



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 56 - 31st December 2018

Dear Readers,

Welcome to our last newsletter in 2018.

1. Introduction of a government project database (“project bank”)

According to Frontier Myanmar, the Ministry of Planning and Finance is set to launch a “project bank” in 2019, i.e. a database of government projects (<https://tinyurl.com/y8qs7dwf>). The President’s Office issued a corresponding notification on 30 November 2018. According to this notification,

- a “PPP centre” will be established within the Ministry of Planning and Finance;
- government departments and organisations must propose projects to the PPP centre if they are to be financed from the state budget, with development assistance, as a public/private partnership, through the privatisation of a state-owned enterprise or through a combination of these;
- the PPP centre will evaluate each project based on its strategic value, determine the most appropriate source of funding and determine government support such as a government guarantee or viability gap funding; and
- unsolicited proposals from the private sector must go through the PPP centre if the project has a value of more than Ks. 2 billion (approx. USD 1,307,190) with the exception of greenfield projects in the energy and mining sector; such projects will be awarded through a “Swiss challenge” tender (i.e., the unsolicited bid is published with an invitation to third parties to top it), unless the PPP centre deems it unnecessary.

The database is financed by the UK government, the World Bank and Asian Development Bank. The idea is to move away from the current system in which each ministry is developing projects for the sector it is responsible for towards coherent, strategic development.

Existing projects which have secured financing already will not have to be proposed to the PPP centre.

Importantly, projects under other initiatives (such as the China-Myanmar Economic Corridor) will also have to be proposed to the PPP centre.

According to Deputy Minister for Planning and Finance U Set Aung, interviewed by Frontier Myanmar, “hundreds of projects have already been submitted to us and all of these are now



going through our rigorous assessment process. It's a work in progress; after we have completed all these assessments, we will have selected a number of projects. After that, we will conduct preliminary feasibility study analysis in order to obtain more information about these projects, and then once we have developed a business case for each of them, they will be included in the project data bank."

The intention seems to be for data on any project that a government department or organisation wishes to develop to be available online in the project bank.

2. DICA moves under a new "Ministry of Investment and Foreign Economic Relations"

On 19 November 2018, a new "Ministry of Investment and Foreign Economic Relations" was created (<https://tinyurl.com/y83jvcz6>); it is headed by MIC chairman U Thaung Tun. The Directorate of Investment and Company Administration (DICA) and the Foreign Economic Relations Department (FERD) were moved to the new ministry from the Ministry of Planning and Finance. The idea behind the establishment of the new ministry is to give (foreign) investment promotion more clout.

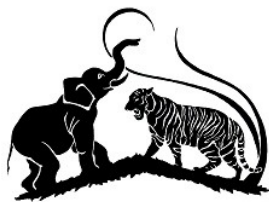
3. General Administration Department to be moved away from the Ministry of Home Affairs?

The government has apparently started to shift the General Administration Department from the (military-controlled) Ministry of Home Affairs to (civilian-controlled) Ministry of the Office of the Union Government (<https://tinyurl.com/yan3wfkq>). This is quite a bold step, given that the General Administration Department's township and ward/village tract offices have to be approached for (well, almost) all aspects of life.

It is reported that the General Administration Department's officers in remote areas, being set in their ways, are making investments difficult. It would seem to be quite a massive task for a civilian overseer to change this.

4. New Myanmar language labelling requirements

Central Consumer Protection Committee Notification 1/2018 dated 26 October 2018 (an English translation is available to our premium subscribers) requires businesses to label certain goods from 26 April 2019 on either in the Myanmar language or in both the Myanmar and another language, providing usage instructions, storage instructions, a description of allergies and precautions and an explanation of side effects.



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The goods to which the new labelling requirements apply belong to the categories food products, household products, baby products, communication devices, medicines and dietary products, chemical products, cosmetics, commodities and equipment.

It should be noted in this context that a new Consumer Protection Law - in spite of the current one being only from 2014 - is expected to be passed in 2019 (<https://tinyurl.com/ya9t98am>) which, if enacted, will increase the compulsory contents of labels (brand or logo of the goods; instructions; storage conditions; name of the importer; address of the manufacturing enterprise; product ingredients; weight or other measurement; health, food and allergy warnings).

5. Labour law notifications

On 12 October 2018, the Myanmar Gazette published three notifications from the Ministry of Labour, Immigration and Population. An English translation of the notifications is available to our premium subscribers.

- **Notification 60/2018** contains a small amendment to the Minimum Wage Rules. Currently, only enterprises with 16 or more employees have to pay the minimum wage. The Notification provides that the MoL may change this number with the consent of the Union Government.
- For practical purposes, **Notification 68/2018** (the “Shops and Establishment Rules”) is more important. It provides the forms that employers in “shops and establishments” (i.e., any business except factories) have to use when reporting, filing or recording (i) the commencement of a shop or establishment, (ii) the movement, change, expansion or transfer of a shop or establishment or the appointment or change of employees; (iii) the temporary or permanent closure of a shop or establishment; (iv) working hours; (v) shift and rotation systems; (vi) overtime payments; (vii) an application to operate for 24 hours/day; and (viii) the attendance record.

The notification states that “employees working at a shop or establishment shall be paid for overtime according to the Payment of Wages Rules if they work for more than 8 hours a day or more than 48 hours a week.” However, the Payment of Wages Rules have not been issued yet; they are expected to be issued next year.

- **Notification 69/2018** (the “Leave and Holidays Rules”) provides, among others, the form for employees to use when applying for leave, forms for employers to use when recording leave, and a form to report overtime on the weekly day off or public holiday.



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The notification clarifies that employees have a right to casual leave, medical leave and maternity leave during the probationary or training period.

6. Electricity and energy news

- (a) Awra Trading Co to supply LPG as petrol alternative in Yangon: <https://tinyurl.com/yd48adop>
- (b) Posco Daewoo to invest USD 94.2 million for gas well development in Myanmar: <https://tinyurl.com/yd64jljf>
- (c) Myeik residents lament higher electricity prices: <https://tinyurl.com/y82vz8m8>
- (d) PTTEP to invest in new Myanmar gas fields next year: <https://tinyurl.com/yce8sxgi>
- (e) Suggestions to tax upstream oil and gas investors more (in addition to the payments to be made to MOGE, we suppose): <https://tinyurl.com/y94ensjx>
- (f) Gas pipeline at Zawtika to be replaced: <https://tinyurl.com/yc4cfkhh>

7. Market access and other news

- (a) Thailand's aluminium maker launches USD 13 million Thilawa plant: <https://tinyurl.com/y8sz3bfe>
- (b) Construction of the Dala Friendship Bridge has started: <https://tinyurl.com/ycqbdttq>
- (c) 10 bidders shortlisted to construct new 20 km Yangon elevated expressway: <https://tinyurl.com/y83awj5k>
- (d) Myanmar-Korean Chamber of Commerce and Industry opened: <https://tinyurl.com/ybb9mbt4>
- (e) EU adds 7 military and border guard police officials to sanctions list: <https://tinyurl.com/y9yqwj9y>
- (f) AirAsia is still planning to enter Myanmar: <https://tinyurl.com/ybx8f2vu>
- (g) News on the New Yangon City Project: <https://tinyurl.com/y9b9mnh6>
- (h) Corporate Japan urges Myanmar to address business concerns: <https://tinyurl.com/y7og4knp>



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- (i) **GrabPay sets sights on Cambodia and Myanmar:** <https://tinyurl.com/y7pndbzx>
- (j) **Central Bank backpedals on market access liberalisation:** <https://tinyurl.com/yb36s863>

Although the Central Bank had on 8 November 2018 <https://tinyurl.com/yb8jux2r> announced that it “herby allows branches of foreign banks to provide any financing and other banking services to local business entities, in the same manner as local banks”, officials told the media shortly thereafter that foreign banks could not take immovable property as security (and this in spite of the Companies Law having a mechanism for just that) or take fixed deposits in kyat, and that the Central Bank had not decided yet on whether they were allowed to pay interest on USD deposits. If the Central Bank had hoped that foreign banks were going to provide massive amounts of liquidity to local companies - it’s hard to see this happening.
- (k) **Road BOT contracts under scrutiny for being a license to rip off users:** <https://tinyurl.com/y8ffkvy7>
- (l) **International tender for Yangon-Pyay railway upgrade to be held next year:** <https://tinyurl.com/y8sph8et>
- (m) **Union parliament rejects French USD 70 million loan for Yangon Region:** <https://tinyurl.com/yblnk55c>

8. Tenders

- (a) **Mandalay Region Government:** Development of 3.1672 acres (former Nadi Myanmar Hotel, 36th/37th Street): <https://tinyurl.com/yapapqhg>
- (b) **Mandalay Region Government:** Long-term rental of Mandalay Convention Centre: <https://tinyurl.com/ybotd7ev>
- (c) **Department of Urban and Housing Development:** Development of 6.982 acres at No. (24-A), Baho Road, Alone Township, Yangon,: <https://tinyurl.com/yc7okdh4>
- (d) **Ministry of Electricity and Energy:** Design, supply and installation of a 500kV substation in Phayargyi and Hlaingthayar (Japanese lead contractor only): <https://tinyurl.com/ybzxwq28>
- (e) **Department of Highways:** Supply and installation of safety steel guard rails for road works along the Thandwe-Gwa Road in Rakhine State: <https://tinyurl.com/y9o2ruen>



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We wish all our readers a happy 2019!

Sebastian Pawlita
Managing Director

Nyein Chan Zaw
Director