefits of the general public and the investor.

9. The Commission shall:

   (a) give the permission, after scrutinizing the proposal, to appoint the auditor for securities exchange certificate companies and the stock exchange;

   (b) give the permission to amend the stock exchange establishment regulation in accordance with the stipulation.

10. If securities exchange certificate companies apply to establish an over-the-counter market in accord with the stipulations, the Commission shall issue the permit for unregulated securities exchange certificate transactions.
11. The Commission may:
    (a) submit the necessary advice to the Union Government in connection with the matter relating to the securities exchange certificate business;
    (b) form the necessary working committees, organizations and prescribe their duties;
    (c) direct if necessary, the securities exchange certificate companies or over-the-counter markets or stock exchange;
    (d) supervise the securities exchange certificate business, inspect and enquire from time to time;
    (e) perform other duties given by the Union Government.
12. The Commission shall supervise the following organizations and persons with regard to their business accounts in accordance with the relevant accounting system of the Union of Myanmar and ask for submission of the required accounts documents, accounts statements, other documents and information data from them.
    (a) Public companies;
    (b) Securities exchange certificate companies;
    (c) Over-the-counter markets;
    (d) Stock exchange;
    (e) The responsible person, member, employee and present or past agents of any company mentioned above;
    (f) License holder, or his lawyer, auditor and agent.
13. The Commission may carry out research and development work in order to develop internationally the securities exchange certificate business, may communicate with the international securities exchange certificate supervision organizations and its related business departments and organizations.
14. The Commission has the right to call anyone and investigate in order to acquire evidence, if it believes that the persons who are doing securities exchange certificate business violate this law, rules, regulations, notifications, orders, directives, by laws and any provisions of the procedures or fail to follow any duties, or it believes that cheating or unfairness have occurred with regard to securities exchange certificate business.

15. In connection with information obtained while on duty, any commission member or commission employee is prohibited from disclosing any information and showing documents to anyone except when required by an existing law.

Chapter 4

Securities Exchange Certificate Companies

16. Those who want to engage in securities exchange certificate business after establishing the securities exchange certificate company must have formed and incorporated this company in accordance with the existing laws relating to the Myanmar Companies Act.
17. In the formation of a Securities Exchange Certificate Company:
    (a) the expression "securities exchange certificate" shall be included in the name of the company;
    (b) shall be formed as a private company limited by shares;
    (c) shall have the minimum capital and authorized capital in accordance with the stipulations;
    (d) shall be in compliance with the rules, regulations, by-laws, notifications, orders, directives and procedures according to the law.
18. If the company receives any license issued by the Commission, the company shall have the right to carry out the permitted securities exchange certificate business.
19. The company's responsible persons and the employees shall carry out their work honestly, with efficiency and fairness towards their customers.
20. The company shall:
    (a) keep and maintain the accounts and records in accordance with the stipulations;
    (b) acquire the approval of the Commission before appointing the auditor in compliance with the existing law related to the Myanmar Companies Act;
    (c) send the audited report to the Commission according to the stipulations;
    (d) not reduce the authorized capital without the prior approval of the Commission;
    (e) send the report on work performance to the Commission in accordance with the stipulations;
    (f) send the record of the business to the related organization in accordance with the stipulations upon completion of the transaction of the securities exchange certificate.

21. In carrying out the securities exchange certificate business, the company shall refrain from engaging in activities prohibited according to chapter 9 which affect the safeguarding of the interest of the public and the investor.
22. The Company shall:
    (a) annually contribute to the specific reserved fund out of the net profit in accordance with the stipulations after the end of every financial year;
    (b) use the fund for the compensation of any loss in relation to the securities exchange certificate business, and may use the fund for other matters if prior approval from the Commission is obtained.

Chapter 5

License

23. The types of securities exchange certificate license are as follows:
    (a) Securities exchange certificate trading license;
    (b) Securities exchange certificate agent or representative license;
    (c) Securities exchange certificate sub-distribution license;
    (d) Investment consultancy services license;
    (e) Securities exchange certificate company representative license;
    (f) Other business licenses as prescribed and notified by the Commission.
24. The commission shall stipulate the required qualification and regulation in accordance with the type of license.
25. The company may file an application with the Commission in accordance with the stipulations in order to acquire one type of license or more than one type of license as below:
    (a) Securities exchange certificate Trading License;
    (b) Securities exchange certificate agent or representative license;
    (c) Securities exchange certificate sub-distribution license.
26. (a) The company which receives any type of license under section 25 may carry out the consultancy service for the investment in securities exchange certificates without acquiring a separate license;

(b) A person who possesses the prescribed qualities and complies with the regulations may file an application with the Commission to acquire an investment consultancy services license in order to advise on investments in securities exchange certificates.

27. A person who wants to act as an agent of the company may file an application with the commission in accordance with the stipulations in order to acquire the securities exchange certificate company representative license, attached with the company's recommendation.
28. The Commission shall:
    (a) Allow, or refuse, to issue the license, after scrutinizing whether compliance with prescribed qualities and regulations is guaranteed in accordance with the type of license, upon receiving the license application under section 25, section 26 (b) and section 27;
    (b) issue the license after stipulating the terms and conditions if the issuance of the license is allowed in accordance with sub-section (a).
29. The license holder shall apply to the Commission for renewal at least 30 days in advance before the expiry of the license validity, if he wants to continue to do the permitted securities exchange certificate business.
30. The commission may allow, or refuse, to extend the license validity, after scrutinizing the application to extend the license validity under section 29.
31. The commission shall fix the license fee, license extension fee, penalties and license terms.
32. The license holder shall:
    (a) abide by the rules, regulations, by-laws, notifications, orders, directives and procedures under this law;
    (b) abide by the conditions of the license.
33. The license holder shall:
    (a) deliver the license to the Commission within 30 days from the expiry day of the license, if he does not continue the securities exchange certificate business after the expiry of the license validity;
    (b) deliver the license to the Commission after informing the Commission within 7 days, if he wants to cease to operate the securities exchange business during the license term;
    (c) shall obtain the approval of the Commission in advance, if he wants to merge the securities exchange certificate business with other organization or liquidate the company;
    (d) stop the business if the properties of the company are attached with a warrant by a court, thus keeping the properties under the control of the court.

34. The Commission may revoke or suspend the license for certain period, in the event of any of the following event happening to a license holder:
    (a) the license holder breaches any condition of the license, or fails to abide by them;
    (b) Leasing or transferring the license to any person;
    (c) breaching any prohibition of the rules, regulations, by-laws, notifications, orders, directives and procedures under this law, or failing to abide by them;
    (d) death, insanity or bankruptcy;
    (e) harm to the interest of the public and of the investors according to chapter 9;
    (f) dishonest business practices and dishonest reporting of financial and business matters;
    (g) criminal conviction for cheating, misappropriation, stealing, breach of trust, or committing a character-related crime.

Chapter 6

Distribution of Securities Exchange Certificates

35. The public company shall:
    (a) before selling to the public, submit the proposal to the Commission and acquire its approval as to how the public offer shall be carried out. The commission shall decide within 60 days;
    (b) when selling to the public, announce the prospectus consisting of the company's memorandum of association, articles of association, and the company's important salient facts.
36. In connection with the issuance of new securities exchange certificates, the Commission shall specify the regulations for public companies.
37. In the securities exchange certificate market, when the public company receives the contract document, sent by the relevant securities exchange certificate company, the public company shall register after changing the name of the buyer upon asking to change and register his name from the name of existing share holder.

Chapter 7

Stock Exchange

38. The stock exchange:
    (a) is a private company or joint venture company, in accordance with the Myanmar Company Act, after acquiring approval from the Commission;
    (b) has the responsibility to monitor and control, collect and undertake the trading of listed securities exchange certificates;
    (c) shall undertake the work in accordance with the stipulations under this law;
    (d) shall be under the management, monitoring and control of the Commission.
39. (a) A stock exchange shall be organized according to its statute; a board of directors shall be formed, consisting of not more than 5 persons appointed by the Commission and not more than 5 persons appointed by member securities exchange certificate companies;
    (b) the Commission shall appoint to the board of directors persons who are well experienced, competent and knowledgeable in matters relating to work performance, securities exchange certificates or financial matters;
    (c) the board of director shall appoint one of the director as the chairman;
    (d) the chairman may specify one of the directors from the board of directors as the secretary;
    (e) required committees and groups may be formed in the stock exchange;
    (f) necessary staff and employees may be appointed by the board of directors.
40. The stock exchange:
    (a) shall undertake the stock exchange certificate business at the fixed location assigned by the Commission;
    (b) shall appoint the auditor with the prior approval of the Commission;
    (c) shall submit the audited report to the Commission annually;
    (d) shall abide by the rules, regulations, by-laws, notifications, orders, directives and procedures under this law.
41. The duties of the board of directors are as follows:
    (a) managing the securities exchange certificate business;
    (b) specifying the listed norms for trading of securities exchange certificate in the stock exchange;
    (c) registering the securities exchange certificates for trading in the stock exchange;

(d) compiling the trading records of the securities exchange certificates whose trading have been completed in the stock exchange;

(e) compiling the records relating to the data of the member securities exchange certificate companies;

(f) specifying the member securities exchange certificate companies membership fees, share listing fees, reserved fund and other services fees and maintaining these monies systematically and managing them in accordance with the statute and by-laws;

(g) appointing the necessary staff and employees;

(h) inspecting and supervising the member securities exchange certificate companies whether they act honestly.

42. The authorities of the board of director are as follows:

(a) shall allow or refuse to take part in the stock exchange as member, after scrutinizing the application of the securities exchange certificate company;

(b) shall specify the minimum number of member securities exchange certificate companies in the stock exchange;

(c) shall specify the rights and responsibilities of member securities exchange certificate companies;

(d) shall suspend temporarily the trading of its stock exchange if there is sound reason and shall prohibit temporarily one of the members' securities exchange certificate trading;

(e) shall suspend or cancel the membership of the securities exchange certificate company which is not suitable to continue to take part in the stock exchange;

(f) shall decide in the event of disputes arising with respect to the trading of securities exchange certificates among members or among one of the members and other persons.

43. The stock exchange shall undertake, after acquiring the prior approval of the Commission in accordance with the stipulations, to amend its statutes or to draw new statutes or to amend the work-related regulations.

Chapter 8

The Over-the-Counter Market

44. If the securities exchange certificate companies, which are not less than three companies, want to establish an over-the-counter market, they shall apply to the Commission collectively. Upon getting the approval, they shall establish the over-the-counter market.

45. (a)In establishing the over-the-counter market with the approval of the Commission under section 44, the over-the-counter market board of directors shall be formed consisting of not more than five members who are elected by the member securities exchange certificate companies.

    (b)The board of director of the over-the-counter market shall select one chairman from the board of directors.

    (c)The chairman shall assign one of the directors as secretary.

46. The over-the-counter market which is established with the approval of the Commission shall have the right to act under its own name, have its own seal and shall have the right to sue and be sued.

47. The over-the-counter market shall abide by the rules, regulations, by-laws, notifications, orders, directives and procedures under this law.

48. The Commission shall suspend or revoke the license issued to the over-the-counter market with a notice period, if the over-the-counter market engages in activities prohibited in chapter 9 which are apparent to impair the public interest and the interest of the investors is impaired.

Chapter 9

Prohibited Activities

49. The prohibited activities that impair the public interest and the interest of the investors are as follows:

    (a) in connection with offer and sale, listing, sale, buying, trading, investing, services provided to the public and the various kinds of business transactions involving security exchange certificates and the security exchange certificate market: direct involvement or indirect involvement in significant deceiving or cheating, false information, concealing important data;

(b) announcing false information with the purpose of instigating or persuading others to buy or sell the securities exchange certificates, or announcing incomplete and untimely information that significantly affect the price of securities exchange certificates in the market;

(c) using internal information, or announcing information, in order to buy and sell securities exchange certificates for one's personal account or for the account of other persons, or giving information, giving advice to sell or buy securities exchange certificates to other persons based on internal information that are not made public;

(d) conspiracy in buying, selling of securities exchange certificates after creating false supply and demand, or conspiracy with others to control the price of the securities exchange certificates, or using continuous buying, selling and trading methods after persuading others.

Chapter 10

Safekeeping Security Exchange Certificates and Settling the Accounts

50. (a) If a securities exchange certificate company wants to do the business of safekeeping securities exchange certificates and settling the accounts, it shall apply to the Commission to acquire the permission in accordance with the stipulations;

(b)The Commission shall issue the permit after scrutinizing the application and fixing the regulations under sub-section (a) or refuse to issue the permit.

51. If the stock exchange wants to do the business of safekeeping securities exchange certificates and the settling the accounts, it may do so without acquiring the permission of the Commission. But it shall inform the Commission that it engages in this business.

52. If it is necessary, the Ministry may assign any suitable government department or organization with prescribed regulations to do the business of safekeeping securities exchange certificates and settling the accounts.

Chapter 11

Appeal

53. (a) Any person who is not satisfied with the decision which is passed in accordance with the authority of the stock exchange board of directors under section 42, may appeal to the Commission within 30 days from the day of the decision having been passed;

    (b)The Commission may approve the decision of the stock exchange board of directors, amend it, or may pass another suitable decision after scrutinizing the appeal under sub-section (a).

Chapter 12

Prohibition and Penalties

54. No one is allowed to violate the prohibition under chapter 9 and to impair the interest of the public and investors.
55. No one:
    (a) is allowed to engage in any securities exchange certificate business without having a corresponding business license;
    (b) is allowed to form an over-the-counter market or a stock exchange, to engage in over-the-counter market or stock exchange business or business similar to over-the-counter market or stock exchange business;
    (c) is allowed to use the name of an authorized over-the-counter market or stock exchange without permission, or to falsely pretend to be a member of an over-the-counter market or stock exchange.
56. Any license holder is not allowed to sub-lease or transfer the license by any means.
57. Any responsible person of a securities exchange certificate company is prohibited from allowing other persons or organizations, except his agent, to perform the securities exchange certificate business in the name of his company.
58. In connection with the information and data obtained while carrying out their duties, any member of the Commission or any employee of the Commission is not allowed to disclose, display or announce to any unconcerned person these information and data except for disclosure, display or announcement under the existing law.

59. Any responsible person or employee of an securities exchange certificate company is not allowed to work in other securities exchange certificate companies or other companies or business organizations without the permission of the Commission.
60. If anyone is convicted of violating the prohibition under section 54, he shall be punished with imprisonment for not more than 10 years and with a fine.
61. If anyone is convicted of violating any prohibition under section 55, he shall be punished with imprisonment for not more than 5 years, or with a fine, or with both.
62. If any license holder is convicted of violating the prohibition under section 56, he shall be punished with imprisonment for not more than 5 years, or with a fine, or with both.
63. If any responsible person of a securities exchange certificate company is convicted of violating the prohibition under section 57, he shall be punished with imprisonment for not more than 5 years, or with a fine, or with both.
64. If any member or employee of the Commission is convicted of violating the prohibition under section 58, he shall be punished with imprisonment for not more than 3 years, or with a fine, or with both.
65. If any responsible person or employee of a securities exchange certificate company is convicted of violating the prohibition under section 59, he shall be punished with imprisonment for not more than 3 years, or with a fine, or with both.
66. If anyone is convicted of violating any prohibition of the rules, regulations, by-laws, notifications, orders, directives and procedures under this law, he shall be punished with imprisonment for not more than one year, or with a fine, or with both.

Chapter 13

Miscellaneous

67. During the transitional period in which the securities exchange certificate market business is not able to be undertaken systematically in the Republic of the Union of Myanmar in spite of it having been established under this law:
    (a) the Union Government shall specify the transitional period; if it is necessary, this period may be extended;
    (b) the Union Government shall assign the Ministry to monitor and supervise the Commission and the securities exchange certificate transaction business during the transitional period;

(c) the Ministry may issue the necessary notifications, orders and directives to monitor and supervise the securities exchange certificate transaction business in the transactional period;

(d) the Ministry shall allow any joint-venture company formed by the Myanmar Economic Bank and any organization which is a non-financial organization to engage in the business of stock exchange and over-the-counter market, regardless of the prescription made in the Financial Institution of Myanmar Law.

68. The expenditures relating to the Commission and the Commission office shall be paid for from the approved budget of the Union Government.

69. The offences under this law shall be specified as the cognizable offences.

70. Any offence under this law shall not be adjudged at any court without the prior permission of the Commission.

71. In implementing the stipulation under this law:

(a) the Ministry, after consulting with the Commission, may issue necessary ruless, regulations and by-laws, with the approval of the Union Government;

(b) the Ministry and the Commission shall issue the necessary notifications, orders, directives and procedures.

I hereby sign under the Constitution of the Republic of the Union of Myanmar.

Thein Sein

President

Republic of the Union of Myanmar

THE INOCME-TAX REGULATIONS

The Republic of the Union of Myanmar
Ministry of Finance and Revenue
Minister Office
Notification No.103/2012
8th Waning of Tabaing 1373 ME, Naypyitaw
(2012 ,March 15)

The Ministry of Finance and Revenue with the approval of the Union Government make over of power by notification the following Rules under the Income- tax law Section 51,sub –section (a)

CHAPTER I
Title and Definition

1. (a) These Regulations shall be called the Income-tax Regulations.
   (b) These Regulations shall be commencing from the Finance year 2011-2012
2. **This expressions of these Regulations shall have the same meanings in the income-tax law & income-tax regulation and then Director General means Director General of the Internal Revenue Department.**

CHAPTER II
Assessment of Government Economic Enterprises

3. The assessment of Government economic enterprises shall be made as mentioned below;-
   (a) notwithstanding anything contained in sub-section (a) of section 16 of Law, a Government economic enterprise shall pay in advance during the income year income- tax as provided for it in the State Budget for that year. Such payments shall be made in quarterly installments. If the provision for the income-tax has been revised by the State Budget, payments for the remaining installments shall be

made according to the revised provision, after making adjustments. The tax so paid shall be deducted in the relevant assessment.

Provided that where the provision for the income-tax in the State Budget Law is separately made for the advance tax and the ordinary tax, only the provision for the advance shall be applicable to this Claus

(b) notwithstanding anything contained in section 17 of the Law, the said enterprise shall furnish its return of income to the Assessments Committee within thirty day from the date of completion of annual accounts for the relevant income year;

(c) the Township Revenue Officer shall accept the income shown in the return furnished by the said enterprise and make assessment thereon.

Provided that, if the Township Revenue Officer finds that the income shown therein is less than the assessable amount he may determine the assessable income and assess accordingly. If it is found, after the accounts of that enterprise has been audited in accordance with he audit programe of the Government, that the income for the relevant year differs from the income originally declared or the income determined by the Township Revenue Officer, the said enterprise shall furnish a fresh return of income for the said year along with a copy of the audit report within thirty days from the date of receipt of the audit report. On receipt of these, the Township Revenue Officer shall make re-assessment for the relevant year on the basis of the fresh return;

(d) the reliefs given under section 6 of the Law shall not apply to the Government economic enterprises;

(e) the other matters relating to the assessment and collection shall be dealt with in accordance with the directions made from time to time by the person delegated by the Government for this purpose.

CHAPTER III

Assessment of Co-operative Societies

4. **(a) The total income of a co-operative society formed under the Union of Myanmar Co-operative Society Law, 1992, shall be computed on contribution to funds and depreciations allowance in respect of the capital assests ,contribution to the following funds**

(aa) contribution to the pension fund

(bb) social and cultural fund

(b) In sub-section (a) payments made out 1998, co-operatives's regulations section 63and 64 other than those mentioned in sub-clause (ii) and (iii). Provided that it shall not be capital expenditure and payment for income-tax.

(c) Notwithstanding anything contained in section 16 of the Law, the society shall, at the time of furnishing the return of income, pay in full the tax on the total income computed in accordance with sub-regulation (a) at the rates applicable to the relevant assessment year. The tax paid as such shall be deemed to be the income-tax paid in advance under section 16 of the Law.

(d) The year-end final account small be drawn up the Head of the cooperatives in accordance with the Regulation of the cooperatives under the Regulation 84 and according to the Regulation 82, if the account is audited by the internal audited by the internal auditor of cooperatives the total income shall be calculated based on the report of the internal auditor and this task shall be carried out in accordance the sub-section (a) and (b) of the provision of the regulation.

(e) The other matters relating to the assessment and collection on the said society be made in accordance with the provisions of the Law.

CHAPTER IV

Assessment of Foreigners and Foreign Organizations performing under Government Projects

5. (a) The assessment of income-tax on a foreigner who is engaged under special permission of the Government in any Government project or Government sponsored project or enterprise shall be made as follows:-

(i) income-tax shall be assessed on the income received for such performance during the period of his residence in Myanmar at the rates specifically prescribed by the State Budget Law;

(ii) where such a person has any other income in the Union of Myanmar which is not applicable to the said performance, income-tax shall be assessment on that income at the relevant rates according to the source of income in the same manner as is assessed on other assesses;

(iii) notwithstanding anything contained in sub-section (l)and (n) of section 3 of the Law, the income received abroad by that person which does not pertain to the said performance shall be assessed under this Law, only if such income is applicable to section 26 of the law;

(iv) the other matters relating to the assessment and collection on that person shall be made in accordance with the provisions of the Law.

(b) The assessment of income-tax on an association of persons formed abroad which is engaged under special permission of the Government in any Union Government project or Union Government sponsored project of enterprise shall be made as follows:-

(i) the income of that association of persons from the said performance shall be computed under rule 10 and income-tax shall be assessed on that income at the rate specifically prescribed by the agreement of union Government, the ministry of Finance and Revenue of government State Budget Law;

(ii) where such an association of persons has any other income in the Union of Myanmar which is not applicable to the said performance,

income-tax shall be assessed on that income at the relevant rates according to the source of income in the same manner as is assessed on other assesses;

(iii) notwithstanding anything contained in sub-section (l)and (n) of section 3 of the Law, the income received abroad by that association of persons, which does not pertain to the said performance shall be assessed under this law, only if such income is applicable to section 26 of the Law;

(iv) the other matters relating to the assessment and collections on that association of persons shall be made in accordance which the provisions of the Law.

(b) The assessment of income-tax on association of persons formed abroad which is engaged under special permission of the Government in any Government project or Government sponsored project or enterprise shall be made as follows;-

(i) the income of that associations of persons from the said performance shall be computed under rule 10 and income- tax shall be assessed on that income at the rule specifically prescribed by the State Budget Law;

(ii) where such an association of persons has any other income in the Union of Myanmar which is not applicable to the said performance, income- tax shall be assessed on that income at the relevant rates according to the source of income in the same manner as is assessed on other assesses;

(iii) notwithstanding anything contained in sub-section (l)and (n)of section 3 of the Law, the income received abroad by that association of persons, which does not pertain to the said performance shall be assessed under this Law, only if such income is applicable to section 26 of the Law;

(iv) the other matters relating to the assessment and collection on that association of persons shall be made in accordance with the provisions of the Law.

(c) The reliefs given under sections 6 of the Law shall not apply to the assessesment governed by this regulations.

CHAPTER V-

Procedures of Assessment relating to persons Discontinuing Business

6 (a) Where a person who is liable to pay tax discontinues his business, he shall, within one month from the date of discontinuance, furnish a return of income to the Township Revenue Officer for the period up to the date of discontinuance, which remains to be assessed to tax.

(b) Where the Township Revenue Officer finds that a person's business has been discontinued, that person may be served with a notice to furnish, a return of income. Such notice shall be deemed to be the notice issued under sub-section (b) of section 17 of the Law.

(c) The Township Revenue Officer shall make the assessment on a person discontinuing his business in accordance with the provisions of section 19 of the Law.

(d) In making assessment under this regulation the income year shall be deemed to be the assessment year and the tax shall be levied at the rates prevailing during that income year.

(e) The other matters relating to the assessment and collection on a person discontinuing his business shall be made in accordance with the provisions of the law.

CHAPTER VI-

Assessment of Persons Receiving Income in Foreign Currency

7. The Ministry of Finance and Revenue of Union Government may, in respect of a person receiving income in foreign currency or a class of persons receiving income in foreign currency, prescribe that the tax shall be paid in foreign currency.

8.In respect of total income& the tax liable of taxpayer receipts income or expenses not only kyats but also receiving foreign or receiving foreign currency in during relevant that income year.

(a) the exchange at specifies shall be assess the value of exchange to kyats by receipts and expenses of foreign currency . In addition actual receipts and actual expenses the aforesaid respective amount kof exchange, add to kyats and then specifies the provision of this regulations for this tax.

(b) Under sub-section (a) of regulation from computed payable amount only by kyat and payable amount by foreign currency shall be distribution.

In computed of tax by kyats shall be distribution to payable amount only by kyat payable amount only by foreign currency to revise exchange of foreign currency under sub-section (a)of the regulation .The receipt amount by only kyat and the receipt amount by foreign currency that is the exchange of kyat shall be distribution under proportion of that two matters. And then the tax paid for proportion amount of tax by kyats to kyats and the tax paid for the said foreign currency proportion amount of tax by kyat that is exchange in foreign currency .

(c) **the tax assessed under this regulation shall be calculated at the prevailing official rate of exchange. Where the income has been received in a single occasion in the relevant income year the calculation shall be made with the official rate of exchange prevailing on the date of receipt of that income; and where the income has been received in more than a single occasion, the average of the official exchange rates prevailing on the respective days of receipt shall be determined and the calculation shall be made at that average rate and then foreign currency exchange to Myanmar kyats. Carry out relating to the expenses similar matter.**

(d) Where a compute of tax under sub-regulation (b) of tax claim in foreign currency shall be determined according to the proportion of tax in foreign currency and that refund in foreign currency shall be determined according to the foreign currency . The tax in kyat

shall be determined according to the proportion of tax in kyats and that refund in kyat shall be determined according to the kyat.

(e) Taxpayers pay the foreign currency and kyats based on they defined foreign currency tax and kyats tax at income-year under section (16).

(f) The Ministry of Finance and Revenue of Union Government ,may specifies in respect of a person receiving income in foreign currency .Notwithstanding ,to computed under the sub-section (b)thereon in foreign currency and pay instead to the original amount. But ,pay the proportion tax in due thereon in kyats snd pay the kyats.

(g) the provisions of this regulation shall not apply to the income received abroad by a non-resident citizen;

(h) the other matters relating to the assessment and collection of tax in respect of persons receiving income in foreign currency shall be made in accordance with the provisions of the Law. The relation to the difficult matter, systematic to carry out ,Director General may issue directions on other necessary matter as they arise.

(i) A person receiving income in foreign currency who notwithstanding this regulation would not defined under sub-section (f) and then specifies payable tax by fixed –rate.

CHAPTER VII
Provisional Assessment

9 (a) The Township Revenue Officer may, on receipt of the return of income, make a provisional assessment by accepting the said return, or where the return is accompanied by a statement of accounts, on the basis of such statement of accounts. The tax already paid under section 16 of the Law shall be deducted from the tax due in the provisional assessment.

(b) The tax payable under the provisional assessment shall be demanded in accordance with the provisions of section 53 of the Law. If the assessee

fails to pay that tax it may be recovered in accordance with the provisions of section 39 and section 40 of the law.

(c) Where provisional assessment is made under this regulation, regular assessment shall be made as soon as possible in accordance with the provisions of the Law.

(d) No appeal shall lie against the provisional assessment made under this regulation.

CHAPTER VIII

Person qualified to act as an Authorized Representative of the Assessee

10 (a) Except for those matters which the assessee shall personally perform according to the requirements of the Law the following persons shall have the right to act as an authorized representative of the assessee:-

(i) a relative or an employee of the assessee authorized by him in writing as his authorized representative;

(ii) a Lawyer entitled to plead in any judicial body;

(iii) an accountant or an auditor recognized by the Government;

(iv) an income-tax practitioner who has any of the qualifications mentioned below:-

(aa) the person who has acquired from any Myanmar university or any foreign university, a Bachelor Degree in Commerce or in Economics with accountancy or finance as a major subject, or a similar degree not lower than the said degrees;

(bb) the person who has a minimum of 5 years service in the Internal Revenue Department or any of the revenue departments it has succeeded, and has acquired the qualifications prescribed by the person delegated by the Government for this purpose. Provided that, where there is sufficient reason, the person delegated by the Director General for this purpose may relax the length of service mentioned in this clause;

(b) the under mentioned shall not be included in the persons entitled to act as an authorized representative under this regulation;-

(aa) the person who has been dismissed from any Government department;

(bb) the person who, because of any misconduct has been disqualified to act an authorized representative by an order passed by the person delegated by the Director General for this purpose.

(C) The person delegated by the Government for the purpose may pass the order disqualifying any person who is guilty of any misconduct from acting as an authorized representative of the assessee. Provided that the person concerned shall be given an opportunity of being heard before such an order is passed.

CHAPTER X

The Place of Assessment

11. (a) **The Township Revenue Officer or Regional or State Revenue Officer or the head of Companies Circle Tax Office** shall have the powers to act on matters contained in the Law concerning the business and profession located within their specified areas of assignment. Where the assessee has business or profession in more than one distinct area, such duties shall be performed by the **Township Revenue Officer or Companies Circle Tax Office** of the area in which the principal place of his business or profession is situate.

(b) Such duties shall be performed, in the case of income under the head property, by **Township Revenue Officer or Companies Circle Tax Office** to the area in which the property is situated; and in the case of income under the head salaries, by **Township Revenue Officer or Companies Circle Tax Office** of the area in which the employment is situated.

(c) If **Township Revenue Office or Companies Circle Tax Office** has more than one source of income, such duties shall be preformed by the

the Township Revenue Officer to the area in which the principal source of income is situated.

(d) Where difficulties exist in practice when carrying out the provisions of sub-regulation (a),(b),(c) or in other matters, such duty shall be performed by the Township Revenue Officer or Companies Circle Tax Office

(e) If a dispute arises in respect of the place of assessment, the decision of **Director General** for this purpose shall be final. Provided that the assessee shall be given an opportunity of being heard before making such a decision.

(f) Notwithstanding anything contained in sub-regulation (a),(b),(c),(d) and (e), **The Township Revenue Officer or Regional or state Revenue Officer or the head of Companies Circle Tax Office** shall, in respect of any enterprise or assessee, have the powers to carry out all the matters contained in the Law other than passing an assessment order or an appellate or order.

CHAPTER X

Procedures relating to person Leaving Myanmar

12. (a) Any person intending to leave the Union of Myanmar temporarily or for good shall apply in writing to the Township Revenue Officer for the issuance of certificate than he has no liability to pay any income-tax or that satisfactory arrangement has been made for the payment of the income-tax he is liable. Where the applicant for the certificate has never been assessed under the Income-tax Law, the Assessment Committee shall examine whether he has an assessable income for the income years for which assessment proceedings may be opened under the law. Where the reasons to assess for any year are found, assessment shall be made on him for that year or years.

(b) Where assessment is to be made on the applicant for the certificate, assessment proceedings must be completed. In assessment proceedings where the return of income has not been furnished, a notice under sub-section (b) of section 17 or under section 21 of the Law, as the case

may be, shall be served on the assessee for furnishing the return of income within a period not less than seven days.

(c) The total income of the assessee for the period from the expiry of the last complete income year to the probable date of his departure from Myanmar shall be estimated and the assessment thereon shall be made at the rates prescribed for the current financial year. If the probable date of departure from Myanmar is likely to be beyond the current financial year, assessments shall be made separately for the current financial year and for a period from the day commencing next after the end of the prevailing year to the probable date of departure of the assessee from Myanmar. In doing so, the tax shall be computed at the rates prescribed for the current assessment year. In order to make the assessment, a notice under sub-section (b) of section 17 of the Law may be served on the assessee of furnish the return of income within a period not less than seven days.

(d) Where conditions do not exist for the possible completion of all the assessments before the departure from Myanmar of the applicant for certificate on whom assessment is to be made for making the assessments and the collection of tax which may fall due after his departure from Myanmar.

(e) The Township Revenue Officer shall issue to the applicant, using the appropriate paragraph, Form 'A', addressed to the person authorised for the issuance of the certificate under sub-section (a) of section 38 of the Law.

(f) On receipt of Form 'A' mentioned in clause (e), the person intending to leave abroad shall submit the said Form 'A' attached to Form 'B' to the person delegated for the issuance of the certificate under sub-section (a) of section 38 of the Law. The person authorised for the issuance of the certificate shall, after scrutiny of the requirements, issue the certificate in Form 'C'.

(g) The following persons intending to leave Myanmar are not required to obtain the certificate prescribed under sub-section (a) of section 38 of the Law;-

(i) persons under the age of eighteen years;

(ii) passengers in transit holding through tickets and passengers holding return tickets from a place outside Myanmar, provided that the total period spent in Myanmar does not exceed ninety days;

(iii) all classes of diplomats and persons of diplomatic status from foreign countries accredited to Myanmar, and their spouses;

(iv) office staff of the above mentioned diplomats and their spouses (such office staff be the citizens of the country which they represent and be a full time staff of the Government of that country and not engaged in other profit gaining enterprises in Myanmar);

(v) government servants and representatives of the Foreign Governments and their spouses arriving in Myanmar in connection with official business of the said Governments;

(vi) personnel of the United Nations and its agencies and their spouses, who arrive in Myanmar either at the invitation of the Government of Myanmar or to perform duties assigned to them by the United Nations;

(vii) persons on whom a deportation order has been passed to leave Myanmar;

(h) in cases of difficulty in carrying out the provisions of this regulation, the procedure for issuing Form 'C' may be a person who has been delegated by the Government for this purpose.

CHAPTER XI

Depreciation Allowance

13. (a) The depreciation allowance deductible under sub-section (b) of section 10 and sub-section (b) of section 11 of the Law in respect of building, machinery, plant, or furniture shall be in accordance with the rates in the following schedule. The depreciation allowance deductible in respect of tools, apparatus and appliances or other capital assets not

mentioned in this schedule shall, where it is not applicable under sub-regulation (b), be at the rate of 5 per cent per annum on the original cost.

Class of Asset	Rate on original cost
1. Building-	
(a) First class substantial pucca building constructed with selected materials and reinforced concrete.	
(1) factory buildings	**3**
(2) Other buildings	**1.5**
(b) Second class pucca building of less substantial construction.	
(1) factory buildings	**5**
(2) Other buildings	**2.5**
(c) Wooden building with tile or corrugated iron roofing	
(1) factory buildings	**10**
(2) Other buildings	**5**
(d) building with bamboo and thatch	**(Not allowed for instead building cost of replacement will be allowed as revenue expenditure)**
2. Furniture and fittings installed in the building-	
(a) General	**5 (Not allowed for crockery, glassware, linen and plastic sheets. Cost of replacement will be allowed as revenue expenditure.)**

Class of Asset	Rate on original cost
(b) Furniture and fittings, silverware and kitchen equipment used in hotels, cinemas and boarding houses.	6.25
(c) Musical instruments used in hotels, theatres and cinemas.	10
3. Machinery and Plant(General-	
(b) Special rates will be allowed for the following;-	5
(a)(i) Rice mills	6.25
(ii) Flour mills	6.25
(iii) Oil mills	6.25
(iv) Coffee mills	6.25
(v) Aerated water factories	6.25
(vi) Coffee mills	6.25
(vii) Black tea factories	6.25
(viii) Liquor distilleries	6.25
(ix) Bakery and biscuit factories	6.25
(x) Noodle, mini-noodle, vermicelli and mohinga noodle-works.	6.25
(xi) Grinding mills	6.25
(xii) Canning works	6.25
(xiii) Tanneries	6.25
(xiv) Foot wear factories	6.25
(xv) Battery works	6.25
(xvi) Starch factories	6.25
(xvii) Soap factories	6.25
(xviii) Candle factories	6.25
(xix) Rope making factories	6.25
(xx) Aluminum ware works	6.25
(xxi) Tin and can making works	6.25

Class of Asset	Rate on original cost
(xxii)Plastic ware plant	6.25
(xxiii)Saw mills	6.25
(xxiv)Lime machine	6.25
(xxv)Electrical appliances factory	6.25
(xxvi)Quarries	6.25
(xxvii)Metal smelting plant	6.25
(xxviii)Lathe works	6.25
(xxix)Dockyards	6.25
(xxx)Pea-shelling mills	6.25
(b) (i) Fatty acid Hydro-generation plants.	10
(ii) Chemical product factories	10
(iii)Bleaching and dyeing factories	10
(iv)Rubber goods factories	10
(v) Brick manufacturing works	10
(vi)Tile making works	10
(vii) Wire and nail mills	10
(viii) Textile factory	10
(ix)Salt works	10
4. Machinery equipment-	
(a)Overhead electric cables	2.5
(b)(i) Electric generators	6.25
(ii) Electricity transmission machineries.	6.25
(iii)Underground electric cables	6.25
(iv)Electric lifts and elevators	6.25
(v) Miscellaneous electrical goods	6.25
(vi)Metal-plating works	6.25
(vii) Machinery repair and maintenance machines.	6.25
(viii) Printing presses	6.25
(ix)Air compressor and pneumatic machinery	6.25

Class of Asset	Rate on original cost
(c) Ice-cream making machines	10
(d) Motion picture production and exhibition machines.	12.5
(e) X-ray and therapeutic electrical apparatus.	20
5. Waterway transport-	
(a) Non-mechanized vessel constructed with iron.	5
(b) Mechanized vessel constructed with iron	6.25
(c) Vessel constructed with timber	10
6. Road transport vehicles-	
(a)(i) Motor vehicles	12.5
(ii) Bicycles and trishaw	12.5
(b) Vehicles for hire, haulage vehicles passenger cars, non-mechanized vehicles	20
7. Miscellaneous-	
(a)(i) Office equipment	10
(ii) Weighing machines and apparatus.	10
(iii) Workshop machines and instruments.	10
(iv) Garment and headwear production machines.	10
(v) Leather and canvas goods makings machines.	10
(vi) Refrigeration equipment	10
(vii) Building construction works machines.	10
(viii) Construction and household ironware producing machines.	10
(ix) Mining machinery	10

Class of Asset	Rate on original cost
(x) Handlooms	10
(b)(i) Sugar cane juice extracting machines.	12.5
(ii) Surgical instruments	12.5
(c)(i) Mechanized farming machinery.	20
(ii) Winches	20
8. Other concerned Work General	
(i) airplane	16
(ii) Digital calculator	10
(iii) Belongings of the movie star and the drama star	20
(iv)Transistor and loudspeaker	10
(v)Washing bottle machine	10
(vi) Box paper machine	7.5
(vii) Liquor distilleries	5
(viii)Camera and photo graphic	10
(ix) Cement factories	7.5
(x) Chemistry apparatus factory	7.5
(xi)Instruments of Computer Systematic	20
(xii)Cotton Grinding machine	7.5
(xiii)Milk boiling machine	10
(xiv)Copier and mime graph	10

Class of Asset	Rate on original cost
(xv) Iron melting Machine	5
(xvi) Glass Factory	7.5
(xvii)Insecticide Production Machine	12.5
(xviii) Sweater making Instrument	7.5
(xix)Washing and Dye enterprise	
- General use Instrument	10
- Washing Machine	15
(xx) Match factories	5
(xxi)Earth–Oil companies	
-Machine and accessories	5
- pipeline	5
(xxii) drillings rigs	20
(xxiii) Digging oil dias	
-Geology, physics Discoveries instruments	10
-Scitesamit Discoveries instruments	
- Other Discoveries instruments	10
(xxii) Machine of Oxygen and acetalin production	5

Class of Asset	Rate on original cost
(xxiii) Machine watt, vanish production	7.5
(xxiv)Meat (chicken, duck) production machine	7.5
(xxv) Sewing machine	10
(xxvi) watt machine	10
(xxvii) Sugar mills	7.5
(xxviii)Tarporelin (plastic)	15
(xxix) Television	
-Sky electric cable	2.5
- Other implements	15
- Line	10
(a) General	15
(b) Hired Land	10
(xxx) Tiles Factories	10
(xxxi) Typewriters	10
(xxxii) Umbrella Factories	10
(xxxiii) Cleaning machine	
(xxxiv) -Video	20
-Games machines	20
-Other Video machines	10
(xxxv) Washing Clothes machines	15

And then relating to the new building and equipments, relating to the machines collect to the following initial deposit for that year.

(1) 15% of original cost of building

(2) 20% of original cost of equipments

(b) In computing the total income within and without Myanmar under sub-rule (b) of rule 10, the depreciation allowance, if it is not contained in the schedule under sub-rule (a), may be granted as it is allowed in the country in which the control and management of that enterprise is situate.

(c) (i) The aggregate of the depreciation allowances granted in respect of the relevant asset shall not exceed the original cost incurred by the assessee.

(ii) When the assessee lets on hire machinery belonging to him and also buildings, and the letting of the building is inseparable from the letting of the said machinery, the depreciation allowance in respect of such building is deductible.

(iii) Notwithstanding that the assets are not used for the whole of the income year the assessee is entitled to full depreciation allowance for that year.

(iv) Where there had been transfer of assets during the income year, the assessee who last owned and used the assets shall be entitled to the said allowance.

(v) The assessee shall claim depreciation allowance under this regulation by furnishing the particulars in the prescribed form.

CHAPTER XII

Procedures for Deduction and payment at the time Income is Received

14. (a) In deducting Income-tax under sub-section (d)and (e) of section 16 of the Law, deduction shall be made at the rates prescribed for the assessments relevant to the year of deduction.

(b) All the amount deducted under sub-section (d) and (e) of section 16 of the Law shall be credited to the Government on the same day when the deduction is made if the deduction is made by the administrative officer of

a assessment of Government Department, or within seven days from the date of deduction if deducted by other persons.

Provided that Director of General for this purpose may permit other means of payment if necessary.

(c) Where the deduction is made under sub-section (d) and (e) of section 16 of the Law, the particulars in respect of the amounts deducted shall be furnished within seven day from the date of deduction.

(d) The persons who are responsible for furnishing the annual statement of salaries under section 18 of the Law are as follows;-

(i) the heads of relevant office in the case of Government economics enterprise; Factory ,Department

(ii) the owner of the relevant enterprise in the case of individually owned enterprises;

(iii) a member of an association of persons responsible for the management in the case of an association of persons;

(iv) the president or the secretary of the relevant co-operative society in the case of such societies;-

(v)the general manager, or manager if there is no appointment of a general manager, in the case of company.

CHAPTER XIII

General

15 Director General specifies the forms for carry out with the provision of the Law and regulations.

16 In computing the total tax, compute between 50 pyas and 1 kyats but not compute less than tax of 50 pyas.

17 This regulations shall be cancelled to 28 February 1974 of regulations.

Convenience translation - for further information, please contact info@pwplegal.com

POLASTRI WINT & PARTNERS
LEGAL & TAX ADVISORS

THE FOREIGN EXCHANGE MANAGEMANT LAW

(10 August 2012)

Pyihtaungsu Hluttaw Law No. 12/2012

8th Waning of Second Waso 1374 M.E.

Introduction

In order to be better manage and support the development of the country's economy and to broaden cooperation with the foreign economies, the Pyihtaungsu Hluttaw hereby enacts the following law.

Chapter (1)

Title and Definitions

1. This law shall be called as the Foreign Exchange Management Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:

(a) **State** means the Republic of the Union of Myanmar.

(b) **Foreign currency** includes foreign currency such as coins, currency notes, postal orders, cheques, letters of credit, money orders, traveler's cheques, bills of exchange, and promissory notes.

(c) **Foreign exchange** includes:
- foreign currency;
- all instruments concerning payment in foreign currency or payment abroad;
- deposits in intergovernmental financial institutions, central banks, treasuries and commercial banks abroad;
- foreign currency accounts in local banks;
- securities in foreign currency and instruments issued or guaranteed by foreign governments, foreign financial institutions and intergovernmental financial institutions.

(d) **Person** means any individual, corporation, statutory body, institution, cooperative society, partnership and any other body, organization, association or group of persons, incorporated or unincorporated.

(e) **Person resident in the country** means:
- Individuals having been physically present or having had their main residence in the country for at least 183 days during the preceding 12 months, with the exception of diplomatic personnel;

- Companies incorporated in the country or domestically registered branches of foreign companies;
- Myanmar civil servants on diplomatic missions or other assignment abroad.

(f) **Non-resident person** means a person outside the scope of subsection (e).

(g) **Central Bank** means the Central Bank of the Myanmar.

(h) **Foreign exchange licensee** means a person authorized by the Central Bank to perform foreign exchange operations: accepting, exchanging, buying, selling, transferring and making payments locally and abroad. Licensed money changers and authorized dealers are included in this definition.

(i) **Licensed money changer** means a dealer authorized by the Central Bank to perform foreign exchange operations on the basis of cash and traveler cheques.

(j) **Authorized dealer** means a bank authorized by the Central Bank to engage in "foreign banking" including performing foreign exchange transactions.

(k) **Securities** means

- Treasury bills, treasury bonds and debentures issued or undertaken to be issued by the government or its institutions;
- Treasury bills, treasury and other bonds, debentures issued by international institutions or foreign governments;
- Shares, stocks, bonds and debentures issued by public companies;
- Rights is respect of shares, stocks, bonds and debentures.

(l) **Ordinary transaction** means payments for other purposes than the transfer of capital such as:

- Payments to be made in connection with foreign trade, other ongoing business including services, ordinary short-term banking and credit facilities;
- Payments to be made as interest on loans and as net income from other investments;
- Payments in a reasonable amount to amortize loans and depreciate direct investment;
- Reasonable remittance for family expenses.

(m) **Capital transaction** means payments other than payments defined in sub-clause (l) for the purpose of transferring capital.

Chapter (2)

Rights and obligations of the Central Bank

3. The Central Bank shall:
   (a) issue the foreign exchange management policies;
   (b) announce the daily reference rate on the basis of the market exchange rate.

4.
(a) The government may announce a "foreign exchange emergency period" not exceeding 3 months. The government may announce additional foreign exchange emergency periods once at a time; none of these periods shall exceed 3 months.
(b) The Central Bank may limit the activities of licensed money changers and authorized dealers during this period.

5. The Central Bank shall support the systematic and smooth running of the inter-bank monetary market and may engage in the trading of foreign exchange.

Chapter (3)

Foreign Exchange Activities

6. Foreign Exchange activities covered by this law are as follow:

(a) Payments in foreign currency within the country;

(b) Other payments made in foreign exchange within the country;

(c) International payments and transfers of foreign exchange;

(d) Purchase and sale of foreign currency within the country;

7. Foreign cash and other payment instruments can only be transferred between Myanmar and other countries according to the regulations issued by the Central Bank.

8. Other transfers may only be made through a foreign exchange licensee.

9. Only authorized dealers may trade in foreign exchange. Licensed money changers may only buy and sell foreign cash and traveler cheques.

Chapter (4)

Holding/opening account/use of foreign currency

10. Persons resident in the country may hold a specified amount of foreign currency in accordance with the law. They may exchange their foreign currency through a foreign exchange licensee at market price.

11. Any person who is holding foreign currency shall deposit their foreign currency only in accounts with an authorized dealer

12. Any person resident in the country shall transfer all of their foreign currency, earned outside the country, into the country according to the regulations of the Central Bank and deposit the amounts in an account with an authorized dealer.

13. Any person resident in the country or resident outside the country may sell their foreign exchange to an authorized dealer and use kyats to repurchase foreign exchange.

14. Residents can open a bank account abroad and use the funds in it for the following purposes:

a. For transportation by land, water and air; insurance; tourism; labour export; contracting a construction project abroad;
b. For settlement of foreign debt;
c. In order to open a branch office abroad and to operate foreign currency services abroad if approved by the relevant authorities;
d. For other purposes as the approved by relevant government departments or the Central Bank.

15. Those who have a foreign bank account according to the above Sec. 14, shall file reports with the Central Bank.

16. Local economic enterprises who have the foreign bank account outside the country shall report the information regarding the administration of their foreign exchange.

Chapter (5)

International Transactions by KYAT

17. International payments and transactions in kyats, payment and other settlement shall do only according to the regulations issued by the Central Bank.

Chapter (6)

Foreign Exchange Licensees and Authorized Dealers

18. Foreign exchange licensees shall:

(a) carry out only the activities listed in the license;

(b) be in compliance with this law; money laundry control law; and other relevant foreign exchange laws.

19. Authorized dealers may lend foreign exchange to citizens only within the regulations issued by the Central Bank.

20. Authorized dealers can receive deposits in foreign exchange from the public only within the regulations issued by the Central Bank.

21. Authorized dealers can trade foreign exchange in the inter-bank market and buy and sell foreign exchange from and to the public only within the regulations issued by the Central Bank.

22. License holders shall follow all rules and regulations of this law.

Chapter (7)

Bringing/taking foreign exchange and jewelry into/out of the country

23. Persons resident in the country and outside the country may bring foreign exchange and jewelry for personal use into and out of the country according to the regulations issued by the Central Bank.

Chapter (8)

Transactions of ordinary account

24. There shall be no impediment, neither directly nor indirectly, on payments and other transfers for ordinary transactions from abroad into the country.

25. There shall be no impediment, neither directly nor indirectly, on payments and other transfers for ordinary transactions from inside the country to countries abroad.

Chapter (9)

Transactions of large amount account

26. The Central Bank shall check all incoming foreign investment in order to have a reference for outward payments aimed at repatriating the principal, interests, profits and dividends.

27. Foreign investors declare the funds brought into the country together with documentary evidence to the Central Bank. Failure to do so may result in an inability to repatriate the funds.

28. Foreign investors can transfer their fund back to their countries or to third country after the termination of investment period according to the existing rules issued by the Central Bank.

29. A person resident in the country may invest outside of the country only according to the regulations issued by the Central Bank.

30. The Central Bank may issue regulations aimed at limiting capital transactions. However, no limits shall apply to the following:

(a) payback of the principal of loans which the Union Government has allowed;

(b) aid given to foreign which the Union Government has allowed;

(c) investment in foreign country which the Union Government has allowed.

31. Nothing in this law shall repeal, or make exception, of the Foreign Investment Law. The Foreign Investment Law takes precedence in case of inconsistencies.

Chapter (10)

Management Power of the Central Bank

32. Central Bank shall:

a. Issue licenses; reject license applications and withdraw licenses of foreign exchange licensees;

b. Controlling and monitoring the foreign exchange licensees;

c. provide regulations in order to limit foreign exchange amounts held by foreign exchange licensees;

d. provide regulations in order to limit the net amounts in a single currency or multiple currencies held by foreign exchange licensees, limit the amount of foreign debt, and in order to stipulate other requirements;

33. The Central Bank has the right to collect all necessary data from the foreign exchange licensees. The staff of the Central Bank and other designated qualified persons may inspect the accounts, books, documents and other records of the foreign exchange licensees.

34. Central Bank may withdraw a foreign exchange license if:

(a) the applicant provided wrong information regarding the experience or integrity of officers, directors and main shareholders, or if there were other irregularities in the application;

(b) the license holder itself applied for the withdrawal of the license;

(c) there was failure on the part of the license holder to follow the rules, regulations, notifications, orders, instructions and procedures;

(d) the license holder failed to follow Section 22, and the prohibitions under Sections 39 and 40.

(e) the license holder was punished for money laundering; tax fraud or other money-related offenses;

(f) the Central Bank finds that the license holder is likely to be unable to fulfill its duties towards its customers or pay them, or that its losses have wiped out, or are likely to wipe out, its assets.

35. The Central Bank may impose the following penalties on foreign exchange licensees for violation of any provisions of chapter 6:

(a) Warning;

(b) Limiting the operations;

(c) Fine;

(d) Permanent or temporary discharge from duty of the responsible officer or staff;

(e) Withdrawal of the license.

36. Any decision made under Section 35 may be appealed with the Supreme Court.

37. The imposition of administrative penalties under this law shall not preclude criminal or civil actions.

Chapter (11)

Restrictions

38. No person can engage in foreign exchange activities without a license.

39. License holders shall not engage in foreign exchange activities that are not stipulated in the license issued by the Central Bank.

40. License holder shall:

(c) report to the Central Bank any information upon request;

(d) not disturb the auditing process done by the Central Bank.

41. No license holder shall violate the rules; regulations; orders and notifications issued under this law.

Chapter (12)

Offence and Penalty

42. Any person violating Article 38 shall be subject to up to three years imprisonment, or a fine, or both. Furthermore, the assets may be confiscated.

43. Any foreign exchange licensee violating Article 39 shall be subject to up to three years imprisonment, or a fine, or both. Furthermore, the assets may be confiscated.

44. Any foreign exchange licensee violating Article 40 or 41 shall be subject to up to one year imprisonment, or a fine, or both.

Chapter (13)

Miscellaneous

45. Before taking legal actions under this Law, approval from the Central Bank must be obtained.

46. Offences prosecuted under this Law are prescribed as cognizable offences.

47. Any rule, notification, directive, order or notice made or issued under the Foreign Exchange Regulation Act, 1947 (hereby repealed) shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been issued under the corresponding provisions of this Act;

48. Any person implementing this law, discharging his assigned duties in good faith, shall not be subject to legal actions in a criminal or civil suit.

49. While the Central Bank implementing this law, it shall:

(a) issues the necessary rules and regulations;

(b) notifications, order, instruction and procedures.

50. The Foreign Exchange Regulation Act, 1947 is hereby repealed by this Law.

I hereby sign this law under the Constitution of the Republic of the Union of Myanmar.

Sd.

Thein Sein

President

The Republic of the Union of Myanmar

The Export and Import Law

(The Pyidaungsu Hluttaw Law No. 17/2012)

The 6th Waning Day of Wagaung, 1374 M.E.

(7th September, 2012)

The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter 1

Title and Definition

1. This Law shall be called the Export and Import Law.
2. The following expressions contained in this Law shall have the meaning given hereunder:

   (a) State means the Republic of the Union of Myanmar.

   (b) Export means export any goods out of the State by land, sea, air or any other means;

   (c) Import means import any goods into the state by land, sea, air or any other means;

   (d) Export and Import goods means any goods or any technology exporting out of the importing into the State by land, sea, air or any other means;

   (e) License means permit issued by the Ministry to export or import any goods;

   (f) Trade Station means any region, camp office or any other place in local or abroad specified enabling to carry out the matters relating to export and import officially;

   (g) Ministry means Ministry of Commerce of the Union Government;

   (h) Minister means Union Minister of Ministry of Commerce.

Chapter II

Objectives

3. The objectives of this Law are as follows:-

(a) to enable to implement the economic principles of the State successflully;

(b) to enable to lay down the policies relating to export and import that support the development of the State;

(c) to cause the policies relating to export and import of the State and activities are to be in conformity with the international trade standards;

(d) to cause to be streamlined and speedy in carrying out the matters relating to export and import.

Chapter III

Supervising and Administering in respect of the Matters of Export and Import

4. The Ministry may carry out the followings in respect of the matters of export and import:

(a) determining the category and criteria of export and import goods;

(b) determining the restricted goods, prohibited goods and banned goods for export and import;

(c) determining the method to be exported and imported goods and other necessary conditions;

(d) issuing permit and determining conditions relating to permit for export and import goods;

(e) determining regulation, by-law and procedures to the relevant places such as harbor, airport, bus terminal where the goods to be exported and imported;

(f) carrying out other necessary matters relating to export and import.

Chapter IV

Prohibitions

5. No person shall export or import restricted, prohibited and banned goods.

6. Without obtaining license, no person shall export or import the specified goods which is to obtain permission.

7. A person who obtained any license shall not violate the conditions contained in the license.

Chapter V

Offences and Penalties

8. Whoever violates the prohibition contained in section 5 or section 6, on conviction, shall be punished with imprisonment for a term not exceeding three years or with fine or with both.

9. A person who obtained any permit violates the prohibition contained in section 7, on conviction, shall be punished with imprisonment for a term not exceeding three years or with fine or with both.

10. A person attempts to commit or abets in the commission of any offence contained in this Law shall be punished in the same manner as if he had been committed such offence and the exhibits shall also be confiscated.

Chapter VI

Miscellaneous

11. The Union Government shall lay down the policies relating to export and import. In order to be able to implement such policies and cause to be streamlined the matters relating to export and import, the Union Government shall coordinate to cooperate with the Union Ministries, the Region or State Governments, Leading bodies of Self-administered Division or Self-administered Zone.

12. Taking action under this Law shall not preclude taking action under the Sea Customs Act.

13. In implementation of the provisions contained in this Law-

    (a) The Ministry may, with the approval of the Union Government, issue, rules, regulations and by-laws as necessary;

    (b) The Ministry may issue notifications, orders, directives and procedures.

14. The procedures, regulations, by-laws, notifications, orders, directives issued under the Control of Imports and Exports (Temporary) Act, 1947 may be applied in so far as they are not contrary to this Law.

15. The Control of Imports and Exports (Temporary) Act, 1947 is repealed by this Law.

I hereby sign under the Constitution of the Republic of the Union of Myanmar.

(Sd.) Thein Sein

President of the Union

The Republic of the Union of Myanmar

Government of the Republic of the Union of Myanmar
Ministry of Finance and Revenue
Minister's Office
Notification No.102/2012
The 8th Waning of Tabaung 1373 M.E, Naypyitaw
(15th March 2012)

The Ministry of Finance and Revenue with the approval of the Union Government, notifies the following Rules under the Income-Tax Law Section 51, subsection (a).

CHAPTER I

Title, Application and Definitions

1. (a) ——These Rules shall be called the Income-tax Rules.

(b) ——These Rules shall commence from the 2012-2013 financial year.

2. The expressions in these Rules shall have the same meaning in the Income-Tax Law and 'Law' has the meaning as defined in the Income-Tax Law.

CHAPTER II

Relief for Spouse and Children

3. (a) The expression spouse in sub-clause (2)(bb) of sub-section (c) of section 6 of the Law means the spouse living with the person or maintained by the person at any time within the income year. Provided that the spouse shall not, on his or her own, earn an assessable income within that income year.

(b) The expression children in sub-clause 2(bb)of sub-section (c) of section 6 of the Law means a person's own children, step children, and children adopted in accordance with the Law who are maintained by the person at any time within the year and who fulfil all the undermentioned conditions:-

Explanation - The expression "receiving educational instruction" means receiving fulltime instruction at any school, university, college, or any educational establishment, or serving an apprenticeship under articles to qualify in a profession.

(c) In allowing the reliefs under section 6 of the Law, if there is more than one source of income, the relief shall be set-off in stages starting with the income at the lowest income-tax rate and then on to income at higher income-tax rates.

CHAPTER III

Exemption and Relief for Savings

4. (a) For the purpose of clause (iii) of sub-section (a) of section 5 of the Law a receipt in respect of savings means any interest from savings from state banks and interest from savings certificates under the savings bank law.

(b) Contributions towards savings fund entitled to relief under sub-clause (2)(dd)of sub-section (c)of section 6 of the Law shall mean contributions toward a social security fund.

CHAPTER IV

Computation and Assessment of Capital Gains

5. (a) If any person sells, exchanges or transfers by any other means one or more capital assets and during the year of the transaction the total value thereof is of an assessable amount and if profits have arisen therefrom, he shall file a return of income to the Township Revenue Officer within one month from the date of the sale, exchange or transfers of the capital assets concerned.

Explanation — The date of the sale, exchange or transfer of capital assets means the date of the execution of the deed

of the sale, exchange or transfer and the date of the delivery of the assets, whichever is the earlier.

(b) If the Township Revenue Officer is of the opinion that any person is liable to pay tax in respect of capital gains, he may send a notice to that person to file a return of income for the gains.

(c) Assessment of the tax shall be made in the respective income year on the person who received capital gains. In making the assessment, the tax shall be computed and demanded at the rates of tax existing in that income year. In determining the capital gains, the following shall be deducted from the full value of the sale, exchange or transfer of the capital asset concerned: -

——————(i) the net value, remaining after deducting the total depreciation allowed under the Law from the sum total of the original cost to the assessee and any capital expenditure actually incurred by the person for making any addition thereto;

——————(ii) expenditure incurred in the procurement of the capital asset and in the sale, exchange or transfer of the same.

(d) If the original cost actually incurred in the procurement of the asset by the assessee cannot be ascertained or if the asset is acquired by inheritance or by way of a gift, the market value prevailing at the time of acquiring the asset shall be deemed to be the original cost to the assessee.

(e) Where any capital asset became the property of the assessee before 1st April 1997, the original cost under clause (1) of sub-rule (c) or original cost under sub-rule (d) shall be deemed to be the market value of the asset prevailing on that date. Provided that only expenditure incurred or

depreciation allowed after that date shall be included in the computation under clause (1) of sub-rule(c).

(f) Where the Township Revenue officer is of the opinion that the value stated by the assessee in respect of the sale, exchange or transfer of the capital asset is, without sufficient reason, less than the market value prevailing at the time of the transaction, he shall substitute the value for the prevailing market value.

(g) Where the assessment is not completed within the income year under this Rule, the assessment may be made on the relevant assessee in accordance with the provisions of the Law, as if it were not applicable under sub-rule (c)

(h) In the case of assessment or re-assessment of capital gains under sub-section (b) of section 21 of the Income-tax Law, and where the deed of sale, exchange or transfer of the capital asset concerned has been registered under the Registration Act, the period of limitation shall be reckoned from the date of the registration of the deed.

CHAPTER V

Procedure for Assessment of undisclosed sources of income

6. In respect of any immovable property or movable property including money for which the person concerned is unable to accurately account as to how he has acquired the property, for the purposes of determination of income and assessment thereon under section 14, the year of disclosure of the property or the money shall be deemed to be the income year in respect of the value of that property or the money. The property or the money and all the expenditure incurred in acquiring the property shall be deemed to be the income of that year and assessed accordingly.

Explanation- the year of disclosure means:-

(a) in the case of property, if acquired by purchase, the year of purchase, or if constructed and completed in a year's time that particular year. Provided that, if it is in the course of construction the relevant years of construction;

(b) in the case of money, the year the money is found to exist or the year by evidence the money was received, whichever is the earlier.

CHAPTER VI

Income Year to be Assessment Year

7. If the order under section 29 of the Law to the effect that the income year shall be the assessment year in respect of any class of assessees is issued, the assessment may, in the absence of any specific provision in the order be made as follows:-

(a) the Township Revenue Officer may send a notice to the person belonging to those class of assessees to estimate his total income received from all sources in that assessment year and to file the return of income. The notice shall be deemed to be the notice issued under sub-section (b) of section 17 of this Law;

(b) a person who has already filed a return of income or who has been served with the notice under sub-rule (a) may be notified to produce or cause to produce supporting evidence in respect of the total income that may accrue or arise in that year. The notice shall be deemed to be the notice issued under sub-section (b) of section 19 of the Law;

(c) after having examined and heard the supporting evidence by the assessee or the other evidence as required by the Township Revenue Officer, on the day specified in the notice

issued under sub-rule (b) or, on the basis of available evidence, assess income-tax on the assessee's total income. In making the an assessment computation and demand shall be made in accordance with the rates of that assessment year.

Provided that, where there is failure to comply with the conditions contained in the notice under sub-rule (a) or (b), the Township Revenue Officer, after obtaining all available evidence, shall assess on the basis of the evidence;

(d) no further assessment shall be made on account of the change of the assessment year in respect of the total income of the assessee on whom assessment has been made under this Rule;

(e) if the person on whom assessment has been made under this rule produces within the year that follows the assessment year, reliable evidence that the income determined for the reliable evidence that the income determined for the relevant assessment year is incorrect or where the Township Revenue Officer finds the reliable evidence, the Township Revenue Officer may amend the assessment. If the amended assessment is made, the period of limitation under this Law shall be computed based only on that amended assessment.

Explanation - If necessary, the Ministry of Finance and Revenue of the Union Government may, by notification under section 7 of the Law, confer on a person the powers of the Township Revenue Officer under this rule.

CHAPTER VII

Assessment in the Income year

8. If the order under section 29 of the Law to the effect that an assessment may be made in respect of any income in the income year is issued, in the absence of specific provisions in the order, the Township Revenue Officer may make the assessment as follows:-

(a) the Township revenue officer may send a notice to the person receiving income to estimate that income received in the relevant income year and to file the return of income. The notice shall be deemed to be the notice issued under sub-section (b) of section 17 of the Law;

(b) a person who has already filed the return of income or who has been notified under sub-rule (a), may be served with a notice to produce or cause to produce supporting evidence in respect of income that may accrue or arise in that year. The notice shall be deemed to be a notice served under sub-section (b) of section 19 of the Law;

(c) after examining and hearing the supporting evidence produced by the assessee, or other evidence as required by the Township Revenue Officer, on the day specified in the notice issued under sub-rule (b) or as soon as possible, the Township Revenue Officer shall, on the basis of available evidence, assess income-tax on the assessee's income. In making the assessment, the tax shall be computed and demanded in accordance with rates relevant for the assessment year. Provided that on failure to comply with the terms of the notice issued under sub-rule (a) or (b), the Township Revenue Officer using available evidence, shall make an assessment on the basis of that evidence;

(d) the specific assessment made under this rule in respect of any class of income shall be deemed to be the advance

assessment for the income. The total income of the assessee including the above-mentioned income, shall be subsequently assessed in accordance with the Law. In making the subsequent assessment, the tax paid in the advance assessment shall be credited:

(e) the decisions made in the advance assessment under this rule, may be altered as necessary in the subsequent assessment made under sub-rule (d);

(f) where the assessment is not completed in the income year under this rule the assessment may be made on the relevant assessee in accordance with the provisions of the Law as if it were not applicable under section 29 of the Law.

Explanation - If necessary, the Ministry of Finance and Revenue of the Union Government may, by notification under section 7 of the Law, confer on a person the powers of the Township Revenue Officer under this rule.

CHAPTER VIII

Assessment of Non-resident Citizens

9. (a) Assessment of income-tax on a non-resident citizen under section 30 of the Law shall be made in accordance with the provisions prescribed under this rule.

(b) (i) The total income of a non-resident citizen for any income year under sub-section (n) of section 3 of the Law includes total income within Myanmar and total foreign income.

(ii) The total income within Myanmar of a non-resident citizen means all income received by him in Myanmar within that year.

(iii) The total foreign income of a non-resident citizen means all income received by him outside Myanmar within that year.

Provided that the total income of a non-resident citizen shall not include income exempt under any law.

(c) In assessing the income-tax of a non-resident citizen, his total income within Myanmar and his total foreign income shall be computed and determined separately. Based on these determinations, the tax on the total income within Myanmar and the tax on the total foreign income shall be computed separately. The non-resident citizen is liable to pay income-tax equal to the total of both the taxes.

(d) The assessment and collection of income-tax on the total income, within Myanmar of a non-resident citizen shall be in accordance with the relevant provisions of the Law and the income-tax payable shall be computed in accordance with the rates specified by notification of the Ministry of Finance and Revenue, with the approval of the Union Government.

(e) (i) In computing the total foreign income of a non-resident citizen, the computation shall be made under the heads provided in section 8 of the Law and shall be in accordance with the provisions of the Law. Provided that in computing the total foreign income of a non-resident citizen, reliefs allowed under section 6 of the Law shall not apply.

(ii) The rate of income-tax applicable to the total foreign income of a non-resident citizen may be prescribed by notification of the Ministry of Finance and Revenue of the Union Government, with the approval of the Union Government.

(f) If a non-resident citizen receives any income outside Myanmar within any year, the total foreign income in that year shall be estimated and the income-tax liable thereon shall be paid in that year according to the procedure laid down by the person delegated by the Ministry of Finance and Revenue of the Union Government for this purpose. In

making the payment, the assessee may, at his own convenience, do so by instalments from time to time without extending the period beyond the respective income year.

(g)The sum paid according to the provisions of sub-rule (f) or the sum recovered as a result of the combined use of the provisions laid down in sub-rule (f) and (n) shall be deemed, under the provision of sub-rule (i), to be income-tax paid in respect of an income-tax assessment of that respective year. The income-tax so paid shall be credited in the respective assessment.

(h) (i) If a non-resident citizen earns income outside Myanmar within the income year, he shall file a return of income on his total foreign income to the Township Revenue Officer within three months after the end of that year according to the procedure laid down by the person delegated by the Ministry of Finance and Revenue of the Union Government for this purpose.

(ii) If it is considered that a non-resident citizen has income outside Myanmar, the Township Revenue Officer may send a notice requiring him to file a return of income in respect of his total foreign income in the prescribed manner.

If an assessment or re-assessment is to be made in respect of foreign income earned abroad which is included in the class of income for assessment or re-assessment under section 21 of the Law; it shall be made only in accordance with section 21 of the Law.

(i) The Township Revenue Officer, or the person delegated by the Ministry of Finance and Revenue of the Union Government, on receipt of the return of total foreign income under sub-rule (h) shall, as soon as possible, assess the total foreign income of the relevant non-resident citizen. Before assessing the non-resident citizen's total foreign income, the

Township Revenue Officer may call for from anyone with documentary supporting evidence that is deemed necessary for the Township Revenue Officer to make a decision. If a non-resident citizen fails to file a return of income as required under sub-rule (h), the Township Revenue Officer shall make an assessment on the income based on any available evidence.

(j) When income-tax is payable under sub-rule (i), the Township Revenue Officer shall send a notice of demand, in accordance with section 53 of the Law, upon the person liable to pay the income tax. That notice of demand shall be deemed to be a notice of demand under section 53.

(k) The assessee who is liable to pay income-tax on the total foreign income shall pay only in the foreign currency included in that total foreign income.

(l) If a refund is found to be due to a person to whom income-tax is assessed under sub-rule (i), that refund shall be set-off against the income-tax payable under sub-rule (f). Provided that if, within one year after that assessment has been made under sub-rule (f) on the ground that there has been no foreign income, the refund due to him shall be made in that foreign currency.

(m) In order to collect income-tax on the total foreign income payable by a citizen under this rule, before his departure from Myanmar , the person to whom the powers are delegated by the Ministry of Finance and Revenue of the Union Government; for this purpose shall have the right to make appropriate arrangements.

(n) (1) If any person to whom these rules apply, fails to pay the income-tax in accordance with the rules, the person shall be deemed to be a defaulter under section 39 of the Law.

(2) In making the recovery of tax from a defaulter under sub-clause (1), of this rule, the duties are delegated by the Ministry of Finance and Revenue of the Union Government for this purpose shall have the right to decide the currency with which to make the recovery.

(o) In computing the total foreign income and the tax thereon, it shall be computed in kyats equivalent to the foreign currency concerned. In calculating the kyat equivalent of that foreign currency, the exchange rates of the foreign currency is determined as prescribed by the Ministry of Finance and Revenue of the Union Government.

(p) The person to whom the duties are assigned by the Government may, by notification, prescribe detailed requirements for carrying out the matters provided in these rules.

CHAPTER IX

Assessment of Non-resident Foreigners

10 If the Township Revenue Officer considers that a non-resident foreigner's income under section 26 of the Law cannot be definitely known, the Township Revenue Officer may compute the income for income-tax assessment by one of the methods mentioned below:

(a) by computing at a rate considered reasonable by the Township Revenue Officer on the gross receipt of that person under section 26 of the Law;

(b) by computing the income within Myanmar by using the following formula:-

$$\text{Income within Myanmar} = \frac{\text{Receipts within Myanmar}}{\text{Receipts within and without Myanmar}} \times \text{Total income within without Myanmar}$$

Remarks - The total income within and without Myanmar in this sub-rule (b) means the total income computed and determined in accordance with the provisions of the Law.

(c) if it is impracticable to compute the income under sub-rule (a) or (b), then computation may be by any method deemed reasonable to the person to whom duties are assigned by the Ministry of Finance and Revenue of Union Government for this purpose.

CHAPTER X

Assessment of certain classes of shipping

11. (a) If a ship, owned by a non-resident foreigner or chartered by that person, , departs from a port in Myanmar, income-tax shall be paid on the income derived from each trip.

(b) 5 per cent of the total transportation charges earned by the ship on account of the carriage of passengers, livestock or goods shipped at the Myanmar port shall be deemed to be the income for the purpose of assessment of income-tax.

(c) The income deemed received in accordance with the provisions of sub-rule (b) shall be assessed to income-tax at the rates applicable to non-resident foreigners as notified by the Ministry of Finance and Revenue with the approval of the Union Government.

(d) Before the departure of a ship from a Myanmar port the Master of the ship shall estimate income in accordance with the provisions of sub-rule (b) and file the return of income. On

filing the return the income-tax shall be assessed and collected provisionally on the income stated in the return. Provided that if there is an agent within Myanmar representing the owner or the charterer of the ship concerned, the agent may file the return of income as provided in the sub-rule and the tax paid before the departure of the ship.

(e) When the ship concerned is ready to depart from the Myanmar port, the Master of the ship shall file a fresh return of income computed on the actual receipt of income as provided in the sub-rule (b). The new return shall be accompanied by supporting documents. These shall be examined and the income-tax assessed accordingly by the relevant Township Revenue Officer.

Provided that if there is an agent within Myanmar representing the owner or the charterer of the respective ship, the agent may file the new return as provided in sub-rule (b) within seven days of the departure of the ship from the Myanmar port.

(f) If there is no agent within Myanmar to represent the owner or the charterer of the ship, assessment shall be made as provided in sub-rule(e) and on payment of the full amount of tax, the person authorized to grant port-clearance to ships shall be informed by the Township Revenue Officer in writing to issue the clearance certificate for departure from the Myanmar port.

(g) If there is an agent within Myanmar representing the owner or the charterer of the ship concerned, the provisional assessment shall be made under sub-rule (d) and on payment of the full amount of the tax, and using procedures described in sub rule (f) the ship may depart from the Myanmar port.

CHAPTER XI
GENERAL

12. These Rules repeal the Income-Tax Rules notified on 25th February, 1974.

The Environmental Conservation Law

The Pyidaungsu Hluttaw Law No. 9 / 2012

The 8th Waxing Day of Tagu, 1373 M. E.

(30th March, 2012)

The Pyidaungsu Hluttaw hereby enacts this Law:

Chapter I
Title and Definition

1. This Law shall be called **the Environmental Conservation Law.**

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

   (a) **Environment** means the physical factors in the human environment, including land, water, atmosphere, climate, sound, odour, taste, the biological factors of various animals and plants and historical, cultural, social and aesthetic factors;

   (b) **Environmental Quality** means the balance of nature including man made objects and also animals, plants, natural resources for the benefit of sustainability of nature and human beings;

   (c) **Environmental Quality Standard** means the parameters of general quality for enhancement and conservation of environmental quality for environmental situations;

   (d) **Environmental Audit** means periodic, systematically documented and objective evaluation to determine the followings:

      (i) correspond with regulatory requirements on environmental conservation;

      (ii) environmental management system;

      (iii) various possible environmental risks to the buildings, plots and premises.

   (e) **Pollution** means any direct or indirect alteration, effect of the physical, thermal, chemical or biological properties of any part of the environment

including land, water and atmosphere by discharging, emitting or depositing environmental hazardous substances, pollutants or wastes so as to affect beneficial use of environment, or to affect public health, safety or welfare, or animals and plants or to contravene any condition, limitation or prohibition contained in the prior permission issued under this Law;

(f) **Noise Pollution** means the occurrence of sound unit which causes annoyance, fatigue, loss of hearing or interference with the perception of other sounds;

(g) **Pollutant** means solid, liquid, or vapour which directly or indirectly alters the quality so as to affect beneficial use of any segment or element of the environment or is hazardous or potentially hazardous to health or causes pollution;

(h) **Waste** includes solid, liquid, or vapour and also includes anything which is classified as waste in accord with this Law including radioactive substance which is discharged, emitted or deposited in the environment in such volume, constituency or any manner which causes environmental pollution;

(i) **Hazardous Substance** means a substance or object which may affect health including explosive substance, substance which may be created and used as a biological weapon, substance which may be used as a nuclear weapon, inflammable substance, oxidizing and peroxidizing substance, toxic substance, pathogenic substance, radioactive substance, genetic transforming substance, corrosive substance, irritating objects, whether chemical or not, which can be harmful to human being, animal, plant, property or environment;

(j) **Beneficial Use** means the use of the environment or any element or segment of the environment after making required protections from the adverse effects of wastes, discharges, emissions and deposits so as to cause public health, safety or welfare;

(k) **Cleaner Production** means the continuous application of multi-strategy on environmental conservation to processes, products and services to improve the use of resource efficiently, minimize waste, polluted water and emissions and conserve the healthy nature and human environment;

(l) **Control Equipment** includes the followings:

(i) any apparatus for collecting waste;

(ii) any automatic device which can be used for more effective operation of any equipment;

(iii) any device for indicating or recording pollution or warning of excessive pollution;

(iv) any other device or facility used for the purpose of limitation of pollution;

(m) **Ecosystem** means the natural system existing living, non-living substances and plants in compatibility and the natural environment which have been evolving due to such system;

(n) **Owner** means owner, proprietor, operator in charge, lessor or receiver of any building, plots, or vehicle, or heir, trustee or representative of such person;

(o) **Occupier** means any person in occupation or control of any building, plot or any part of it, or any vehicle;

(p) **Environmental Emergency** means the situation which may affect the safety and health of the public or the environment and ecosystem if natural or man-made disaster or pollution is not taken action immediately;

(q) **Committee** means the Environmental Conservation Committee formed under this Law;

(r) **Ministry** means the Union Ministry assigned by the Union Government to perform the matters of environment;

(s) **Department** means the relevant Department formed under this Law.

Chapter II
Objectives

3. The objectives of this Law are as follows:

(a) to enable to implement the Myanmar National Environmental Policy;

(b) to enable to lay down the basic principles and give guidance for systematic integration of the matters of environmental conservation in the sustainable development process;

(c) to enable to emerge a healthy and clean environment and to enable to conserve natural and cultural heritage for the benefit of present and future generations;

(d) to reclaim ecosystems as may be possible which are starting to degenerate and disappear;

(e) to enable to manage and implement for decrease and loss of natural resources and for enabling the sustainable use beneficially;

(f) to enable to implement for promoting public awareness and cooperation in educational programmes for dissemination of environmental perception;

(g) to enable to promote international, regional and bilateral cooperation in the matters of environmental conservation;

(h) to enable to cooperate with Government departments, Government organizations, international organizations, non-government organizations and individuals in matters of environmental conservation.

Chapter III

Formation of the Environmental Conservation Committee

4. (a) The Union Government shall form the Environmental Conservation Committee with the Union Minister for the Union Ministry assigned by the Union Government as the Chairman and with suitable members to conserve the environment of the Republic of the Union of Myanmar;

(b) In forming the Committee, the Vice Chairman, Secretary and Joint Secretary shall be assigned among the members of the Committee;

(c) The Union Government may re-form the Committee.

5. The Union Government shall stipulate functions and duties of the Committee to enable to implement the objectives contained in this Law.

6. The powers of the Committee are as follows:

(a) carrying out organizational education and activities relating to environmental conservation;

(b) suggesting to enable to amend and insert, as may be necessary, the lessons on environmental conservation contained in school lessons after coordinating with the relevant departments;

(c) accepting donations, grants, materials and technological aids from local and foreign and managing and using such money, materials and technologies as may be necessary in environmental conservation works;

(d) sending suitable suggestions and encouragements relating to environmental conservation to the relevant Government departments and organizations;

(e) asking necessary proposals and suggestions from the relevant Government departments and organizations for conservation and enhancement of environment;

(f) prohibiting the relevant Government departments and organizations if the environmental damages arise or situations for damage arise and, if necessary, asking policy to the Union Government;

(g) laying down and carrying out the Myanmar national environmental policies and other environmental policies for conservation and enhancement of environment with the approval of the Union Government.

Chapter IV

Duties and Powers relating to the Environmental Consenvation of the Ministry

7. The duties and powers relating to the environmental conservation of the Ministry are as follows:

(a) implementing the environmental conservation policies;

(b) planning and laying down national or regional work plans relating to environmental management;

(c) laying down, carrying out and monitoring programmes for conservation and enhancement of the environment, and for conservation, control and abatement not to cause environmental pollution;

(d) prescribing environmental quality standards including standards on emissions, effluents, solid wastes, production procedures, processes and products for conservation and enhancement of environmental quality;

(e) submitting proposals to the Committee for economic incentive mechanisms and terms and conditions which may not affect the environment or cause least environmental affect for sustainable development in addition to legal affairs and guidelines relating to environment;

(f) facilitating for the settlement of environmental disputes and, if necessary, forming bodies to negotiate such disputes;

(g) specifying categories and classes of hazardous wastes generated from the production and use of chemicals or other hazardous substances in carrying out industry, agriculture, mineral production, sanitation and other activities;

(h) prescribing categories of hazardous substances that may affect significantly at present or in the long run on the environment;

(i) promoting and carrying out the establishment of necessary factories and stations for the treatment of solid wastes, effluents and emissions which contain toxic and hazardous substances;

(j) prescribing the terms and conditions relating to effluent treatment in industrial estates and other necessary places and buildings and emissions of machines, vehicles and mechanisms;

(k) negotiating, cooperating and implementing in respect of international, regional and bilateral agreements, instruments and programmes relating to matters of environment;

(l) implementing the international, regional and bilateral agreements accepted by Myanmar for environmental conservation and enhancement of environmental quality in accord with the guidance adopted by the Union Government or the Committee;

(m) causing to lay down and carry out a system of environmental impact assessment and social impact assessment as to whether or not a project or activity to be undertaken by any Government department, organization or person may cause a significant impact on the environment;

(n) laying down guidances relating to the management, conservation and enhancement of environment for the matters of protection of ozone layer, conservation of biologial diversity, conservation of coastal environment, mitigation and adaptation of global warming and climate change, combating desertification and management of non-depleting substances and management of other environmental matters;

(o) managing to cause the polluter to compensate for environmental impact, cause to contribute fund by the organizations which obtain benefit from the natural environmental service system, cause to contribute a part of the benefit from the businesses which explore, trade and use the natural resources in environmental conservation works;

(p) carrying out other functions and duties assigned by the Union Government relating to environmental conservation.

8. The Ministry shall establish an Environmental Management Fund in the Union Budget in accord with the financial regulations and by-laws of the Union for effective implementation of environmental conservation works in addition to the receipt from the Union Consolidated Fund.

Chapter V
Environmental Emergency

9. (a) If the Committee is aware that an event of environmental emergency has occurred or may occur in the entire Myanmar or any Region or State or any area, it shall immediately report to the Union Government so as to declare the occurrence of such event;

(b) The Committee, Ministry and Department shall carry out necessary measures relating to the environmental emergency.

Chapter VI

Environmental Quality Standards

10. The Ministry may, with the approval of the Union Government and the Committee, stipulate the following environmental quality standards:

(a) suitable surface water quality standards in the usage in rivers, streams, canals, springs, marshes, swamps, lakes, reservoirs and other inland water sources of the public;

(b) water quality standards for coastal and estuarine areas;

(c) underground water quality standards;

(d) atmospheric quality standards;

(e) noise and vibration standards;

(f) emissions standards;

(g) effluent standards;

(h) solid wastes standards;

(i) other environmental quality standards stipulated by the Union Government.

11. The Ministry may, with the approval of the Union Government and the Committee, insert, modify and stipulate the environmental quality standards for the interests of the public in accord with the scientific and technological advances or requirement of work according to time and area.

12. If any environmental quality standard stipulated by any Government department, Government organization under any existing law is more than the quality standard stipulated by the Ministry, it shall remain in force; however if it is less than such standard, only the standard stipulated by the Ministry shall be in force.

Chapter VII

Environmental Conservation

13. The Ministry shall, under the guidance of the Committee, maintain a comprehensive monitoring system and implement by itself or in co-ordination with relevant Government departments and organizations in the following matters:

(a) the use of agro-chemicals which cause to impact on the environment significantly;

(b) transport, storage, use, treatment and disposal of pollutants and hazardous substances in industries;

(c) disposal of wastes come out from exploration, production and treatment of minerals, industrial mineral raw materials and gems;

(d) carrying out waste disposal and sanitation works;

(e) carrying out development and constructions;

(f) carrying out other necessary matters relating to environmental pollution.

14. A person causing a point source of pollution shall treat, emit, discharge and deposit the substances which cause pollution in the environment in accord with stipulated environmental quality standards.

15. The owner or occupier of any business, material or place which causes a point source of pollution shall install or use an on-site facility or controlling equipment in order to monitor, control, manage, reduce or eliminate environmental pollution. If it is impracticable, it shall be arranged to dispose the wastes in accord with environmentally sound methods.

16. A person or organization operating business in the industrial estate or business in the special economic zone or category of business stipulated by the Ministry:

(a) is responsible to carry out by contributing the stipulated cash or kind in the relevant combined scheme for the environmental conservation including the management and treatment of waste;

(b) shall contribute the stipulated users charges or management fees for the environmental conservation according to the relevant industrial estate, special economic zone and business organization;

(c) shall comply with the directives issued for environnmental conservation according to the relevant industrial estate, special economic zone or business.

Chapter VIII
Management of Urban Environment

17. The Ministry shall, for the management of urban environment, advise as may be necessary to the relevant Government departments and Government organizations, private organizations and individuals in carrying out the following matters in accord with the guidances laid down by the Committee:

(a) land use planning and management including zoning;

(b) management of the construction industry in pivotal urban centres;

(c) management of housing settlements;

(d) management of wastes;

(e) pollution control including land, water, air and noise pollution;

(f) other necessary environmental management.

Chapter IX
Conservation of Natural Resources and Cultural Heritages

18. The relevant Government departments and Government organizations shall, in accord with the guidance of the Union Government and the Committee, carry out the conservation, management, beneficial use, sustainable use and enhancement of regional cooperation of the following environmental natural resources:

(a) forest resources;

(b) land resources;

(c) fresh water resources including underground water;

(d) mineral resources;

(e) agricultural resources;

(f) fisheries resources;

(g) marine resources;

(h) natural ecosystems;

(i) natural areas, wildlife, natural plants and biological diversity;

(j) other natural resources stipulated by the Union Government.

19. The Ministry shall cooperate with the relevant Government departments and Government organizations in the matters of environmental conservation for perpetual existence of cultural heritage sites and natural heritage sites, cultural monuments and natural areas stipulated under any existing law.

20. The Ministry shall provide necessary technologies to the relevant Government departments and Government organizations in implementing the matters contained in sections 18 and 19.

Chapter X
Prior Permission

21. The Ministry may, with the approval of the Union Government, stipulate the categories of business, work-site or factory, work-shop which may cause impact on the environmental quality that requires to obtain the prior permission.

22. The owner or occupier of the category of business, work- site or factory, workshop stipulated by the Ministry under section 21 shall apply for the prior permission to the Ministry in accord with the stipulations.

23. The Ministry may, after scrutinizing whether or not the application made under section 22 is in conformity with the stipulations, grant or refuse to issue the prior permission by stipulating terms and conditions.

24. The Ministry may, in issuing the prior permission, stipulate terms and conditions relating to environmental conservation. It may conduct inspection whether or not it is performed in conformity with such terms and conditions or inform the relevant Government departments, Government organizations to carry out inspections.

25. The Ministry may, if it is found that a holder of the prior permission fails to comply with any of the terms and conditions relating to environmental conservation contained in the prior permission, pass any of the following administrative penalties:

(a) causing to comply with in accord with the terms and conditions after warning, causing to sign the bond;

(b) causing to comply with in accord with the terms and conditions after paying a fine.

Chapter XI
Insurance

26. The holder of the prior permission shall effect insurance according to the category of his business, work-site or factory, workshop for any accident that may cause impact on the environment, in accord with the existing law.

27. The Ministry shall give the remark if it is requested by the Myanmar Insurance on the extent and potential environmental impact in respect of the business, department or organization which carries out the business to be insured under section 26.

Chapter XII

Prohibitions

28. No one shall, without the prior permission, operate business, work-site or factory, workshop which is required to obtain the prior permission under this Law.

29. No one shall violate any prohibition contained in the rules, notifications, orders, directives and procedures issued under this Law.

30. No one shall, without permission of the Ministry, import, export, produce, store, carry or trade any material which causes impact on the environment prohibited by the Ministry.

Chapter XIII

Offences and Penalties

31. Whoever, without the prior premission, operates business, work-site or factory, workshop which is required to obtain the prior permission under this Law shall, on conviction, be punished with imprisonment for a term not exceeding three years, or with fine from a minimum of one hundred thousand kyats to a maximum of one million kyats,or with both.

32. Whoever violates any prohibition contained in the rules, notifications, orders, directives and procedures issued under this Law shall, on conviction, be punished with imprisonment for a term not exceeding one year, or with fine, or with both.

33. Whoever shall:

(a) if convited under section 32, be passed an order to compensate for damage due to such act or omission;

(b) if ordered under sub-section (a), and fails to pay the compensation to be paid, be recovered in accord with the existing revenue laws.

34. Whoever imports, exports, produces, stores, carries or trades any material prohibited by the Ministry due to its impact on environment shall, on conviction, be punished with imprisonment for a term from a minimum of three years to a maximum of

five years, or with fine from a minimum of one hundred thousand kyats to a maximum of two million kyats, or with both. Moreover, he shall incur the expenditure for the treatment and disposal of such material until the process that has no impact on the environment.

Chapter XIV
Miscellaneous

35. In prosecuting an offender under this Law, prior sanction of the Ministry shall be obtained.

36. The Ministry may, with the approval of the Union Government, exempt or relieve any Government department, organization or private business from complying with any provision contained in this Law for the interests of the Union and its people.

37. If any Government department, organization or individual incurs the expenditures for any action due to the declaration of environmental emergency, such expenditures are entitled to claim from the environmental management fund.

38. The relevant Government department, Government organization authorized to issue licence, permit or register for enabling operation of category of business, work-site or factory, workshop which is required to obtain the prior permission shall issue such licence, permit, or register only to the business, work-site or factory, workshop which has obtained the prior permission under this Law.

39. (a) The Ministry shall, if the person obtained the prior permission who was imposed with administrative penalty under section 25 fails to comply with the terms and conditions, inform the relevant Government department, Government organization authorized to issue licence, permit or register for the relevant business, work-site or factory, workshop to enable to take action as may be necessary.

(b) The Government department, Government organization received information under sub-section (a) may, after making necessary inquiries if it is found that any terms and conditions of environmental conservation contained in the prior permission is not complied with, cancel the issued licence, permit or register or suspend it for a limited period.

40. The offence contained in section 32 is determined as the cognizable offence.

41. The provisions relating to environmental conservation contained in the laws, rules, orders, directives and procedures issued before the enactment of this Law shall remain in force unless it is contrary to the provisions contained in this Law.

42. In implementing the provisions contained in this Law:

(a) the Ministry may issue necessary rules, regulations and by-laws with the approval of the Union Government;

(b) the Committee and the Ministry may issue necessary notifications, orders, directives and procedures.

I hereby sign under the Constitution of the Republic of the Union of Myanmar.

(Sd.) Thein Sein

President of the Union

Republic of the Union of Myanmar

The Essential Supplies And Services Law

(The Pyidaungsu Hluttaw Law No. 13/2012)

The 8th Waning Day of 2nd Waso, 1374M.E.

(10th August, 2012)

The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter I

Title and Definition

1. This Law shall be called the Essential Supplies and Services Law.

2. The following expressions contained in this Law shall have the meaning given here under:

(a) "The Union Government" means the Government of the Republic of the Union of Myanmar;

(b) "The Ministry" means any Ministry of the Union assigned by the Union Government to administer under this law;

(c) "Essential Supplies" means any animate supplies or inanimate supplies occasionally prescribed by any Ministry under this law;

(d) "Essential Services" means any service occasionally prescribed by any Ministry under this law.

Chapter II

Objectives

3. The objectives of this Law are as follows:

(a) to enable to safeguard the supplies and services which shall support the interest of the citizens;

(b) to enable to restrict and prohibit the supplies and services which may cause affect the interests of the citizens;

(c) to enable to prohibit the transport within the country, import and export of the supplies and animals which may arise danger, contagious disease and other unwanted matters.

Chapter III

The Essential Supplies and Services

4. Regarding the following matters, the Union Government may confer any relevant Ministry to issue prohibiting order, regulating order, supervision order, preventing order and the order which cause to carry out as necessary:

(a) matters relating to import, export, trade, possession, storage, transport, distribution, utilization and consumption regarding any goods stipulated and declared as essential goods;

(b) matters relating to slaughter, catching, causing to work, breeding, import, export, trade, possession, storage, transport, distribution, utilization, consumption regarding such animal stipulated and declared as essential goods of any goods;

(c) matters relating to such service stipulated and declared as essential service of any service.

Chapter IV

Offences and Penalties

5. Whoever violates any order issued under section 4 shall, on conviction, be punished with imprisonment for a term from a minimum of six months to a maximum of three years and shall also be liable to a fine not exceeding five hundred thousand Kyats.

6. The Court may pass an order for destruction or confiscation or otherwise disposal of the exhibits involved in the offence.

7. The offences contained in this Law are prescribed as the cognizable offences.

Chapter V

Miscellaneous

8. In implementing the provisions of this law, the Union Government shall cooperate and coordinate as necessary among the relevant Ministries and other Union Ministries, Region or State Government, Leading Bodies of the Self Administered Division or Leading Bodies of the Self Administered Zone.

9. The Ministry assigned under section 4 shall promptly reannulled such order when the order is not required to continuously carry out after carrying out as necessary by issuing and stipulating, the order of any goods or services as essential goods or essential service.

10. The rules, notifications, orders, directives and procedures issued under the Essential Supplies and Services Act, 1947 may be applied in so far as they are not contrary to the provisions of this Law.

11. In implementing the provisions of this Law-

(a) the Union Government may issue rules, regulations and by-laws as may be necessary;

(b) the Ministry assigned under section 4 may confer the relevant organization or authority to issue notifications, orders, directives and procedures relating to such law.

12. The Essential Supplies and Services Act, 1947 is hereby repealed by this law.

I hereby sign under the Constitution of the Republic of the Union of Myanmar.

(Sd.) Thein Sein

President

The Republic of the Union of Myanmar

Farmland Law

(Pyidaungsu Hluttaw Law No.ll of 2012)

Day of 8th Waxing of Tagu 1373 ME

(30th March, 2012)

The Pyidaungsu Hluttaw enacted this Law.

CHAPTER I.

NAME, ENFORCEMENT AND DEFINITIONS

1. **This Law shall be called the Farmland Law.**
2. **This Law shall enforce on the date as the President of the Republic of the Union of Myanmar may, by notification, direct.**
3. **The following expressions contained in this Law shall have the meaning given here under:**
   - **(a) "farmland" means designated lands as; paddy land; ya land; kiang land; perennial plant land; dhani land; garden land; land for growing of vegetables and flowers; and alluvial island. In this expression, it does not include land situated within any town or village boundary used for dwelling, religious building and premises, and public - owned land which is not used for agriculture purpose;**
   - **(b) "paddy land" means land mainly grow for rice paddy, rain fed or irrigated.**
   - **(c) "alluvial island" means land has flooded yearly and it's land texture and location can vary in accord with water channel.**
   - **(d) "right for farming " is defined that as the State is original owner of all lands, giving permission for farming in conformity with this law and bylaw, rule and regulation of this law so that agricultural production capacity develop, excluding exploring gems, mines, petroleum, gas and natural resources below and above ground;**
   - **(e) "agriculturist" means any person who is in compliance with any one of the following conditions:-**
     - **(1) is or was engaged in agriculture (or) livestock breeding (or) both as his principal means of livelihood (or) ;**
     - **(2) supervises the land use for agriculture (or) livestock breeding (or) both as his principal means of livelihood during years concerned;**
     - **(3) invests capital and engages directly or supervises in the production of seasonal crops, orchard, perennial crops (or) commercial livestock breeding as his principal means of livelihood (or);**
     - **(4) engaged in agriculture (or) livestock breeding;**

(5) using farmland for producing (or) breeding and selling of sapling, seed, and breeding in for agriculture production and livestock breeding purposes;

(f) "agricultural household " means a group of persons related by blood or marriage, living together as a household of whose head thereof, who shall be an agriculturist;

(g) "head of household" means any principal member of a household who leads the household activities;

(h) "repair to gain progress by building" means raising values of land at present land owner's expense or one currently using land's expense or with his or her working power. The amendment also comprises place for one who works agricultural process or buildings, canals, dams, lakes, wells, embankments, roads and other facilities, excluding, but, land clearing works and procedures not for perpetual development;

(i) "guardian" is defined as one who was vested with authority to keep under-age person or lunatic or their possessions by authoritative court;

(j) "peasant organization" is the one that is formed to help rural development in conformity with law;

(k) "Ministry" means the Ministry of Agriculture and Irrigation;

(I) "Department" means the Settlement and Land Records Department;

CHAPTER II.

RIGHT FOR FARMING

4. A person who has the permission of right to use farmland shall have to apply for getting the Land Use Certificate to the Township Land Records Department Office passing it through the relevant Ward or Village Tract Farmland Management Body.

5. With respect to Section 4 of this law, the Office of Township Land Records Department shall scrutinize and submit the cases of right to use farmland to the relevant Township Farmland Management Body.

6. The Township Farmland Management Body shall issue the Land Use Certificate to the following person or organization with respect to existing farmland on the day of enforcement date of this law, by the approval of District Farmland Management Body, after paid the prescribed registration fees and registered at the Township Land Records Department's Office:

(a) If a person who has right for farming shall be;

i. an agricultural household (or) member of the household;

ii. head of the household (or)a member of the household (or) guardian who is legally holding and working the land in accordance with existing land law, before this law has been enacted;

iii. the legal beneficiary either in accordance with this law or rules deriving from this law after its enactment;

iv. completed the age of eighteen years;

v. a citizen or guest-citizen or naturalize-citizen

(b) If an organization; Government Department (or) Government Organization (or) Non Government Organizations (or) Company shall had been right for farming.

7. After this Law has enacted, the Township Farmland Management Body shall issue the Land Use Certificate to the following person or organization with respect to revoking farmland and land reclamation by the State, with the approval of District Farmland Management Body, after paid the prescribed registration fees and registered at the Township Land Records Department's Office:
   (a) If a person shall be;
      i. engaged in agricultural process using land
      ii. lived in relevant ward or village tract as a resident
      iii. completed the age of eighteen years;
      iv. a citizen or guest-citizen or naturalize-citizen
   (b) If an organization; Government Department (or) Government Organization (or) Non Government Organizations (or) Company shall be actually to work with a will for farming.
8. The Township Farmland Management Body shall issue the Land Use Certificate to a person who receive the right for farming by buying (or) exchanging (or) giving (or) inheritance in accordance with the provision of this Law (and) a person who has got the grant of right to do, (and) right to utilize the vacant, fallow and virgin land may apply in accordance with this Law whenever cultivation is completed, after paid the prescribed registration fees and registered at the Township Land Records Department's Office.

CHAPTER III.

RIGHTS RELATING TO PERMITTED FARMS

9. The following rights shall be enjoyed in connection with the right for farming:
   (a) right to have such land in hand, right for farming and gain benefit of such farm;
   (b) right to sell, pawn, lease, exchange, or donate, in whole or in part of the right for farming in accord with prescribed disciplines;
   (c) disputes arising out of inheritance of farmland shall be decided upon by the law respective court in accord with existing law;
   (d) the duration of the right for farming shall continue so long as the stipulated conditions are not breached;
   (e) land development operation are to be carried out by doing joint-venture with the investment of rural cooperative association or private investors;
   (f) in accordance with Foreign Investment Law, foreigner or organization containing foreigner are to be carried out by doing joint-venture;
10. The provisions under the section 4, 5, 6, 7, 8 and 9 of this law shall not apply to the allocation of alluvial land.

11. The disposal of alluvial land can be effected by means of prescribed rules.

CHAPTER IV.

CONDITIONS IN RESPECT OF THE RIGHT TO WORK FARMLAND

12. The following conditions shall be complied with in respect of the right to work farmland: -

(a) any person shall work farmland in accordance with the provisions of this law;

(b) land-tax and other taxes in respect of farmland assessed by the Ministry shall be paid;

(c) It is needed to register at related department with fee when the process such as selling, pawning, lending, and donation of right to work farmland is carried out, and the prescribed stamped-duty and registration of deed fees shall be paid;

(d) Whenever inheriting of completely handing over of lands is carried out in accordance with existing law, It is needed to register at related department in accord with prescribed conditions;

(e) "pawning" is permitted to acquire investment for agricultural production only, by means of pawning the farmland with a government bank (or) authorized bank;

(f) farmland shall not be worked without the permission of the relevant farm management body;

(g) farmland is prohibited using for non-agriculture purpose without permission;

(h) farmland is prohibited to grow other crop from regular crop without permission;

(i) farmland shall not be fallow without a sound reason;

(j) during the period of before getting the right for farming or disputing the right for farming, selling, pawning, lending, exchange or donation of right for farming farmland is prohibited;

13. After this Law enacted, whenever land dispute happens, registered farmland at the department can do official solution.

14. A person who has the permission of right for farming should not be sold, pawned, leased, exchanged or donated to any foreigner or organization containing foreigner without the permission of State Government.

CHAPTER V.

FORMATION OF FARM MANAGEMENT BODIES

15. The Union Government may form: -

(a) The Central Farmland Management Body with the Union Minister for Ministry of Agriculture and Irrigation as a Chairman, Deputy Minister for Ministry of Agriculture and Irrigation as Vice Chairman, Director General for the Settlement and Land

Records Department as Secretary and the relevant government department officials as members of the body;

(b) The Central Farmland Management Body constituted under the above paragraph (a), can be reconstituted when necessary;

16. The Central Farmland Management Body may form:

(a) the following farmland management bodies at various levels

i. Region or State Farmland Management Body;

ii. District Farmland Management Body;

iii. Township Farmland Management Body;

iv. Ward or Village Tract Farmland Management Body;

(b) the farmland management bodies at various levels constituted under the above paragraph (a), can be reconstituted when necessary;

CHAPTER VI.

DUTIES AND AUTHORITY OF THE CENTRAL FARMLAND MANAGEMENT BODY

17. The duties and authority of the Central Farmland Management Body are prescribed as follows:

(a) to prescribe the duties and authority of the farmland management bodies at various levels for the Region or State, District, Township and Ward or Village Tract;

(b) to give guidance and control in respect of registration the right for farming, issuing the Land Use Certificate, giving the right for farming and solving land dispute;

(c) to give guidance and control in respect of selling, pawning, leasing, exchange and donation the right for farming;

(d) revoking the right for farming in accordance with this Law under the section 19 subsection (c) and (d), section 31 and section37;

(e) to scrutinize and approve the submission of Region or State Farmland Management Body in respect of using the farmland to be required for human settlements and housing in rural and urban area in which population and household are increasing;

(f) to scrutinize and approve the submission of Region or State Farmland Management Body in respect of using the farmland to be required for school, health center, hospital, clinic, library, bazaar, cemetery, and other buildings to develop social life of the rural people;

(g) to scrutinize and approve the submission of Region or State Farmland Management Body in respect of using the farmland to be required for agricultural sector development transition from primitive farm to modernize farm mechanization in which warehouse, rice mill, silo, godown, farm road and other buildings were needed to be established;

(h) to give guidance and control in respect of the allocation of alluvial land and prescribe the policy relating to right for farming;

(i) to give guidance and control in respect of shifting Taungya cultivation;

(j) to perform the duty assigned by Union Government in respect of farmland periodically;

18. In accordance with the provisions of this law, the Central Farmland Management Body may delegate authority to the appropriate Farm Management Body for the purpose of farmland valuation in respect of local conditions and current prices related to registration of deeds, transfer of the right for farming which shall be compulsory registered at the office of relevant department in the presence of witness of the Ward or Village Tract Farm Management Body.

CHAPTER VII.

TAKING ACTION ON BREACH OF CONDITIONS

19. If the conditions prescribed in sectionl2 of this law are not met in all or anyone, the Farmland Management Body appointed by the Ministry in this behalf shall, after making enquiry in accordance with the rules made under this Law, decide one or more than one of the following orders:

(a) to be paid the prescribed fine;

(b) to be utilized the farmland in the prescribed manner;

(c) to be evicted from farmland;

(d) to be removed the buildings which were built on farmland without permission;

20. If whosoever having the right for farming under this law, fails to obey the order issued by the Farmland Management Body in accordance with this law under section 19, shall accuse to the respective court after the deadline-date is over.

21. Whosoever who having the right for farming under this law, fails to pay revenue levied by the Ministry, recovery shall be made of such revenue under the law as if it were an arrear of land revenue.

CHAPTER VIII.

DECIDING LAND DISPUTES IN RESPECT OF THE RIGHT FOR FARMING AND APPEAL

22. Land disputes in respect of the right for farming shall be decided by the Ward or Village Tract Farmland Management Body, after opening the case file and making actions such as enquiry and hearing about the land disputes.

23.

(a) Whosoever may appeal to the respective Township Farmland Management Body against within 30 days from the date of decision made by the Ward or Village Tract Farmland Management Body in accordance with the section 22 of this law;

(b) Township Farmland Management Body may approve (or) revise (or) cancel the decision made by the Ward or Village Tract Farmland Management Body;

24.

(a) Whosoever may appeal to the respective District Farmland Management Body against within 30 days from the date of decision made by the Township Farmland Management Body in accordance with the section 23 subsection (b)of this law;

(b) District Farmland Management Body may approve (or) revise (or) cancel the decision made by the Township Farmland Management Body;

25.

(a) Whosoever may appeal to the respective Region or State Farmland Management Body against within 60 days from the date of decision made by the District Farmland Management Body in accordance with the section 24 subsection (b)of this law;

(b) Region or State Farmland Management Body may approve (or) revise (or) cancel the decision made by the District Farmland Management Body;

(c) the decision made by the Region or State Farmland Management Body is final;

CHAPTER IX.

COMPENSATION AND INDEMNITY

26. Notwithstanding any provision contained in any other existing law, the Central Farmland Management Body must be coordinated with acted for suitable compensation and indemnity in the case of repossession of farmland either in the interest of the State or in the interest of the public. Confiscated farms are to be compensated without any lose. If farm is upgraded with building, it is required to compensate for such building.

27. Whosoever shall not be entitled forgetting compensation, if the right for farming or farmland was revoked by the Central Farmland Management Body in accordance with this Law under the section 17 subsection (d).

CHAPTER X.

UTILIZATION OF FARMLAND

28. In respect of application for permission to grow other crop from regular crop :-

(a) The Central Farmland Management Body shall give permission to grow other crop on paddy land,after scrutinize the prescribed condition while rice is the main staple crop of the State and not to diminish the rice sufficiency;

(b) The respective Region or State Farmland Management Body Shall give permission to grow other crop on farmland except paddy land, after scrutinize the prescribed condition;

29. In the long-term national interest of the State, the respective implemented Ministry shall be utilized the farmland for the Project, by the permission of the Cabinet of the Union Government after getting the remarks of the Central Farmland Management Body.

30. In respect of the application to utilize the farmland for other purposes in the interest of the public:-

(a) The Central Farmland Management Body shall give permission to utilize the paddy land for other purposes, with the recommendation of the Region or State Farmland Management Body;

(b) The respective Region or State Government shall give permission to utilize the farmland for other purposes except paddy land, with the recommendation of the Region or State Farmland Management Body;

31. The Central Farmland Management Body shall confiscate the farmland if the farmland is not start to use within six months in the prescribed manner from the date of permission order in accordance with the section 30 of this law, or not completed within the prescribed period.

CHAPTER XI.

FARMLAND ADMINISTRATION

32. In confiscating farms in the interests of nation, it is a must to confiscate required least measurement of farm. It is necessary to implement projects within prescribed period as soon as possible. If projects are terminated, farms are to be given back to original legitimate farm owner (person/organization) who has right for farming.

33. Except order or summons of the Union Government or authorities appointed by the Union Government, pasture land and common village land are to remain unchanged.

34. In respect of right to do (or) right to utilize land of vacant, fallow and virgin land which was permitted by the Central Committee for the Management of Vacant, Fallow and Virgin land, for Agriculture purpose, and Livestock Poultry Farming and Aquaculture purposes, shall be considered as stable cultivated farmland under this law when crop production is stable.

CHAPTER XII.

CRIME AND PENALTIES

35. Anyone who has right for farming fails to comply with an order issued by the farm management body in accordance with the section 19, (or) decision of land dispute under this Law, shall be sentenced with imprisonment for a term which may at least six months to maximum two years with fine which may at least three hundred thousand kyat to maximum five hundred thousand kyat.

36. Anyone whomsoever that fails to comply with an order issued in accordance with the section 19 of this law shall be sentenced with imprisonments for maximum years states in section 35 of this law, if he/she has same punishment before.

37. Anyone who has right for farming breach the prohibited states in section 14 of this law, shall be sentenced with imprisonment for a term which may at least one year to maximum three years with fine which may not less than under one million kyat, and then money and materials with relate to crime shall be forfeited to the State.

CHAPTER XIII.

GENERAL PROVISIONS

38. "Agriculturists associations" are allowed to organize in accordance with the laws enacted for improvement of the socio economy of farmers.

39. Every member of the Farm Management Body at various levels constituted under this law shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.

40. No suit, prosecution or other proceedings shall lie in court against any member of Farm Management Body at various levels for action carried out in conformity with this law or rules and regulations of this law.

41. Prosecution in accordance with section 37of this law shall be deemed as Police case.

42. To undertake the provisions of this law: -

- **(a) The Ministry may issue the necessary rules and regulations with approval of the Union Government;**
- **(b) The Central Farmland Management Body and the Department may issue necessary notifications, orders, directives and procedures;**

43. This law revoked the following laws:-

- **(a) 1953 Land Nationalization Act;**
- **(b) 1963 The Disposal of Tenancies Law;**
- **(c) 1963 The Agriculturist's Rights Protection Law;**

I hereby signed in accordance with the Constitution of the Republic of the Union of Myanmar.

U Thein Sein

The President

The Republic of the Union of Myanmar

Unofficial Translation by UN-Habitat

The Vacant, Fallow and Virgin Lands Management Law

(Pyidaungsu Hluttaw Law No.10 of 2012)

Day of 8th Waxing of Tagu 1373 ME

(30th March, 2012)

The Pyidaungsu Hluttaw enacted this Law.

CHAPTER I.

NAME AND DEFINITIONS

1. This Law shall be called the Vacant, Fallow and Virgin Lands Management Law.
2. The following expressions contained in this Law shall have the meaning given hereunder:-
   (a) "Central Committee" means the Central Committee for the Management of Vacant, Fallow and Virgin Lands;
   (b) "Ministry" means the Ministry of Agriculture and Irrigation;
   (c) "Department" means the Settlement and Land Records Department;
   (d) "Task Force" means the Task Force for the Management of Vacant, Fallow and Virgin Lands, has been formed by this Law;
   (e) "Vacant land and Fallow land" means land which was done by the tenant before, and then that land was abandoned by the tenant in any reason, not only the State designated land but also for agriculture or livestock breeding purposes;
   (f) "Virgin land" means land which may be new land or other wood land in which cultivation was never done before. It may have or not with forest, bamboo or bushes, even though ground feature may be plane or not ,and includes the land which has been cancelled legally from Reserved Forest, Grazing ground, and Fishery pond land respectively for Agriculture, Livestock Poultry Farming and Aquaculture, Mining, and Government allowable other purposes in line with law;
   (g) Security Fees" mean fees prescribed by this law, advance payable to one of the Union Government authorized bank in credit or collateral by persons who are granted the right to do land, right to utilize land in accordance with the type of enterprise;
   (h) Land Revenue" means land tax rate prescribed by the rule made under this law payable to the State by persons who are granted the right to do land, right to utilize land in accordance with the type of enterprise;
   (i) "Perennial Plant" means plants grow in compact plantation to gain the benefit from plantation crop (or) perennial plant within a period of time in accordance with the type of the plant;

(j) Orchard" means plants grow in either compact plantation or mixed cropping whether it's no need for replanting as per harvest frequently until the plant is dead;
(k) "Seasonal Crops" means crops grow within the growing season period, after harvest and getting income, It must be newly tillage operation and sown for further production;
(l) "Mines Exploitation Enterprise" means as same as define in Section2, Sub-section (j) of the Myanmar Mine Law;
(m) "Permission Order" means the order of permission has been granted by Central Committee in respect of application for granting right to do land, right to utilize land on Vacant, Fallow and Virgin Lands;

CHAPTER II

FORMATION OF VACANT, FALLOW AND VIRGIN LANDS MANAGEMENT CENTRAL COMMITTEE

3. The President may form:-
   (a) the Central Committee for the Management of Vacant, Fallow and Virgin Lands, with the Union Minister for Agriculture and Irrigation appointed as a Chairman, Director-General of the Settlement and Land Records as Secretary and suitable persons of the concern government department and organizations , and other suitable persons as members, in order to ensure the management task concerning the use of Vacant, Fallow and Virgin Lands for State Economic Development in relation to commercial agriculture, livestock breeding, mining, and government allowable other purposes in line with law;
   (b) the Central Committee constituted under the above paragraph (a), can be reconstituted when necessary;

CHAPTER III

RIGHT TO DO LAND, RIGHT TO UTILIZE LAND ON VACANT, FALLOW AND VIRGIN LANDS

4. The Central Committee shall permit the right to do, (and) right to utilize land of vacant, fallow and virgin land in the country, for the following purposes:-
   (a) Agriculture;
   (b) Livestock Poultry Farming and Aquaculture;
   (c) Mining;
   (d) Government allowable other purposes in line with law;
5. The following persons and organizations may apply to Central Committee in accordance with the prescribed conditions for carry out the purposes which are stated in Section 4:-

(a) Myanmar citizen investors;
(b) Department, Government Organization, and Non Government Organizations;
(c) Exemption persons who are eligible in accordance with Section 4 of the Transfer of Immovable Property Restriction Law, 1987;
(d) Joint-Venture of Investors who have right to carry out with Department (and) Government' Organization in accordance with Foreign Investment Law;
(e) Joint-Venture of Investors who have right to carry out with Myanmar Citizen Investors , in accordance with Foreign Investment Law;

6. The Central Committee shall take the following necessary action in respect of on application matters which are in accordance with Section 5:-
   (a) to get the recommendation of the concern Region or State Government;
   (b) to get the recommendation of the Ministry of Mines for mining, and other concern Ministry for other purposes prescribe in Section4, Sub-section (d);
   (c) to coordinate with the Ministry of Environmental Conservation and Forestry ,and other concern Ministries for the prevention of damage and destruction to the Forest land which are Reserved Forest, and Protected Public Forest; and for conservation of natural regions, watershed area and natural fisheries;
   (d) to submit the necessary suggestion relate to explore the National Land Use Policy to the Union Government;
7. The Central Committee shall permit the grant on application for granting right to do, right to utilize land of Vacant, Fallow and Virgin Lands with the agreement of Myanmar Investment Commission for foreign investment.
8. The Central Committee shall make permission or rejection of the systematic application in order to ensure the management task concerning the use of Vacant, Fallow and Virgin Lands.
9. In accordance with the Section 8,the Central Committee Shall issue the permission order, granting the right to do, right to utilize land of vacant, fallow and virgin lands, after security fees has been paid.

CHAPTER IV

CONDITIONS IN ACCORDANCE WITH RIGHT TO DO, RIGHT TO UTILIZE LAND OF VACANT, FALLOW AND VIRGIN LANDS

10. The Central committee shall permit the following land area of Vacant, Fallow and Virgin Lands in relation to commercial agriculture, and livestock breeding purposes:-
    (a) Agriculture
        (1) In the case of Perennial Plant, not more than 5000 acres at a time and whenever cultivation is completed on 75 percent of the permitted acres, an additional not more than 5000 acres at a time up to a total of 50000 acres shall be permitted frequently.

Actual cultivable acre more than 5000 acres at a time shall be permitted for the state interest with the agreement of the Cabinet of the Union Government;

(2) In the case of Orchard, not exceed 3000 acres;

(3) In the case of Industrial Crop, not more than 5000 acres at a time and whenever cultivation is completed on 75 percent of the permitted acres, an additional not more than 5000 acres at a time up to a total of 50000 acres shall be permitted frequently. More than 5000 acres at a time shall be permitted for the state interest with the agreement of the Cabinet of the Union Government;

(4) In the case of rural farmer and a family who want to run manageable farm shall be allowed to use not exceed 50 acres by the permission of one of the respective local organization may be managed;

(b) Livestock, Poultry Farming and Aquaculture

(1) In case of Aquaculture, not exceed 1000 acres;

(2) In case of Livestock breeding and Poultry Farming

(aa) Livestock breeding for buffalo, cattle, horse, not exceed 2000 acres;

(bb) Livestock breeding for sheep, goat, not exceed 500 acres;

(cc) Poultry farming, pig, not exceed 300 acres;

(3) Animal husbandry not include in sub-section (1)and (2), suitable acres;

(c) Mining purpose shall be permitted with the agreement and coordination with the Union Government of the Ministry of Mine;

(d) Government allowable other purposes in line with law shall be permitted with the agreement and coordination with the Union Government of the relevant Ministry;

11. The Central Committee shall permit the following duration for right to use of Vacant, Fallow and Virgin Lands in relation to commercial agriculture, and livestock breeding purposes:-

(a) Agriculture

(1) For perennial plants and orchard, the duration for right to use land is not exceed 30 years from the year of grant;

(2) For seasonal crops, the duration for right to use land shall continue so long as there is no breach of condition;

(b) For Livestock, Poultry Farming and Aquaculture, the duration for right to use land is not exceed 30 years from the year of grant;

(c) After expire the duration of right to use land in accordance with the above sub-section(a)(1) and sub-section(b), shall continue permission the duration base on type of work ,an additional years frequently up to a total of not exceed 30 years;

(d) For Mining purpose the duration of right to use land shall be permitted with the agreement and coordination with the Union Government of the Ministry of Mine;

(e) For Government allowable other purposes in line with law the duration of right to use land shall be permitted with the agreement and coordination with the Union Government of the relevant Ministry;

12. The Central Committee shall permit the right to use land in a case where application is made by Investors who have been permitted in accordance with Foreign Investment Law, or by Organizations consisting of Investors who have been permitted in accordance with Foreign Investment Law in areas in which land development operation are unable to be carried out by the citizens.

CHAPTER V

SECURITY FEES AND LAND REVENUE

13. The Central Committee may fix the security fees rate to the payable person who will get the permission right to use the vacant, fallow and virgin lands, depending upon the type of enterprise.
14. The Central Committee may fix the land revenue rate to be assessed and suitable period of tax-exemption for granting right to use the vacant, fallow and virgin lands, depending upon the type of enterprise and crop.
15. The Department shall be made in the following manner:-
    (a) Assessment and collection of land revenue shall be made start from the expire date of tax-exemption period to the person who got the permission for granting right to use the vacant, fallow and virgin land depending upon the type of enterprise and crop;
    (b) Supervision shall be made on payment of land revenue of person who got the permission for granting right to use the vacant, fallow and virgin lands;

CHAPTER VI

CONDITIONS SHALL BE COMPLIED BY PERSON WHO IS GRANTED THE RIGHT TO USE THE VACANT, FALLOW AND VIRGIN LANDS

16. Person who is granted the right to use the vacant, fallow and virgin lands shall be complied the following conditions:-
    (a) The land granted shall be used for the purpose granted and in relation to economic enterprise;
    (b) The enterprise shall carry out to be completed within four years from the date of grant according to the purpose granted. The prescribed period may be revised by the Central Committee for losing time due to natural disaster and unstable security conditions;
    (c) Land granted shall not be mortgaged, giving, sold, leasing or otherwise transferred or divided without the permission of the Cabinet of the Union Government;
    (d) Land revenue shall be paid fully for the land granted;

(e) With respect to land granted the conditions prescribed by the Central Committee, shall be complied;
(f) Expect the purpose granted enterprise, exploring other natural resources below and above ground is prohibited;
(g) If natural resources are found in the authorized land and the Government being desirous of extracting the same on a commercial basis resumes the area required therefrom, it shall be surrendered as directed by the Union Government;

CHAPTER VII

SUPERVISION

17. The Central Committee shall constitute and prescribed duties of the Task Force and Special Group in respective Region or State, for scrutinizing and co-ordinations with respect to submitted cases of right to use the vacant, fallow and virgin lands.
18. The Central Committee may form occasionally and appoint the Special Board with relevant Departments, to inspect whether the person who is granted right to use vacant, fallow and virgin land shall comply with or not the prescribed conditions to carry out the purpose granted.
19. The Central Committee shall resume the area required in the authorized land, if one of the following situation arises:-
    (a) If ancient culture heritage are found in the authorized land;
    (b) If infrastructure project or Special project are desired to be constructed on the authorized land, in the interest of the State;
    (c) Except the permitted minerals , if other natural resources are found in the authorized land which are permitted for production of mining;
    (d) If natural resources are found in the authorized land which are permitted for the purposes described in Section4, Sub-section (a),(b), and (d);
20. For resuming the area required in the authorized land in accordance with the Section19, the Central Committee will have to be undertaken in coordination with the department, organization concerned for getting the compensation within the prescribed period, calculated by current value to cover the actual investment cost of the legitimate owner, with the agreement of the Cabinet of the Union Government.
21. If the Central Committee found that the person who is granted right to use vacant, fallow and virgin lands, breach any condition of this law; the security fees deposited shall be forfeited to the State and, shall be revoked the right of land use.
22. The person and organizations who have granted the authorized land before this law is enacted, by the permission of the Central Committee for the Management of Vacant, Fallow and Virgin Lands shall be complied the following conditions:-
    (a) Submit the complete record file to the Central Committee, attach with granted area, order issue date and serial number, the statement of actual cultivated area and remaining un-cultivate area with photo and document evidence;

(b) Comply this law with respect to cultivated area of vacant, fallow and virgin lands;
(c) It deem as the authorized lands which never reclaimed beyond the prescribed duration, have been revoked by the State;
(d) If the Central Committee found that those persons who are granted such rights fail to adhere or violate the prescribed conditions or fail to fulfill their commitments during the prescribed time, the security fees deposited shall be forfeited to the State and, shall be revoked the right of land use;

CHAPTER VIII

GIVING HELP TO PERSONS WHO ARE GRANTED RIGHT TO USE OF VACANT, FALLOW AND VIRGIN LANDS

23. The Central Committee shall make the following matter:-
    (a) If the persons who are granted right to use vacant, fallow and virgin lands, contact and request for technical, good quality seeds and other assistance for carry out agriculture or Livestock breeding purposes, then the Central Committee shall take necessary action to help them;
    (b) If the persons who are granted right to use vacant, fallow and virgin lands, request for getting loan of investment capital or the assistance of materials and services, then the Central Committee shall make necessary recommendation to the concern department and organization;
    (c) If the persons who are granted right to use vacant, fallow and virgin lands, faced with huge amount of damage and loss by natural disaster like as cyclone, request for getting special loan to the State, then the Central Committee shall make necessary recommendation to the relevant Ministry;
24. The Central Committee shall refund the security fees to the persons who are granted right to use vacant, fallow and virgin lands, when the enterprise completed within the prescribed time and conditions.
25. The Central Committee shall make the following matter :-
    (a) When the person who is granted right to use of vacant, fallow and virgin land submit his suffering of dispute, disturbance, encroachment and destroying the benefits with the local farmers, in carrying out the work, the Central Committee shall make co-ordination with relevant department and organization at first, and if unable to coordinate it shall make in accordance with Law;
    (b) The Central Committee shall make co-ordination depend on their desire of the local farmers, not to be lost. whether the existing farmland are included in the authorized area of which are not permitted officially, and ever since before growing by the local farmers;
    (c) The Central Committee shall make in accordance with Law with the agreement of the both sides, if there is an authorized farmers in the authorized area before;

CHAPTER IX

OFFENCE AND PENALTIES

26. Anyone whomsoever that destroy the benefit with respect to immovable property on the authorized land , shall be sentenced with imprisonment for a term which may not exceeding three years or with fine which may not exceed one million kyats or with both.
27. Anyone whomsoever that encroach on the authorized land without the permission of the legitimate owner or his representative, shall be sentenced with imprisonment for a term which may not exceeding two years or with fine which may not exceed five hundred thousand kyats or with both.
28. Anyone whomsoever that obstructs the legitimate owner or the person who is working with the agreement of the legitimate owner in the course of their duties on the authorized land, shall be sentenced with imprisonment for a term which may not exceeding one year or with fine which may not exceed three hundred thousand kyats or with both.
29. Anyone whomsoever that fail to comply with an eviction-order on revoking the authorized land , shall be sentenced with imprisonment for a term which may not exceeding one year or with fine which may not exceed three hundred thousand kyats or with both.

CHAPTER X

GENERAL PROVISIONS

30. Offences in Chapter IX are cognizable offences.
31. The Central Committee have right to call for submitting the situation reports and work completion reports from those persons who are granted the right to use vacant, fallow and virgin lands, to be in line with prescribe conditions.
32. The Central Committee shall submit Half-Yearly Report to the Cabinet of the Union Government on matters concerning the Management of Vacant, Fallow and Virgin Lands. If policy matter happens, submitted systematically to the President for guidance.
33. The Central Committee is formed by this Law, shall handle and carry out the duties and rights of the Central Committee for the management of culturable land, fallow land and waste land which have been formed before this Law is enacted.
34. To undertake the provisions of this law:-

(a) The Ministry may issue the necessary rules and regulations, with the approval of the Union Government;
(b) The Ministry and the Central Committee may issue the necessary notifications, orders, directives and procedures;

I hereby signed in accordance with the Constitution of the Republic of the Union of Myanmar.

U Thein Sein

The President

The Republic of the Union of Myanmar

The Microfinance Law

(The PyidaungsuHluttaw Law No.13)

The 5th Waxing Day of Nadaw, 1373 M.E.

(30th, November, 2011)

The Microfinance Law

(The PyidaungsuHluttaw Law No.13)

The 5th Waxing Day of Nadaw, 1373 M.E.

(30th, November, 2011)

The PyidaungsuHluttaw hereby enacts the following Law:

Chapter I

Title and Definition

1. The Law shall be called the Microfinance Law.

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

   (a) **Microfinance** means extending micro-credit to the grass root people, accepting deposits from them, carrying out remittance, carrying out insurance business, borrowing money from local and abroad and carrying out other financial activities.

   (b) **Microfinance Institution** means local and foreign institutions, partnership firms, companies, co-operative societies, banks and nonbanking financial institutions, formed and registered under the relevant law, which is funded with own capital, charity and grant, and obtain license to operate microfinance business in order to reduce the poverty of the grass root people and to improve their socio-economic life.

   (c) **Micro-credit** means the loan without collateral to reduce the poverty of grass root people and to improve their socio-economic life.

   (d) Grass root people mean the public including low-income farmers, labors and vendors who reside in rural and urban area.

   (e) **Rural Development and Poverty Reduction Working Committee** means the Working Committee on the Rural Development and Poverty Reduction formed by the Office of the President of the Union.

   (f) **Ministry** means the Ministry of Finance and revenue of the Union Government.

   (g) Supervisory Committee means the Microfinance Supervisory Committee formed by the Union Government under this Law.

(h) **Working Committee** means the Microfinance Development Working Committee formed by the respective Region or State Government and Nay Pyi Taw Council under this Law.

(i) **Myanma Microfinance Supervisory Bureau** means the Myanmar Microfinance Supervisory Bureau under the Ministry of Finance and Revenue of the Union Government.

(j) **Management Committee** means the management committee of microfinance institution.

(k) **Deposit** means the money deposited by the member of microfinance institution which is payable on demand or on any other condition. Such expression also includes the savings.

(l) License to Operate means the license issued under this Law to carry out microfinance activities.

Chapter II

Objective

3. The objectives of this Law are as follows:

(a) to reduce the poverty of the grass root people;

(b) to develop social, education, health and economic status of the grass root people;

(c) to create job opportunities;

(d) to nurture and cultivate the saving habit;

(e) to encourage the emergence of new small-scaled businesses;

(f) to create the extend the cottage businesses;

(g) to assist the grass root people with other means of earning as well as agriculture and livestock breeding;

(h) to acquire and disseminate technical know-how from local and abroad.

Chapter III

Formation of the Rural Development and Poverty Reduction Working Committee and Functions and Duties thereof

4. The Office of the President of the Union shall form the Rural Development and Poverty Reduction Working Committee comprising a Vice-President as Chairman and suitable persons.

5. The Rural Development and Poverty Reduction Working Committee shall coordinate, assist and support the Supervisory Committee, working committees in respective Region or State and Nay Pyi Taw for rural development and poverty reduction.

Chapter IV

Formation of the Microfinance Supervisory Committee, Functions, Duties and Powers thereof

6. The Union Government shall form the Microfinance Supervisory Committee comprising the Union Minister of the Ministry of as the Chairman, the Managing Director of the Myanma Microfinance Supervisory Bureau as the secretary and persons from suitable Government departments and organizations as members.

7. The functions and duties of the Supervisory Committee are as follows:

(a) implementing the policy and directives relating to the microfinance business adopted by the Rural Development and Poverty Reduction Working Committee;

(b) laying down the policy and directives relating to the microfinance business to the working committees;

(c) managing and carrying out the financial support finance to microfinance business in connection with the respective Ministry, Associations, Specialized companies and Banks;

(d) prescribing rules and regulations which shall be observed by Microfinance Institutions;

(e) scrutinizing and granting relating to the application the license to operate of microfinance business;

(f) determining the minimum capital to be contributed by institution which is desirous to carry out the microfinance business according to the type of institution;

(g) determining the interest rate on deposit, the interest rate on and service fees in accordance with procedures which being exercised by the Central Bank of Myanmar to be in line the market;

(h) imposing administrative penalties on Microfinance Institution which do not observe the terms and conditions;

(i) scrutinizing and reviewing the work performance of Microfinance Institutions and reporting and submitting to the Rural Development and Poverty Reduction Working Committee.

8. The powers of the Supervisory Committee are as follows:

(a) determining the license fees, license fees for microfinance business;

(b) hiring any person from local or abroad with the approval of Rural Development and Poverty Reduction Working Committee in order to support in performing the functions and duties of Supervisory Committee;

(c) dealing with the international financial institutions and international non-governmental organizations.

Chapter V

Formation of the Microfinance Development

Working Committee and Functions and Duties

9. The respective Region or State Government and Nay Pyi Taw Council shall form the microfinance development working committee comprising suitable persons.

10. The functions and duties of the working committee are as follows:

(a) managing and carrying out the financial support to microfinance Institutions in connection with the respective Ministry, Associations, Specialized companies and Banks;

(b) scrutinizing and submitting the applications for carrying out microfinance to the Supervisory Committee;

(c) supervising the microfinance institutions;

(d) reportingand submitting the work performances of microfinance institutions to the Supervisory Committee in accordance with the stipulations;

(e) training and dissemination of knowledge for the sustainable development of microfinance businesses;

(f) performing duties assigned by the Supervisory Committee from time to tome.

Chapter VI

Functions and Duties of the Myanma Microfinance Supervisory Bureau

11. The Myanma Microfinance Supervisory Bureau shall carry out the following functions and duties relating to microfinance business:

(a) scrutinizing the applications to carry out microfinance submitting to the respective working committee;

(b) prescribing the formats of accounts and forms of report to use in microfinance institution;

(c) supervising and field-inspecting the microfinance institution

(d) reporting and submitting the work performances of microfinance institutions to the respective working committee in accordance with the stipulations;

(e) performing the duties assigned by the Supervisory Committee to the respective working committee from time to time;

12. The Myanma Microfinance Supervisory Bureau shall also has responsibilities and carry out the works arising out of or in connection with the performance of functions and duties conferred under this Law.

Chapter VII

Establishment

13. The institution desirous to carry out the microfinance shall be institution formed under the Myanmar Companies Act, the Cooperative Society Act, the Law relating to Formation of Associations and any other Law.

14. The institution desirous to carry out the microfinance shall:

(a) draft the memorandum of association and articles of association;

(b) form the management committee and manage in accordance with the memorandum of association and article of association;

(c) be fulfilled with the necessary qualification to be a member of management committee prescribed by the Supervisory Committee in forming the management committee;

15. The management committee of the microfinance institution may delegate its powers to the responsible persons of the relevant microfinance institution.

16. If microfinance institution is desirous to amend the memorandum of association and articles of association, the microfinance institution shall submit to respective working Committee and shall amend only after obtaining the prior approval of Supervisory Committee.

Chapter VIII

License to Operate

17. The institution desirous to carry out the microfinance shall submit the stipulated application attached with the feasibility study including the following facts to the Supervisory Committee through the respective working committee to carry out the business:

(a) description of location to be carried out microfinance, existence of market and having interest of the community concerned;

(b) the financial resources required and how they may be acquired;

(c) expected benefit to be obtained if the microfinance is carried out and the arrangement to manage the benefits;

(d) management qualification and skill;

(e) types of microfinance desirous to be carried out.

18. The microfinance institutions shall be categorized as follows:

(a) non deposit taking microfinance institution;

(b) deposit taking microfinance institution

19. (a) The non deposit taking microfinance institution shall carry out extending micro-credit by the funds collected by other means which is not deposit from the public, compulsory savings of members whenever the members acquired the micro-credit;

(b) The deposit taking microfinance institution shall carry out extending micro-credit by the funds collected by other means which is not deposit from the public and compulsory savings of members whenever the members acquired the micro-credit and voluntary saving deposits.

20. The institutions desirous to carry out the microfinance shall:

(a) subscribe the paid-up capital in cash;

(b) deposit the fully paid-up capital to the accounts of the Myanma Microfinance Supervisory Bureau at the prescribed Myanmar Economic Bank in the respective Region or State and Nay Pyi Taw. Such paid-up capital shall be entitled to withdraw only the completion of issuing license from the Supervisory Committee.

21. (a) The Supervisory Committee may, after scrutinizing the duly application form and the feasibility study, issue or refuse to the license to operate within thirty (30) days from the date of receipt of application.

(b) The license to operate shall be granted without limit duration.

22. A license shall not be granted to the institution desirous to carry out microfinance if, in the Supervisory Committee's opinion, the name chosen the instution might mislead the public regarding the true nature shareholders or activities;

23. The microfinance institution shall deposit the prescribed fees from license to operate within 15 days from the date of receipt of the license to operate the accounts of the Myanma Microfinance Supervisory Bureau at the present Myanma Economic Bank in the Respective Region or State and Nay Pyi Taw.

24. The Supervisory Committee shall, in granting or withdrawing a license to a microfinance institution, publish it in the Myanmar Gazette.

25. The microfinance institution:

(a) shall commence the business within six months from the date of receipt of the license;

(b) shall not transfer the license;

26. If any of the following situations occurs, the Supervisory Committee shall withdraw the license of operate of the relevant microfinance institution.

(a) failing, within the period specified, to deposit the amended minimum capital requirements prescribed for the microfinance institution;

(b) failing, within the period specified, to restore the minimum capital required due to losses in business;

(c) liquidation voluntarily or being liquidated;

(d) extinguishing the original legal entity due to the merging with other microfinance institution or due to secession of institution;

(e) failure to company by-laws and directives issued by Supervisory Committee and respective working committee.

27. (a) If the microfinance institution is desirous to merger with any other microfinance institution or session of its institution, it shall submit and obtain the prior approval of the Supervisory Committee through the respective working committee.

(b) The microfinance institution which will be emerged due to merger or secession under sub-section (a) shall carry out the microfinance business only when it obtains the license to operate issued by Supervisory Committee.

28. The microfinance institutions shall obtain the prior approval of Supervisory Committee through the respective working committee for establishment of branch offices, changing the location and closing of business

Chapter IX

Functions, Duties and Powers of the Microfinance Institution

29. The microfinance institution may, with the approval of the Supervisory Committee, carry out the following function:

(a) extending micro-credit;

(b) accepting the deposit;

(c) carrying out remittance;

(d) carrying out the insurance business;

(e) borrowing from the local and abroad;

(f) carrying out other financial activities.

30. The microfinance institution shall obtain the following legal documents in providing micro-credit;

(a) the credit application and the submission of the utilization of credit;

(b) the records of undertaking of the borrower and guarantors which will be basically supported for the microfinance business;

(c) if it is the agreement signed by the person himself who shall obtain the micro-credit and matter collectively decided, the meeting minute agreed on such matter.

31. The microfinance institution shall, in providing micro-credit, carry out in accordance with the terms and conditions prescribed by the Supervisory Committee in order to protect and preserve the long term existence of its business.

32. The microfinance institution shall regularly notify their customers of the terms and conditions associated with their deposits and loans, including the annual rate of interest and the calculation method used. The Supervisory Committee shall determine the intervals at which such declaration shall be made and the forms to be used.

33. (a) The microfinance institution may, subject to compliance with the terms and conditions prescribed by the Supervisory Committee increase its capital by way of establishing of reserves.

(b) A microfinance institution shall set aside 25 per cent of its profits, as prescribed by the Supervisory Committee, in a gene reserve account until this account reaches 100 per cent of paid-up capital. The Supervisory Committee may also require microfinance institutions to make additional provisions against specific assets. Microfinance institution may also make additional provisions on their own initiative.

34. The microfinance institution shall be prohibited from engaging manipulative practices in order to obtain an unfair advantage for themselves for third parties.

35. The microfinance institution shall comply the provisions of the committee of Money Laundering Law.

Chapter X

Auditing, Reporting and Supervision

36. The Auditor shall be appointed to each microfinance institution by approval of Supervisory Committee.

37. The auditor of the microfinance institution shall have the following duties and responsibilities:

(a) preparing the audit report on the balance-sheet, profit and loss of account after having audited in accordance with the Myanmar Standards on Auditing and assessing and submitting in report whether the financial statements in such report adequate reflect the financial position of the institution and its solvency;

(b) notifying the activities which may cause the loss for the business and the defects and requirements of the accounts.

38. The microfinance institution shall be required to prepare periodic reports using the prescribed forms, providing sufficient information on their administrative and operational status, solvency, and provitability for an assessment of the stability of and trends in their financial position. The reports shall be prepared in accordance with the prescribed accounting standards.

39. The auditor's report and the balance-sheet for the financial year shall be published in the manner as prescribed and approved by the management committee and the shareholders, for public information.

40. The microfinance institution shall accept the inspection of the auditors appointed by the Supervisory Committee or inspectors assigned by the respective working committee. In inspecting so, auditors or inspectors may:

(a) examine the accounts and related documents, the books and other documents;

(b) ask supervisor, administrators, agents, personnel and members of the microfinance institution for information on any matter relating ot its organization and operation.

41. The Supervisory Committee may have an Audit Committee comprising three members in a microfinance institution. The Audit Committee shall:

(a) monitor whether the microfinance institution carries out in conformity with the prescribed terms and conditions or not. Moreover, it shall submit to the management committee the matters which it deems fit;

(b) give its opinion on the matters which are required by the management committee.

42. The Audit Committee shall meet ordinarily once in three months and extraordinarily when convened by the management committee. All members of the Audit Committee shall be present at such meetings and shall be no abstentions from voting. Decisions shall be taken by majority votes of the members.

43. The management committee of the microfinance institution may appoint or hire experts to assist the Audit Committee in relation with activities contained in section 40.

Chapter XI

Taking Action by Administrative Means

44. The Supervisory Committee shall, if the microfinance institutions, its members, shareholders, administrators, managers and personnel violate any of the provisions of this Law, pass the following administrative penalty:
    (a) warnings;
    (b) orders including those restricting the operations of microfinance institution,
    (c) fines;
    (d) temporary or permanent termination from duties in the microfinance institution;
    (e) cancellation of the license to operate

45. The Supervisory Committee shall pass administrative penalties contained in section 44 against any person or any legal entity which violates any of the provisions contained in this Law by carrying out the activities prescribed under this Law to be performed only by the microfinance institution.

46. The person who is being taken action shall have the full right to defend. In addition, the person being taken action shall have the right of appeal to the Rural Development and Poverty Reduction Working Committee within 30 days from the date the penalty order is received. During the appeal period, the penalty shall be suspended. The decision of the Rural Development and Poverty Reduction Working Committee shall be final and conclusive.

47. The administrative penalties passed under this Law shall not preclude taking criminal action or civil action.

48. The person who is being passed penalty under section 44 shall compensate immediately to the microfinance institution or to other persons for any damages caused.

Chapter XII

Liquidation

49. The Supervisory Committee may determine the period to restore the normal situation if the situation occurs that may lose the deposits and capital fund of the persons in dealing with such institution as the situation is not in conformity with the minimum requirement to carry out the business of the relevant microfinance institution is not restored to normal within the specified period, the license to operate may be cancelled and my liquidate that microfinance institution in accordance with the stipulations.

50. Before passing the order of liquidation:

    (a) the body formed by the Supervisory Committee or the body formed by the relevant working committee with the approval of the Supervisory Committee shall investigate;

    (b) the supervisory committee shall be render right to defend to the relevant microfinance institution under sub-section (a).

51. If the relevant body contained in sub-section (a) of section 50 submits that it should be liquidate, the Supervisory Committee shall order to liquidate the microfinance institution.

52. In liquidating the microfinance institution, the Supervisory Committee

    (a) may cause to carry out by handing over the administrative matters of such institution and until the liquidation has been completed by appointing a liquidator or by forming assigning the liquidation body consisting of suitable citizens.

    (b) shall liquidate the receivable and payable of such institution

Chapter XIII

Prohibitions

53. The members, personnel and auditors of the microfinance institution shall not, without permission under the law, disclose or publish information which they have leaned in the performance of the financial activities and services, or allow such information to be seen or examined by another person.

54. No person shall carry out business of the microfinance institution without a license to operate

55. Any member or personnel of the Supervisory Committee and relevant working committee shall not, without permission under the law, disclose or publish information which they have learned in the performance of the duties, or allow such information to be seen or examined by another person.

Chapter XIV

Offences and Penalties

56. Any member, personnel and auditor of the microfinance institution who violates the prohibition under section 53 shall, on conviction, be punished with fine or with imprisonment for a term not exceeding two years or with both.

57. Any person who violates the prohibition under section 54 shall, on conviction, be punished with fine or with imprisonment for a term not exceeding five years or with both.

58. Any member or personnel of the Supervisory Committee and respective working committee who violates the prohibition under section 55 shall, on conviction, be punished with fine or with imprisonment for a term not exceeding two years of with-both.

Chapter XV

Miscellaneous

59. The member, who is not civil service personnel, included in the Supervisory Committee is entitled to receive the remuneration prescribed by the Union Government or the member, who is not civil service personnel, included in the working Committee is entitled to receive the remuneration prescribed by the relevant Region or State Government and Nay Pyi Taw Council.

60. The microfinance institution shall have the right to carry out under its own seal, as a legal entity having perpetual succession, capable of suing and being sued.

61. Notwithstanding anything contained in the Registration Act, the instruments executed in respect of micro-credit extended by the microfinance institution shall be exempted from registration and from payment of stamp duty under the existing Law.

62. Levying tax on the microfinance institution shall be subject to existing laws.

63. The offences contained in section 56 and section 58 are prescribed as cognizable offences.

64. In taking legal action under section 56, 57 and 58 the prior sanction of the Supervisory Committee shall be obtained.

65. The institutions which performing the microfinance business before the enactment of this law desirous to continue to carry out the microfinance business under this Law shall apply for the license to operate within three months from the date of the enactment of this Law in accordance with the provisions of this Law.

66. The activities carried out to complete liquidation within the stipulated period with the permission of the Supervisory Committee relating to the microfinance business before the enactment of this Law shall not be applied with section 54.

67. For the purpose of carrying out the provisions of this law:

(a) the Ministry shall undertake the responsibilities to carry tout the office works of the Supervisory Committee and bear the expenses.

(b) the respective Region or State Government and Nay Pyi Taw Council shall undertake the responsibilities to carry out the office works of the Working Committee and bear the expenses.

68. In implementing the provisions contained in this Law:

(a) the Ministry may, with the approval of the Union Government, issue necessary rules, regulations or by-laws and issue necessary orders, directives and procedures;

(b) the Supervisory Committee and the respective working committee may issue necessary orders and directives.

I hereby sign under the Constitution of the Republic of the Union of Myanmar

Sd/TheinSein

The President

The Republic of Union of Myanmar

The Law Amending the Myanmar Stamp Act

(The 2011 Pyidaungsu Hluttaw Law No. 2)

2nd Waxing of Thadingyut 1373 ME

(29 September, 2011)

The Pyidaungsu Hluttaw hereby enacts the following law.

1. This Law shall be called the Law Amending the Myanmar Stamp Act.

2. In the Myanmar Stamp Act, the expression "President of the Republic of the Union Myanmar may" shall be substituted by the expression "Ministry of Finance and Revenue of the Union Government may, with the approval of the Union Government".

3. The Sub-section (9) of the Section 2, the Myanmar Stamp Act shall be substituted by the expression "(9) Collector includes any Revenue Officer and any officer delegated by the Director General of the Internal Revenue Department;".

4. In Section 9 of Myanmar Stamp Act:

   (a) Sub-section (b) shall be inserted after the Sub-section (a) as follows-

   "(b) amend or *enhance* all or any of the amounts or values,

description of instruments and proper stamp duties mentioned in this Act including Schedule 1 annexed thereto, and" (b) the Sub-section (b) shall be arranged as the Sub-section (c).

5. The Section 20 of the Myanmar Stamp Act shall be substituted by "20. Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency other than that of the Republic of the Union of Myanmar, such duty shall be payable in that foreign currency at the rate of one per centum on such amount or value instead of any proper stamp duty mentioned in schedule 1 annexed in this act."

6. In the Section 49 of the Myanmar Stamp Act, the expression "by the President of the Republic of the Union Myanmar" shall be substituted by the "by the Ministry of Finance and Revenue of the Union Government, with the approval of the Union Government".

7. the Sub-section (1) of the Section 70 of the Myanmar Stamp Act shall be substituted by "70. (1) No Prosecution in respect of any offence punishable under this Act shall be instituted without the prior sanction of the Ministry of Finance and Revenue of the Union Government."

I sign in accord with the Constitution of the Republic of the Union of Myanmar.

Sd/ Thein Sein

President

The Republic of the Union of Myanmar

GOVERNMENT OF THE REPUBLIC OF
THE UNION OF MYANMAR

INCOME-TAX LAW

(As amended up to November 2011)

November 2011

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INCOME-TAX LAW

CHAPTER I

Title, Applicability and Definitions

Title and coming into force

1. (a) This Law shall be called the Income-tax Law.

(b) This Law shall come into force with effect from 1974-75 assessment year.

Extent

2. This Law shall extend to the whole of the Republic of the Union of Myanmar and shall also apply to all the citizens of the Republic of the Union of Myanmar residing outside the Republic of the Union of Myanmar.

Definitions

3 The following expressions contained in this Law shall have the meanings given hereunder;-

(a) ***Myanmar*** means the Republic of the Union of Myanmar ;

(b) *This Law* means the Income-tax Law ;

(c) *Rules* means rules made under this Law;

(d) *Tax* means income-tax payable under this Law, and includes penalty imposed under this Law;

(e) *Assessee* means a person who, having received assessable income under this Law, is liable to pay income-tax on that income;

(f) *Income received* means income received or deemed to be received, or income accrued or arose or deemed to have accrued or arisen;

(g) *Year* means the financial year;

(h) *Income year* means the year in which income is received;

(i) *Assessment year* means the year next following the income year;

(j) *Association* of persons includes partnerships, joint-ventures, companies, associations formed by individuals, registered of association or institution by existing law, co-operative societies and Government economic enterprises;

(k) *Resident foreigner* means:-

(i) in the case of an individual, a foreigner who resides in Myanmar for not less than one hundred and eighty three days during the income year;

(ii) in the case of a company, a company formed under the Myanmar Companies Act or any other existing law wholly or partly with foreigner share-holders;

(iii) in the case of an association of persons other than a company, an association formed wholly or partly with foreigners and where the control, management and decision making of its affairs is situated and exercised wholly in the Union of Myanmar;

(l) *Non-resident foreigner* means any foreigner in the Union of Myanmar;

(m) *Non-resident citizen* means any citizen of the Union of Myanmar who resides and earns income outside Myanmar for any time in a year;

(n) *Total income* means the following income received in the income year:-

(i) in the case of a resident citizen or a resident foreigner, all income received within and without the Republic of the Union of Myanmar;

(ii) in the case of a non-resident citizen, all income as prescribed by the Rules;

(iii) in the case of a non-resident foreigner, or a foreigner or a foreign economic organization investing under the Republic of the Union of Myanmar Foreign Investment Law, all income received within the Union of Myanmar;

(o) Company means a company as defined in the Myanmar Companies Act or in any other existing law. This expression includes any foreign economic enterprise carrying on business in Myanmar which is treated as a company by the Union of Government for the purposes of this Law;

(p) *Citizen* includes an associate citizen or a naturalized citizen for the purpose of this Law;

(q) *Capital Asset* means any land, building, vehicle and any capital asset connected with an enterprise; That phrase included shares, bonds and similar agreements.

(r) *Capital gain* means any profit realized from the sale, exchange or transfer of any capital asset. Any inheritance, gift without consideration and donation shall not be included within the meaning of the term transfer.

(s) Township Revenue Officer means

CHAPTER II
Charge of Income-tax

Charge of income-tax

4. The following may be prescribed by the Ministry of Finance & Revenue with the agreement of the Union of Government:-

(a) Under the specify, amended and added of tax& tax rate by the notification promulgate.

(i) assessable total income;

(ii) rates of income-tax for each class of income;

(iii) rates of income-tax payable seprately if the total income exceeds forty two thousand kyats.

(b) When Notification promulgate under sub-section (a),

(i) Specify of the date of enter into force or the assessment year;

(ii) the tax shall be charged upon all persons having assessable total income in the income year relevant to the said the date of enter into force or the assessment year at the rates prescribed for each class of income.

5. (a) This Law shall not apply to the following classes of income:-

Exemptions

(i) income received by a religious or charitable institution and applied

solely for religious or charitable purposes;

(ii) income of a local authority;

(iii) any receipt in respect of saving as prescribed by the Rules;

(iv) sum received in commutation of a pension;

(v) compensation received for death or injury;

(vi) sum received in payment of insurance policy;

(vii) any receipt of a casual and non-recurring nature excluding the following:-

(aa) capital gains under section 13;

(bb) income from an enterprise;

(viii) share of profit from an association of persons.

(b) The Union of the Government may, in respect of any assesses or any class of assesses or any income or any class of income, grant the following:-

(i) tax exemption;

(ii) tax relief;

(iii) other benefits in respect of tax.

(c) The Union of the Government may, in respect of any newly establishes economic enterprise or any class of newly established economic enterprises, within in the public sector, the co-operative sector , or the private sector in Myanmar, grant tax exemption up to a period of three consecutive years commencing from the year of establishment.

(d) Where benefits in respect of income-tax are prescribed in any other existing law, such , such benefits shall be allowed accordingly .

6. (a) By the Ministry of Finance & Revenue promulgate Notification with the agreement of the Union of Government shall take under the allowance the matter of specify, amended and added ;

Reliefs

1) basic allowance in respect of an association of persons;

(2) basic allowance in respect of an individual and allowance in respect of spouse;

(b) When notification promulgate under sub-section (a), specify of the date of enter into force or the assessment year.

(c) The following amount shall be deducted from the total income and the tax shall be computed on the remaining amount of income:-

(i) basic allowance in the case of an association of persons;

(ii) in the case of an individual:---

(aa) basic allowance;

(bb) allowance in ssessee or his spouse;

(cc) premium paid for the life insurance Policy of an assessee and his spouse;

(dd) contribution towards savings funds as prescribed by the Rules.

Provided: Sub-section(a) & (c) shall not apply mentioned in section to the computation on capital gains under section 13 and non-resident foreigner.

(d) the computation and assessment under sub-Section

(c) supervise by State institutions or by the Ministry

of Finance & revenue promulgate notification acknowledge of donation or donation

CHAPTER III

Powers and Duties

(7) The Union of Government of the Ministry of Finance & Revenue may agree with the Union of Government by notification , from committees to exercise the powers and perform the duties contained in this law.

Powers and duties

If necessary, the Union of Government of the Ministry of Finance & Revenue may agree with the Union of government by notification delegate the powers and duties of any of the committees to any individual.

CHAPTER IV

Computation of Income

8. (a) Income shall be computed under each of the following heads of income:-

Heads of income

(i) salaries;

(ii) profession;

(iii) business;

(iv) property;

(v) capital gains;

(vi) undisclosed sources of income;

(vii) other sources of income.

(b) In the case of income from salaries or capital gains the tax shall be seperately assessed under each head of income.

(c) In the case of other heads of income, income from each head shall be aggregated and assessment shall be made on the total income.

9. The tax shall be payable by a ny person under the head salaries in respect of the following income received or receivable by him from his employer:-

Salaries

(a) salary, wages, annuity, pension, gratuity; and

(b) any fees, commissions or perquisites received in lieu of or in addition to any salary and wages.

10. (a) The tax shall be payable by any person

Profession

under the head profession in respect of the income received from his profession.

(b) In computing that income , expenditure incurred for the purpose of earning that income, and depreciation allowance prescribed by the Regulations, shall be deducted.

Provided that the following shall not be deducted:-

(i) capital expenditure;

(ii) personal expenditure;

(iii) expenditure not commensurate with the extent of the professional service.

Explanation 1.- Profession means rendering of service for fees with one's skill and includes services rendered for fees by a doctor, a nurse, a lawyer, an engineer, an architect, a film artiste, a theatrical artiste, a writer, a painter, a sculptor, an accountant, an auditor, an astrologer, a teacher, etc.

Explanation 2.- In comuting income from profession, only the income received by way of fees other than salary shall be included.

Explanation 3.- If the professional service is not rendered personally but by employing some other person, it shall be treated as a business and assessed accordingly.

11. (a) The tax shall be payable by any person under the head business in respect of his income derived from business.

Business

(b) In computing that income, expenditure incurred for the purpose of earning that income, and depreciation allowance as prescribed by the Regulations , shall be deducted.

Provided that the following shall not be deducted;

(i) capital expenditure;

(ii) personal expenditure;

(iii) expenditure not commensurate with the volume of business;

(iii) payment made to a member of an association of persons other than a company and a co-operative society. Provided that payment

made for professional service shall be deducted.

Explanation- Business includes securities, income from bonds and debentures ivestment made for purposes of earning interest.

12. (a) The tax shall be payable by any person under the head property, in respect of the income received by letting out land or land and building.

Property

Explanation---Letting out land or land and building includes not a private land or once again of letting out building.

(b) In computing that income, the expenditure incurred for earning that income shall be deducted from the actual rent receivable or the annual rental value as assessed by the local authority, whichever is greater.

Provided that the following shall not be deducted:-

(i) capital expenditure;

(ii) personal expenditure;

(iii) inappropriate expenditure.

13. The tax shall be payable by any person under the he a capital gains in respect of the gains realized from the sale, exchange or other ways and means of transfer of one or more capital assets within a year. Capital gains shall be computed and assessed in accordance with the Rules.

Capital Gains

14. The tax shall be payable by any person under the head undisclosed sources of income in respect of any immovable property or movable property including money for which he is unable of account for accurately as to how he has acquired it.

Undisclosed sources of income

Income under this section shall be computed in accordane with the Rules.

14A. The tax shall be payable under the head other sources of income in respect of the income which is not included under any of the perceding heads of income. In computing that income, expenditure incurred for the purposes of earning that income shall be deducted. Provided that the following shall not be deducted:-

(a) Capital expenditure;

(b) Personal expenditure;

(c) Inappropriate expenditure;

14B. Income derived from property or business transferred by and assessee, either directly or indirectly, without sufficient cause, to his wife and unmarried children, shall be included in the total income of the assessee and the assessment shall be made on that total income.

CHAPTER V

Payment of Tax at the time of receiving Income

15.(a) Whoever has a total income or capital gains chargeable to tax in any year shall be liable to pay income-tax at the time of receiving that income.

Payment of tax at the time of receiving income

(b)

16 (a) Income-tax payable under section 15 shall be the tax due as computed on the estimated total income of that year. The tax shall be paid either in monthly or quarterly installments.

Procedures for deduction and payment

(b) If the total income comprises of income solely under the head salaries, the tax due

with that owner the successor shall be treated as the agent of the previous owner and income-tax shall be assessed for the following periods:-

(a) the period in the income year of succession within which the previous owner carried on the business;

(b) the income year preceding the income year of succession ;

Assessement of non-resident foreigner

26. (a) If a non-resident foreigner has received Income by any of the following means, that income received shall ve deemed to be income received within Myanmar and income-tax Shall be assessed accordingly ;-

(i) income received from any capital asset within Myanmar ;

(ii) income received from any source of income within Myanmar ;

(b) In lieu of the non-resident foreigner, income-tax may be assessed and collected from his agent in respect of the said incomes. Any arrear of income-tax may be recovered from any assets

of the non-resident foreigner which are, or may at any time come, within Myanmar.

Treatment as agent

27. The Assessment Committee may, after informing any one of the following persons its intention of treating him as agent of the non-resident foreigner or non-resident citizen, deem him as such agent for all income-tax purposes :-

(a) any person delogated in anyway by a non-resident foreigner or by a non-resident citizen in respect of his income;

(b) any person who has business connection with that non-resident person ;

(c) any person who is receiving income on behalf of that non-resident person ;

Provided that the person who is intended to be treated as agent shall not be treated as such under this section without giving him an opportunity of being heard.

Assessment of shipping business

28. (a) If a non-resident foreigner carries on Business as owner or charterer of a ship in any year he shall

be assessed in accordance with the Rules.

(b) A person who is authorised to grant port clearance certificate shall deliver such certificate only when the master of the ship, theship owner, or the agent of the cahrterer, has produced the certificate that income-tax has been fully paid, or satisfactory arrangement has been made for the payment of income-tax.

Assessment within the income year

29. Where the Government prescribes by notification in of any class of assessees or any class of income, that the income year shall be the assessment year or that assessment may be made within the income year, or how a particular assessment shall be dealt with, the assessement concerned shall be made in accordance shall be made in accordance with the prescribed rules.

Other matters

30. (a) Assessment and collection of tax for the following shall be made in accordance with the prescribed rules or regulations:-

(i) economic organizations of the Government;

(ii) a foreigner or an association of persons formed abroad, perticipating in Governmet or Government sponsored project, business enterprise or any particular work with the approval of the Government;

(iii) co-operative society;

(iv) non-resident citizen;

(v) person receiving income in foreign currency.

(b) Provisional assessment in respect of any person who has furnished a return of income shall be made as prescribed by the Regulations.

CHAPTER IX

Agreement made between States

Making agreement with other states

31. If the Government enters into an agreement with any foreign state or with any international organization relating

to income-tax and if the agreement is notified, the terms of the said agreement shall be followed, notwithstanding anything contained in any other provisions of the Law.

CHAPTER X

Appeal, Revision and Reference

32. (a) If the assessee is not satisfied with any Order concerning him passed by the Assessment Commitee, he may appeal to the First Appellate Committee in accordane with the regulation prescribed.

First Appeal

(b) The assessee shall present a memorandum of appeal within thirty days of the receipt of the notice of demand or of the order with which he is dissatisfied.

Provided that the Appellate Committee may admit the appeal after the expiry of the said period if it is satisfied that there is sufficient cause for nit presenting it within the said period.

(c) An assessee desiring to appeal has the right to present the appeal under this

section only after he has complied with the following:-

(i) income-tax payable has been fully paid; or

(ii) application is made to the Committee delegated by the Government for this purpose and has complied with the decision of that Committee in respect of that tax;

(d) In disposing of the appeal, the Appellate Committee shall give the appellant an opportunity of being heard and may pass any order thereon as it thinks fit.

Provided that if an enhancemen of income-tax is nitended, the appellant shall be allowed an opportunity to show cause why it shall not be enhanced.

Explanation-The First Appellate Committee mentioned in this section and succeeding sections means the Committee delegated by the Government under section 7 to decide the first appeals of the assessees who are dissatisfied

with the order passed by the Assessment Committee.

33. (a) If the appellant assesee of the Assesment Committee is not satisfied with the order of the First Appellate Committee, appeal may be Preferred to the Second Appellate Committee within sixty days of the receipt of that order.

Secnod Appeal

(b) The second Appellate committee may admit an appeal under this section after the expiry of sixty days referred to in sub-section (a) if it is satisfied that there was sufficient cause for not presenting it within that period.

(c) In an appeal under this section, the memorandum of appeal to the Second Appellate Commitee shall be presented in accordance with the procedure laid down by that Committee. When the appeal is preferred by an assessee, documentary proof for payment of kyats one hundred as a fee must be attached.

(d) The Second Appellate Committee, after giving the appellant and the respondent

an apportunity of being heard, shall pass such orders thereon as it thinks fit regarding the appeal.

(e) Except as provided in section 34, the orders of the Second Appellate Committee passed in appeal shall be final.

Explanation- The Second Appellate Committee appearing in this section and in succeeding sections means the Committee delegated by the Government under section 7 to dispose of second appeals preferred either by the assessee or the Assessment Committee who is dissatisfied with the order of the First Appellate Committee.

33A. The order of the Assessment Committee shall be final if the tax is up to kyats 500; the decision of the First Apellate Committee shall be final if the tax is up to kyat 10000; and the decision of the Second Appellate Committee shall

be final if the tax exceeds kyats 10000 and if no question of law arises.

Reference for decision

34. (a) If there is any question of law arising out of the order of the Second Appellate Committee, the assessee or the First Appellate Committee may thin sixty days after the receipt of the order of the Second Appellate Committee, propose to the Second Appellate Committee to refer the case to the Supreme Court.

(b) If the Second Appellate Committee for a certain reason refuses to draw up a statement of the case and refer it to the Supreme Court, the person whose proposal is rejected may apply to the Supreme Court within sixty days of the receipt of rejection order to direct the Second Appellate Committee to draw up a statement of the case and refer to it.

(c) If the Supreme Court accepts that there is question of law arising out of the case which requires decision, then the Supreme Court shall decide that

question and its judgement shall be communicated to the Second Appellate Committee.

(d) An appeal shall lie to the Supreme Court from an order passed by it under sub-section (c).

35. (a) The Revisional Committee may, within Three years from the date of the order passed by the Assessment Committee under this Law, call for the records of proceedings on its own motion or on the application of the assessee, to revise that order. The Revisional Committee may make necessary enquiry or may cause such enquiry to be made when the records of proceedings are received. An appropriate order may be passed at any tome thereafter.

Revision

Provided that in passing the following orders, the assessee shall be given an opportunity of being heard:-

(i) the order enhancing the amount of income-tax payable by the assessee;

(ii) the order reducing the amount of refund to be paid to the assessee;

(iii) the order setting aside the assessment made on the assessee.

(b) The Revisionzl Committee shall not revise any order under this section if:-

(i) an appeal lies to ther First Appellate Committee and the time allowed for presenting the appeal has not expired; or

(ii) the order is one where an appeal has been preferred to the First Appellate Committee.

(c) Application for revision by an assessee cab only be made when he has complied with ther provisions under sub-section (c) of section 32.

Explanation-The Revisional Committee mentioned in this section means a Committee delegated by the Government under section 7 to open revision proceedings and

exercise revisional powers regarding the order passed by the Assessment Committee, in the following cases:-

(a) where the assessee being dissatisfied with the order of the Assesment Committee has applied for revision;

(b) where the Revisional Committee is of the opinion that action taken by the Assesment Committee is incorrect.

36. Copies of order passed under section 32, 33 and 35 shall be sent to ther relevant assessee, the Assessment Committee and the First Appellate Committee, as the case may be.

Distribution of copies

CHAPTER XI

Refund

37. (a) If any person satisfies the Assessment

Refund

Committee with supporting evidence that the amount of tax paid by him or on his behalf for any year exceeds the amount which he si properly chargeable under this Law, he shall be entiled to a refund of such excess. If any excess payment of tax has been found by the Assessment Committee such excess shall also be refunded to the relevant assessee.

(b) The claim for refund is to be made only within one year from the date of receipt of the letter of intimation that such refund is due.

CHAPTER XII

Matters relating to Persons Leaving the Union of Myanmar

38. (a) No person shall leave the Union of Myanmar unless he obtains a certificate from the authority delegated for this specific purpose stating that he has no liability to pay tax or that Satisfactory arrangement has been made for the payment of the tax.

Requirement of certificate

Provided that exception to the above requirement may be by the Government by notification.

(b) The owner or charterer of any vehicle who issues a ticket to carry any person from the Union of Myanmar to any place outside the Union of has carried him by such vehicle without the certificate required by sub-section (a) shall be liable to pay the amount of tax payable by that person, and shall also be liable to a fine which may extend to ten thousand kyats.

CHAPTER XIII

Recovery of Tax

39. (a) Any amount of tax specified in the notice of demand under section 53 shall be paid within the time mentioned in that notice or within the tome extendee for such payment. In case of failure so to pay, the unpaid tax shall be deemed to be an arrear and the person

Arrears to be recovered as money decree

failing to pay such tax shall be deemed to be a defaulter.

(b) The arrears of tax may be recovered by the Assessment Committee as if it were a money decree passed by a Civil Court.

(c) For the purpose of recovering the arreas of tax under sub-section (b), the Assessment Committee shall have the following powers :-

(i) the powers of a Civil in finalizing execution of a money decree ;

(ii) the appointment of a receiver for the whole of the property in which the defaulter has partial interest (the co-owner or co-sharer shall ve intimated before such appointment);

(iii) the right to sell the whole of the property and to distribute the sale prodeeds, if the part of the property in which the defaulter has partial interest cannot be sold for any of the following reasons (before doing so, those having benifical interest shall be intimated) :-

(aa) the nature of the property ;

(bb) the number of co-owners or co-sharers ;

(cc) other special circumstances ;

(iv) the right to sell the property to the co-owner or co-harer where the sale is of indivisible immovable property and the said co-owner or co-sharer is one of the bidders who gives equal bid, and the right to sell the property to the person who first submitted his name if the number of co-owners or co-sharers who give equal bid is more than one.

40. (a) The Assessment Commitee may impose penalty as requried on the defaulter for the arrears of tax.

Other mades of recovery

Provided that the total amount of the penalty so imposed shall not exceed the arrears of tax.

(b) The Assessment Committee may direct a person from whom money is due or may become due to the defaulter, or who holds or may subsequently hold money for or on account of the defaulter, to pay that money for the arrears of tax on

behlaf of the defaulter. In so doing, it shall be directed that the tax shall be paid as soon as the money becomes payable, or whein the money comes into possession, or within the time mentioned in the notice. If that money exceeds the arrears of tax, only the amount equal to the arrears of tax shall be paid and if it is equal to or less than the amount of arrears, the whole of the money shall be paid. A copy of the aforesaid intimation shall be sent to the last known address of the defulter. The Assessment Committee may extend the time of payment mentioned in the notice.

(c) Any person making payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the defaulter, and the receipt of the Assessment Committee shall constitute a good and sufficient discharge of the liability of such person to the defaulter to the extent of the amount referred to in the receipt.

(d) If the person on whom a notice under sub-section (b) is served fails to make payment in pursuance thereof, futher proceedings may be taken on the footing that the Assessment Committee's notice has the same effect as a warrant of attachment of property under sub-section (b) and (c) of section 39.

(e) Where the person on whom a notice has been served under sub-section (b) is able to show with supporting evidence to the Assessment Committee that the sum demanded or any part thereof is not due to the defaulter or that he does not hold any money for or on account of the defaulter, then he shall not be liable to pay under sub-section (b).

Interlocutory order

41. Notwithstanding anything contained in any other law for the time being in force, no authority or court shall be competent to make an interlocutory order staying recovery proceedings under this Law. Provided that the aforesaid authority or court may pass an interlocutory order on the sale of property within its jurisdiction in the following cases:-

(a) proceedings instituted by a person other than the defaulter, regarding the said property;

(b) in the case of proceedings instituted by an assessee, where an appeal or a revision or a reference preferred by the defaulter under this law is pending.

CHAPTER XIV

Supplemental Powers

Power to call for information

42. Any committee delegated by the Government under section 7, any require any person who has any information relating to income-tax, to furnish such information.

Powers of Civil Courts

43. Any committees delegated by the Government under section 7 shall have the same pwers as are vested in a Civil Court in ther course of proceedings under this Law. These committees shall be deemed to be functonal courts.

Power to enter and inspect buildings

44. The committees delegated by the Government under section 7, shall have the powers to carry out the following matters:-

(a) the right to enter and inspect any place or building for purposes of assessment or disposal of any appeal;

(b) the right to place marks of identification on the books of account or documents or to make extracs or copies therefrom in the course of entry into the premises and inspection thereof.

Power to search and seize books of accounts or documents

45. If the Assessment Committee or the First Appellate Committee has reason to suspect that any books of accoun or documents had been withheld from production or may not forthcoming when required in the course of proceedings under this Law, that Committee has the following powers;-

(a) ther right to search any building, place, or business premises;

(b) the right to seize any books of account or documents found in that place. In case of such seizure;-

(i) a receipt shall be granted;

(ii) they shall be retained in its custody only for so long as may be necessary for examination pending the final

disposal of the assessment or appeal as the case may be.

CHAPTER XV

Offences and Penalties

Penalty for failure to comply with reqirements of the Law

46 (a) If the Assessment Committee or the Appellate Committee in the course of any proceeding under this Law beleives and is satisfied that any person fails without reasonable cause, to comply with the requirements under sub-section (a) or (b) of section 17 or under section 18 or under sub-section (b) of section 19, a penalty not exceeding ten percent of the tax shall, in additon to the tax payable, be imposed for each default.

Explanation. The person who is liable to pay penalty for failure to comply with the requirement under section 18, is the one who is responsible to furnish the annual statement of salaries. The penalty payable by him shall be ten per cent of the tax

guilty, he shall be punishable with imprisonment for a term which may extend from one to three years.

47. (a) If the Assessmen Committee or the Appellate Committee in the course of porceedings finds that any person has concealed his income or concealed the particulars relating to his income,

Penalty for comcealment

he shall be permitted to disclose those facts fully within the specified time.

(b) If such person discloses fully in the specified time, he shall pay, in additon to the tax payable on his total income, a penaly equal to fifty per cent of the amount of tax increased on account of the concealment.

(c) If such person fails to disclose the particulars within the specified time or discloses less than the income concealed, he shall, in addition to paying the tax and penalty in accordance with sub-section (b), also be liable to procsecution. If the Court finds him guilty, he may be

punishable with imprisonment for a term which may extend from three to ten years.

Provided that no prosecution shall be instituted under this section without the prior sanction of the authority delegated by the Government for this purpose. The said authority shall, by taking into consideration the mangnitude of that person's fraudulent intention to evade the tax leviable under this Law and the fesibility of such disclosure, decide whether to grant sanction or not. The time within which disclosure is allowed to be made may be extended if necessary.

Penalty for taking bribe

48. Whoever gives and takes bribe or attempts to do so in connection with this Law, shall be liable to be punished under the Penal Law or under any other law specifically ecacted for this office.

Disclosure of Particulars

49. (a) All the particulars appearing in the proceedings dealt with under this Law shall be deemed to be

required to be deducted from the salaries in accordance with that statement.

(b) If any person fails to furnish information Under section 42, an extension of time upto fifteen days may be granted to him.

(i) If the assessee continues to fail to furnish the information within the extended time, the authority formed under section 7 may, by exercising its judicial powers conferred by section 43, issue a warrant causing him to be brought and may investigate why he fails to furnish the information. If the cause of failure to furnish is due to the loss of documents and the loss is not owing to his fault, he may then be allowed to divulge whatever he remembers by an affidavit.

(ii) If the authority has found that there is no sufficient excuse for he failure to furnish the information, he may be prosecuted. If the court finds hin

CHAPTER XVI

Power to make Rules

51. Rules, regulations, by-laws, orders, directives, or procedures may be made for the purpose of successfully carrying out the provisions of this Law and for the determination of any class of income.

Power to make rules, regulations, etc.

CHAPTER XVII

Miscellaneous

52. (a) All the accounts kept for the assessments Under this Law shall be in Myanmar or in English.

Particulars to be contained in books of accounts

(b) The Government may, by notification, prescribe regulation as to what particulars should be contained in the accounts of any class of income, or any class of assessees.

53. When any tax becomes payable by an order passed under this Law, the Assessment Committee shall send to the assessee the notice of demand in the prescribed form, specifying the amount of tax payable.

Notice of demand

54. A receipt shall be given to the assessee for any tax collected under this Law.

Receipts

55. A notice or a summons issued under this Law may be served on a person named therein or in the case of an association of persons on any adult member of that association, or on any director or the manager or the secretary either by post or as if it were a summons in a civil matter issued by a Court.

Service of notices

56. Every person deducting or paying any tax in pursuance of this Law in respect of income belonging to another person is hereby Indemnified for the said deduction and payment.

Indemnity

57. No suit shall be filed in any Civil Court to set aside or modify any assessment made under this Law and no prosecution shall Lie against any public servant for anything done in good faith under this Law.

Bar of suits

58. In computing the period of limitation Prescribed for an appeal, or a revision, or a reference under

this Law, the time requisite for obtaining a coy of the order resulting in the appeal or the revision or the reference and the time requisite for obtaining permission to appeal under clause (ii) of sub-section (c) of section 32 shall be excluded.

CHAPTER XVIII

Assessment years applicable to the Myanmar Income-tax Act

59. (a) The Myanmar Income-tax Act shall apply for the assessment year 1973-74 and the assessment years prior to that year. Provided that the powers of each of the authorities conferred under section 5 and 5A may be exercised by the committee which has equivalent power under this Law ;

Assessment years applicable to the Myanmar Income-tax Act

(b) The following matters shall be dealt with in accordance with the provisions of this Law with effect from the first of April 1974 :-

(i) matters under sub-section (b) of section 21;

(ii) matters under section 22;

(iii) matters under section 32;

(iv) matters under section 33;

(v) matters under section 34;

(vi) matters under section 35;

(vii) matters under section 37.

The State Law and order Restoration Council

The State-owned Economic Enterprises Law

(The State Law and Order Restoration Council Law No.9/89)

The 10th Waning Day of Tabaung, 1350 M.E

(31st March, 1989)

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

Chapter 1

Title and Definition

1. This Law shall be called the State-owned Economic Enterprises Law.
2. The expression Government contained in this Law includes departments, corporations and other organizations under the Government.

Chapter II

Economic Enterprises to be carried out Solely by the Government

3. The Government has the sole right to carry out the following economic enterprises as State-owned economic enterprises:-
   (a) Extraction of teak and sale of the same in the country and abroad;
   (b) Cultivation and conservation of forest plantation with the exception of village-owned fire-wood plantation cultivated by the villagers for their personal use;
   (c) Exploration, extraction and sale of petroleum and natural gas and production of products of the same;

(d) Exploration and extraction of pearl ,jade and precious stones and export of the same;

(e) Breeding and production of fish and prawn in fisheries which have been reserved for research by the Government ;

(f) Postal and Telecommunications Service;

(g) Air Transport Service and Railway Transport Service;

(h) Banking Service and Insurance Service;

(i) Broadcasting Service and Television Service;

(j) Exploration and extraction of metals and export of the same;

(k) Electricity Generating Services other than those permitted by law to private and co-operative electricity generating services;

(l) Manufacture of products relating to security and defence which the Government has, from time to time, prescribed by notification.

4. The Government may, by notification, permit in the interest of the Union of Myanmar any economic enterprise which is prescribed under Section 3 to be operated solely by the Government to be carried out by joint-venture between the Government and any other person or any other economic organization or under conditions by any person or any economic organization subject to conditions.

5. The Government may ,by notification , prohibit or prescribe conditions regarding the purchase , procurement ,improvement , storage , possession ,transport, sale and transfer of products derived from or produced by or used by economic enterprises which are prescribed under Section 3 to be carried out solely by the Government.

Chapter III

Right of carrying out other Economic Enterprises

6. Any person shall have the right to carry out any economic enterprise other than those prescribed under Section 3 to be carried out solely by the Government.

7. Without prejudice to the provision of Section 6, the Government may, in addition to those economic enterprises which are prescribed under Section 3 to be carried out solely by the Government, also carry out any other economic enterprise if it is considered necessary in the interest of the Union of Myanmar.

Chapter IV

Right to form Organizations

8. (a) In order to carry out the economic enterprises mentioned in Section 3 and Section 7 ,the Government may ,by notification : -

   (i) Constitute organizations which are to undertake responsibility ,and prescribe their duties and powers;

   (ii) Re-constitute ,if necessary ,such organizations which are in existence at the time of the commencement of this Law ,amend and prescribe their duties and powers;

   (iii) Constitute one or more bodies to supervise the organizations mentioned in sub –sections (1) and (2), if necessary, and prescribe their duties and powers.

(b) The respective organizations constituted under sub – section (a) shall be a body corporate having perpetual succession and a common seal, and shall have the right to sue and be sued in its corporate name .

Chapter V

Offences and Penalties

9. Whoever is convicted of an offence of carrying out ,without the permission of the Government , any economic enterprise prescribed under Section 3 to be carried out solely by the Government shall be punished with imprisonment for a term which may extend to a period of 5 years and may also be liable to a fine .Furthermore , property both moveable and immoveable relating to the economic enterprise may be confiscated.

10. Whoever is convicted of an offence of violating an order or any condition notified under section 4 or section 5 shall be punished with imprisonment for a term which may extend to a period of 3 years and may also be liable to a fine .

Chapter VI

Miscellaneous

11. For the purpose of carrying out the provision of this Law , the Government may prescribe such procedures as may be necessary ,and the respective Ministries may issue such orders and directives as may be necessary.

12. The Law conferring powers for Establishing the Socialist Economic System ,1965 is hereby repealed .

Sd./Saw Maung

General

Chairman

The State Law and Order Restoration Council

The State Law and Order Restoration Council

The Commercial Tax Law

(The State Law and Order Restoration Council Law No. 8/90)

The 6th Waxing Day of Hnaung Tagu, 1351 M.E.

(31st March, 1990)

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

Chapter I

Title, Effectiveness and Definition

1. This Law shall be called **the Commercial Tax Law**.

2. The provisions of this Law shall be effective in the whole country commencing from the 1990-91 financial year.

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

(a) **Tax** means the tax to be paid under this Law. This expression also includes a fine imposed under this Law;

(b) **Assessee** means a person who is responsible to pay tax under this Law. This expression also includes economic enterprises of the Union Government, State-owned mills, factories, trade and services, development bodies, cooperative societies, individuals, organizations or associations formed by the individuals, companies, partnership firms and joint-ventures;

(c) **Goods** means the imported material and the material produced in the country for sale;

(d) **Service** means rendering of service for remuneration, fee or consideration. This expression also includes trading business, entertainment business, hotel, rest-house and restaurant business, tourism business and businesses determined by the Ministry of Finance and Revenue of the Union Government, from time to time, as the service under section 6;

(e) **Proceed of sale**[1] means the money received or to be received from the sale of goods in cash basic or on credit or by other deferred payment system or sale in advance system. If it is the exchange of goods, it is the value determined in doing so. This expression includes the value of packing material for packing the goods;

(f) **Receipt from service** money received or to be received for rendering of services;

(g) **Producer** means a person who produces goods at his owned mill, factory or establishment or by assigning others and sells it;

(h) **Service provider** means a person who renders service for remuneration, fee or consideration;

(i) **Importer** means a person who imports article by land, sea or air;

(j) **Landed value** means the aggregate of the value of imported goods assessed under the Customs laws, the customs duty levied thereon and unloading expenses;

(k) **Return** means the form by which the assessee who is responsible to pay tax expresses his proceed of sale and receipt form service;

(l) **Schedule** means the schedules of this Law;

(m) **Assessment** means the determination of tax which shall be paid by the assessee under this Law;

(n) **Year** means the financial year;

[1] . Substituted by sub-section (b) of section 4 of the Law Amending the Commercial Tax Law, 2011

(o) **Assessment year** means the succeeding year to the year in which proceed of sale or receipt from service accrued;

(p) **Three months**[2] means the period of three months from the commencement of the financial year;

(q) [3] **Township Revenue Officer** means the officer-in-charge of the relevant Township Revenue Officer who is assigned duty to assess the tax which shall be paid by the assessee. This expression includes the Staff Officers who are assigned duty to assess tax at the Companies' Circle Tax Office.

Chapter II

Charging Tax and Having Responsibility to Pay Tax

4.(a) The tax shall be charged on the goods produced in the country as mentioned in the Schedule.

(b) The tax shall be charged on the services carried out in the country as mentioned in the Schedule.

(c) The tax shall be charged on the imported goods as mentioned in the Schedule.

5. The tax due under section 4 shall be responsible to be paid by the relevant producer, service provider or importer.

6.[4]The Ministry of Finance and Revenue, with the approval of the Union Government:

(a) may amend and add, by notification, the expressions in schedule of this Law or tax rates;

(b) shall prescribe the commencing date of effectiveness or financial year, in issuing the notification under sub-section (a).

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[2] . Inserted by section 4of the Law Amending the Commercial Tax Law, 1991

[3] . Inserted by sub-section (c) of section 4 of the Law Amending the Commercial Tax Law, 2011

[4] .Substituted by section 3 of the Law Amending the Commercial Tax Law, 2006

7.[5] The provisions of this Law shall not apply to goods produced and sold or service rendered solely for a religious or charitable purpose by any religious or charitable organization.

Chapter III

Tax Exemption and Relief

8. [6]The Ministry of Finance and Revenue may, with the approval of the Union Government, by notification:

(a) grant tax exemption or relief for any category of goods or service or assessee;

(b) determine the amount of proceed of sale or receipt from service on which tax shall not be imposed;

(c) in respect of any newly established enterprise:

(i) grant tax exemption or relief on machineries, equipment and other articles imported for installation in the new construction;

(ii) grant tax exemption or relief for a limit of years of consecutive thirty six months commencing from the date of commercial operation[7] of production or service;

(d) grant tax exemption or relief in respect of any category of goods produced in the country and exported and sold.

9. If it is desirous to charge tax on any production of goods or rendering of service, it may be prescribed by regulations for doing so.

Chapter IV

Duties and Powers

10. The Director General of the Internal Revenue Department shall have the right to take responsibilities and exercise powers contained in this Law.

[5] . Substituted by section 5 of the Law Amending the Commercial Tax Law,2011
[6] . Substituted by sub-section (a) of section 6 of the Law Amending the Commercial Tax Law,2011
[7] .Substituted by sub-section (b) of section 6 of the Law Amending the Commercial Tax Law,2011

Moreover, he may implement by allocating and assigning duties to service personnel of his Department.

Chapter V

Registration and Intimation of Commencement of Enterprise

11. (a) Any person who carries out a [8]goods production enterprise or service enterprise shall register with the relevant Township Revenue Officer as stipulated by regulations.

(b) Any person who commences operation of[9] a goods production enterprise or service enterprise shall furnish a letter of intimidation on the commencement of the operation as such to the relevant Township Revenue Officer as stipulated by regulations.

(c) The Township Revenue Officer may inform any person to register or to furnish letter of intimation on commencement of operation of his enterprise in accord with the regulations.

Chapter VI

Monthly Payment of Tax and Sending of Three-Monthly Return[10]

12.(a)[11] Any person who has taxable proceed of sale or receipt from service within a year, shall pay due monthly tax within ten days after the end of the relevant month. Moreover, a three-monthly return shall be furnished to the relevant Township Revenue Officer within one month after the end of relevant three-month.

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[8] .Deleted by section 7 of the Law Amending the Commercial Tax Law,2011

[9] . Deleted by section 7 of the Law Amending the Commercial Tax Law,2011

[10] .Substituted by section 5 of the Law Amending the Commercial Tax Law, 1991

[11] .Substituted by section 6 of the Law Amending the Commercial Tax Law, 1991

(b)[11] The Township Revenue Officer may intimate any person to pay due monthly tax and send three-monthly return if there is cause to consider that he has taxable proceed of sale or receipt from service within a year.

(c)If it is failed to pay tax under sub-section (a) or (b), or if there is cause to consider that the tax paid is less than the tax payable, the Township Revenue Officer may, based on the information received, estimate and claim the tax payable or the additional tax payable.

(d) The tax paid under sub-section (a), (b) or (c) shall be set-off from the tax due in the assessment.

(e) The tax payable on goods imported under sub-section (c) of section 4 of the Law shall be collected together with the customs duties by the Customs Department in accord with the manner of collecting customs duties.

Chapter VII

Furnishing Annual Return

13. (a) Any person who has taxable proceed of sale or receipt from service in a year shall furnish an annual return for such year to the Township Revenue Officer within three months after the end of the relevant year.

(b) If there is cause to consider that any person has taxable proceed of sale or receipt from service in a year, the Township Revenue Officer may intimate to furnish annual return.

(c) If there is any mistake or omission in the annual return furnished under sub-section (a) and (b), it may be amended before the assessment is made.

Chapter VIII

Assessment and Refund

14. (a) If the Township Revenue Officer is satisfied that the annual return furnished under section 13 is correct and complete relating to the proceed of sale or receipt from service, he may assess the tax based on such return.

(b) If it is necessary, the Township Revenue Officer may, after carrying out causing the assessee to submit accounts and documents, summoning and examining him; assess tax based on such documents if it is possible to obtain proceed of sale or receipt from service correctly from such accounts and documents.

[12](c) If it is not possible to obtain the proceed of sale or receipt from service correctly from the accounts and documents submitted by the assessee, the Township Revenue Officer shall assess tax after scrutinizing other necessary evidences and documents.

[13](d) If the assessee fails to furnish annual return, submit the accounts and documents or to appear and accept examination, the Township Revenue Officer may estimate and assess tax based on the information collected. He may summon and examine any person and demand necessary information before assessing tax.

15. To enable to assess and collect the tax on the followings within the year without waiting until the end of the relevant financial year, it shall be carried out as stipulated by regulations:

[14](a) person who would go abroad for good;

(b) person who terminates the enterprise;

(c) person who carries out entertainment.

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[12] . Substituted by sub-section (a) of section 8 of the Law Amending the Commercial Tax Law, 2011
[13] . Inserted by sub-section (b) of section 8 of the Law Amending the Commercial Tax Law, 2011
[14] . Substituted by section 9 of the Law Amending the Commercial Tax Law, 2011

16. If the assessee may prove that the tax paid is more than the amount payable or if it is found by the Township Revenue Officer, such excess shall be refunded. The assessee has the right to claim it only within one year after receiving the intimation of refund.

Chapter IX

Assessment or Re-assessment and Rectification of Mistake

17. (a) The Township Revenue Officer may intimate the assessee to furnish annual return relating to any of the following matters within three years after the end of the relevant assessment year. After doing so, assessment or re-assessment may be carried out at any time in accord with the provisions of this Law:

(i) escaping from assessment although being liable to tax;

(ii) under-assessment of tax.

Provided that, if the assessment or re-assessment is found to be necessary on account of fraud, evasion and concealment relating to the proceed of sale or receipt from service, the assessment or re-assessment may be made at any time after the end of the relevant assessment year with the prior permission of the Director General of the Internal Revenue Department.

(b) In carrying out under sub-section (a), the tax shall be calculated and demanded only at the rate contained in the schedule effective for the relevant year.

18. (a) The Township Revenue Officer, [15]Region or State Revenue Officer or Head of the Companies' Circle Tax Office or Appellate Tribunal may rectify any mistake if it is found a mistake apparent from the record relating to any of his or its assessment order or if it is submitted by the assessee or appellant, it may be rectified within three years from the date

[15] . Substituted by section 3 of the Law Amending the Commercial Tax Law, 2011

of such order. Provided that if it is to make amendment for increasing tax or reducing refund, the assessee shall be given the right to defend.

(b) In carrying out under sub-section (a), the tax shall be calculated and demanded only at the rate contained in the schedule effective for the relevant year.

Chapter X

Appeal

19. [16](a) If the assessee is dissatisfied, he may appeal to the followings:

(i) if the tax exceeds thirty thousand kyats , to the Region or State Revenue Officer or Head of the Companies' Circle Tax Office;

(ii) if it is a decision of the Region or State Revenue Officer or Head of the Companies' Circle Tax Office and the tax exceeds ten thousand kyats, to the Revenue Appellate Tribunal;

(iii) if it is a question of law which arises from the decision of the Revenue Appellate Tribunal, to the Supreme Court of the Union.

(b) The assessee has the right to appeal within one month from the date of receipt of the order on which he is dissatisfied in accord with regulations. In counting the limitation period, the following periods shall be excluded:

(i) time required for obtaining the copy of order against which the appeal is intended to file:

(ii) time requesting for obtaining permission to appeal without paying the tax fully.

(c) The period contained in sub-section (b) may be accepted in relaxation by the relevant Region or State Revenue Officer or Head of the Companies' Circle Tax Office, Revenue Appellate Tribunal or Supreme Court if there is sufficient cause.

[16] . Substituted by sub-section (a) of section 10 of the Law Amending the Commercial Tax Law, 2011

(d) The person who is desirous to appeal has the right to appeal only by complying with the followings:

(i) paying tax which shall be paid fully, or

(ii) applying to the Region or State Revenue Officer or Head of the Companies' Circle Tax Office and complying with his decision.

(e) In disposing the appeal, an appropriate order may be passed after giving the appellant the right of expression.

[17](f) If the tax does not exceed thirty thousand kyats, the decision of the Township Revenue Officer; if the tax does not exceed one hundred thousand kyats, the decision of Region or State Revenue Officer or Head of Companies' Circle Tax Office; if the tax exceeds one hundred thousand kyats and if question of law does not arise, the decision of the Revenue Appellate Tribunal shall be final.

Chapter XI

Revision of Order Passed by the Township, Region or State Levels

20. The Director General of the Internal Revenue Department may, on his own motion or on the application of an assessee, re-scrutinize any order passed by the Township Revenue Officer, Region or State Revenue Officer or Head of the Companies' Circle Tax Office and pass the appropriate order within three years after the date of such order.

Provided that the assessee shall have no right to submit in the following matters:

(a) being not terminated the limitation for appeal or appeal is pending in the matter in which appeal may be filed to the Region or State Revenue Officer or Head of the Companies' Circle Tax Office;

(b) being the assessee does not comply with sub-section (d) of section 19.

[17] . Substituted by sub-section (b) of section 10 of the Law Amending the Commercial Tax Law, 2011

Chapter XII

Offences and Penalties

21. If any person, without sufficient cause, defaults in any of the following matters, the Township Revenue Officer shall cause him to pay a fine equivalent to ten percent[18] of the additional tax payable in the relevant assessment;

(a) failure to register;

(b) failure to send intimation of commencement of operation of enterprise;

(c) failure to furnish the return within the stipulated time;

(d) failure to pay tax according to the return;

(e) failure to comply with the notice intimating to appear for examination relating to assessment;

(f) failure to pay tax within the days stipulated or extended to pay tax.

[19]21A. If any person fails to submit the accounts stipulated to keep by the Ministry of Finance and Revenue of the Union Government[20], by notification, under this Law without sufficient cause, the relevant Township Revenue Officer shall cause him to pay a fine equivalent to ten percent of the tax due[21].

22.(a) (i) If any person is found to have evaded payment of tax or concealed particulars relating to the proceed of sale or receipt from service to reduce tax, he shall be allowed to disclose in full within the stipulated time.

(ii) If such person disclose in full within the stipulated time, he shall pay, in addition to the tax payable by him, a penalty equivalent to the amount of tax payable on account of evasion or further payment on account of concealment.

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[18] . Substituted by sub-section (a) of section 11 of the Law Amending the Commercial Tax Law, 2011
[19] . Inserted by section 7 of the Law Amending the Commercial Tax Law, 1991
[20] . Substituted by sub-section (b) of section 11 of the Law Amending the Commercial Tax Law, 2011
[21] . Substituted by sub-section (b) of section 11 of the Law Amending the Commercial Tax Law, 2011

(iii) If such person fails to disclose within the stipulated time or disclose an amount which is less than the proceed of sale or receipt from service evaded or concealed, he shall pay both of the tax payable and the penalty mentioned in clause (ii) and shall also be liable to prosecution. He shall be punished, on conviction, with imprisonment for a term [22]not exceeding one year or with a fine not exceeding one hundred thousand kyats or with both.

(b) If any person who is found to have furnished the false return relating to his proceed of sale or receipt from service or to have produced books of accounts, statements of accounts which are false or which he knows to be false with deceitful purpose shall pay a penalty equivalent to the amount of tax payable and shall also be liable to prosecution. He shall, on conviction, be punished with imprisonment for a term not exceeding three years or with a fine [23]not exceeding three hundred thousand kyats or with both.

23. Any person who commits any of the following offences in connection with this Law shall be prosecuted with the permission of the authority concerned and shall, on conviction, be punished with imprisonment for a term which may extend from three to seven years:

(a) giving bribe, taking bribe;

(b) attempting to give or take bribe;

(c) abetting in giving or taking bribe;

(d) misuse of any of the powers conferred under this Law with dishonest or deceitful intention.

[22] Substituted by sub-section (a) of section 12 of the Law Amending the Commercial Tax Law, 2011

[23] . Substituted by sub-section (b) of section 12 of the Law Amending the Commercial Tax Law, 2011

Chapter XIII

Recovery of Tax

24. If the assessee fails to pay tax and penalty within the stipulated or extended time, the unpaid amount shall be deemed to be an arrear and the relevant assessee shall be deemed to be a defaulter and the Township Revenue Officer shall recover the said arrear as if it were an arrear of income-tax. In such recovery, the Township Revenue Officer shall use the manners and exercise powers provided in the Income Tax Law.

Chapter XIV

Miscellaneous

25. (a) The persons who are assigned duty under section 10 of the Law have the right to carry out the followings:

(i) the right to enter and inspect any building, place or business premises for the relevant assessment or appeal;

(ii) the right to stamp marks of identification on the books of accounts or documents found during such entry and inspection and make extracts and copies therefrom;

(b)The Township Revenue Officer has the right to carry out the followings if he has cause to believe that books of accounts or documents required in any proceeding carried out under this Law are being withheld not to produce or they will not be produced when called for, after obtaining the permission of the relevant Region or State Revenue Officer or Head of the Companies' Circle Tax Office:

(i) the right to enter and search any building, place and business premises;

(ii) the right to seize books of accounts or documents found in such place.

(c) The Township Revenue Officer may, if a matter arises to take action urgently of the matter contained in sub-section (b), record such reasons to believe in writing, request for a search warrant from the relevant Township Magistrate and carry out. In doing so, the findings shall be reported soonest to the relevant Region or State Revenue Officer or Head of the Companies' Circle Tax Office.

(d) If any matter contained in sub-section (a) and (c) is carried out, it shall be carried out in the presence of relevant assessee or his agent and two witnesses. If it is the matter to seize the books of accounts or documents, an acknowledgement receipt shall be issued and they shall be retained until the time , as may be necessary, required for inspection before the completion of assessment or appeal.

26. The manners for assessment and collection of tax relating to the economic organizations of the Union Government, State-owned mills, factories, trading and service enterprises may be determined by regulations.

[24]27. The Ministry of Finance and Revenue, with the approval of the Union Government, by notification:

[25](a) may prescribe tax rate for such foreign currency if the foreign currency is received for carrying out sale of any goods or rendering of any service;

(b) may prescribe the tax rate in kyat if the landed value of the imported goods are paid in kyat and in such foreign currency if it is paid in foreign currency;

(c) shall prescribe the date or financial year or assessment year from which the effectiveness will commence in issuing notification under sub-sections (a) and (b).

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[24] .Substituted by section 4 of the Law Amending the Commercial Tax Law, 2006

[25] . Substituted by section 13 of the Law Amending the Commercial Tax Law, 2011

28. (a) For the assessments contained in this Law, true accounts shall be prepared and maintained in Myanmar language or English.

[26](b) The Ministry of Finance and Revenue of the Union Government may prescribe, by notification, to maintain accounts in which what particulars are included, to produce when required under sub-section (b) of section 14 for any category of income or any category of assessee.

[27]29. The Ministry of Finance and Revenue of the Union Government may, in order to carry out the provisions of this Law successfully:

(a) issue necessary rules, regulations or by-laws with the approval of the Union Government;

(b) issue necessary notifications, orders and directives.

30. If a matter arises to determine who is the producer, service provider or importer for the matter contained in section 4; or who is the person necessary to register under sub-section (a) of section 11, the decision of the Director General of the Internal Revenue Department shall be final.

(Sd.) xxxxx
Senior General
The State Law and Order Restoration Council

[26] . Substituted by section 14 of the Law Amending the Commercial Tax Law, 2011

[27] . Substituted by section 15 of the Law Amending the Commercial Tax Law, 2011

Schedules of the Commercial Tax Law

Schedule I

(1) If it is the imported goods, the tax shall be charged at 5 percent on the landed cost.

(2) The tax shall not be charged if it is the goods produced in the country.

Sr. No.	Description of Goods
1.	Paddy
2.	Wheat grain
3.	Maize and other cereals
4.	Pulses
5.	Groundnuts, shelled or unshelled
6.	Sesamum
7.	Mustard seed, sunflower seed, tamarind seed, cotton seed.
8.	Oil palm
9.	Raw cotton
10.	Jute and similar fibres
11.	Garlic, onions
12.	Potatoes
13.	Spices, raw (leaf, fruit, seed, bark)
14.	Species prepared
15.	Fruits, fresh
16.	Vegetables
17.	Sugarcane
18.	Mulberry leaves
19.	Medicinal plants or herbs

20.	Animal feed, fresh and dried (farm products only)
[28]21.	Thatch, reeds, 'dani' and such agricultural products not elsewhere specified
22.	Wood, bamboo
23.	Live animals
24.	Silk cocoons
25.	Cane, finished and unfinished
26.	Honey and bee wax
27.	Lac
28.	Bran and pollard of pulses
29.	Cake, meal and residue of groundnuts, sesamum, cotton seeds, rice bran etc.
30.	Soapstocks (of oil residue)
31.	Bleaching substances (of oil residue)
32.	Cotton ginned
33.	Coir yarn
34.	Feathers
35.	Umbrella cloth
36.	Bandages, gauze, other surgical dressing materials, hospital and surgical outfit and sundries
37.	X-ray film, plates and other X-ray, surgical and medicinal pharmaceutical apparatus and equipment
38.	Insecticides , pesticides, fungicides etc.
[29]39.	Various kinds of gun powder, various kinds of dynamites and accessories thereof used by the civil departments
40.	Stamps, all sorts
41.	Defence and military stores and equipments

[28] . This category of goods may include more than one description.
[29] . Substituted by section 8 of the Law Amending the Commercial Tax Law, 1991

42.	Sealing wax and sticks
[30]43.	Textbooks, exercise and drawing books of various kinds and papers for the production of such books and all sorts of pencils
44.	Slates, slate pencils and chalk
45.	Shrimp paste (ngapi)
46.	Shrimp and fish sauces (Ngan-pya-ye)
47.	Groundnut oil, sesamum oil, sunflower seed oil, rice bran edible oil and oil cakes
48.	Flour (coarse and fine)
49.	Pulse, split and powdered
50.	Rice, split and powdered
51.	Fresh fish, fresh prawn
52.	Sterilized and other pasteurized milk
53.	Milk powder
54.	Milk for the use of infants and invalids
*55.	Chilli
*56.	Saffron
*57.	Ginger
*58.	Fish paste
*59.	Ripe tamarind
**60.	National flag
**61.	Various kinds of bead
**62.	Various kinds of ruler, eraser, sharpener
**63.	Fuel stick
**64.	Coconut oil
**65.	Various kinds of fowl egg

[30] . Substituted by section 8 of the Law Amending the Commercial Tax Law, 1991

*. Substituted by section 9 of the Law Amending the Commercial Tax Law, 1991

** Inserted by the Notification No. 104/2006 of the Ministry of Finance and Revenue dated 5-6-2006

*** Inserted by the Notification No. 114/2012 of the Ministry of Finance and Revenue dated 15-3-2012

**66.	Pumpkin seeds, watermelon seeds
***67.	Religious clothes (Thingan etc.)
***68.	Graphite for production of pencils
***69.	Condon
***70.	Oil dregs

Schedule 2

Goods Chargeable Tax at 5 Percent

1. If it is the imported goods, the tax shall be charged on the landed cost.
2. If it is the goods produced in the country, the tax shall be charged on the proceed of sale.

Sr. No.	Description of goods
1.	Jams, all sort.
2.	Soya bean paste, soya bean sauce and the like.
3.	Tea, preserved and dries, excluding black tea.
4.	Cotton seed oil, rice bran oil, inedible.
5.	Household medicines and other pharmaceuticals.
6.	Charcoal.
7.	Fountain pens and ball point pens.
8.	Cotton longyi (Coarse).
9.	Shirting, cotton, grey, unbleached.
10.	Drills cotton.
11.	Vests.
12.	Cotton yarn.
13.	Chipping thread.
14.	Chipping stone.
15.	Limestone.
16.	Road building stone and sand.
17.	Electrical equipment for educational and instructional purpose.
18.	Carpenter's tools and accessories.
19.	Agricultural tool and accessories.

20.	Rope of coir, jute, cotton and other kinds of rope.
21.	Household and laundry soap.
22.	Hats, all sorts.
23.	Sporting materials.
24.	Wheel barrows.
25.	Made-up track-suits for sports.
26.	Methylated spirit.
27.	Chemical fertilizers.
28.	Salt.
29.	Cooking powder.
30.	Vinegar.
31.	Noodles (wet or dried) and wheat flour vermicelli.
32.	Unused blank containers for soft drink.
33.	Unused blank containers for purified drinking water.
34.	Unused blank tin.
35.	Monhinga, tick monhinga (noodle), flat noodle, rice vermicelli, cut noodle etc.
36.	Various kinds of seeds, tuber, branch sapling, sapling.
37.	All sorts of mosquito repellents.
38.	Rice powder (nutritious powder for baby)
39.	Snack made of rice
40.	Thanakha, (block, liquid, powder, solid) including medicated thanakha
41.	Commodities such as chop stick, basket, mat, sieve, round tray, wall made of bamboo, cane, reef (thin)
42.	Various kinds of salted fish.
43.	Various kinds of salted preserved prawn, fish.
44.	Jaggery, brown slab sugar.
45.	Animal feed (excluding cattle feed)

46.	Sprays, not insecticide, for plants, fruits, flowers and leaves.
47.	Fried fish ball, fish cracker, fried meat ball, fried prawn ball, fried dry prawn, fried shrimp paste.
48.	Mango pickle, marian pickle.
49.	Dry prawn/ dry prawn powder.
50.	Various kinds of sausage, chicken sausage and other sausage.
51.	Pea milk.
52.	Bean vermicelli.
53.	Joss sticks, scented sticks.
54.	Feminine sanitary wares for monthly use.
55.	Glazed earthen pot, earthen pot.
56.	Unused tubes for toothpaste.
57.	Various roasted peas, fried peas.
58.	Roasted pumpkin seeds, watermelon seeds (Kwarsae), sunflower seeds.
59.	Coal
60.	Molasses
61.	Petroleum, crude
62.	Electricity for industrial use.
63.	Jeep.
64.	Kerosene.
65.	Pearl.

Schedule 3

Goods Chargeable Tax at 5 Percent

1. If it is the imported goods, the tax shall be charged on the landed cost.
2. If it is the goods produced in the country, the tax shall be charged on the proceed of sale.

Serial No.	Description of Goods
1.	Ice.
2.	Milk, condensed.
3.	Malt and malt flour.
4.	Bread, biscuits and cakes.
5.	Other foodstuff produced by bakeries.
6.	Food colours.
7.	Food flavours and essences.
8.	Turpentine refined.
9.	Tung oil and turpentine raw.
10.	Engine oil, lubricants and other petroleum products not elsewhere specified.
11.	Baking powder and yeast.
12.	Dyes and dyestuff.
13.	Chemically based compounds.
14.	Petroleum cokes.
15.	Chemical products produced from petroleum and petroleum coke.
16.	Parts and accessories for shoes, boots and slippers.
17.	Chrome leather, sole leather, leather of sheep and goat.

18.	Aluminium circles and plates.
19.	Machine parts and accessories made of rubber.
20.	Plastic raw materials.
21.	Poles and posts and teak and hardwood.
22.	Newspapers, journals, magazines and other printed books and publications.
23.	Papers and paperboards.
24.	Cigarette papers.
25.	Ink, all sorts.
26.	Safety pins, pins, clips and other office stationary supplies.
27.	Silk yarn.
28.	Ribbons, tapes, trimming of cotton.
29.	Workmen outfits.
30.	Gypsum.
31.	Baryte.
32.	Graphite.
33.	White clay, fire clay and clay powder.
34.	Soapstone.
35.	Dolomite stone.
36.	Red, yellow and white ochres.
37.	Bentonite.
38.	Tarazo stone.
39.	Washed clays.
40.	Lead slag.
41.	Marble.
42.	Tin concentrates, tungsten concentrates and Tin, Tungsten and Scheelite mixed ores.
43.	Refined lead.
44.	Zinc concentrates.

45.	Copper matts.
46.	Nickel speiss.
47.	Antimonial lead.
48.	Antimony ores.
49.	Refined Lead sulphide.
50.	Saws, all sort.
51.	Bottles, all sort.
52.	Gunny cloth and gunny bags.
53.	Packing materials made of paper or paperboard.
54.	Plastic bags, all sorts.
55.	Boxes, barrels, buckets made of iron and iron boxes, barrels and cups coated with various kinds of metal liquid.
56.	Crown cork.
57.	Glass tumblers
58.	Spectacles, frames and parts for spectacles.
59.	Fishing hooks.
60.	Electricity (excluding industrial use.)
61.	Unexposed photographic films.
62.	Artist's wares.
63.	Coffee powder, all sorts.
64.	Tea, black.
65.	Candles.
66.	Raw rubber.
67.	Bicycles, tyres and tubes.
68.	Tyres and tubes for motor-cars and motor-cycles.
69.	Rubber compounds.
70.	Tyres and tubes not elsewhere specified.
71.	Lacquerware.
72.	Cotton longyi (fine).

73.	Cotton fabrics, coloured, dyed and cotton sheeting white bleached or mercerized.
74.	Cotton blankets.
75.	Cotton towels.
76.	Printed cotton fabrics.
77.	Household fabrics such as table cloth, napkin.
78.	Cotton mosquito nettings.
79.	Cotton fabrics, not elsewhere specified, other than lace fabrics.
80.	Made-up apparel, other than those for sports.
81.	Made-up mosquito nets.
82.	Lime and lime powder.
83.	Household utensils of brass and other metals.
84.	Galvanized corrugated iron sheets
85.	Agricultural machines equipments and machine tools.
86.	Waving, knitting, spinning machine parts and accessories thereof.
87.	Lamp shades, bulb shades, switches, blocks, parts and accessories thereof.
88.	Electrical wires, clips and other internal electrical fittings.
89.	Industrial sewing machines.
90.	Road construction machines, road rollers, parts and accessories thereof.
91.	Batteries (excluding dry batteries)
92.	Fire extinguishers.
93.	Sanitary fixtures and fittings.
94.	Plastic building materials.
95.	Ball bearings.
96.	Bicycles.

97.	Bicycles spare parts and accessories.
98.	Tractors, other industrial motor trucks, parts and accessories thereof.
99.	Train engines, train locomotives, coaches, spare parts and accessories thereof.
100.	Sea-going ships, other ships, motor boards, schooners, spare parts and accessories thereof.
101	Aircrafts, parts and accessories thereof.
102.	Fishing nets.
103.	Plastic clothes.
104.	Plastic materials for household and personal use, not elsewhere specified.
105.	Kerosene stoves, spare parts and accessories.
106.	Raincoats.
107.	Umbrella, all sorts.
108.	Canvas footware, cane ball shoes and footware all sorts.
109.	Malted milk preparation.
110.	Cold milk, ice cream, ice bar etc.
111.	Parts and accessories for domestic electrical equipment and appliances.
112.	Sweets.
113.	Beverages.
114.	Toilet soaps.
115.	Domestic sewing machines.
116.	Sugar.
117.	Aerated water.
118.	Various kinds of charcoal stove, parts and accessories thereof.
119.	Various kinds of diesel stove, parts and accessories thereof.

120.	Various kinds of gas stove, parts and accessories thereof.
121.	Sleepers.
122.	Various kinds of toothpaste.
123.	Purified drinking water.
124.	Cashew nut.
125.	Walnut.
126.	Appliances made of kapok, cotton, sponge, cork, spring etc.
127.	Fabrics and utensils made of gold and silver embroidery.
128.	Various kinds of shampoo.
129.	Rubber balloon and rubber band.
130.	Hyaline vase, hyaline cup.
131.	Ready-made foodstuff such as coffee mix, tea mix, milo, overtine, nutritious cereals.

Schedule 4

Goods Chargeable Tax at 5 Percent

1. If it is the imported goods, the tax shall be charged on the landed cost.
2. If it is the goods produced in the country, the tax shall be charged on the proceed of sale.

Serial No.	Description of Goods
1.	Artificial and synthetic pearls, diamonds and gemstones and cut stones.
2.	Household glassware other than glass vases, bottles and tumblers.
3.	Marble products.
4.	Macaroni.
5.	Saccharine.
6.	Chilly sauce and sauces, all sorts.
7.	Milk cream, butter, ghee, cheese.
8.	Naphthalene balls and camphor blocks.
9.	Paints, pigments and other colouring and polishing materials.
10.	Painters' materials (excluding artist's wares).
11.	Zip and buttons of all sorts not elsewhere specified.
12.	Match flints.
13.	Hair pins, hair slides, hair clips, hair grips, hair curlers and hair dressing articles.
14.	Tooth brushes.
15.	Detergents and cleansing powder.
16.	Various kinds of household materials made of rubber.
17.	Hardwood plywood and veneers.
18.	Building and constructional materials made of paperboard.
19.	Paper products other than packing material.

20.	Canvas cloth.
21.	Linoleum and floor coverings.
22.	Tarpaulins in rolls and pieces.
23.	Cement.
24.	Brick, brick tiles and products, fire brick.
25.	Crockery (porcelain).
26.	Crockery (enamel plated.)
27.	Lamps, lanterns, parts and accessories thereof.
28.	Household and toilet porcelain fittings and fixtures.
29.	Household iron nails.
30.	Razors, razor blades and scissors.
31.	Locks, padlocks and keys.
32.	Fittings and accessories for furniture, boxes and trunks.
33.	Thin or heavy plates made of iron or steel, metal coated iron or steel plates.
34.	Nuts, screws, bolts made of iron or steel etc.
35.	Constructional goods such as iron or steel rods, bars, billets, wires.
36.	Building and constructional goods of non-ferrous metals.
37.	Plumbing fixtures and fittings.
38.	Mixers, mixers' wares, stone and gravel crusher and such constructional and miscellaneous industrial wares.
39.	Iron or steel chains and anchors.
40.	Miscellaneous metallic goods, other than those made of silver and platinum, not elsewhere specified.
41.	Electric motors.
42.	Torches, parts and accessories thereof.
43.	Electric bulbs and tubes, all sorts, other than neon bulbs and tubes for advertising.

44.	Ceramic electric and telegraphic relaying and insulating materials.
45.	Meter and meter boxes.
46.	Electric relaying and insulating materials.
47.	Main electric transmitting equipment and accessories.
48.	Mining, drilling, excavating machines, parts and accessories thereof.
49.	Electric generating machines such as electric generators, transformers, and parts and accessories thereof.
50.	Electric power distributing line, equipment and parts and accessories thereof.
51.	Telegraphic, wireless, telephone, telex, radio communication equipment and parts and accessories thereof.
52.	Parts and accessories of radio and electronic communication equipment.
53.	Measuring and surveying equipment.
54.	Glass sheets and glass building and constructional goods.
55.	Building and constructional goods made of concrete or asbestos.
56.	Household fittings and fixtures other than porcelain materials.
57.	Concrete pipes.
58.	Boilers, engines, generators, parts and accessories thereof.
59.	Pontoon bridges, buoys, parts and accessories thereof.
60.	Cigarette cases and ashtrays, all sorts.
61.	Cinematographic films, unexposed.
62.	Toys, all sorts.
63.	Vehicles and carriages for children, parts and accessories thereof.
64.	Silver.
65.	Printing press requisites and accessories not elsewhere specified.
66.	Mechanical lighters, all sorts.

67.	Lorries, trucks and trailers above ¼ ton.
68.	Vans and buses.
69.	Bowsers.
70.	Cranes and winches cars.
71.	Motor-car parts and accessories including frames and parts of chassis.
72.	Motorcycle parts and accessories.
73.	Dry cells, all sorts.
74.	Mother of pearl and shells.
75.	Asbestos sheets, including roofing.
76.	Stone and brick tiles other than tarazo tiles.
77.	Carpets, carpetings of jute.
78.	Denatured spirit.
79.	Artificial cotton and silk and fabrics.
80.	Fabrics of mixed or blended cotton and artificial silk and cotton.
81.	Papers, paper pulp, cardboard-making machines, parts and accessories thereof.
82.	Rice mill, wheat flour mill, other cereal grinding and milling machines, parts and accessories thereof.
83.	Sugar mills, parts and accessories thereof.
84.	Saw-milling machines, parts and accessories thereof.
85.	Machinery, not elsewhere specified, parts and accessories thereof.
86.	Refrigerators, freezers and ice-boxes.
87.	Commodities, not elsewhere specified.
88.	Pure gold, gold, platinum.
89.	Mixed concrete.
90.	Various kinds of formica.

Schedule 5

Goods Chargeable Tax at 5 Percent

1. If it is the imported goods, the tax shall be charged on landed cost.
2. If it is the goods produced in the country, the tax shall be charged on the proceed of sale.

Serial No.	Description of Goods
1.	Tinned provisions.
2.	Isin glass.
3.	Cocoa powder.
4.	Toffee and Chocolates.
5.	Floor polish.
6.	Cinematographic file, exposed.
7.	Perfumery and toilet requisites, other than medicated powder.
8.	Teak and plywood containing teak.
9.	Teak Sawn
10.	Wood floor tiles.
11.	Leather products other than for industrial use.
12.	Cotton lace fabrics and cotton lace.
13.	Blankets, shawls other than of cotton.
14.	Artificial leather textiles.
15.	Longyis, of silk and of artificial and silk mixed.
16.	Synthetic silk ribbons.
17.	Fabrics and made-up clothing of fur and wool.
18.	Silk fabrics.
19.	Motorcycles, scooters and the like.
20.	Printing press, off-set, book-binding, block-making machines,

	parts and accessories thereof.
21.	Oil-milling machines, parts and accessories thereof.
22.	Cinematographic cameras, projectors, parts and accessories thereof (including carbons).
23.	Various kinds of camera, parts and accessories thereof.
24.	Binoculars, lens.
25.	Typewriters, calculators, copiers, statistical machines, other office machines, equipment, parts and accessories thereof.
26.	Watches, clocks, chronometers, parts and accessories thereof.
27.	Cutlery other than of gold, silver, gold and silver plated.
28.	Furniture.
29.	Filing cabinets of iron or steel etc.
30.	Safes.
31.	Safe cash box, treasury material, equipment and cash boxes.
32.	Tarazo tiles.
33.	Radios, Televisions, Video Cameras, Video players.
34.	Electric stoves, electric rice cookers and microwave stoves.
35.	Fiber cases, suitcases and brief cases.
36.	Electric fans, electric irons, electric washing machines and water coolers.
37.	Gramophones.
38.	Gramophone records, laser records and memory sticks.
39.	Air conditioners.
40.	Materials made of ivory, tortoise shell and other materials of animal origin.
41.	Billiard board, billiard ball, billiard shaft and billiard equipment and requisites.
42.	Musical instruments.
43.	Recorders, cassettes with radio transistor, cassettes and tapes.

44.	Domestic electrical equipment and appliances not elsewhere specified.
45.	Match.
46.	Furnace oil.
47.	Wax.
48.	Army rum.
49.	Decorating materials for car.
50.	Utensils made of fibre.
51.	Utensils made of aluminum.
52.	Computers and accessories.

Schedule 6

Relating to the goods contained in the following Schedule, if it is the imported goods, the tax shall be charged on the landed cost and if it is the goods produced in the country, on the proceed of sale at the percentage shown against the said goods.

Serial No.	Description of goods	Tax Rate
1.	Cigarette.	100
2.	Tobacco.	50
3.	Virginia tobacco, cured.	50
4.	Cheroot.	50
5.	Cigars, pipes, all sorts.	50
6.	Pipe tobaccos.	50
7.	Betel chewing preparations.	50
8.	Various kinds of liquor.	50
9.	Various kinds of beer.	50
10.	Various kinds of wine.	50
11.	Teak log and teak conversions.	50
12.	Hardwood log and hardwood conversions.	50
13.	Jade and other precious stones.	30
14.	Light vans, saloons, sedans, light wagons, estate wagons and coupe.	25
15.	Gasoline.	10
16.	Diesel oil.	10
17.	Jet fuel.	10
18.	Natural gas.	8

Schedule 7

The tax on the services contained in the following schedule shall be charged at the percentage shown against the said services:

Serial No.	Kind of services	The amount on which computation is to be based	Tax percentage
1.	Railways, waterway, airway and road transport business.	Total receipts in respect of passenger fares	5
2.	Entertainment business	Total receipts	5
3.	Trading business consisting of purchases and sale of goods.	Total sales	5
4.	Hotel, rest house.	Total receipts	5
5.	Enterprise for sale of foods and drinks.	Total sales.	5
6.	Tourism business (including business of tourist guide).	Total amount of proceeds obtained from tourists.	5
7.	Cleaning, oiling, repair and decoration of motor vehicles.	Total amount of proceeds including the cost of material.	5

Serial No.	Kind of services	The amount on which computation is to be based	Tax percentage
8.	Insurance business except life insurance business.	Total amount of premium.	5
9.	Beautifying and body fitness businesses including hair dressing.	Total amount of proceeds including the cost of materials.	5
10.	Printing business, computer typing and computer graphic designing.	Total receipts	5
11.	Brokerage services	Total receipts	5
12.	Drawing designs, decoration and repairing of land, building and construction.	Total receipts	5
13.	Advertising business, taking and developing photos, edition and distribution business of motion pictures and video tapes.	Total amount of proceeds including the cost of materials.	5
14.	Agents, lawyers, certified accountants, auditors.	Total receipts	5

THE MYANMAR STAMP ACT.

(India Act II , 1899) (1st July, 1899.)

As modified up to date.

WHEREAS it is expedient to consolidate and amend the law relating to Stamps : It is hereby enacted as follows : -

CHAPTER I.

Preliminary.

Application of Act. Definitions.

1. On and after the 1st April, 1941, Schedule I of India Act 11 of 1899, as in force in Myanmar on the 1st September 1935, shall have effect as Schedule I of this Act.

2. In this Act, unless there is something repugnant in the subject or context, -

(1) " Banker " includes a bank and any person acting as a banker :

(2) " Bill of exchange " means a bill of exchange as defined by the Negotiable Instruments Act, and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other for, any sum of money:

(3) " Bill of exchange payable on demand " includes -

(a) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen;

(b) an order for the payment of any sum of money weekly, monthly or at any other stated periods, and

(c) a letter of credit, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn:

(4) " Bill of lading " includes a through bill of lading, but does not include a mate's receipt :

(5) " Bond " includes -

(a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;

(b) any instrument attested, by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and

(c) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another;

(6) " Chargeable " means, as applied to an instrument executed or first executed

after the [a] the coming into operation of the constitution [a], chargeable under this Act, and as applied to any other instruments, chargeable under the law in force in the Republic of the Union of Myanmar when such instrument was executed or, where several persons executed the instrument at different times, first executed;

(7) " Cheque " means a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand ;

(8) * * * *

(9) "Township Revenue Officer(Collector) " includes any Revenue Officer and any Officer delegated by the Director General of the Internal Revenue Department.

(10) " Conveyance " includes a conveyance on sale and every instrument by which property, whether moveable or immovable is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule I;

(11) " Duly stamped, " as applied to an instrument means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in the Republic of the Union of Myanmar.

(12) " Executed and execution "used with reference to instruments, mean "signed" and "signature";

(13) Impressed stamp includes —

(a) Labels affixed and impressed by the proper officer , and

(b) stamps embossed or engraved on stamped paper ;

(14) " Instrument " Includes every document by which any right or liability is, or purports to be, created , transferred , limited , extended, extinguished or recorded ;

(15) " Instrument of partition " means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any revenue — authority or any civil Court and an award by an arbitrator directing a partition ;

(16) " Lease " means a lease of immovable property, and includes also —

(a) * * * * * *

(b) an undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for immovable property;

(c) any instrument by which tolls of any description are let;

(d) any writing on an application for a lease intended to signify that the application is granted;

(16A) " Marketable Security " means a security of such a description as to be capable of being sold in any stock market in India, in the Republic of the Union of Myanmar.

(17) " Mortgage-deed" includes every instrument whereby , for the purpose of securing, money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an

engagement, one person transfers, or creates, to or in favour of another a right over or in respect of specified property;

(18) "Paper" includes vellum, parchment or any other material on which an instrument may be written;

(19) "Policy of insurance" includes –

(a) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event;

(b) a life – policy, and any policy insuring any person against accident or sickness, and any other personal insurance;

(20) "Policy of sea-insurance or sea-policy" -

(a) means any insurance made upon any ship or vessel (whether for marine or inland navigation), or upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board of any ship or vessel or upon the freight of, or any other interest which may be lawfully insured in, or relating to , any ship or vessel; and

(b) includes any insurance of goods, merchandise or property for any transit which includes, not only a sea risk within the meaning of clause *(a),* but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance.

Where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance;

(21) "Power-of-attorney" includes any instrument (not chargeable with a fee under the law relating to Court-fees for the time being in force) empowering a specified person to act for and in the name of the person executing it;

(22) "Promissory note" means a promissory note as defined by the Negotiable Instruments Act;

If also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen;

(23) "Receipt" includes any note, memorandum or writing _

(a) Whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received, or

(b) Whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or

(c) Whereby any debt or demand, or any part of debt or demand, is acknowledged to have been satisfied or discharged, or

(d) Which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person ;

(24) " Settlement " means any non – testamentary disposition in writing, of moveable or immoveable property, made—

(a) in consideration of marriage,

(b) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or

(c) for any religious or charitable purpose ;

and includes an agreement in writing to make such a disposition [and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise the terms of any such disposition]; and

(25) " Soldier " includes any person below the rank of non-commissioned officer who is enrolled under [a] the Myanmar Army Act [a].

CHAPTER II

Stamp – duties.

A--- Of the Liability of Instruments to Duty.

Instruments chargeable with duty.

3. Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that schedule as the proper duty therefore respectively, that is to say, _

(*a*) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed in the Republic of the Union of Myanmar on or after the first day of July 1899 ;

(*b*) every bill of exchange [payable otherwise than on demands]or promissory note drawn or made out of the Republic of the Union of Myanmar on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in the Republic of the Union of Myanmar and

(*c*) every instrument (other than a bill of exchange or promissory note) mentioned in that schedule, which, not having been previously executed by any person, is executed out of the Republic of the Union of Myanmar on or after that day, relates to any property situate, or to any matter or thing done or to be done, in the Republic of the Union of Myanmar and is received in the Republic of the Union of Myamar Provided that no duty shall be chargeable in respect of —

(I) any instrument executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption , Government would be liable to pay the duty chargeable in respect of such instrument;

(2) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the Registration of Ships Act as amended by subsequent Acts.

Collector & transfer of increased stamp duties.

3-A.(1) Stamp duties charged by Articles 23, 33 and 40(a) respectively of Schedule I annexed to this Act shall, in the case of instruments affecting immovable property situated wheresoever in the whole of the Republic of the Union of Myanmar, other than the Naypyitaw Development territory, the City of Yangon Development territory and the City of Mandalay Development territory, be increased by an additional stamp duty of 2 per centum for a consideration equal to the market value of the property so situated.

(2) The Ministry of Finance of the Union Government shall in accord with law deposit the increased stamp duties to the Union Fund. The Ministry of Finance of the Union Government shall there after pay the increased stamp duties to the Township Development Funds in a prescribed manner in accordance with law.

57&58 Vict.C,60. Several instruments used in single transaction of sale mort -gage or settlement.

4 (*1*) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I for the conveyance mortgage or settlement, and each of the other instruments shall be chargeable, with a duty of one handred Kyat instead of the duty (if any) prescribed for it in that schedule.

(2) The parties may determine for themselves which of the instruments so employed shall, for the purposes of sub- section (1) , be deemed to be the principal instrument: Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

Instruments relating to several distinct matters.

5. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

Instruments co mining within several descriptions in Schedule I.

6. Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in Schedule I shall , where the duties chargeable thereunder are different, be chargeable only with the highest of such duties :

Provided that nothing in this Act contained shall render chargeable with duty exceeding one hundred kyat a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid,

6A. * * * * *

57& 58 Vict.,C.60. Policies sea- Insurance.

7 (1)No contract for sea- insurance (other than such insurance as is referred to in section 506 of the Merchant Shipping Act, 1894) shall be valid unless the same is expressed in a sea- policy.

(*2*) No sea-policy made for time shall be made for any time exceeding twelve months.

(*3*) No sea-policy shall be valid unless it specifies the particular risk or adventure, or the time, for which it is made, the names of the subscribers or underwriters, and the amount or amount insured.

(*4*) Where any sea — insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination

and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

8. (*1*) Notwithstanding anything in this Act, any local authority raising a loan under the provision of the Local Authorities Loans Act or of any other law for the time being in force, by the issue of bonds, debentures or other securities, shall, in respect of such loan, be chargeable with a duty of one per centum on the total amount of the bonds, debentures or other securities issued by it, and such bonds, debentures or other securities need not be stamped, and shall not be chargeable with any further duty on renewal, consolidation, subdivision or otherwise.

(*2*) The provisions of sub-section (I) exempting certain bonds, debentures or other securities from being stamped and from being chargeable with certain further duty, shall apply to the bonds, debentures or other securities of all outstanding loans of the kind mentioned therein, and all such bonds, debentures or other securities shall be valid, whether the same are stamped or not.

(*3*) In the case of wilful neglect to pay the duty required by this section, the local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues.

Power to reduce, remit, or compound duties.

9. The Ministry of Finance may with the approval of the Union Government , by rule or order published in the Gazette, _

(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of the Republic of the Union of Myanmar , " the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

(b) Deleted.

(c) Provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of debentures, bonds or other marketable securities.

B, _ *Of Stamps and the mode of using them.*

Duties how to be paid.

(10).(1)Except as otherwise expressly provided in this Act,all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps _

(a) according to the provisions herein contained; or

(b) Where no such provisions is applicable thereto — as the Ministry of Finance may, with the approval of the Union Government by rule direct .

(2) The rules made under sub-section (1) may, among other matters, regulate, _

(a) In the case of each kind of instrument _ the description of stamps which may be used ;

(b) In the case of instruments stamped with impressed stamps — the number of stamps which may be used ;

(c) In the case of bills of exchange or promissory notes written in any Oriental language — the size of the paper on which they are written.

Use of adhesive stamps.

11. The following instruments may be stamped with adhesive stamps , namely : -

(a) Instruments chargeable with the duty of ten kyat, except parts of bills of exchange payable otherwise than on demand and drawn in sets;

(b) bills of exchange and promissory notes drawn or made out of the Republic of the Union of Myanmar;

(c) entry as an advocate on the roll of the Supreme Court of the Union;

(d) notarial acts; and

(e) transfers by endorsement of shares in any incorporated company or other body corporate.

Cancellat-ion of adhesive stamps.

12.(1) (a) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again;

(b) Whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again , shall, so far as such stamp is concerned, be deemed to be unstamped.

(3) The person required by sub- section (I) to cancel an adhesive stamp may cancel It by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

Instruments stamped with Impressed stamps how to be written.

13. Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

Only one instrument to be on same stamp.

14. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written:

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

Instrument written contrary to section

15 . Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped .

13 or 14 deemed unstamped.

Denoting duty.

16. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last- mentioned duty shall, if application is made in writing to the Township Revenue Officer (Collector) for that purpose, and on production of both the instruments, be denoted upon such first– mentioned instrument, by endorsement under the hand of the Township Revenue Officer(Collector) or in such other manner (if any) as the Ministry of Finance may, with the approval of the Union Government by rule prescribe.

C— Of the time of stamping Instruments.

Instruments executed the Republic of the union of Myanmar.

17. All instruments chargeable with duty an executed by any person in the Republic of the in Union of Myanmar , shall be stamped before or at the time of execution.

Instruments other than bills and note executed out of the Republic of the Union of Myanmar.

18.(1) Every instrument chargeable with duty executed only out of the Republic of the Union of Myanmar and not being a bill of exchange or promissory note, may be stamped within three months after it has been first received in the Republic of the Union of Myanmar.

(2) Where any such instrument cannot, with reference to the description of stamp prescribed therefore, be duly stamped by a private person, it may be taken within the said period of three months to the the Township Revenue Officer (Collector), who shall stamp the same, in such manner as the Ministry of Finance may, with the approval of the Union Government by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

Bills and notes drawn out of the Republic of the Union of Myanmar.

19. The first holder in the Republic of the Union of Myanmar of any bill of exchange [payable otherwise than on demand] or promissory note drawn or made out of the Republic of the Union of Myanmar shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in the Republic of the Union of Myanmar , affix thereto the proper stamp and cancel the same:

provided that, -

(a) If, at the time any such bill of exchange or note comes into the hands of any holder thereof in the Republic of the Union of Myanmar, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12 and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and

at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled;

(b) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

D,— *Of Valuations for Duty.*

Conversion of amount expressed in foreign currencies.

20.(1) Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency other than that of the Republic of the Union of Myanmar, such duty shall be calculated on the value of such money, in the currency of the Republic of the Union of Myanmar according to the current rate of exchange on the day of the date of the instrument.

(2) The Current rate of exchange mentioned in the foregoing sub-section shall be the Daily Reference Rate announced by the Central Bank of Myanmar at the day of the date of the instrument.

Stock and marketable securities how to be valued.

21, Where an instrument is chargeable with *ad valorem duty* in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument.

Effect of state - ment of rate exchange average price.

22. Where an instrument contains a statement of current-rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as of regards the subject — matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Instruments reserveing Interest.

23. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.

23A. (1) Where an instrument (not being a promissory note or bill of exchange) —

(a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt; or

(b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security, it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5(*c*) of Schedule I.

(2) A release or discharge of any such instrument shall only be chargeable with the like duty.

How transfer in consider-ation of debt, or subject to future payment , etc., to be charged.

24. Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty:

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No, 18 of Schedule I.

Explanation. _ in the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale:

Provided that, where property subject to a mortgage is transferred to the mortgage, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

Illustrations.

(1) *A* owes *B* 1,000 kyat, A sells a property to *B*, the consideration being 500 kyat and the release of the previous debt of 1,000 kyat. Stamp – duty is payable on 1,500 kyat.

(2) *A* sells a property to *B* for 500 kyat which is subject to a mortgage to *C* for 1,000 kyat and unpaid interest 200 kyat, Stamp-duty is payable on 1,700 kyat.

(3) A mortgages a house of the value of 10,000 kyat to B for 5,000 kyat. B after-wards buys the house from A. Stamp-duty is payable on 10,000 kyat less the amount of Stamp-duty already paid for the mortgage.

Valuation in case of annuity etc.

25. Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be, ---

(a) Where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained _ such total amount;

(b) Where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due ; and

(c) Where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance _ the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

Stamp where value of subject-matter is indetermin-ate.

26. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be , ascertained at the date of its execution or first execution , nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient :

Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp-duty,-

(a) When the lease has been granted by or on behalf of the Government of the Republic of the Union of Myanmar, at such amount or value as the Township Internal Revenue Officer (Collector) may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the Government of the Republic of the Union of Myanmar under the lease, or,

(b) When the lease has been granted by any other person , at twenty thousand kyat a year; and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease:

Provided also that, where proceedings have been taken in respect or an instrument under section 31 or 41, the amount certified by the Township Revenue Officer (Collector) shall be deemed to be the stamp actually used at the date of execution.

Facts affecting duty to be set forth in instrument.

27. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Direction as to duty in case of certain conveyances.

28. (*1*) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valurem* duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchasers to the sub-purchaser.

(4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons and the property is in consequence conveyed by the original seller to different persons in parts the

conveyance of each part sold to a sub-purchaser shall be charged with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchaser:

Provided that the duty on such last-mentioned conveyance shall in no case be less than one hundred kyat.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty aqual to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed five hundred kyat, with a duty of five hundred kyat.

E.----- Duty by whom payable.

Duties by whom payable.

29. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne -------

(a) in the case of any instrument described in any of the following Articles of Schedule I, namely; -

No, 2 (Administration Bond),

[No, 6 (Agreement relating to deposite of Title — deeds , Pawn of Pledge),]

No,13 (Bill of Exchange),

No, 15 (Bond),

No, 16 (Bottomry Bond),

No. 26 (Customs Bond),

No, 27 (Debenture),

No. 32 (further Charge),

No, 34 (Indemnity- Bond),

No. 40 (Mortgage-Deed),

No. 49 (Promissory — Note),

No. 55 (Release),

No. 56 (Respondent a Bond),

No . 57 (Security Bond of Mortgage — Deed)

No. 58 (Settlement),

No. 62 (*a*) (Transfer of shares in an incorporated company or other body corporate),

No. 62 (*b*) (Transfer of debentures , being marketable securities, whether the debenture

is liable to duty or not, except debentures provided for by section 8),

No. 62 (*c*) (Transfer of any interest secured by a bond, mortgage- deed or policy of insurance),---

by the person drawing, making or executing such instrument:

(b) in the case of a policy of insurance other than fire — insurance — by the person effecting the insurance ;

(*bb)* in the case of a policy of fire —insurance— by the person issuing the policy;

(c) in the case of a conveyance (including a re-conveyance of mortgaged property)- by the grantee; in the case of a lease or agreement to lease _ by the lessee or intended lessee;

(d) in the case of a counterpart of a lease _ by the less or ;

(*e*) in the case of an instrument of exchange — by the parties in equal shares;

(*f)* in the case of a certificate of sale — by the purchaser of the property to which such certificate relates; and

(g) in the case of an instrument of partition — by the parties thereto in proportion to their respective shares in the whole property partitioned, or, when the partition is made in executing of an order passed by a Revenue - authority or civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs.

Obligation to give receipt in certain case.

30. Any person receiving any money exceeding five thousand kyat in amount , or any bill of exchange, cheque or promissory note for an amount exceeding five thousand kyat, or receiving in satisfaction or part satisfaction of a debt any movable property exceeding five thousand kyat in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duty stamped receipt for the same.

*[Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.

CHAPTER III.

Adjudication as to Stamps.

Adjudication as to proper stamp.

31.(1) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Township Revenue Officer(Collector), and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is charegeable, and pays a fee of such amount (not exceeding five hundred Kyat and not less than fifty kyat)as the Township Revenue Officer Collector) may in each case direct, the Township Revenue Officer (Collector) shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(2) For this purpose the Township Revenue Officer (Collector) may require to be furnished with an abstract of the Instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly:

provided that _

(a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an enquiry as to the duty with which the instrument to which it relates is chargeable; and

(b) every person by whom any such evidence is furnished shall ,on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

Certificate by Township Revenue Officer (Collector).

32.(1) When an instrument brought to the Township l Revenue Officer (Collector) under section 31 is, in his opinion, one of the descrtiption chargeable with duty, and-

(a) The Township Revenue Officer (Collector) determines that it is already fully stamped, or

(b) the duty determined by the Township Revenue Officer (Collector) under section 31 or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid , the Township Revenue Officer (Collector) shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is , in his opinion, not chargeable with duty, the Township Revenue Officer (Collector) shall certify in manner aforesaid that such instrument is not so chargeable .

(3) Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped or not chargeable with duty, as the case may be; and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Provided that nothing in this section shall authorize the Township Revenue Officer (Collector) to endorse _

(a) any instrument executed or first executed in the Republic of the Union of Myanmar and brought to him after the expiration of one month from the date of its execution or first exection, as the case may be;

(b) any instrument executed or first executed out of the Republic of the Union of Myanmar and borught to him after the expiration of three months after it has been first received in the Republic of the Union of Myanmar ; or

(c) any instrument chargeable with the duty of ten Kyat or, any bill of exchange or promissory note , when brought to him after the execution or drawing thereof on paper not duly stamped.

CHAPTER IV.

Instrument not duly stamped.

Examination and impounding of instruments.

33. (1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police , before whom any instrument chargeable,in his opinion, with duty is produced or comes in the performance of his functuions, shall, if it appears to him that such instrument is not duly stamped, impound, the same.

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in the Republic of the Union of Myanmar When such instrument was executed or first executed;

Provided that -

(a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure:

(b) in the case of a Judge of the Supreme Court of the Union, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(3) For the purposes of this section in cases of doubte, _

(a) the Ministry of Finance may, with the approval of the Union Government determine what offices shall be deemed to be public offices, and

(b) the Ministry of Finance may, with the approval of the Union Government determine Who shall be deemed to be persons in charge of public offices.

Special provision as to unstamped receipts.

34. Where any receipt chargeable with a duty of ten kyat is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

Instruments not duly stamped inadmissible in evidence, etc.

35. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted

upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped:

Provided that _

(a) any such instrument not being an instrument chargeable with a duty of ten kyat only , or a bill of exchange or promissory note, shall, subject to all just exception, be admitted in evidence on payment of the duty with which the same is chargeable or, in the case of an instrument insufficiently stamped or the amount required to make up such duty, together with a penalty of five hundred kyat or , when ten times the amount of the proper duty or deficient portion thereof exceeds five hundred kyat , of a sum equal to ten times such duty or portion;

(b)where any person from whom a stamped receipt could have been demanded has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one hundred kyat by the person tendering it ;

(c)where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;

(d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure;

(e) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of the Government, or where it bears the certificate of the Township Revenue Officer(Collector) as provided by section 32 or any other provision of this Act.

Admission of instrument where not to be questioned.

36. Where an instrument has been admitted in evidence, such admission shall not, except as provided in section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

Admission of improperly stamped instruments.

37. The Ministry of Finance may, with the approval of the Union Government make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

Instruments impounded

38. (1) When the person impounding an instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a

How dealt with.

penalty as provided by section 35 or of duty as provided by section 37, he shall send to the Township Revenue Officer(Collector) an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amout to the Township Revenue Officer(Collector), or to such person as he may appoint in his behalf.

(2) In every other case, the person so impounding an instrument shall send it in original to the Township Revenue Officer(Collector).

Collector's power to refund penalty paid under section 38, sub-section(1).

39. (1) When a copy of an instrument is sent to the Township Revenue Officer (Collector) under section 38, sub-section(1), he may, if he thinks fit, refund any portion of the penalty in excess of five hundred kyat which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contravention of sectcion 13 or section 14 , the Township Revenue Officer (Collector) may refund the whole penalty so paid.

Collector's power to stamp instruments impounded .

40. (1) When the Township Revenue Officer (Collector) impounds any instrument under section 33, or receives any instrument sent to him under secetion 38, Sub-section (2), not being an instrument chargeabel with a duty of ten kyat only, or a bill of exchange or promissory note, he shall adopt the follolwing procedure _

(a) if he is of opinion that such instrument is duly stamped or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case my be;

(b) If he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five hundred kyat; or, if he thinks fit, an amount not exceeding ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five hundred kyat :

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Township Revenue Officer(Collector) may, if he thinks fit, remit the whole penalty prescribed by this section.

(2) Every certificate under clause (a) of sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

(3) Where an instrument has been sent to the Township Revenue Officer(Collector) under section 3 8, sub-section (2), the Township Revenue Officer(Collector) shall, when he has dealt with it as provided by this section, return it to the impounding officer.

Instruments unduly stamped by accident .

4l, If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of ten kyat only or a bill of exchange or promissory note, is produced by any person of his own motion before the Township Revenue Officer (Collector) within one year from the date of its execution or first execution, and such person brings to the notice of the Township Revenue Officer (Collector) the fact that such instrument is not duly stamped and officer to pay to the Township Revenue

Officer (Collector) the amount of the proper duty, or the amount required to make up the same, and the Township Revenue Officer(Collector) is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 33 and 40, receive such amount and proceed as next hereinafter prescribed.

42. (1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under secion 35, section 40 or section 41, the person admitting such instrument in evidence or the Township Revenue Officer(Collector), as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be,the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

(2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it , or as such person may direct:

Provided that _

(a) no instrument which has been admitted in evidence upon payment of duty and penalty under section 35 shall be so delivered before the expiration of one month from the date of such impounding, of if the Township Internal Revenue Officer(Collector) has certified that its further detention is necessary and has not cancelled such certificate;

(b) nothing in this section shall affect the Code of Civil Procedure, Order XIII, Rule 9.

Prosecution for offence against stamp-law.

43. The taking of proceedings or the payments of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appear to have committed an offence against the stamp – law in respect of such instrument:

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Township Revenue Officer(Collector) that the offence was committed with an intention evading payment of the proper duty.

Persons Paying duty or penalty may recover same in certain cases.

44. (1) When any duty or penalty has been paid under section 35, section 37, section 40, or section 41 any person in respect of an instrument, and by agreement or under the provisions of section 29 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid,

(2) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in

evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

Power to Director General of Internal Revenue Department to refund penalty or excess duty in certain casess.

45. (1) When any penlty is paid under section 35 or section 40, the Director General of Internal Revenue Department may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

(2) Where in, the opinion of the Director General of Internal Revenue Department stamp-duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, such authority may, upon application in writing made within three months of the order charging the same refund the excess.

Non -liability for loss of instrument sent under section 38.

46. (1) if any instrument sent to the Township Revenue Officer(Collector) under section 38, sub-section (2), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destructions or damage.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first mentioned person and authenticated by the person impounding such instrument.

Power of payer to stamp bill and promis-sory notes received by him unstamped.

47. When any bill of exchange or promissory note chargeable with the duty for ten kyat is presented for payment unstamped, the person to whom it is presented may affix thereto the necessary adhesive stamp and , upon cancelling the same in manner hereinbefore provided, may pay the sum payable upon such bill or note , and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill or note shall, so far as respects the duty, be deemed good and valid:

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill or note.

Recovery of duties and penalties.

48. All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Township Revenue Officer(Collector) by distress and sale of the moveable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land revenue.

CHAPTER V.

Allowances for stamps in certain cases.

Allowances for spoiled stamps.

49. Subject to such rules as may be made by the Ministry of Finance of the Union Government, with the approval of the Union Government as to the evidence to be required, or the enquiry to be made, the Township Revenue Officer(Collector) may, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely _

(a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person;

(b) the stamp on any document which is written out wholly or in part, but which is no signed or executed by any party thereto;

(c) in the case of bills of exchange, payable otherwise than on demand or promissory notes-

(1) the stamp on any such bill of exchange signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance: provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange to be afterwards written thereon;

(2) the stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands;

(3) the stamp used or intended to be used for any such bill of exchange or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange, may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee: provided that another completed and duly stamped bill of exchange or promissory note is produced identical in every particular, except in the correction of such omission or error as a fore said, with the spoiled bill or note;

(d) the stamp used for an instrument executed by any party thereto which_

(1) has been afterwards found to be absolutely void in law from the beginning:

(2) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended;

(3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person

to execute the same, cannot be completed so as to effect the intended transaction in the form proposed;

(4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended;

(5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose;

(6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value;

(7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value;

(8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped:

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

*Explanation.*_ The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable has been paid is an impressed stamp within the meaning of this section.

Application for relief under secontion 49 when to be made.

50. The application for relief under section 49 shall be made within the following periods, that is to say, _

(1) in the cases mentioned in clause (d) (5), within two months of the date of the instrument;

(2) in the case of stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled;

(3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed:

Provided that, _

(a) When the spoiled instrument has been for sufficient reasons sent out of the Republic of the Union of Myanmar, the application may be made within six months after it has been received back in the Republic of the Union of Myanmar.

(b) When , from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

Allowance in case of printed forms no longer required by corporations.

51. The Director General of Internal Revenue Department or the Township Revenue Officer (Collector) if empowered by the Director General of Internal Revenue Department in this behalf may, without limit of time, make allowance for stamped papers used for printed forms of instruments by any banker or by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said banker, company or body corporate ; provided that he is satisfied that the duty in respect of such stamped papers has been duly paid.

Allowanc for misused stamps.

52. (a) When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty ; or

(b) When any stamp used for an instrument has been inadvertently rendered useless under section 15 owing to such instrument having been writeen in contravention of the provisions of section 13; the Township Revenue Officer(Collector) may, on an application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

Alllowance for spoiled or misused stamps how to be made.

53, In any case in which allowance is made for spoiled or misused stamps, the Township Revenue Officer (Collector) may give in Lieu thereof _

(a) other stamps of the same description and value ; or,

(b) if required and he thinks fit, stamps of any other description to the same amount in value; or,

(c) at his discretion, the same value in money, deducting ten kyat for one hundred kyat or fraction of one hundred kyat.

Allowance for stamps not required for use .

54. When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Township Revenue Officer(Collector) shall repay to such person the value of such stamp or stamps in money, deducting ten kyat for each one hundred kyat or portion of one hundred kyat, upon such person

delivering up the same to be cancelled, and proving to the Township Revenue Officer's (Collector's) satisfaction _

(a) that such stamp or stamps were purchased by such person with a bona *fide* intention to use them,

(b) that he has paid the full price thereof, and

(c) that they were so purchased within the period of six months next preceding the date on which they were so delivered :

Provided that, where the person is a licensed vendor of stamps, the Township Revenue Officer (Collector) may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid,

Allowance on renewa of certain debentures .

55. When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Township Revenue Officer (Collector) shall, upon application made within one month, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture, whichever shall be less :

Provided that the original debenture is produced before the Township Revenue Officer (Collector) and cancelled by him in such manner as the Ministry of Finance may, with the approval of the Union Government direct.

Explanation . _ A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes _

(a) the issue of two or more debentures in place of one original debenture, the total amount secured being the same;

(b) the issue of one debenture in place of two or more original debentures, the total amount secured being the same ;

(c) the substitution of the name of the holder at the time of renewal for the name of the original holder; and

(d) the alteration of the rate of interest or the dates of payment thereof .

CHAPTER VI.

Reference and Revision.

Control of and statement of case to Director General of Internal Revenue Departm— ent.

56.(1) The powers exercisable by a Township Revenue Officer (Collector) under Chapter IV and Chapter V and under clause (a) of the first proviso to section 26 shall in all cases be subject to the control of the Director General of Internal Revenue Department.

(2) If any Township Revenue Officer (Collector) , acting under section 31, section 40, or section 41 feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it with his own opinion thereon, for the decision of the Director General of Internal Revenue Department.

(3) The Director General of Internal Revenue Department shall consider the case and send a copy of his decision to the Township Revenue Officer (Collector), who shall proceed to assess and charge the duty (if any) in conformity with such decision.

Statement of case by Director General of Internal Revenue Department Supreme Court.

57.(1) The Director General of Internal Revenue Department may state any case referred to him under section 56, sub-section (2), or otherwise coming to his notice, and refer such case, With his own opinion thereon to the Supreme Court of the Union.

(2) Every such case shall be decided by not less than three Judges of the Supreme Court, and in case of difference the opinion of the majority shall prevail.

Power of Supreme Court of the Union to call for further particulars as to case stated.

58. If the Supreme Court of the Union is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue-authority by which it was stated, to make such additions thereto or alterations therein as, the Court may direct in that behalf.

Procedure in disposing case stated.

59. (1) The Supreme Court of the Union upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

(2) The Court shall send to the Revenue— authority by which the case was stated, a copy of such judgement under the seal of the Court and the signature, of the Registrar; and the Revenue-authority shall, on receiving such copy, dispose of the case conformably to such judgement.

Statement of cases by other Courts to Supreme Court of the Union.

60. (1) If any Court, other than the Supreme Court of the Union, feels doubt as to the amount of duty to be paid in respect of any instrument under proviso(a) to section 35, the judge may draw up a state- te ment of the case and refer it, with his own opinion thereon,for the decision of the Supreme Court of the Union.

(2) The Supreme Court of the Union shall deal with the case as if it had been referred under section 57, and send a copy of its judgement under the seal of the Court and the signature of the Registrar to the Director General of Internal Revenue Department and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(3) References made under sub-section (1), when made by a Court subordinate to a District Court, shall be made through the District Court, and when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

Revision of certain decisions of Courts regarding the sufficiency of stamps.

61. (1) When any Court in the exercise of its civil or revenue jurisdiction or any criminal Court in any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, makes, any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which appeals lie from, or references are made by, such first-mentioned Court may , of its own motion or on the application of the Township Revenue Officer (Collector), take such order into consideration.

(2) If such Court after such consideration, is of opinion that such instrument should hot have been admitted in evidence without the payment of duty and penalty under section 35,or without the Payment of a higher duty and penalty than those paid , it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is to produce the same, and may impound the same when produced.

(3) When any declaration has been accorded under sub-section (2), the Court recording the same shall send a copy thereof to the Township Revenue Officer (Collector), and where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(4) The Township Revenue Officer (Collector) may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42 , or in section 43, prosecute any person for any offence against the stamp-law which the Township Revenue Officer (Collector) considers him to have committed in respect of such instrument:

Provided that _

(a) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section 35, is paid to the Township Revenue Officer (Collector), unless he thinks that the offence was committed with an intention of evading payment of the proper duty;

(b) except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.

CHAPTER VII.

Criminal Offences and Procedure.

Penalty executing, etc., instrument not duly stamped.

62 (1) Any person -----

(a) drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment or accepting, paying or receiving payment of, or in any manner negotiating, any bill of exchange payable otherwise than on demand or promissory note without the same being duly stamped; or

(b) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped; or

(c) voting or attempting to vote under any proxy not duly stamped; shall for every such offence be punishable with fine which may extend to one hundred thousand kyat:

Provided that, when any penalty has been paid in respect of any instrument under section 35, Section 40 or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(2) If a share – warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing Director or Secretary or other principal officer of the company, shall be punishable with fine which may extend one hundred thousand kyat. _

Penalty for failure to cancel adhesive stamp.

63. Any person required by section 12 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribe by that section, shall be punishable with fine which may extend to one hundred thousand kyat.

Penalty for omission to comply with provision of section 27.

64. Any person who, with intent to defraud the Government _

(a) executes any instrument in which all the facts and circumstances required by section 27 to be set forth in such instrument are not fully and truly set forth; or

(b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances; or

(c) does any other act calculated to deprive the Government of any duty or penalty under this Act; shall be punishable with fine which may extend from a minimum of fifty thousand kyat to a maximum of five hundred thousand kyat.

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Penalty for refusal to give receipt and for devices to evade duty on receipts.

65. Any person who, ---

(a) being required under section 30 to give a receipt, refuses or neglects to give the same;or

(b) with intent to defraud the Government of any duty upon a payment of money of

delivery of property exceeding five thousand kyat in amount or value, gives a receipt for an amount or value not exceeding five thousand kyat or separates or divides the money or divides the money or property paid or delivered;

shall be punishable with fine which may extend to twenty thousand kyat.

Penalty for not making out policy, or making one not duly stamped.

66. Any person who _

(a) receives, or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance; or

(b) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy ; shall be punishable with fine which may extend to forty thousand kyat.

Penalty for not drawing full number of bills or marine policies purporting to be in sets .

67. Any person drawing or executing a bill of exchange payable otherwise than on demand or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punishable with fine which may extend to two hundred thousand kyat.

Penalty for postdating bills, and for other devices to defraud the revenue.

68. Any person who ----

(a) with intent to defraud the Government of duty , draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made; or

(b) Knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiates the same ; or

(c) with the like intent, practices or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force; shall be punishable with fine which may extend to two thousand kyat.

Penalty for breach of rule relating to sale of stamps and for unauthorized sale.

69.(a) Any person appointed to sell stamps who disobeys any rule made under section 74, and

(b) Any person not so appointed who sells or offers for sale any stamp other than a ten kyat adhesive stamp ; shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred thousand kyat, or with both, and

(c) any person who is in illegal possession of any stamp.

Institution and conduct of prosecutions.

70. (1) No Prosecution in respect of any offence punishable under this Act shall be instituted without the sanction of the Township Revenue Officer (Collector) or such other officer as The Ministry of Finance may, with the approval of the Union Government generally, or theTownship Revenue Officer (Collector) specially, authorizes in that behalf,

(2) The Director General of Internal Revenue Department, or any officer generally or specially, authorized by him in this behalf, may stay any such prosecution or compound any such offence,

(3) The amount of any such composition shall be recoverable in the manner provided by section **48.**

Jurisdiction of Magistrates.

71. No Magistrate other than a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under the Act.

Place of trial.

72. Every such offence committed in respect of any instrument may be tried in any district in which such instrument is found as well as in any district** in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

CHAPTER VIII.

Supplementary Provisions.

Books, etc., to be open to inspection.

73. Every public officer having in his custody any registers, books. records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorized in writing by the Township Revenue Officer (Collector) to inspect for such purpose the registers, books, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary, without fee or charge.

Powers to make rules relating to sale of stamps.

74. The Ministry of Finance may, with the approval of the Union Government make rules for regulating _

(a) the supply and sale of stamps and stamped papers,

(b) the persons by whom alone such sale is to be conducted and

(c) the duties and remuneration of such persons :

Provided that such rules shall not restrict the sale of ten kyat adhesive stamps.

power to make rules geneally to carry out Act.

75. The Ministry of Finance may, with the approval of the Union Government may make rules to carry out generally the purpose of this Act, and may by such rules prescribe the fines, which shall in no case exceed five hundred thousand kyat, to be incurred on breach thereof.

Publication of rules.

76. (1)All rules made under this Act shall be published in the **Gazette.**

(2) All rules published as required by this section shall, upon such publication; have effect as if enacted by this Act,

Delegation of certain powers.

76 A. The Ministry of Finance may, with the approval of the Union Government , by notification in the Gazette, delegate----

(a) all or any of the powers conferred on him by sections 2 (9); 33 (3) (b), 70 (I), 74 and 78 to The Ministry of Finance may, with the approval of the Union Government; and

(b) all or any of the powers conferred on The Ministry of Finance may, with the approval of the Union Government by section 45 (I) (2), 56 (I) and 70 (2) to such subordinate Revenue authority as may be specified in the notification.

Saving as to Court- Fees.

77. Nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment // for the time being in force relating to court-fees.

78. *

79. [*Repealed by Act X of 1914.*]

THE TRANSFER OF IMMOVEABLE PROPERTY RESTRICTION ACT (1987)

[Unofficial Translation]

Pyithuhlyuttaw Act 1, 1987
[Exact date unknown]

CHAPTER 1
TITLE AND DEFINITION

1. This law shall be called the Transfer of Immoveable Property Restriction Act.

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

(a) "State" means Union of Socialist Republic of Burma.

(b) "Foreigner" includes the following –

(i) According to the Burmese Citizen Act, any person who is not a citizen of the Union; any person who is not a guest citizen or any person who is not allowed to be a citizen.

(ii) According to the Burmese Citizen Act, any person whose citizenship has ceased or any person who has withdrawn their citizenship, guest citizenship or their allowance to be a citizen.

(c) "Foreigner owned company" means a company or partnership organization whose administration and control is not vested in the hands of the citizens of the Union or whose major interest or shares are not held by citizens of the Union.

(d) "Immoveable property" means land, benefits from the land, building and things constructed or situated on that land and things installed on those buildings.

(e) "Transfer", "loan", "sell", "give away", "pawn" and "exchange" shall have the meanings assigned to them in the Transfer of Property Act.

(f) "Give away" shall include donation or "entrusted in believe".

CHAPTER 2
RESTRICTIONS ON IMMOVEABLE PROPERTY

3. No person shall sell, buy, give away, pawn, exchange or transfer by any means immovable property with a foreigner or foreigner owned company.

4. No foreigner or foreign owned company shall acquire immovable property by way of purchase, gift, pawn, exchange or transfer.

5. No person shall grant a lease of immovable property, for a term exceeding one year:

(a) To a foreigner or foreigner owned company.

(b) No foreigner or foreigner owned company shall receive a lease of immovable property, for a term exceeding one year.

6. Whenever a foreigner dies or departs totally to a foreign country or is deported, the relevant Ministry shall scrutinize each case with the relevant procedures and, as regards any relevant immovable property owned by the foreigner, either:

(a) Allow inheritance according to the law.

(b) Confiscate the immovable property as state-owned property.

7. If the inheritance is allowed according to Section 6 subsection (a), the heir who will inherit the immoveable property should be in accordance with any Court decision made under th Inheritance Act or agreement between the inheritors.

CHAPTER 3
REGISTRATION

8. A foreigner or foreigner owned company must register any immoveable property and the location of such immoveable property in the state concerned to the respective Township People Council according to the relevant procedure.

9. Prior to the enactment of this law, any foreigner who is staying abroad or a foreigner owned company must register their immoveable property and the location of such to the respective Township People Council according to the relevant procedure through their agent.

10. Executive members of Township People Council must inquire and investigate any concealment of registration mentioned under Section 8 and 9, according to the relevant procedure.

CHAPTER 4
PENALTIES

11. Whoever contravenes the provisions of section 3 or 4 shall be sentenced to a minimum of three years and a maximum of five years imprisonment and the relevant immovable property shall be confiscated as public property.

12. Whoever contravenes the provisions of section 5 shall be punished with a fine not exceeding three times the rent agreed upon for the entire period of the lease and the relevant immovable property shall be confiscated as public property.

13. Whoever if found, after enquiry by the Township People Council, to have contravened the registration provisions in section 8 or section 9, shall be sentenced to a minimum of one year and a maximum of three years imprisonment and the relevant immoveable property in the case shall be confiscated as public property.

CHAPTER 5
GENERAL

14. The relevant Ministry may allow exemptions from the provisions of this Act to a foreign government for the use of its diplomatic mission accredited to the Union of Burma or to United Nations' organizations or to any other organizations of individuals.

15. The provision of this Act do not apply to companies or organizations that have relevant beneficial contracts with the state.

16. The relevant ministry, assigned by the cabinet of ministers, can scrutinize and decide to allow registration or not of immoveable property that was in the registration office before this act was prescribed.

17. Prior permission from the relevant ministry is required prior to any prosecution of offences committed under this Act.

18. To carry out the provisions of this act, the relevant ministry shall:

(a) Issue necessary procedures with the agreement of the cabinet of ministers.

(b) Issue necessary orders and directives.

19. The following enacted law and bye-law are hereby withdrawn.

(a) The Transfer of Immoveable Property (Restriction) Act, 1947.

(b) The Transfer of Immoveable Property (Restriction) Act, 1956.

DICA
Directorate of Investment and
Company Administration