



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

CONVENIENCE TRANSLATION - ACCURACY NOT GUARANTEED

**Republic of the Union of Myanmar
Supreme Court of the Union
Notification No. 643/2018
1380, 4th Waning Day of Dutiya Waso
(31 July 2018)**

The Supreme Court of the Union has issued the following procedures in exercise of its powers under section 57 Arbitration Law.

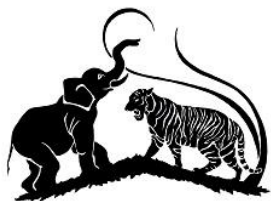
Chapter 1 Title and definitions

1. This procedure shall be known as the Arbitration Procedures.
2. The following expressions in these procedures shall have the following meanings.
 - (a) **“Law”** means the Arbitration Law.
 - (b) The expression **“District Court”** includes the Court of the Self-Administered Division and the Courts of Self-Administered Zones;
 - (c) **“Presiding arbitrator”** means an arbitrator appointed by two arbitrators chosen by each party to the dispute or by the Chief Justice of the Union or the Chief Justice of the High Court of a Region or State or by any person or institution designated by him at the request of any of the parties to the dispute.
 - (d) **“Independent and impartial arbitrator”** means an arbitrator who is not affiliated socially, economically or in any other way with any of the parties to the dispute.
 - (e) **“Contrary to the national interest”** means effects such as environmental damage to the nation’s land, water and air, infringement of the interests of all citizens, and damage to the national cultural heritage.

Chapter 2 Arbitration

Appointment of an arbitrator in an international arbitral tribunal

3. When choosing the sole arbitrator or the presiding arbitrator in an international arbitral tribunal, the parties to the dispute that shall be arbitrated shall submit the following documents to the



Chief Justice of the Union or the person or institution designated by him so that an arbitrator may be appointed according to section 13(d) Arbitration Law:

- (a) Application by a party to the dispute to appoint an arbitrator;
 - (b) the notice given by the claimant to the respondent that the dispute shall be resolved by arbitration;
 - (c) true copy of the evidence that both parties have agreed to settle the dispute through arbitration.
4. When the Chief Justice of the Union or the person or institution designated by him receives an application to appoint an arbitrator, he shall preferentially select an arbitrator with the qualifications specified in the arbitration agreement.
 5. When selecting an arbitrator, an arbitrator may be selected in accordance with the wishes of any national of a country that signed a multilateral or bilateral treaty, either from international arbitration centres or from a country determined in the agreement between the parties to the dispute.
 6. If the parties to the dispute are nationals of different countries, a national from a third country may be appointed as arbitrator.
 7. The Chief Justice of the Union or the person or institution designated by him shall contact the head (secretary general) of an international arbitration centre, describe the nature of the dispute, and notify the desire to receive an arbitration award. A copy of the notice shall be sent to the parties to the dispute.
 8. Information relating to the dispute shall be sent to the relevant international arbitration centre along with documents evidencing that the parties to the dispute agree to accept the award in accordance with the arbitration procedures.
 9. If a list of arbitrators is provided by the international arbitration centre, the Chief Justice of the Union or the person or institution designated by him may make an order appointing a person on the list as arbitrator.

Appointment of an arbitrator in a domestic arbitral tribunal

10. When choosing the sole arbitrator or the presiding arbitrator in a domestic arbitral tribunal, the parties to the dispute that shall be arbitrated shall submit the following documents to the Chief



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

Justice of the High Court of a Region or State or the person or institution designated by him so that an arbitrator may be appointed according to section 13(d) Arbitration Law:

- (d) Application by a party to the dispute to appoint an arbitrator;
 - (e) the notice given by the claimant to the respondent that the dispute shall be resolved by arbitration;
 - (f) true copy of the evidence that both parties have agreed to settle the dispute through arbitration.
11. When the Chief Justice of the High Court of a Region or State or the person or institution designated by him receives an application to appoint an arbitrator, he shall preferentially select an arbitrator with the qualifications specified in the arbitration agreement.
12. In order to appoint qualified arbitrators depending on the type of dispute, the following organisations may be contacted in addition to the arbitration organisations registered and established in accordance with the laws in force in Myanmar:
- (a) Myanmar Chamber of Commerce;
 - (b) Myanmar Society of Accountants;
 - (c) Myanmar Engineering Society;
 - (d) Myanmar Music Association;
 - (e) Myanmar Filmmakers Society;
 - (f) Myanmar Theatrical Association;
 - (g) Myanmar Writers Association;
 - (h) Association of Myanmar Architects;
 - (i) Myanmar Floriculturist Association;
 - (j) Myanmar Medical Association;
 - (k) Myanmar Health Assistant Association;
 - (l) Myanmar Bar Council.



Chapter 3 Qualification of Arbitrators

13. Generally, arbitrators shall have the following qualifications:
- (a) High moral character;
 - (b) keeping confidential information provided by parties to the dispute;
 - (c) recognised as an accomplished expert in the relevant field of specific academic disputes;
 - (d) able to make independent and unbiased judgments;
 - (e) recognised as an accomplished expert in any of the following areas of commercial dispute resolution:
 - (1) legal area;
 - (2) commercial area;
 - (3) industrial area;
 - (4) financial area.

Chapter 4 Conferring jurisdiction to a court

14. Depending on the subject matter of the dispute, courts having jurisdiction in the relevant geographical area shall accept cases to determine a question of law, enforce an interim award, decide an appeal, and enforce the arbitral tribunal's award.
15. The applicant wishing to have a dispute referred to arbitration according to section 10(a) of the Law shall apply to the court where the lawsuit is filed.
16. The court may make an order referring the dispute to arbitration or rejecting to refer the dispute to arbitration even when the case is pending in court.
17. An order rejecting an application for referral to arbitration may be appealed to a higher court under section 43(c)(1) of the Law.
18. Applications according to section 11 of the Law shall be submitted to the District Courts that have jurisdiction over the relevant geographical area.



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

19. If an application is submitted to the District Court under section 11, it shall open a miscellaneous civil case and proceed in accordance with the Code of Civil Procedure.
20. An appeal under section 11(e) of the Law against a decision of the court approving or rejecting an application may be filed to the High Court of the Region or State.
21. If a party to the dispute challenges an appointed arbitrator because of his qualifications and the arbitral tribunal rejects the challenge, an appeal may be filed to the High Court of the Region or State according to section 15(d) of the Law.
22. The High Court of the Region or State shall open a miscellaneous civil case and make a decision in accordance with the methods in the Code of Civil Procedure.
23. If in an application under section 15(d) of the Law the court overturns the arbitral tribunal's decision to reject the challenge, it may together with this decision decide whether the challenged arbitrator is entitled to any fees.
24. Any party to the dispute may apply to the High Court of the Region or State having jurisdiction over the geographical area to terminate the mandate of an arbitrator according to section 16(a)(1) of the Law.
25. If the High Court of the Region or State receives an application under section 16(a)(1) of the Law, it shall open a miscellaneous civil case and make a decision in accordance with the methods in the Code of Civil Procedure.
26. A party to the dispute who is not satisfied with the arbitral tribunal's ruling on a plea under section 18(b) and (c) of the Law that the arbitral tribunal does not have jurisdiction or has exceeded its mandate may appeal to the High Court of the Region or State having jurisdiction over the relevant geographical area within 30 days from the date of receiving the ruling.
27. An application may be made according to section 31 of the Law to the District Court having jurisdiction over the relevant geographical area to enforce an interim award made by the arbitral tribunal under section 19 of the Law.
28. When the District Court receives the application, it shall open a miscellaneous civil case and proceed in accordance with the methods in the Code of Civil Procedure.
29. The District Court shall make an order granting enforcement in any way or rejecting the enforcement of the arbitral tribunal's interim award.



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

30. The order of the District Court granting enforcement in any way or rejecting enforcement of the arbitral tribunal's interim award may be appealed to the High Court of the Region or State according to section 43(d)(3) of the Law.
31. In domestic arbitration, the parties to the dispute may, after having given notice to the parties to the dispute on the other side, apply to the District Court having jurisdiction over the relevant geographical area to determine according to section 39(a) of the Law a question of law that has arisen.
32. The District Court may make a preliminary determination of the question of law.
33. A person who is not satisfied with the determination of the District Court of a question of law may appeal to the High Court of the Region or State according to section 43(c)(3) of the Law.
34. In domestic arbitration, a party may, after notifying the parties to the dispute on the other side, appeal to the High Court of the Region or State having jurisdiction over the relevant geographical area according to section 42(a) of the Law on a question of law arising from an award of the arbitral tribunal which the tribunal examined.
35. Any person disputing the award of the arbitral tribunal may appeal to the High Court of the Region or State having jurisdiction over the relevant geographical area according to section 42(b) of the Law. However, if there is a written agreement between the parties to the dispute not to appeal, no appeal may be filed.
36. In the application for leave to appeal, the disputed question to be decided and the grounds for allowing the appeal shall be stated.
37. There is no second appeal against the decision of the High Court to reject or allow the appeal.
38. In an appeal filed under section 42(a) and (b) of the Law, the High Court of the Region or State shall allow the appeal if it finds that
 - (a) the award of the arbitral tribunal on the disputed question significantly harms the rights of a party or parties to the dispute;
 - (b) the award of the arbitral tribunal on the disputed question is manifestly wrong.
39. The High Court of the Region or State may pass any of the following orders:
 - (a) Enforcing the arbitral award;
 - (b) modifying the arbitral award;



- (c) having the arbitral tribunal reconsider the arbitral award in whole or in part at a suitable time;
 - (d) setting aside the arbitral award in whole or in part.
40. In case of an appeal against the arbitral award under section 43(b) of the Law, the order passed by the High Court of the Region or State shall have the following effect on the arbitral award:
- (a) If the arbitral award is modified, the modification shall have effect as part of the arbitral award;
 - (b) if the court orders the arbitral tribunal to reconsider the award in whole or in part, the arbitral tribunal shall reconsider the award and decide in relation to these issues.
41. There is no right to appeal against the following orders:
- (a) Order approving an application to refer a matter to arbitration according to section 10(a) of the Law;
 - (b) there is no right of appeal against a decision of the Chief Justice made under section 13(d) and (g) of the Law;
 - (c) there is no right of appeal against the decision of the court regarding the termination of the mandate of an arbitrator under section 16(b) of the Law.

Enforcement of an arbitral award

42. An application shall be made to the District Court having jurisdiction over the relevant geographical area to enforce a domestic arbitral award.
43. The District Court shall open a case in order to enforce a domestic arbitral award and enforce it according to the method in the Code of Civil Procedure for enforcing a decree.
44. If, in an application for the enforcement of a domestic arbitral award, the respondent applies to have the domestic arbitral award set aside, the court may set aside the domestic arbitral award if any of the circumstances in section 41(a) arose.
45. An application shall be made to the District Court having jurisdiction over the relevant geographical area for the recognition and enforcement of a foreign arbitral award.
46. Except when refusing to enforce it according to section 46(b) and (c) of the Law, a foreign arbitral award shall be enforced in accordance with the procedure for enforcing the decree of a court.



47. If, in an application for the recognition and enforcement of a foreign arbitral award, the respondent applies to have the foreign arbitral award set aside, the court may refuse to enforce the foreign arbitral award if any of the circumstances in section 46(c) arose.
48. Section 47 of the Law only applies to foreign arbitration if there is an agreement that it shall be decided according to the Myanmar Arbitration Law.

**Chapter 5
Miscellaneous**

49. The sections in the Limitation Act referring to the Arbitration Act, 1944 shall continue to apply.
50. The procedures, notifications, orders and directives relating to the Arbitration Act, 1944 are revoked by this procedure.

Tun Tun Oo
Chief Justice of the Union

Letter No. 121/101/Pa Ta kha (1781/2018)

Date: 31 July 2018

Distribution list: *[Omitted.]*



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

About Lincoln Legal Services (Myanmar) Limited

Lincoln Legal Services (Myanmar) Limited provides the full range of legal and tax advisory and compliance work required by investors. We pride ourselves in offering result-oriented work, high dependability and a fast response time at very competitive prices. Please do not hesitate to contact us:

- Sebastian Pawlita, Managing Director
Phone: +95-9-262546284 (English)
E-Mail: sebastian@lincolnmyanmar.com
- Nyein Chan Zaw, Director
Phone: +95-9-790488268 (Myanmar)
E-Mail: nyeinchanzaw@lincolnmyanmar.com

Office address: La Pyi Wun Plaza, Room 409 (4th Floor), 37 Alan Pya Pagoda Road, Dagon Township, Yangon

Web: www.lincolnmyanmar.com