



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 136 - 20 November 2023

Dear Readers,

Welcome to a new edition of our newsletter.

1. Procedures for adjudicating suits under the Industrial Design Rights Law and the Copyright Law

The Supreme Court issued procedures for adjudicating suits under the Industrial Design Rights Law and procedures for adjudicating suits under the Copyright Law, both dated 27 October 2023. They closely resemble the corresponding [procedures for trademark suits](#) which the Supreme Court issued already in March 2023.

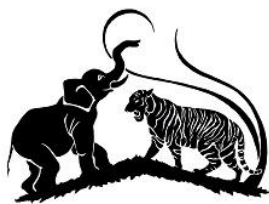
Please contact us if you wish to receive English translations of the two new procedures (for a fee).

2. Courts with jurisdiction to handle intellectual property matters

On 31 October 2023 (as well as previously, at the end of March 2023), the Union Supreme Court published on its website several notifications by which it confers jurisdiction to specific courts for intellectual property matters, as follows:

(a) Industrial design rights

Sr.	Matter	Competent court	Source
1	The following powers of the Intellectual Property Rights Court: Reviewing applications against decisions of the Intellectual Property Rights Agency according to section 65 Industrial Design Rights Law	High Court of Yangon Region	Supreme Court Notification 955/2023 dated 27 October 2023
2	Original jurisdiction in criminal matters of the Intellectual Property Rights Court to try and adjudicate offences under the Industrial Design Rights Law	(a) Court of the Self-Administered Division; (b) courts of self-administered zones; (c) district courts	Supreme Court Notification 956/2023 dated 27 October 2023
3	Deciding on appeals and objections against judgments, orders and decisions in criminal matters under the Industrial Design Rights Law passed by the Court of the Self-Administered Division, or the courts of self-administered	High courts of the regions and states	Supreme Court Notification 957/2023



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Sr.	Matter	Competent court	Source
	zones or the district courts within their jurisdictions		dated 27 October 2023
4	The following powers of the Intellectual Property Rights Court: (a) Deciding on claims relating to the infringement of intellectual property rights under the Industrial Design Rights Law; (b) deciding on applications for a provisional order under section 67(a) Industrial Design Rights Law.	Kyauktada District Court	Supreme Court Notification 958/2023 dated 27 October 2023
5	Deciding on appeals and objections against judgments, orders and decisions of the Intellectual Property Rights Court	High Court of Yangon Region	Supreme Court Notification 959/2023 dated 27 October 2023

(b) Copyright

Sr.	Matter	Competent court	Source
1	The following powers of the Intellectual Property Rights Court: (a) Deciding on applications according to section 59 Copyright Law to review a decision of the Intellectual Property Rights Agency; (b) deciding on applications according to section 68 Copyright Law to review a suspension order issued by the customs department's director general.	High Court of Yangon Region	Supreme Court Notification 961/2023 dated 27 October 2023
2	Original jurisdiction in criminal matters of the Intellectual Property Rights Court to try and adjudicate offences under the Copyright Law	(c) Court of the Self-Administered Division; (d) courts of self-administered zones; (c) district courts	Supreme Court Notification 962/2023 dated 27 October 2023



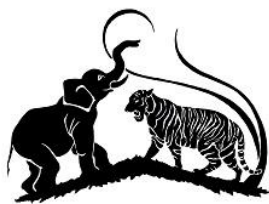
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Sr.	Matter	Competent court	Source
3	Deciding on appeals and objections against judgments, orders and decisions in criminal matters under the Copyright Law passed by the Court of the Self-Administered Division, or the courts of self-administered zones or the district courts within their jurisdictions	High courts of the regions and states	Supreme Court Notification 963/2023 dated 27 October 2023
4	The following powers of the Intellectual Property Rights Court: (b) Deciding on claims relating to the infringement of intellectual property rights under the Copyright Law; (b) deciding on applications for a provisional order under section 73(a) Copyright Law.	Kyauktada District Court	Supreme Court Notification 964/2023 dated 27 October 2023
5	Deciding on appeals and objections against judgments, orders and decisions of the Intellectual Property Rights Court	High Court of Yangon Region	Supreme Court Notification 965/2023 dated 27 October 2023

(c) Trademarks

Sr.	Matter	Competent court	Source
1	The following powers of the Intellectual Property Rights Court: (b) Deciding on applications according to section 66 Trademark Law to review a decision of the Intellectual Property Rights Agency; (b) deciding on applications according to section 72 Trademark Law to review a suspension order issued by the customs department's director general.	High Court of Yangon Region	Supreme Court Notification 235/2023 dated 24 March 2023
2	Original jurisdiction in criminal matters of the Intellectual Property Rights Court to try and adjudicate offences under the Trademark Law	(a) Court of the Self-Administered Division;	Supreme Court Notification 236/2023 dated 24 March 2023



Sr.	Matter	Competent court	Source
		(b) courts of self-administered zones; (c) district courts	
3	Deciding on appeals and objections against judgments, orders and decisions in criminal matters under the Trademark Law passed by the Court of the Self-Administered Division, or the courts of self-administered zones or the district courts within their jurisdictions	High courts of the regions and states	Supreme Court Notification 237/2023 dated 24 March 2023
4	The following powers of the Intellectual Property Rights Court: (c) Deciding on claims relating to the infringement of intellectual property rights under the Trademark Law; (d) deciding on applications for a provisional order under section 77(a) Trademark Law.	Kyauktada District Court	Supreme Court Notification 238/2023 dated 24 March 2023
5	Deciding on appeals and objections against judgments, orders and decisions of the Intellectual Property Rights Court	High Court of Yangon Region	Supreme Court Notification 239/2023 dated 24 March 2023

3. Directives on the registration of private higher and basic education institutions

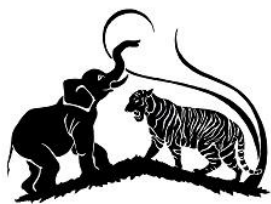
(a) Private Higher Education Institution Registration Directive

The Autonomous and Private School Supervisory Board under the SAC's Ministry of Education issued a directive on the registration of private higher education institutions dated 7 November 2023.

It covers local universities awarding their own degrees; branches of foreign universities awarding foreign degrees; local universities whose degrees are recognised by a foreign university; colleges, irrespective of whether they award their own or foreign degrees or diplomas; and "centres" that award a certificate.

The directive includes instructions concerning

- classroom size;



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- for universities and colleges: minimum number of faculties, departments, subjects, degree programmes, professors, associate professors, lecturers, and teachers; minimum qualification of the staff; minimum teacher/student ratio; minimum percentage of teachers and employees from Myanmar;
- registration requirements (registrations under other laws; required endorsements; documents and information to be submitted concerning background, curriculum, cooperation with foreign institutions school premises, teachers, etc.);
- compliance points, including reporting requirements.

The government fees are set as follows:

Institution	Registration fee (MMK)	Annual fee (MMK)
1. University	10,000,000	12,000,000
2. College	8,000,000	9,000,000
3. Centre	2,000,000	2,500,000

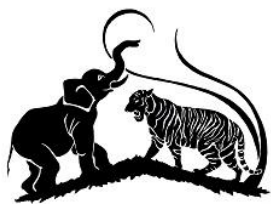
Private higher education institutions established before the promulgation of the registration directive will be issued registration certificates if they meet the directive's criteria. If they don't, they will be given temporary certificates and have 2 years to upgrade their set-up.

(b) Directives on the registration of private schools teaching (i) a national and (ii) an international curriculum

Furthermore, the SAC's Autonomous and Private School Supervisory Board issued two directives on the registration of schools teaching (i) a national and (ii) an international curriculum, likewise dated 7 November 2023, covering topics that correspond to those in the higher education directive.

The government fees are set to MMK 5,000,000 (registration fee) and MMK 6,000,000 (annual fee) for both types of private schools.

As with higher education institutions, existing schools will have to (re-) register. If they do not meet the criteria of the respective directive, they will be given temporary registration certificates and have 2 years to upgrade their set-up.



The registration forms for all types of private institutions and schools can be downloaded from the [website](#) of the SAC's Ministry of Education.

4. Reorganisation of the MIC's Proposal Assessment Team

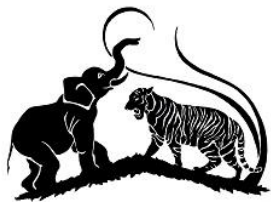
The Myanmar Gazette dated 14 November 2023 carried news that the Myanmar Investment Commission under the State Administration Council ("SAC") reorganised its Proposal Assessment Team.

Republic of the Union of Myanmar
Myanmar Investment Commission
Notification No. 8/2023
1385, 7th Waning Day of Tawthalin
(6 October 2023)

Reorganisation of the Proposal Assessment Team

1. The Myanmar Investment Commission of the Republic of the Union of Myanmar has reorganised the Proposal Assessment Team according to rule 149 Myanmar Investment Rules as follows to assist the Commission in analysing investment applications and to verify proposals according to the relevant sector:

- | | | |
|-----|---|-------------|
| (a) | Daw Aye Sandar Lwin
Deputy Director General
Directorate of Investment and Company Administration
Ministry of Investment and Foreign Economic Relations | Team Leader |
| (b) | Daw Ei Ei Khaing
Director, Internal Revenue Department
Ministry of Planning and Finance | Member |
| (c) | U Maung Maung Lwin
Director, Customs Department
Ministry of Planning and Finance | Member |
| (d) | U Kyaw San Naing | Member |



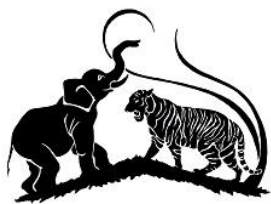
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Director, Department of Environmental Conservation
Ministry of Natural Resources and Environmental
Conservation

- | | | |
|-----|--|--------|
| (e) | Daw Myint Myint Kyi Swe
Director, Department of Electric Power Planning
Ministry of Electric Power | Member |
| (f) | U Kyaw Zeya
Director, Industrial Supervision and Inspection
Department, Ministry of Industry | Member |
| (g) | U Soe Naing
Director, Department of Labour, Ministry of Labour | Member |
| (h) | U Moe Zaw Oo
Director, Department of Trade, Ministry of Commerce | Member |
| (i) | Daw Moe Thidar
Director, Urban and Housing Development Department
Ministry of Construction | Member |

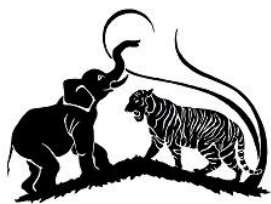
2. The Proposal Assessment Team shall perform the following duties according to rule 64 Myanmar Investment Rules:
- (a) Verifying whether the investor is acting and investing in accordance with the laws of the Union;
 - (b) verifying whether the investment business is a business that requires a permit;
 - (c) verifying whether the proposal is in conformity with the Myanmar Investment Law;
 - (d) verifying whether the investor complies with environmental protection policies and human rights, and verifying whether, in carrying out



investment activities, natural resources are used with effective technology and a waste management strategy;

- (e) verifying whether the investor, associates and the holding company are able to contribute money to the investment business;
 - (f) verifying whether the investor, associates and the holding company have a good character a good reputation in the business world;
 - (g) verifying whether there is, because of the proposed investment, an impact on national development, security, economic, social and cultural policy objectives announced by the Union government or a government of a Region or State, and verifying compliance with these policies;
 - (h) verifying whether the amount of electricity to be consumed is appropriate depending on the nature of the business and verifying the availability of electricity for the proposed business;
 - (i) verifying equipment, spare parts and construction materials to be imported from abroad;
 - (j) verifying whether prices and salary rates in the proposal are appropriate;
 - (k) verifying employment opportunities;
 - (l) verifying tax matters.
3. Notification No. 1/2022 dated 22 January 2022 issued by the Myanmar Investment Commission of the Republic of the Union of Myanmar on the reorganisation of the Proposal Assessment Team is repealed by this notification.

General Mya Tun Oo
Chairman
Myanmar Investment Commission



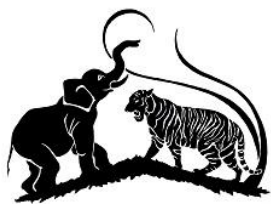
5. Reorganisation of the MIC and important committees

Myanmar Gazette editions dated 13 and 27 October 2023 carried news of the latest reorganisation by the SAC of the Myanmar Investment Commission, the Foreign Exchange Supervisory Committee, and the Central Committee for Ensuring Smooth Flow of Trade and Goods.

Republic of the Union of Myanmar
State Administration Council
Notification No. 204/2023
1385, 3rd Waxing Day of the Tawthalin
(18 September 2023)

Reorganisation of the Myanmar Investment Commission

1. In exercising the authority conferred by section 7 Myanmar Investment Law, the Myanmar Investment Commission has been reorganised as follows:
 - (a) General Mya Tun Oo
Deputy Prime Minister and Union Minister,
Ministry of Transport of Communications
Chairman
 - (b) Union Minister
Ministry of Investment and Foreign Economic
Relations
Vice Chairman
 - (c) Union Minister and Union Attorney General
Ministry of Legal Affairs
Member
 - (d) Lieutenant-General Nyo Saw
Advisor to the Chairman of the State Administration
Council
Member
 - (e) Union Minister
Ministry of Natural Resources and Environmental
Protection
Member
 - (f) Deputy Minister
Member



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Ministry of Industry

(g) Deputy Minister Member
Ministry of Commerce

(h) Vice Governor Member
Central Bank of Myanmar

(i) Permanent Secretary Member
Ministry of Agriculture, Livestock and Irrigation

(j) Director General Member
Internal Revenue Department, Ministry of Planning
and Finance

(k) Director General Secretary
Directorate of Investment and Company
Administration
Ministry of Investment and Foreign Economic
Relations

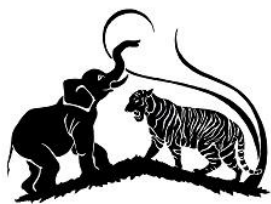
2. Notification no. 116/2023 dated 5 July 2023 of the State Administration Council is repealed by this notification.

By order

Aung Lin Dwe
Lieutenant-General
Secretary

[Published in the Myanmar Gazette dated 13 October 2023.]

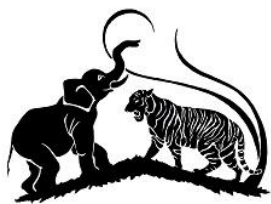
Republic of the Union of Myanmar
State Administration Council
Order No. 92/2023



1385, 14th Waxing Day of the Tawthalin
(28 September 2023)

Reorganisation of the Foreign Exchange Supervisory Committee

1. The Foreign Exchange Supervision Committee has been reorganised with the following persons in order to carry out the functions required to stabilise the foreign exchange rate and efficiently use foreign currency for the economic development of the Republic of the Union of Myanmar:
 - (a) General Mya Tun Oo Chairman
Deputy Prime Minister and Union Minister,
Ministry of Transport and Communications
 - (b) Lieutenant-General Nyo Saw Member
Member, State Administration Council
 - (c) U Win Shein Member
Deputy Prime Minister and Union Minister, Ministry
of Planning and Finance
 - (d) U Tun Ohn Member
Union Minister, Ministry of Commerce
 - (e) Daw Than Than Swe Member
Governor
Central Bank Myanmar
 - (f) Dr. Kan Zaw Secretary
Union Minister, Ministry of Investment and Foreign
Economic Relations
2. The duties of the Foreign Exchange Supervisory Committee are as follows:
 - (a) Reviewing and permitting the use of foreign currency needed for importing machinery required for investment activities in the country and by



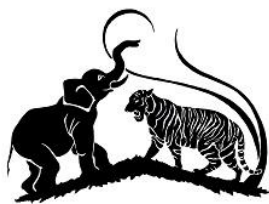
manufacturing businesses, commercial vehicles, and production equipment and raw materials;

- (b) reviewing and permitting the use of foreign currency needed for the purchase and import of goods that are essential for the livelihoods of people: fuel, pharmaceuticals, cooking oil, fertilisers, pesticides, and construction materials that cannot be purchased locally;
 - (c) reviewing and permitting the use of foreign currency needed by citizens going abroad for medical treatment, on educational trips, on religious trips, or for other social reasons;
 - (d) reviewing and permitting the use of foreign currency required for the import of general goods, repayment of foreign loans and interest, payment of service fees, and remittance of profits from investments;
 - (e) reviewing and permitting the use of foreign currency for luxury goods that have to be imported when needed for society;
 - (f) supervising foreign currency transactions in domestic and foreign investment activities in the country, manufacturing businesses, export/import businesses, and services businesses including education and health;
3. The Foreign Exchange Supervisory Committee shall furthermore carry out other duties as may be assigned in addition to foreign exchange supervisory duties.
 4. Order no. 83/2023 dated 18 September 2023 of the State Administration Council is repealed by this order.

By order

Aung Lin Dwe
Lieutenant General
Secretary

[Published in the Myanmar Gazette dated 27 October 2023.]



Republic of the Union of Myanmar

State Administration Council

Order No. 93/2023

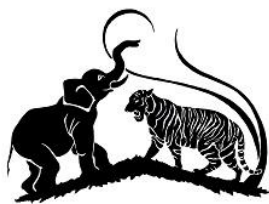
1385, 14th Waxing Day of the Tawthalin

(28 September 2023)

Reorganisation of the Central Committee for Ensuring Smooth Flow of Trade and Goods

1. Due to the nationwide state of emergency since 1 February 2021, the Central Committee for Ensuring Smooth Flow of Trade and Goods has been reorganised with the following persons to ensure that there are no delays or difficulties in domestic and foreign trade:

- | | | |
|-----|---|---------------|
| (a) | General Mya Tun Oo
Deputy Prime Minister and Union Minister,
Ministry of Transport and Communications | Chairman |
| (b) | Lieutenant-General Nyo Saw
Member, State Administration Council | Vice Chairman |
| (c) | U Win Shein
Deputy Prime Minister and Union Minister, Ministry
of Planning and Finance | Member |
| (d) | U Tun Ohn
Union Minister, Ministry of Commerce | Member |
| (e) | U Aung Kyaw Tun
Deputy Minister, Ministry of Transport and
Communications | Member |
| (f) | Major General Ni Lin Aung
Deputy Minister, Ministry of Home Affairs | Member |
| (g) | Deputy Minister
Ministry of Agriculture, Livestock and Irrigation | Member |



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|-----|--|-----------------|
| (h) | U Win Shein
Deputy Minister, Ministry of Labour | Member |
| (i) | U Zaw Myint Naing
Vice Governor, Central Bank of Myanmar | Member |
| (j) | Colonel Win Tint
Minister of Security and Border Affairs
Government of Yangon Region | Member |
| (k) | Dr. Thi Thi Myint
Director General, Ministry of Legal Affairs | Member |
| (l) | U Min Min
Deputy Minister, Ministry of Commerce | Secretary |
| (m) | Brigadier-General Win Myint Khaing | Joint-Secretary |
2. The duties of the Central Committee for Ensuring Smooth Flow of Trade and Goods are as follows:
- In order to ensure the recovery of trade and businesses, establishing policies on key processes to ensure that operations at all seaports, airports, and border trade stations are accurate and speedy, and setting standard operating procedures (SOP) and coordinating them;
 - coordinating and assisting so that trade policies and processes enable business owners to operate with clarity, ease, accuracy and swiftness;
 - organising and assigning tasks to One Stop Service Committee groups and streamlining traditional processes for quick and smooth trade activities;
 - controlling the import of non-essential commodities and preventing the illegal import of goods in order to avoid causing a trade deficit that directly affects the economy of the country;



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- (e) supervising and controlling banking operations to make them systematic, correct, fast, and smooth for legal cash flows related to trade;
 - (f) arranging and implementing with vigour so that illegal trade does not occur;
 - (g) coordinating and supervising as necessary the activities of the working committee for smooth trade processes.
3. Order no. 84/2023 dated 19 September 2023 of the State Administration Council is repealed by this order.

By order

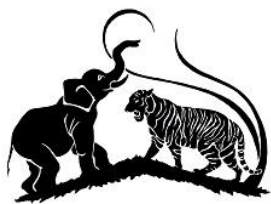
Aung Lin Dwe
Lieutenant General
Secretary

[Published in the Myanmar Gazette dated 27 October 2023.]

We hope that you have found this information useful.

Sebastian Pawlita
Managing Director

Nyein Chan Zaw
Director



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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:

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