



# LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

Yangon, 28 August 2017

## The Petroleum and Petroleum Products Law

The Petroleum and Petroleum Products Law, enacted on 1<sup>st</sup> August 2017, replaces the 1934 Petroleum Act (<http://tinyurl.com/y96xwwma>). In a nutshell, its aim is to provide a framework for the safe handling of petroleum and petroleum products. It is basically a combination of the 1934 act with Ministry of Energy Notification 100/2013 on the import, transport, storage and distribution of petroleum products (<http://tinyurl.com/y9qz9fhh>). As the law lacks detail, businesses are advised to adhere to best international practice until more specific regulations are issued by the various ministries in charge of the sector.

### 1. Scope of application

The law covers the “import, export, transportation, transit, storage, possession, refinery, distribution, inspection and testing of petroleum and petroleum products”.

It defines “petroleum” as any mixture of hydrocarbon fossil fuel such as crude oil, condensate and natural gas, and “petroleum products” as any types of goods which are extracted through the distillation of raw petroleum, including petrol, butane, diesel, jet fuel, kerosene, fuel oil, engine oil, lubricants, compressed natural gas (CNG), liquefied natural gas (LNG), liquefied petroleum gas (LPG), bio fuels mixed with any types of petroleum products, paraffin, tar and any types of goods specified as such by notification.

### 2. Market access by foreign companies

The law does not regulate market access by foreign companies. This is done by MIC Notification 15/2017 (<http://tinyurl.com/yasp99dy>). 100% foreign investment is in principle allowed, but subject to the approval of the Ministry of Electricity and Energy.

### 3. Licenses

The law provides for a host of licenses, but stops at naming the ministries responsible for issuing them or appointing the issuing bodies. The licensing procedures are left to the ministries. The responsible ministries are:

| Ministry               | License   |
|------------------------|---|
| Electricity and Energy | Issuance of licenses for refinery, transportation, transportation with pipelines, distribution, testing, and analysing; issuance of separate or combined licenses for the operation of more than one business |
| Commerce               | Issuance of licenses related to import and export   |



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| Ministry   | License   |
|--|---|
| Transport and Communications                     | Issuance of licenses for motor vehicles, watercraft and barges for the carriage of petroleum and any types of petroleum products  |
| Natural Resources and Environmental Conservation | <ul style="list-style-type: none"><li>▪ Issuance of storage licenses for warehouses and storage tanks</li><li>▪ Issuance of a transportation permit for motor vehicles, watercraft and barges for the transportation of petroleum and any types of petroleum products</li></ul> |

#### 4. De minimis exemptions

Like its predecessor, the 1934 Petroleum Act, the law provides that certain acts considered to be harmless do not require licenses. These exemptions are:

- (a) Handling of any particular type of petroleum or petroleum product exempted by the Ministry of Electricity and Energy with the consent of the Union Government;
- (b) transport and storage of up to 500 gallons of harmless (flashpoint of more than 76°F/24.44°C) petroleum and petroleum products;
- (c) storage, import and export of up to 6 gallons of dangerous (flashpoint up to 76°F/24.44°C) petroleum and petroleum products not intended for sale;
- (d) import, transportation and storage of less than 20 gallons of dangerous petroleum and any types of dangerous petroleum products by the driver, captain or owner of machines with engines using petroleum or any type of petroleum products;
- (e) keeping petroleum and petroleum products in the tank of a machine with an engine.

#### 5. Inspection and testing

Like its 1934 predecessor, the law contains provisions on inspection and testing. It explicitly states that officially collected samples may be tested by “organisations with a testing license” instead of an officer from the Ministry of Electricity and Energy. This may be an opportunity for specialised private businesses and institutions.

#### 6. Penalties

Whereas its 1934 predecessor only provided for fines, the new law stipulates prison terms for violations (in particular for operating a petroleum and petroleum products business without the required licenses) as an alternative or in addition to fines.



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### **7. Existing operators**

Existing operators must make a “management plan” and submit it for approval to the ministry responsible for the respective license (which may add up to a number of ministries). The law does not provide for a deadline in this regard.

### **8. Committee**

The law provides for the establishment of a “committee regulating petroleum and petroleum products businesses” which will be, among others, in charge of allocating duties to the relevant ministries.

### **9. Safe handling**

Like its 1934 predecessor, the law contains a few specific provisions concerning the safe handling of petroleum and petroleum products, in particular an obligation to attach warning signs to containers and pipelines, an obligation of unlicensed keepers of up to 500 gallons of harmless petroleum products to store them in containers whose capacity does not exceed 200 gallons, and an obligation of unlicensed keepers of up to 6 gallons of dangerous petroleum products to store them in containers whose capacity does not exceed 0.25 gallons if made from glass or stoneware or 5 gallons if made from metal.