



**LINCOLN LEGAL SERVICES (MYANMAR) LIMITED**



**WORKING IN MYANMAR: WHAT FOREIGNERS NEED TO KNOW  
BEFORE MAKING THE MOVE**

**7<sup>th</sup> February 2020**

## Restrictions / quotas

- Myanmar Investment Law: Foreigners may only be employed for **work requiring skills** (appoint “a qualified person as senior manager, technical or operational expert or advisor”)
- Generally, **no official quota** (official quota only in the Thilawa SEZ - see afternoon session)
- Difference between **MIC** and **non-MIC companies**
- Certain specific rules for companies in the Thilawa SEZ - see afternoon session)



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## MIC and non-MIC companies

- **“MIC”** = Myanmar Investment Commission
- **In a nutshell:** Foreign investments which (i) require the use of land or other immovable property and/or (ii) for which tax incentives are sought must be approved by the MIC (or, if the investment amount does not exceed USD 5 million, by the Investment Commission of the Region or State in which the investment is to be made)



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## MIC and non-MIC companies

- Application for MIC approval (“**permit**” or “**endorsement**”) is lengthy and full of paperwork
- In contrast, non-MIC investors (usually) simply incorporate a company and start their business
- Quarterly and annual **reporting requirements** for MIC companies; no such reporting requirements for non-MIC companies



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## MIC and non-MIC companies

- In the application for MIC approval, make **10 year recruitment requirement forecast** (local/expat; position; salary)
- No such forecast required for non-MIC companies
- MIC companies need **prior approval** (application to be filed at the latest within 7 days after the arrival of the foreigner) **when hiring a foreigner**; no such approval required for non-MIC companies - see next session



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## Visa types

- Diplomatic (single)
- Tourist (single)
- **Business (single/multiple) - USD 50/70, 200, 400, 600**
- Social (single/multiple)
- Religious (single/multiple)
- Transit (single)
- Official (single/multiple)
- **Employment - USD 50**
- Education (single/multiple)
- Journalist (single)
- Crew (single/multiple)
- Workshop, seminar, meeting or research (single)



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## Work permits

- There is currently **no work permit system** as such
- Drafts of a “Foreigners Law” and a “Work Permit Law” were kicked out by parliament in March 2017
- Foreigners working in the country do so on the basis of a **business visa**
- Foreigners employed by MIC companies are issued with an “alien worker registration card” after the MIC has approved their appointment



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# Legal protection of foreign employees

- **In practice, almost non-existent!**
- **Therefore: If employed by a foreign company, better have an **employment contract with the parent company** if the parent company is in a jurisdiction with a reliable legal framework**
- **If contemplating employment by a local company: Check with law firms and enquire on social media whether people are aware of past bad employment practices by this company**



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# Legal protection of foreign employees

- If salary is not paid or paid late or promised benefits are not provided: **Quit immediately** to limit the damage; do not continue to work trusting that payment will be made eventually
- If you have a net contract and the employer fails to pay your personal income tax: **Quit immediately**



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# Legal protection of foreign employees

- Road to **individual labour arbitration closed** since at least May 2018 if a foreign employee is involved (now closed to all individual disputes irrespective of the nationality)
- In Yangon Region, aggrieved employees (irrespective of nationality) may file a complaint with the **Yangon Region Government** - legal basis?
- Request to the Factories and General Labour Law Inspection Department to order the employer **to pay outstanding wages** (S. 12(b), 13(a) Payment of Wages Law) - available, but difficult if employee is a foreigner



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# Legal protection of foreign employees

- **Lawsuit with the ordinary courts - time consuming, unpredictable, expensive, economically usually not an option**



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## Contact

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