



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

Dear Readers,

It's been a while, but here's a new edition of our newsletter.

The President's Office published on its homepage yesterday the **names of the new members of the Myanmar Investment Commission (MIC)**. The MIC had been disbanded following the establishment of the new government. Investment proposals could be filed, but no new investments obtained MIC approval since 25 March 2016. Newspapers report that there is a backlog of about 100 proposals and it is hoped that this backlog will be worked off soon.

Please find the names of the new MIC members inside this newsletter.

With effect 1 June 2016, **DICA altered its filing fees**. The filing fee for registering a private company was reduced from Ks. 1,000,000 to Ks. 500,000; other filings have become significantly more expensive.

We have, for the benefit of our readers, included an English translation of the Road Transport Business Law in this newsletter.

We trust that you will find this newsletter useful and hope that you will enjoy reading it.

Sebastian Pawlita
Managing Director

Nyein Chan Zaw
Director



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

Press review (12 April – 9 June 2016)

- YCDC's battle against unlicensed contractors: <http://tinyurl.com/jh646c3>
- Bank of Tokyo Mitsubishi UFJ's leasing arm applying to be the first foreign leasing firm: <http://tinyurl.com/joh5nmI>
- Yangon Region Government freezes construction of all projects of nine floors or higher to review building permits: <http://tinyurl.com/jsu29jo>, <http://tinyurl.com/gvghxjw>
- Central Bank not to issue new rules restricting the use of dollars further: <http://tinyurl.com/h75j298>

This is a vexing topic - we understand, from conversations with Central Bank officials, that the following is their policy at the moment:

- Anybody can accept cash payments up to USD 10,000 and hold up to USD 10,000 in cash. Any excess amount has to be deposited in a foreign currency account with a bank.
- Anybody can open a foreign currency account and keep in it, wire transfer from it or wire transfer to it USD in an unlimited amount.
- Cash withdrawals from a foreign currency account are limited to USD 5,000 per withdrawal and USD 10,000 per week; there is no limit if the amount is exchanged into kyats.
- Electronic import/export licensing system to go live in June: <http://tinyurl.com/hb2cyox>
- Myanmar Thilawa SEZ Holdings Ltd. now listed at the stock exchange: <http://tinyurl.com/gtsvu6n>
- US sanctions lifted a bit: <http://tinyurl.com/zcbq5m5>, <http://tinyurl.com/hxavkf6>, <http://tinyurl.com/hegvwnu>, <http://tinyurl.com/jcqmlvx>

In a nutshell:

- State-owned Myanma Economic Bank, Myanma Foreign Trade Bank, Myanma Investment and Commercial Bank removed from sanctions list
- State-owned Myanma Gem Enterprise, Myanma Timber Enterprise, Myanma Pearl Enterprise, Mining Enterprise No. 1, Mining Enterprise No. 2, Mining Enterprise No. 3 removed from sanctions list



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- Military-owned Myawaddy Bank and Innwa Bank added to a general license that allows financial transactions (but no investment)
- Import/export through Asia World Port Terminal allowed indefinitely
- Threshold for mandatory reporting raised from USD 500,000 to USD 5 million



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

The new Myanmar Investment Commission (Union Government Notification No. 43/2016 dated 7 June 2016)

Sr. no.	Position in the MIC	Name	Other position
1	Chairman	U Kyaw Win	Union Minister of Finance and Planning
2	Vice-Chairman	Dr. Thant Myint	Union Minister of Commerce
3	Member	U Tun Tun Oo	Union Attorney General
4	Member	U Khin Maung Yee	Permanent Secretary, Ministry of Natural Resources and Environmental Conservation
5	Member	U Toe Aung Myint	Permanent Secretary, Ministry of Commerce
6	Member	U Tun Tun Naing	Permanent Secretary, Ministry of Planning and Finance
7	Member	U Htay Chun	Deputy Director General (retired), DICA
8	Member	U Kyaw	Director (retired), General Administration Department
9	Member	U Aye Lwin	Joint Secretary General, UMFCI
10	Secretary	U Aung Naing Oo	Director General, DICA
11	Joint Secretary	Daw Mya Thuza	Deputy Director General (retired), DICA



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

New company registration fees with effect 1 June 2016 (as published on DICA's homepage)

SR.	PARTICULARS	OLD RATE (MMK)	NEW RATE (MMK)
1	Company Registration Fee		
	(a) Private Limited Company	1,000,000	500,000
	(b) Public Company	1,000,000	2,500,000
2	Company Registration Extension Fee	500,000	300,000
3	Form VI, Form XXVI, Form E, Change of Address, Share Transfer, True Copy Issuance of Documents	2,500	25,000
4	True Copy Issuance of Company Registration Card	5,000	50,000
5	Addition of Business Objectives, Change of Company Name, Increase Authorized Capital	7,500	75,000
6	Amendment of MOA, AOA	50,000	300,000



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

TRANSLATION ROAD TRANSPORT BUSINESS LAW

(Convenience translation - accuracy not guaranteed)

(2016, Pyidaungsu Hluttaw Law No. 3)

10th Waning of Nattaw, 1377

(5 January 2016)

The Pyidaungsu Hluttaw hereby enacts this law.

Chapter (I)

Title, effectiveness and definitions

1. This law shall be called the “Road Transport Business Law”.
2. This law shall come into force one year after promulgation.
3. Expressions contained in this law shall have the meanings given hereunder -
 - (a) **“State”** means the Republic of the Union of Myanmar.
 - (b) **“Road transport business”** means road transport business using one transport vehicle or more than one transport vehicle to transport passengers or goods or both, operated by a person who runs the road transport business with the purpose of receiving rental fees, transport fees or other types of benefits. Transport business regarding trading or any other business performed by a person is included in this term.
 - (c) **“Transport vehicle”** means a vehicle that is driven by using machine power, electrical power or another kind of power, hauler, load-hauler or any tractor to transport passengers or goods or both on public roads for a business purpose.
 - (d) **“Person operating a road transport business”** means a person who operates a road transport business with any road transport vehicle.
 - (e) **“Regional convention”** means a cross-border transport agreement among member states of a convention to transport goods or passengers or both across borders. The term includes schedules to the convention and protocols.



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- (f) **“Member state of the convention”** means a member state of a regional convention.
- (g) **“Special Drawing Rights Unit”** means the monetary system specified by the rules issued under this law according to the definition by the International Monetary Fund.
- (h) **“Unpredictable situation”** means a situation which a person operating a road transport business cannot predict and prevent, including natural disasters; furthermore, it means a situation which causes damage, loss or delay because the result *[of, e.g., a natural disaster]* cannot be prevented or controlled.
- (i) **“Business license”** means a document issued by the Ministry according to the type of the road transport business to a person operating a road transport business.
- (j) **“Permission”** means a permission issued according to this law to a person operating a cross-border road transport business of another member state to transport passengers or goods or both into the country for temporary entry or transit.
- (k) **“Fees”** means the business license fees, business license extension fees, service fees for a permission and other road transport business fees collected under this law.
- (l) **“National Committee”** means the national committee for fast and smooth road transport organized under this law.
- (m) **“Regional Administration Group”** means the respective transport business administration group of a Region or State, Union Territory, Self-Autonomous Division or Self-Autonomous Region.
- (n) **“Ministry”** means the Ministry of Rail Transport.
- (o) **“Department”** means the Ministry of Rail Transport, Road Transport Administration Department.



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- (p) **“Region or State Department”** means the Regional or State Road Transport Administration Department.
- (q) **“District Department”** means the District Road Transport Administration Department.
- (r) **“Township Department”** means the Township Road Transport Administration Department.
- (s) **“Self-Autonomous Divisional or Self-Autonomous Regional Department”** means the Road Transport Administration Department of a Self-Autonomous Division or Self-Autonomous Region.

Chapter (II)

Objectives

- 4. The objectives of this law are as follows -
 - (a) To enable the control and implementation of a systematic development of the road transport business within the country;
 - (b) To enable the fulfillment and performance of the needs to transport passenger and goods in order to develop the country’s economy, social affairs, management and transport;
 - (c) To enable the issuance and promulgation of the required rules and regulations under the law for the systematic development of the road transport business;
 - (d) To enable the cooperation with the related departments and organizations in order to reduce the impacts of road transport on environmental conservation;
 - (e) To enable implementation by and cooperation with the related departments and organizations to avoid vehicle and road accidents;
 - (f) To enable systematic performance in compliance with the regulations of the regional convention with regard to the operation of cross-border road transport businesses.

Chapter (III)



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

The formation of the National Committee and its duties

5. The Union Government -

(a) shall organize the National Committee with the following persons in order to implement the objectives and provisions of this law -

- | | | |
|------|---|----------|
| (1) | Union Minister
Ministry of Rail Transport | Chairman |
| (2) | Deputy Minister
Ministry of Home Affairs | Member |
| (3) | Deputy Minister
Ministry of Foreign Affairs | Member |
| (4) | Deputy Minister
Ministry of Transport | Member |
| (5) | Deputy Minister
Ministry of Immigration and Population | Member |
| (6) | Deputy Minister
Ministry of Commerce | Member |
| (7) | Deputy Minister
Ministry of Health | Member |
| (8) | Deputy Minister
Ministry of Finance | Member |
| (9) | Deputy Minister
Ministry of Construction | Member |
| (10) | Deputy Minister
Ministry of Rail Transport | Member |
| (11) | Ministers of Road Transport from the Region and State Governments | Member |



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

(12)	Agents from road transport groups	Member
(13)	Road transport business professionals	Member
(14)	Director General Road Transport Administration Department	Secretary

(b) The Committee may be reorganized if necessary.

6. The duties of the National Committee are as follows -

- (a) Making policies, directing and administering so that accidents are avoided and domestic and cross-border road transport business is secure and efficient;
- (b) Organizing Regional Administration Groups and specifying their required duties, setting the policy for efficient transport and implementing it systematically;
- (c) Cooperation with the Road Transport Business Administration Committee, the Cross-Border Road Transport Business Administration Committee and the Regional Administration Groups; fulfillment and performance of the requirements in order to successfully implement the duties and rights of the National Committee;
- (d) Specifying regulations and administering them in order to avoid vehicle and road accidents and harmful impacts to the environment by transport vehicles while transporting;
- (e) Coordinating with the related departments and organizations so that the required amount of goods and passengers reach the relevant region within the required period and for convenient travelling;
- (f) Coordinating as prescribed in order to single out [*i.e., requisition*] transport vehicles when State organizations single them out for use for the public benefit in other emergency cases, including natural disasters;
- (g) Negotiating and specifying road transport business regulations and limitations; negotiating with the related departments and organizations to specify the rates for transport fees, especially fees for vehicle lines [*i.e. transport companies*], vehicle gates, vehicle associations, destinations, number of destinations, gates



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

for goods, places and areas for loading and unloading goods, and the transport of passengers and goods;

- (h) Forming organizations required for efficient road transport business and specifying their duties; enable administration to avoid vehicle and road dangers;
- (i) Giving directions to the Cross-Border Road Transport Business Administration Committee, and negotiating and cooperating with other member states in the region in order to comply with the regional convention in order to enable efficient performance of cross-border road transport business;
- (j) Performing the duties which are assigned from time to time by the Union Government regarding road transport business.

Chapter (IV)

Formation of the Road Transport Business Administration Committee and the Cross-Border Road Transport Business Administration Committee, and their duties

- 7. With the consent of the Union Government, the Ministry -
 - (a) The Road Transport Business Administration Committee shall be organized with the Deputy Minister of the Ministry as chairman, representatives from the respective Union ministries, government departments, government organizations and non-government organizations and road transport business professionals as members, and the Director General from the Administration Department as secretary.
 - (b) A vice-chairman and joint-secretary shall be appointed if it is necessary when forming the Road Transport Business Administration Committee.
 - (c) The Road Transport Business Administration Committee shall be reorganized if necessary.
- 8. The duties of the Road Transport Business Administration Committee shall be specified by rules issued under this law.
- 9. With the agreement of the Union Government, the Ministry -



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- (a) The Cross-Border Road Transport Business Administration Committee shall be organized with the Deputy Minister of the Ministry as the chairman, agents from the respective Union ministries, government departments, government organizations and non-government organizations and road transport business professionals as members, and the Director General from the Administration Department as secretary.
 - (b) A vice-chairman and joint-secretary shall be appointed if it is necessary when forming the Cross-Border Road Transport Business Administration Committee.
 - (c) The Cross-Border Road Transport Business Administration Committee shall be reorganized if necessary.
10. The duties of the Cross-Border Road Transport Business Administration Committee shall be specified by rules issued under this law.

Chapter (V)

Regional Administration Groups

11. The National Committee -
 - (a) Shall, in cooperation with the respective Administration Group, specify the duties and rights of the Regional Administration Groups after they have been formed in order to supervise the road transport business within the respective Region or State, Union Territory, Self-Autonomous Region or Area.
 - (b) The responsible officer from the Administration Department of the respective Region shall be appointed secretary of the respective Regional Administration Group when it is formed according to sub-section (a).
12. The Regional Administration Groups shall submit a report of their activities to the National Committee within the specified period.

Chapter (VI)

Business Licenses

13. A person applying to operate a road transport business -



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- (a) Shall be able to sufficiently compensate for damage to goods, loss of goods or delays regarding the road transport business.
- (b) Shall have the qualifications specified in the rules for road transport business issued under this law.
- (c) Shall not be black-listed for violations of laws, rules and regulations related to road transport business.
- (d) Shall not be imprisoned.
- (e) Shall not be declared bankrupt by the respective court, unless he has been reinstated as solvent.

Chapter (VII)

Operating a domestic road transport business

- 14. The Administration Department may appoint the appropriate District and Township Administration Departments and give them the right to issue business licenses and the right, with regard to business licenses, business conditions and the condition of transport vehicles, to take action if necessary.
- 15. If a person who has applied to operate a road transport business conforms to the specifications of section (13), he
 - (a) Shall apply, as prescribed, to obtain a business license to either the Region or State Administration Department, or the District or Township Administration Department appointed by the Administration Department, if the transport takes place within the Region or State.
 - (b) Shall apply, as prescribed, to obtain a business license to the Administration Department of the respective Region or State if the transport crosses the border of a Region or State.
- 16. Following the directives of the Administration Department, the Region or State Administration Department, or the District or Township Administration Department appointed by the Administration Department -



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- (a) May approve the issuance of the business license, or reject the issuance of the business license, or cause the applicant to amend the application after having checked the business license application according to sub-section (a) of section (15).
 - (b) If the issuance of the business license is approved according to sub-section (a), shall cause the applicant to pay the license fees depending on the type of business and the transport vehicle and then issue the business license to the applicant.
- 17. The Administration Department -
 - (a) May approve the issuance of the business license, or reject the issuance of the business license, or cause the applicant to amend the application after having checked the business license application according to sub-section (b) of section (15).
 - (b) If the issuance of the business license is approved according to sub-section (a), shall cause the applicant to pay the license fees depending on the type of business and the transport vehicle and then issue the business license to the applicant.
- 18. The business license applicant may apply for an extension of the business license from one year to three years if he so wishes.
- 19. A person having received a business license -
 - (a) Shall follow the specified business license terms.
 - (b) Shall already have either an accident insurance if he transports passengers or [road commodity insurance] for the goods in compliance with the laws in force.
 - (c) May have the right to transfer, as prescribed, the business license or the vehicle which is used for the road transport business within the Region or State according to the business license.



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- (d) May have the right to transfer, as prescribed, the business license or the vehicle which is used for the road transport business crossing the border of a Region or State according to the business license.
20. If a person having received a business license desires to continue the road transport business, he has to extend the business license in advance at least 30 days prior to expiry -
- (a) Shall, in case of road transport business within the Region or State, apply, as prescribed, to the respective Region or State Administration Department or District or Township Administration Department appointed by the Administration Department.
- (b) Shall, in case of road transport business crossing the border of a Region or State, apply, as prescribed, to the Administration Department.
21. Following the directives of the Administration Department, the Region or State Administration Department; or the District or Township Administration Department appointed by the Administration Department -
- (a) May, in case of road transport business within the Region or State, approve the extension, or reject the extension, or cause the applicant to amend the application after having checked the application according to sub-section (a) of section (20).
- (b) If the extension is approved according to sub-section (a), shall cause the applicant to pay the license extension fees depending on the type of business, specify the terms, and issue the extension.
- (c) Shall notify the applicant of the approval, the rejection or the need to amend the application according to sub-section (a) within 30 days from receiving the application to extend the business license.
22. The Administration Department -
- (a) May, in case of road transport business crossing the border of a Region or State, approve the extension, or reject the extension, or cause the applicant to amend



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- the application after having checked the application according to sub-section (b) of section (20).
- (b) If the extension is approved according to sub-section (a), shall cause the applicant to pay the license extension fees depending on the type of business, specify the terms, and issue the extension.
 - (c) Shall notify the applicant of the approval, the rejection or the need to amend the application according to sub-section (a) within 30 days from receiving the application to extend the business license.
23. At their own desire or according to the application of someone, the Administration Department, or Region or State Administration Department, or District or Township Administration Department appointed by the Administration Department -
- (a) The Administration Department may, up to three times, issue temporary certificates for operating a road transport business for a period of not more than 30 days per time in order to meet special or urgent needs. The issuance of such a certificate shall not be considered as a reason to issue a business license.
 - (b) May, in an unexpected situation, issue a temporary certificate only once for a period of not more than 30 days for the operation of a road transport business while a systematic [*i.e., formally correct*] application to extend a business license is being checked.
24. A business license shall be revoked in any of the cases below -
- (a) A person having received a business license applies, stating that he does not wish to operate the road transport business any more.
 - (b) Expiration of the business license.
25. The Region or State Administration Department and the District and Township Administration Department appointed by the Administration Department shall submit a business activity report regarding the business license cases to the Administration Department as prescribed.

Chapter (VIII)



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

Operating a cross-border road transport business

26. A person operating a road transport business from Myanmar to any other member state of the convention across the border -
 - (a) Shall conform to the requirements of section (13);
 - (b) If it is a joint venture with a foreigner, a Myanmar citizen shall own more than half of the capital and shall also have more power than the foreigner in the management.
 - (c) Shall be experienced and proficient in the transport of passengers or goods or both across the Myanmar border.
 - (d) Shall follow the laws, rules, regulations and customs of Myanmar and of other members of the convention concerning cross-border road transport business.
27. A person operating a road transport business shall conform to the requirements of section (26) and shall apply as prescribed to the Administration Department to obtain a business license if he wants to operate a cross-border road transport business.
28. The Administration Department -
 - (a) May approve the issuance of the business license, or reject the issuance of the business license, or cause the applicant to amend the application after having checked the business license application according to section (27).
 - (b) If the issuance of the business license is approved according to sub-section (a), shall cause the applicant to pay the license fees depending on the type of business and the transport vehicle and then issue the business license to the applicant.
29. A person from another member state of the convention who operates a cross-border road transport business shall apply to the Cross-Border Road Transport Business Administration Committee to obtain permission if passengers or goods or both enter the country temporarily or are transported in transit, except in the following cases.
 - (a) Transport is for the person's own business, as evidenced by documents from the member state of the convention which is the home of the person;



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- (b) The vehicle is not for commercial business;
 - (c) Transport to a funeral;
 - (d) Ambulance, fire-engine, rescue and reconstruction vehicle, emergency assistance by humanitarian organizations.
30. The Cross-Border Road Transport Business Administration Committee -
- (a) First has to check, without delay, the application according to section (29), and then check, with the checkpoints within the country, whether the quota of passengers and goods from a member country of the convention has not been exceeded, and then may issue, on a specified form, a permission with terms and conditions for a period of not more than one year.
 - (b) Shall open checkpoints within the country to inspect according to sub-section (a). Persons responsible for inspections at the opened checkpoint shall inspect concurrently and simultaneously the persons, goods and transport vehicles who/that have entered and which pass across the border.
 - (c) When inspecting, the groups of inspectors of the two bordering member states of the convention shall inspect together according to sub-section (b). When inspecting, the right *[of the inspectors]* to leave to the other member state and the right to enter the member state of the convention may be granted according to sub-section (b).
 - (d) *[The Cross-Border Road Transport Business Administration Committee]* shall arrange for the inspectors to be able to inspect efficiently and without delays so that the permissions can be issued.
 - (e) Transport vehicles which have entered the country across the border shall be inspected and supervised as to whether the transport vehicle is driving on the specified way and route within the country, loading and unloading the passengers and the goods as prescribed, and travelling and leaving on the specified schedule.



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- (f) Shall allow a person from any other member state of the convention operating a road transport business to enter into the country freely, recognizing the legally issued business license, but may impose terms and conditions.
 - (g) Shall exempt a person from abroad operating a road transport business from customs duty if he transports goods to another member state of the convention in transit through Myanmar; this shall not apply to other types of fees.
 - (h) Shall collect the custom and other fees for imports from another member state of the convention across the border.
31. Persons operating a cross-border road transport business, drivers and vehicle assistants coming into the country shall hold a valid passport or international travel permit according to the regional convention or bilateral agreement with another member state of the convention; if visa-free travel is not allowed, they shall apply, as prescribed, to the Cross-Border Road Transport Business Administration Committee in order to obtain a visa or a one-year multiple-entry visa.
32. The Cross-Border Road Transport Business Administration Committee shall check the application according to section 31 and may, after negotiating with the respective government department, issue a visa or a one year multiple-entry visa to the applicant if visa-free travel is not allowed according to the regional convention or the bilateral agreement with another member state of the convention.
33. Regarding the entering into the country across the border -
- (a) The valid vehicle registration document from the other member state of the convention shall be kept together with the vehicle. Furthermore, a registered number-plate shall be affixed at the front and back of the vehicle, and show the symbol of the country of registration.
 - (b) The transport vehicle shall comply with the vehicle safety standard, exhaust emission and air pollution standard, and the standard for vehicle loading capacity specified by the State.
 - (c) *[The person entering]* shall have the vehicle inspection document issued by the other member state of the convention which records the inspections of the



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

robustness of the vehicle; the inspection group which is formed by the working committee shall recognize the document.

- (d) The owner of the transport vehicle which enters the country shall have third-party liability insurance for this vehicle in compliance with the law in force.
 - (e) *[The Cross-Border Road Transport Business Administration Committee]* shall issue a temporary certificate for that vehicle if a valid vehicle registration document registered in the other member state of the convention is in compliance with Myanmar's standards.
34. Regarding a transport vehicle which transports from Myanmar to another member state of the convention across the border, the vehicle owner, driver or relevant responsible person shall conversely recognize, follow and perform the provisions of section 33.
35. The driver and the vehicle assistant of a transport vehicle which enters into the country across the border -
- (a) A valid driver's license issued by the member state of the convention which is the home of the driver or an international driving document shall be held by the driver.
 - (b) A valid vehicle assistant document issued by the member state of the convention which is the home of the vehicle assistant shall be held by the vehicle assistant.
 - (c) Shall follow the laws, rules and regulations in force that are prescribed by the State regarding vehicle discipline and road discipline.
36. The Cross-Border Road Transport Business Administration Committee shall issue a temporary inspection certificate concerning the possession of a driver's license and vehicle assistant document according to the provisions of section (35).
37. According to the regional convention, a person who operates a cross-border road transport business, vehicle owner, driver, vehicle assistant and relevant responsible person shall follow the rules, regulations, notifications, orders, directives and procedures which are issued under this law regarding the following -
- (a) Transport of dangerous goods;



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- (b) Registration of cross-border road transport business vehicles;
- (c) Transport of perishable goods;
- (d) Acts to make cross-border road transport business efficient;
- (e) Entering, across the border, of a person operating a road transport business, of a driver, vehicle assistant and of passengers;
- (f) Passing from a member state of the convention and customs clearance;
- (g) Road transport regulations and road signal system regulations;
- (h) Temporary import a of transport vehicle;
- (i) Issuance of business licenses to persons operating a cross-border road transport business;
- (j) Regulations on the transport of goods;
- (k) Detailed information of the standards for the construction and design of roads and bridges;
- (l) Crossing the border, efficient crossing from a member state of the convention and servicing [*literal translation*];
- (m) Defining who is responsible to compensate if there is more than one person operating the road transport business;
- (n) Customs procedures concerning containers;
- (o) Classification system for types of goods;
- (p) Requirements for a driver's license;
- (q) Specifying the gates and the routes through which a transport vehicle has to cross the border;
- (r) Fees collected from cross-border road transport business;



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- (s) The number of entries and departures of a vehicle crossing the border, number of vehicles, ability to service, quota.

Chapter (IX)

Duties and responsibilities of a person operating a road transport business

- 38. A person operating a road transport business is responsible for the goods from the date of accepting the goods for transport to the time of finishing the transfer of the goods according to the agreement.
- 39. During the performance of the duties, a person operating a road transport business shall be responsible for the acts and failures of his staff and agents, and for the acts and failures of other persons performing according to a contract with the person operating the road transport business, as if the acts or failures were committed by the person operating the road transport business himself.
- 40. A person operating a road transport business -
 - (a) Shall write the result on the goods transport form after checking the number, weight and apparent condition of the goods. It is presumed that the goods are in good condition if nothing to the contrary is written down.
 - (b) Shall include, in the goods transport form, the facts specified by the rules issued under this law
 - (c) Shall compile three signed goods transport forms. The first original form shall be given to the depositor of the goods, the second original form shall be kept in the transport vehicle together with the goods, and the third original form shall be kept by the person operating the road transport business.
 - (d) Unless agreed otherwise on the goods transport form, shall recognize the rights of the depositor of the goods to manage the goods, to stop on the way to the destination and to change the recipient.
 - (e) If agreed otherwise on the goods transport form, shall negotiate with the depositor of the goods to resend the goods to their original place or to change the route.



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

41. A person operating a road transport business -
 - (a) Shall, from the date of accepting the goods for transport, be responsible, according to the transport of goods contract, for damage to the goods, for the loss of goods or loss due to a delay to transfer the goods when performing himself or through his staff or agent, unless evidence is shown that he or his staff or agent is not responsible for the damage,.
 - (b) Shall not be responsible for the loss of goods or delay to transfer the goods if the depositor of the goods did not state the transport period.
42. If there is a delay and the goods are not transferred to the recipient either on the date specified in the contract as the date of transfer or, if there is no such contract, within 60 days from the date of the transporter having accepted the goods, the person who has the right to request the goods may, unless there is evidence to the contrary, consider the goods as lost and act accordingly.
43. A person operating a road transport business shall not be responsible for the loss of goods, damage to goods or delay of transferring goods if he can show evidence that any of the following situations occurred during the transport period, irrespective of the provisions in section (38), section (39) and sub-section (a), section (41).
 - (a) Action or negligence on the part of the depositor of the goods, recipient of the goods or their agent;
 - (b) Imperfect packaging, marking or labeling;
 - (c) The depositor of the goods, the recipient of the goods, a person acting on their behalf or their agent carelessly maintained, loaded, unloaded or stored the goods;
 - (d) Goods are perishable, naturally weak or invisibly weak;
 - (e) Protest of the relevant union, strike, lockout, full or partial prohibition to work;
 - (f) Occurrence of an unpredictable situation including a natural disaster.
44. Compensation for the loss of goods, damage or delay shall be based either on the price of the goods at the place and time at which the goods had to be transferred to the



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- recipient of the goods or the current price of the goods at the place and time at which the goods had to be transferred according to the contract.
45. If less than the original amount of the goods are transferred, or goods are lost or damaged -
- (a) The compensation to be paid by a person operating a domestic road transport business shall be specified in the rules issued under this law.
 - (b) The compensation to be paid by a person operating a cross-border road transport business shall not exceed the Special Drawing Rights Units specified as maximum compensation in the rules issued under this law.
46. If goods are completely or partly lost, the person operating the road transport business -
- (a) Shall pay compensation equivalent to the price included in the value of goods declaration form or the current price at the place where the goods were received [*by the person operating the transport business*] if there is no such statement.
 - (b) Shall compensate for the transport fees, customs and all other expenses.
47. A person operating a road transport business shall compensate not more than the transport fees if there is a delay in transferring the goods.
48. Regarding passenger and goods transport, duties which must be complied with by a person operating a road transport business, a passenger and a depositor of goods shall be specified in the rules.

Chapter (X)

Specifying fees and their collection

49. The Ministry shall, in rules issued under this law with the agreement of the Union Government, specify the following fees to be collected -
- (a) Business license fees and fees for extension of the business license;
 - (b) Service fees for issuing permissions;



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

(c) Other road transport business fees.

50. The Administration Department, Region or State Administration Department, District or Township Administration Department appointed by the Administration Department may collect the fees from a person having failed to pay it according to this law as if they were tax arrears.

Chapter (XI)

Administrative sanctions

51. The Region or State Administration Department may impose the following administrative sanctions on a person having received a road transport business license for a Region or State if this person is found to have violated any terms and conditions of the business license or any prohibitions included in rules, orders or directives issued under this law -
- (a) Suspending the business license temporarily for a specified period;
 - (b) Revoking the business license.
52. The Administration Department may impose the following administrative sanctions on a person having received a business license for road transport business crossing the border of a Region or State, or a cross-border road transport business license, or a permission, if this person is found to have violated any terms and conditions of the business license or permission or any prohibitions included in the rules, orders or directives issued under this law -
- (a) Suspending the business license temporarily for a specified period [*translator's note: "permission" is not mentioned*];
 - (b) Revoking the business license [*translator's note: "permission" is not mentioned*].
53. The District or Township Administration Department appointed by the Administration Department may impose the administrative sanction specified in sub-section (a) of section (51).

Chapter (XII)



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

Appeals

54. A person unsatisfied with an order of the Region or State Administration Department or the District or Township Administration Department appointed by the Administration Department rejecting his application for a road transport business license for a Region or State or the extension of such a business license may appeal to the Ministry within 30 days from the date of the decision.
55. A person unsatisfied with an administrative sanction according to section (53) by the District or Township Administration Department appointed by the Administration Department may appeal to the Ministry within 30 days from the date of the decision.
56. The Ministry may confirm, amend or revoke the order upon appeal according to section (54) or section (55).
57. A person unsatisfied with an administrative sanction according to section (52) may appeal to the Ministry within 30 days from the date of the decision.
58. A person unsatisfied by an order of the Administration Department rejecting his application for issuance of a business license, or the extension of a business license, for road transport business crossing the border of a Region or State or for cross-border road transport business may appeal to the Ministry within 30 days from the date of the decision.
59. A person unsatisfied by an order according to section (56 [*literal translation*]) may appeal to the Ministry within 30 days from the date of the decision.
60. The Ministry may confirm, amend or revoke the order upon appeal according to section (57), section (58) or section (59).
61. The decision of the Ministry upon appeal is final.

Chapter (XIII)

Prohibitions

62. No one -



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- (a) Shall operate a road transport business [*literal translation; should probably be "cross-border road transport business"*] without a cross-border road transport business license.
 - (b) Shall operate a domestic road transport business without a permission issued under this law for the temporary entry into the country, from another member state of the convention, of passengers or goods or both across the border, or permission to transport through the State in transit.
63. Regarding a business license, permission or related documents, no one -
- (a) Shall change, amend or imitate them.
 - (b) Shall use them for other purposes than the operation of the relevant transport vehicle and road transport business.
64. Without valid reason, no one operating a road transport business, with regard to a transport vehicle which entered into the country across the border -
- (a) Shall change, and fail to drive the vehicle on, the specified way and route for transport in the country.
 - (b) Shall leave later than specified departure time.
65. Without a business license, no one -
- (a) Shall operate a road transport business within a Region or State;
 - (b) Shall operate a road transport business crossing the border of a Region or State.
66. No one shall transfer a business license without the prior permission of the Administration Department except by the methods prescribed in the rules issued under this law.
67. The provisions of this section shall not apply to the emergency transport of sick, injured or dead persons in a transport vehicle, the emergency rescue of injured persons, and food, medicine or equipment assistance as emergency aid.

Chapter (XIV)



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

Offences and penalties

68. Any person convicted of having violated any prohibition contained in section (62) shall be imprisoned for not more than three years, or liable to a fine from kyats 1,000,000 to kyats 10,000,000, or both.
69. Any person convicted of having violated any prohibition contained in section (63) shall be imprisoned for not more than three years, or liable to a fine from kyats 1,000,000 to kyats 10,000,000, or both.
70. Any person convicted of having violated any prohibition contained in section (64) shall be imprisoned for not more than two years, or liable to a fine from kyats 700,000 to kyats 7,000,000, or both.
71. Any person convicted of having violated any prohibition contained in sub-section (a) of section (65) shall be imprisoned for not more than one year, or liable to a fine from kyats 500,000 to kyats 5,000,000, or both.
72. Any person convicted of having violated any prohibition contained in sub-section (b) of section (65) shall be imprisoned for not more than two years, or liable to a fine from kyats 700,000 to kyats 7,000,000, or both.
73. Any person convicted of having violated any prohibition contained in section (66) shall be imprisoned for not more than three months, or liable to a fine from kyats 200,000 to kyats 2,000,000, or both.

Chapter (XV)

Jurisdiction

74. Concerning a claim for compensation for the damage, delay or loss of goods that occurred in the operation of a cross-border road transport business, the plaintiff shall have the right to sue at his option in a court having jurisdiction in any of the following territories of a member state of the convention -
 - (a) The territory where the transport of the goods started or the territory of destination;
 - (b) The territory where the person noticed that the goods were lost or damaged;



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

- (c) The territory where the main business of the person operating the road transport business is situated;
 - (d) The territory where the plaintiff requesting compensation is domiciled;
 - (e) Among the territories from sub-sections (a) to (d), the territory agreed by both plaintiff and defendant.
75. Disputes in the operation of a cross-border road transport business arising from a request for compensation for damage, delay or loss of goods may be solved by arbitration in any territory contained in section (74) if the claimant and the respondent agree to solve the dispute by arbitration.

Chapter (16)

Miscellaneous

76. With regard to sending notices, suing in court, filing with an arbitral tribunal, submitting and claiming, or filing an application concerning any loss, the statute of limitation in a cross-border road transport business shall be as specified by rules, notifications, orders, directives and procedures issued this law. If there is no specific provision, it shall be done as prescribed by the law in force.
77. The Administration Department shall supply the fees collected according to this law in full or partly by the Region or State Administration Department or the District or Township Administration Department appointed by the Administration Department to the relevant fund for road transport business within a Region or State in compliance with the direction of the Union Government.
78. The provisions for obtaining a business license contained in this law shall not apply to road transport business operated for the public by the Union Government and Union Ministries.
79. Non-government staff members of the National Committee, members of the Road Transport Business Administration Committee and members of the Cross-Border Road Transport Business Administration Committee may receive a remuneration given by the Ministry as approved by the Union Government.



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

80. All expenses of the National Committee, the Road Transport Business Administration Committee and the Cross-Border Road Transport Business Administration Committee shall be met from the budget of the Ministry.
 81. Non-government staff members of the Regional Administration Committee may receive a remuneration given by the Ministry as approved by the Union Government.
 82. All expenses of the Regional Administration Committee shall be met from the budget of the Ministry.
 83. Non-government staff members of the National Committee, members of the Road Transport Business Administration Committee, members of the Cross-Border Road Transport Administration Committee and members of Regional Administration Committee shall be considered public servants during their serving their duties assigned by this law.
 84. A business license issued under the 1963 Inland Road and Marine Transport Law repealed by this law shall be recognized until it expires.
 85. Rules, regulations, notifications, orders, directives, guidance and procedures issued under the 1963 Inland Road And Marine Transport Law may still be used if they are not against this law.
 86. When implementing the provisions of this law -
 - (a) The Ministry may issue rules and regulations with the agreement of the Union Government.
 - (b) The Ministry, National Committee, Road Transport Business Administration Committee and Cross-Border Road Transport Business Administration Committee may issue notifications, orders, directives and procedures.
 - (c) The Ministry may issue orders and directives.
 87. The 1963 Inland Road And Marine Transport Law shall be repealed by this law.
-



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016

I hereby sign under the Constitution of the Republic of the Union of Myanmar.

Thein Sein

President of the State

The Republic of the Union of Myanmar



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 3 - 9 JUNE 2016



CONTACT

Lincoln Legal Services (Myanmar) Ltd.

**La Pyi Wun Plaza, Room 103 (ground floor),
37, Alan Pya Pagoda Road, Dagon Township,
Yangon, Myanmar**

Phone: +95-9-262546284

E-mail: info@lincolnmyanmar.com

Homepage: Coming soon...



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED