

## Myanmar

### Myanmar Investment Law (2016)

*Official translation*

#### Note

The Investment Laws Navigator is based upon sources believed to be accurate and reliable and is intended to be up-to-date at the time it was generated. It is made available with the understanding that UNCTAD is not engaged in rendering legal or other professional services. To confirm that the information has not been affected or changed by recent developments, traditional legal research techniques should be used, including checking primary sources where appropriate. While every effort is made to ensure the accuracy and completeness of its content, UNCTAD assumes no responsibility for eventual errors or omissions in the data.

The year indicated in brackets after the title of the law refers to the year of publication in the Official Gazette or, when this is not available, the year of adoption of the law.

# Contents

Chapter I. Title and definition
Chapter II. Objective
Chapter III. Scope of the Law
Chapter IV. Formation of the Commission
Chapter V. Resignation, dismissal from the Commission and appointment for vacancy
Chapter VI. Duties and powers of the Commission
Chapter VII. Convening of meeting
Chapter VIII. Submission of proposal
Chapter IX. Submission of endorsement application
Chapter X. Stipulation of the types of investment businesses
Chapter XI. Treatment of investors
Chapter XII. Rights to use land
Chapter XIII. Employment of staff and workers
Chapter XIV. Investment guarantee
Chapter XV. Transfer of funds
Chapter XVI. Responsibilities of investors
Chapter XVII. Insurance
Chapter XVIII. Exemptions and reliefs
Chapter XIX. Settlement of dispute
Chapter XX. Administrative penalties
Chapter XXI. Exceptions
Chapter XXII. Security exception
Chapter XXIII. Miscellaneous

# Myanmar Investment Law

The Pyidaungsu Hluttaw Law No. 40/2016

The 2nd, Waning of Thadingyut, 1378 M.E.

The Pyidaungsu Hluttaw hereby enacts this Law.

## Chapter I. Title and definition

### Article 1

This Law shall be called the Myanmar Investment Law.

### Article 2

The following expressions contained in this Law shall have the meanings given hereunder:

- a. Union means the Republic of the Union of Myanmar.
- b. President means the President of the Republic of the Union of Myanmar.
- c. Government means the Union Government of the Republic of the Union of Myanmar.
- d. Ministry means the Ministry of Planning and Finance of the Union Government.
- e. Commission means the Myanmar Investment Commission formed under this Law.
- f. Member means any member of the Myanmar Investment Commission, including the Chairman and the Vice-Chairman.
- g. Commission Office means the office of the Directorate of Investment and Company Administration which is responsible for carrying out administrative activities of the Commission.
- h. Secretary means the Secretary of the Myanmar Investment Commission who is responsible for carrying out administrative activities of the Commission Office.
- i. Proposal means the application, submitted in the stipulated form together with the required contracts and documents, by the proposed investor in order to obtain the permit of the Commission for intended investment stipulated under section 36.
- j. Permit means an order described the approval of the Commission relating to the proposal for investment submitted by the proposed investor.
- k. Endorsement application means the application in the stipulated form together with required

documents submitted by proposed investor to obtain an endorsement of the Commission in order to enjoy benefits relating to rights to use land under Chapter XII and exemptions and reliefs under section 75, 77 and 78 of the Chapter XVII.

l. Endorsement means an order described the approval of the Commission relating to the endorsement application submitted by the proposed investor.

m. Citizen means a citizen, an associate citizen or a naturalized citizen for the purposes of this law. In this expression, enterprise composed only with citizens is also included.

n. Myanmar Citizen Investor means a citizen who invests within the Union. In this expression, Myanmar companies and branch offices, and other enterprises established and registered in accordance with the Myanmar Companies Act are included.

o. Foreign Investor means a person who invests within the Union and is not a citizen. In this expression, foreign companies, branch offices and other enterprises established and registered in accordance with the Myanmar Companies Act and enterprises formed in accordance with the laws of any other country are also included.

p. Investor means a Myanmar Citizen investor or foreign investor who invests within the Union in accordance with the Law.

q. Investment means any assets owned or controlled by the investor in accordance with this law. It shall also include investments stipulated under section 40.

r. Direct Investment means an investment in which the investor has the right to control, influence or manage, of such assets which are invested by the investor within the Union in accordance with the law.

s. Foreign Investment means any direct investment made by a foreign investor within the Union.

t. Enterprise means:

i. Any legal entity, including company, trust, partnership, sole proprietorship, joint venture, business association or similar organisations established or registered to do businesses in accordance with the applicable laws.

ii. A branch office of such legal entity established in accordance with the applicable laws.

u. Freely Usable Currency means a currency of a member of the International Monetary Fund (IMF) which is used to make payments for international transactions and widely traded in the principal foreign exchange market as defined by Article 30(f) of the Articles of Agreement of the International Monetary Fund (IMF) and any amendments thereto.

v. Exemption and relief means the exemptions and reliefs from income tax, customs duty and other internal taxes that may be scrutinized and granted by the Commission based on application of the investor for investments obtained a permit or an endorsement of the Commission in accordance with this Law.

w. Measures mean laws, rules, regulations, procedures, decisions and administrative actions adopted or maintained by government departments, government organizations or non-government organizations authorized by such departments and organizations.

## **Chapter II. Objective**

### **Article 3**

The objectives of this Law are as follows:

- a. to develop responsible investment businesses which do not cause harm to the natural environment and the social environment for the interest of the Union and its citizens;
- b. to protect the investors and their investment businesses in accordance with the law;
- c. to create job opportunities for the people;
- d. to develop human resources;
- e. to develop high functioning production, service, and trading sectors;
- f. to develop technology, agriculture, livestock and industrial sectors;
- g. to develop various professional fields including infrastructure around the Union;
- h. to enable the citizens to be able to work alongside with the international community;
- i. to develop businesses and investment businesses that meet international standards.

## **Chapter III. Scope of the Law**

### **Article 4**

This Law shall apply to all existing or new investments within the Union on the date of entry into force of this Law. However, this Law shall not apply to any existing investment disputes or any investments which obtained the permit and suspended from their business operation before the date of entry into force of this Law.

### **Article 5**

This Law shall apply to any investment measures implemented by government departments and government organizations except any exceptions of Chapter XXI and security exceptions of Chapter XXII of this Law.

# Chapter IV. Formation of the Commission

## Article 6

The Commission shall be formed as follows:

- a. a chairman appointed by the Government after nominating from members of the Government by the President;
- b. a vice-chairman appointed by the Government;
- c. members appointed by the Government, who are suitable persons from Union Ministries, government departments, government organizations, experts from the private sector, professionals and suitable dignified persons;
- d. a Secretary who is, ex-officio, the head of the Commission Office.

## Article 7

The Government shall form the Commission with at least nine members or more in odd numbers, including the secretary, in accordance with the provisions in section 6.

## Article 8

The members of the Commission who are not civil service personnel shall have the right to enjoy gratuity and allowances as allowed by the Ministry.

## Article 9

The tenure of all members of the Commission, except the secretary, is the same as the tenure of the Government. The Secretary shall follow the Civil Servant Law as he is civil service personnel.

## Article 10

The members of the Commission shall not serve for more than two consecutive tenures.

## Article 11

The Government shall reconstitute the Commission within two months from the date of assuming office.

## Article 12

The head of the Commission office shall serve as the secretary of the Commission and shall fulfill duties as stipulated by the Commission.

## Article 13

The Chairman of the Commission may assign any duty specified in writing among duties of the Commission to any officials of the Commission Office. In case of such assignment, the assigned person shall undertake only the duty stipulated in the assignment letter. The letter may be withdrawn any time in writing.

# Chapter V. Resignation, dismissal from the Commission and appointment for vacancy

## Article 14

If the Chairman of the Commission resigns from his position voluntarily during his tenure, he may resign with the approval of the President by submitting a resignation letter to the Government.

## Article 15

If a member of the Commission, except the Commission Chairman, resigns from his position, he may request through Commission Chairman and resign with the approval of the Government.

## Article 16

The Government may dismiss any member of the Commission in one of the following events:

- a. health deficiency to the extent that the member is no longer able to continue to undertake his/her duties according to the diagnosis of the medical board stipulated by law;
- b. death;
- c. being penalized by any court due to a criminal offence;
- d. being declared as insolvent by any court;
- e. failure to properly perform his/her duties.

## Article 17

The Government:

- a. shall appoint a new member in accordance with the provisions in this Law and its rules if a vacancy arises among the members of the Commission due to resignation, dismissal, death, or any other reason;
- b. may temporarily, if the vacancy is the position of the Chairman of the Commission, appoint the Vice-Chairman or a member of the Commission to carry out the functions of the Chairman before appointing a new chairman.

## Article 18

The members of the Commission shall serve their functions and duties until new members of the Commission are appointed, except in the event of resignation or dismissal from their positions.

#### **Article 19**

Notwithstanding the tenure under section 9, the tenure of the Chairman, the Vice-Chairman and the members of the Commission who are appointed to the vacant positions under section 17 shall be for the remaining tenure of the respective member of the Commission who is substituted.

#### **Article 20**

The Secretary is responsible to perform the daily works of the Commission, and administrative and management functions related to various matters of the Commission.

#### **Article 21**

If a member of the Commission has a direct or indirect interest in a proposal submitted to the Commission, such interest must be expressly declared. Such declaration shall be recorded in the meeting minutes of the Commission and such member shall not participate in any right to make decision, activities and discussions of the Commission relating to the proposal.

#### **Article 22**

If a member of the Commission has a direct or indirect interest in the endorsement application submitted to the Commission, such interest must be expressly declared. Such declaration shall be recorded in the Commission Office and such member shall not participate in any process of the Commission Office relating to that endorsement application.

## **Chapter VI. Duties and powers of the Commission**

#### **Article 23**

The Commission has the right to freely exercise its duties and powers unless there is contrary to the provisions of this Law.

#### **Article 24**

The duties of the Commission are as follows:

- a. carrying out the investment promotion activities of the Union;
- b. performing as the department primarily responsible for coordinating with investors and those who are interested to invest;
- c. providing investment facilitation to investors and their investments;
- d. advising investment policies to the Union Ministries, Region and State Governments in adopting and implementing economic objectives for the development of responsible businesses;
- e. issuing policy guidelines and directives for the staffs of the Commission Office;
- f. reporting the activities and functions of the Commission to the President and the Government once every three months;
- g. reporting annually the status of completion and progress of the investment businesses approved by the Commission to the Pyidaungsu Hluttaw through the Government;
- h. allocating powers, in Coordination with the Nay Pyi Taw Council, Region and State Governments, for investments business that the Government may approve according to the type of investment businesses or the condition of natural resources or development of job opportunities for the economic development of the Regions and States including Union Territories;
- i. submitting advice to the Government in order to facilitate or encourage local and foreign investment businesses;
- j. taking action against the investor under the relevant laws, procedures and regulations, if it is known that the investors, when finding natural resources or antiques, makes processing, conversion or concealing them without information;
- k. scrutinizing whether or not the investor and its investment complies with this Law and its rules, regulations, notifications, orders, directives and procedures and provisions contained in contracts, and if not, ensuring the investor to abide and taking action against the investor and its investment businesses that do not abide by such matters in accordance with the Laws;
- l. reviewing exemptions, reliefs and the restricted investment business activities and reporting the review to the Government;
- m. performing duties assigned by the Government from time to time.

#### **Article 25**

In order to implement its duties in this Law, the powers of the Commission are as follows:

- a. issuing notifications with the approval of the Government after stipulating the investment promotion sector and the types of the restricted or prohibited investment activities to do investment businesses;
- b. stipulating, with the approval of the Government, the types of Investment business that are strategic for the Union, capital intensive investment projects and projects which potentially have a large impact on the environment and the local community;
- c. issuing the Permit to the investor when submitting a proposal to the Commission if the Proposal is

beneficial to the Union and consistent any law, and refusing the proposal if the proposal does not meet such conditions;

d. conducting the necessary scrutiny when completely submitting an endorsement application to the Commission and issuing the Endorsement to the investor if the endorsement application is not contrary to any law;

e. approving or refusing after scrutiny when applying for an extension or amendment of the term of the permit or the endorsement by the investor;

f. asking, if required, the investor to submit documents or evidences relating to its investment;

g. managing to take action investor under the existing law if it is found that there is credible evidence that the investor submit the improper documents attached to the Commission to obtain permit or endorsement or the investor does not comply with the terms and conditions of the permit or the endorsement;

h. scrutinizing, as required, and granting when applying to enjoy exemptions and reliefs in accordance with the provisions of this Law;

i. stipulating the types of investment business, with the approval of the Government, which are not allowed to enjoy tax exemptions or reliefs or both;

j. requesting and obtaining assistance and information relating to the duties of the Commission from government departments, governmental organizations and other necessary organizations, including investor in order to perform the duties of the Commission under this Law;

k. undertaking necessary measures in order to successfully implement the provisions of this Law;

l. scrutinizing and granting appropriate periods for construction or preparation subject to the type of investment business;

m. scrutinizing and granting the exemptions and reliefs relating to the temporary import of machineries and equipments from abroad under temporary import procedures issued by the Customs Department in coordination with the relevant ministries; and

n. in effectively implementing of this Law, establishing and managing a system that is able to carry out activities such as systematically scrutinizing disputes, identifying the causes for disputes, responding, inquiring and settling the losses before the stage of dispute resolution;

#### **Article 26**

The Commission may stipulate and collect other service fees, including registration fees.

#### **Article 27**

The Commission may, in carrying out its duties, form committees and bodies, as required.

#### **Article 28**

The Commission may, in implementing its duties, open branch offices of the Commission locally or overseas with the approval of the Government, as required.

## **Chapter VII. Convening of meeting**

#### **Article 29**

Meetings shall be convened as follows:

- a. convening regular meetings of the Commission at least once a month;
- b. convening special meetings as required.

#### **Article 30**

The Chairman of the Commission shall act as the chairman of the meetings.

The Vice-Chairman shall act as the chairman of the meeting when the Chairman is not present.

#### **Article 31**

A quorum for a meeting of the Commission shall be valid if more than half of the total numbers of the members of the Commission, including the Chairman or the Vice-Chairman, are present.

#### **Article 32**

The Commission shall make decisions in conformity with more than half of the total numbers of the members of the Commission who are present at a Commission meeting. The members of the Commission, who are not present at the meeting shall not object, deny or amend such decision.

#### **Article 33**

The Commission may invite experts from the relevant departments and other organizations to any meeting of the Commission for the matters that require professional expertise.

#### **Article 34**

The Commission shall allow the investor and persons supporting the investor to attend and provide explanations and engage in discussions at meetings of the Commission.

#### **Article 35**

The members of the Commission shall submit and report their specific activities at the closest regular meeting of the Commission, and obtaining approval for the specific activities.

## **Chapter VIII. Submission of proposal**

#### **Article 36**

The investor shall submit a proposal to the Commission and invest after receiving the Permit for the following businesses stipulated in the rules;

- a. investment businesses that are essential to the Union strategy;
- b. large capital intensive investment projects;
- c. projects which are likely to cause a large impact on the environment and the local community;
- d. investment businesses which use state-owned land and building;
- e. investment businesses which are designated by the government to require the submission of a proposal to the Commission.

## **Chapter IX. Submission of endorsement application**

#### **Article 37**

No investor requires to submit a proposal to the Commission for other investment businesses except investment businesses stipulated under section 36. However, in order to enjoy the rights to use land under Chapter XII, and all or more than or any exemptions and reliefs under sections 75, 77 and 78, an endorsement application must be submitted in the stipulated form to the Commission office .

#### **Article 38**

When submitting the endorsement application, all approvals or licenses or permits or similar documents issued by the relevant organizations according to the type of business have to be attached.

#### **Article 39**

The Commission may accept after scrutinizing the endorsement application submitted under section 37, if it is complete and allow resubmitting the endorsement application after corrections are made, if it is not complete.

## **Chapter X. Stipulation of the types of investment businesses**

#### **Article 40**

In investment, the followings are also included:

- a. enterprise;
- b. moveable property, immovable property and rights related to property, cash, pledges, mortgages and liens, machinery, equipment, spare-parts, and related tools;
- c. shares, stocks, and debentures (a) promissory note of a company;
- d. intellectual property rights under any laws, including technical know-how, patent, industrial designs, and trademarks;
- e. claims to money and to any performance under contract having a financial value;
- f. revenue-sharing contract , or production , management , construction , rights under contracts , including turnkey;
- g. assignable rights granted by relevant laws or contract , including the rights of exploration, prospecting and extraction of natural resources;

#### **Article 41**

The following investments businesses shall be stipulated as the prohibited investment:

- a. investment businesses which may bring or cause the hazardous or poisonous wastes into the Union;
- b. investment businesses which may bring technologies, medicines, flora and fauna and instruments which are still being tested abroad or which have not been obtained approvals to use, plant and cultivate, except the investments which made for the purpose of research and development;
- c. investment businesses which may affect the traditional culture and customs of the ethnic groups within the Union;
- d. investment businesses which may affect the public;
- e. investment businesses which may cause an enormous impact to the natural environment and ecosystem;
- f. investment businesses which manufacture goods or provide services that are prohibited under the applicable laws.

#### **Article 42**

The following types of investment businesses shall be stipulated as restricted investment:

- a. investment businesses allowed to carry out only by the Union;
- b. investment businesses that are not allowed to carry out by foreign investors;
- c. investment businesses allowed only in the form of joint venture with any citizen owned entity or any Myanmar citizen and

Myanmar citizen, and

d. investment businesses to be carry out with the approval of the relevant ministries.

#### **Article 43**

The Commission shall, with the approval of the Government, issue the notifications to inform the public of investment promoted sectors and restricted investment business under section 42.

#### **Article 44**

If it is required to liberalize or amend or remove types of the investment businesses restricted under section 42 after reviewing and revising from time to time, the Commission shall obtain the approval of the Government and notify the amendment and stipulation of such types of investment businesses.

#### **Article 45**

In reviewing and revising section 44, the Commission may discuss the responsible personnel from the private sectors, government departments, and government organizations in order not to be contrary to international trade and investment commitments made by the Government.

#### **Article 46**

The Commission shall, for the investment businesses which may have a significant impact on security, economic condition, the environment, and national interest of the Union and its citizens, submit to and obtain the approval of the Pyidaungsu Hluttaw through Government when preparing to issue permit thereto.

## **Chapter XI. Treatment of investors**

#### **Article 47**

In dealing with the investors:

a. the Government shall accord to foreign investors and their direct investments, treatment no less favorable than it accords to Myanmar citizen investors in respect of the expansion, management, operation, and the sale or other disposition of direct investments according to this Law except any way stipulated in Laws, rules and notifications;

b. the Government shall accord, in like circumstances, to foreign investors and their direct investments from one country, treatment no less favorable than that it accords to investors of any other country and their direct investments in respect of establishment, acquisition, expansion, management, operation, and the sale or other disposition of direct investments;

The provision of subsection (b) shall not be construed so as to oblige foreign investors with any treatment, preferences or privileges resulting from the following matters:

i. Custom Union, Free Trade Area, Economic Union resulting from Custom Union, Free Trade Area and Economic Union and international agreements;

ii. more favorable treatments to be accorded to investors and their investments included in international agreements, bilateral or regional or international treaties, agreements or arrangements between regional countries, treaties, agreements or arrangements with other countries, or arrangements relating wholly or partially to taxation.

#### **Article 48**

The Government guarantees to the investors fair and equitable treatment in respect of the followings:

a. the right to obtain the relevant information on any measures or decision which has a significant impact for an investor and their direct investment;

b. the right to due process of law and the right to appeal on similar measure, including any change to the terms and conditions under any license or permit and endorsement granted by the Government to the investor and their direct investment.

#### **Article 49**

The provisions of this Chapter shall not affect the provisions in section 76.

## **Chapter XII. Rights to use land**

#### **Article 50**

a) An Investor who obtains permit or endorsement under this Law has the right to obtain a long-term lease of land or building from the owner if it is private land or building, or from the relevant government departments or government organization if it is land managed by the government, or land or building owned by the Union in accordance with the stipulations in order to do investment. Citizen investors may invest in their own land or building in accordance with relevant laws.

b) Foreign investor may lease land or building either from the government or government organizations or from owners of private land or building from commencing on the date of receipt of the permit or endorsement of the Commission up to an initial period of (50) years in accordance with the stipulation.

c) After the expiry of the term of the right to use land or building or the period of right to lease of land or building permitted under subsection (b), a consecutive period of (10) years and a further consecutive period of (10) years extension to such period of lease of land or building may be obtained with the approval of the Commission.



- d) The investor shall register the land lease contract at the Office of Registry of Deeds in accordance with the Registration Act.
- e) The Government may grant more favorable terms and conditions for the lease of land and the use of land by Myanmar citizen investors.
- f) The Commission shall obtain the approval of the Pyidaungsu Hluttaw through the Government, when granting an extension to investor for the rights to lease land or building and the rights to use land or building in this Law, in less developed and remote region for the purpose of the development around the Union.

## **Chapter XIII. Employment of staff and workers**

### **Article 51**

The investor:

- a. may appoint of any citizen who is a qualified person as senior manager, technical and operational expert, and advisor in his investment within the Union in accordance with the Laws;
- b. shall appoint them to replace, after providing for capacity building programs in order to be able to appoint citizens to different level positions of management, technical and operational experts, and advisors;
- c. shall appoint only citizens for works which does not require skill;
- d. shall appoint skilled citizen and foreign workers, technicians, and staff by signing an employment contract between employer and employee in accordance with the labor laws and rules;
- e. shall ensure to obtain the entitlements and rights in the labor laws and rules, including minimum wages and salary, leave, holiday, overtime fee, damages, compensation of the workman, social welfare, and other insurance relating to workers in stipulating the rights and duties of employers and employees and occupational terms and conditions in the employment contract;
- f. shall settle disputes arising among employers, among workers, between employers and workers, and technicians or staff in the investment in accordance with the applicable laws.

## **Chapter XIV. Investment guarantee**

### **Article 52**

The Government guarantees not to nationalize any investment carrying out in accordance with the law. Except under the following conditions, the Government guarantees not to take any measures which expropriate or indirectly expropriate or is likely to effect a result in the termination of an investment:

- a. actually necessary for the interest of the Union or its citizen;
- b. non-discriminatory manner;
- c. measures in accordance with the applicable Laws;
- d. prompt, fair and adequate payment of compensation.

### **Article 53**

A fair and adequate compensation shall be designated as an equivalent to the market value prevailing at the time of expropriation of the investment.

However, that designation shall be based on a fair consideration of public interest as well as the interests of the private investor, and shall take into account the present and past conditions of investment, the reason for expropriation of the business or property, the fair market value of the investment, the purpose of expropriating the business or property, the profits acquired by the investor during the term of investment, and also the duration of the investment.

### **Article 54**

Non-discriminatory manner, including in Chapter XXI and Chapter XXII of this Law, which the Government performs in their authority for the purposes of regulating economic or supporting social interest shall not apply to the provisions in this Chapter.

### **Article 55**

If an investor asserts that a measure or series of measures undertaken under section 52 are inconsistent with the provision of such section and amount to an indirect expropriation, the Government shall conduct a case-by-case and fact-based inquiry that takes into consideration the following factors:

- a. whether the measure creates an intentional adverse effect on the economic value of an investment or not;
- b. whether the measure breaches the prior binding written commitment of the Government, contract, license, or other legal documents issued in favor of the investor or not;
- c. whether the measures of Government, including the objective contained in section 52 (a), are consistent with the public interest or not.

## **Chapter XV. Transfer of funds**

## **Chapter XV. Transfer of funds**

### **Article 56**

Foreign Investors may transfer abroad the following funds relating to the investments made under this law:

- a. capital designated under the provisions relating to capital account rules stipulated by the Central Bank of Myanmar;
- b. proceeds, profits from the asset, dividends, royalties, patent fees, license fees, technical assistance and management fees, shares and other current income resulting from any investment under this Law;
- c. proceeds from the total or partial sale or liquidation of an investment or property owned by an investment;
- d. payments made under a contract, including a loan agreement;
- e. payments resulting from any settlement of investment disputes;
- f. other compensation or money as compensation under investment or expropriation;
- g. remuneration, salary and earning of foreign expert legally employed in the Union.

### **Article 57**

With respect to transferring a loan or taking a loan, it shall be transferred and taken with the approval of the Central Bank of Myanmar, in accordance with the stipulated regulations.

### **Article 58**

Myanmar citizen investors may freely and without delay transfer abroad the following funds relating to the investments made under this Law:

- a. royalties, license fees, technical assistance, management fees, and interests to be paid any outside organization;
- b. payments made under a contract including a loan agreement and insurance claims;
- c. payments resulting from the award, arbitration and a settlement of any dispute, including any agreement to be paid by Myanmar citizen investor.

### **Article 59**

Any transfer of funds shall be allowed only after paying all tax obligations imposed on the amount to be transferred in accordance with the stipulated tax laws.

### **Article 60**

Foreign experts with legal work permits may make remittances abroad without any further deduction from the amount of money paid the tax obligations under the Income Tax Law, through banks authorized foreign exchange dealer license and established in the Union.

### **Article 61**

In respect of transfers of funds made by foreign investors under section 56, such funds, including capital accounts or current accounts under the Foreign Exchange Management Law may be transferred through banks authorized foreign exchange dealer license and legally established in the Union by freely usable currencies.

### **Article 62**

The Government may prevent or delay a transfer of funds relating to any of the following circumstances:

- a. insolvency, or the protection of the rights of creditors;
- b. criminal or penal offences and the recovery of proceeds of crime;
- c. financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;
- d. ensuring compliance with orders or judgments in judicial or administrative proceedings;
- e. taxation;
- f. social security, public retirement, or compulsory savings schemes;
- g. severance entitlements of employees.

### **Article 63**

The Government shall allow the transfer of capital or expenditures and foreign loans from abroad, which are required to be used for investors and their investments within the Union in accordance with applicable laws.

### **Article 64**

In the event of serious balance-of-payments or external financial difficulties, the Government may adopt or maintain restrictions on payments or transfers related to investments in accordance with the Foreign Exchange Management Law and other international commitments.

## **Chapter XVI. Responsibilities of investors**

### **Article 65**

The Investor:

- a. shall respect and comply with the customs, traditions and traditional culture of the ethnic groups in the Union

the Union;

- b. shall establish and register a company or sole proprietorship or legal entities or branches of such entities under the Laws in order to invest;
- c. shall abide by the terms and conditions, stipulations of special licenses, permits, and business operation certificates issued to them, including the rules, notifications, orders, and directives and procedures issued by this Law and the applicable laws, terms and conditions of contract and tax obligations;
- d. shall carry out in accordance with the stipulations of the relevant department if it is, by the nature of business or by other need, required to obtain any license or permit from the relevant Union Ministries, government departments and government organizations, or to carry out registration;
- e. shall immediately inform to the Commission if it is found that natural mineral resources or antique objects and treasure trove are not related to the investment permitted above and under the land on which the investor is entitled to lease or use and not included in the original contracts. If the Commission allows, the investor shall continue to carry out the investment in such land, and if not allowed, the investor shall transfer and carry out, by obtaining the permission, at the substituted place which is selected and submitted by him;
- f. shall not make any significant alteration of topography or elevation of the land on which he is entitled to lease or to use, without the approval of the Commission;
- g. shall abide by applicable laws, rules, procedures and best standards practiced internationally for this investment so as not to cause damage, pollution, and loss to the natural and social environment and not to cause damage to cultural heritage;
- h. shall list and keep proper records of books of account and annual financial statement, and necessary financial matters relating to the investments performed by permit or endorsement in accordance with internationally and locally recognized accounting standards;
- i. shall close and discontinue the investment only after payment of compensation to employees in accordance with applicable laws for any breach of employment contracts, closure of investment, sale and transfer of investment, discontinuation of investment, or reduction of workforce;
- j. shall pay wages and salaries to employees in accordance with applicable laws, rules, procedures, directives and so forth during the period of suspension of investment for a credible reason;
- k. shall pay compensation and indemnification in accordance with applicable laws to the relevant employee or his successor for injury, disability, disease and death due to the work;
- l. shall supervise foreign experts, supervisors and their families, who employ in their investment, to abide by the applicable laws, rules, orders and directives, and the culture and traditions of Myanmar;
- m. shall respect and comply with the labor laws;
- n. shall have the right to sue and to be sued in accordance with the laws;
- o. shall pay effective compensation for loss incurred to the victim, if there are damage to the natural environment and socioeconomic losses caused by logging or extraction of natural resources which are not related to the scope of the permissible investment, except from carrying out the activities required to conduct investment in a permit or an endorsement;
- p. shall allow the Commission to inspect in any places, when the Commission informs the prior notice to inspect the investment;
- q. shall take in advance permit or endorsement of the Commission for the investments which need to obtain prior approval under the Environmental Conservation Law and the procedures of environmental impact assessment, before undertaking the assessment, and shall submit the situation of environmental and social impact assessment to the Commission along the period of activities of the investments which obtained permit or endorsement of the Commission.

#### **Article 66**

Subject to the assessment under section 65 (q), the Commission may administer the investments to carry out necessary, including to conduct or suspend.

#### **Article 67**

The investors shall comply with all responsibilities stipulated under section 65 from the date of this Law comes into effect.

#### **Article 68**

If the investor discontinues the investment before the expiry of the permitted period, after paying the tax exemptions or reliefs or both enjoyed during importation in accordance with the approval of the Commission, the investor is to sell, export and dispose all machineries, equipment, motor vehicles and all other articles imported from abroad with the customs duty, other internal taxes and tax exemption or relief or both for his investment.

#### **Article 69**

After obtaining a permit or an endorsement from the Commission, the investor shall execute and sign necessary contracts with the relevant government department or a government organization or government organizations, and conduct its investments.

Article 70

#### **Article 70**

The permission of the Commission shall be obtained for any extension and amendment of the contracts mentioned in section 69.

#### **Article 71**

In conducting their investment businesses, the investor shall carry out health assessment, cultural heritage impact assessment, environmental impact assessment and social impact assessment according to the type of investment business in accordance with the relevant laws, rules, regulations and procedures.

#### **Article 72**

Investment obtained a permit or an endorsement, shall submit and notice to the Commission of any sublease, mortgage transfer of shares or transfer of business to any person during the investment period.

## **Chapter XVII. Insurance**

#### **Article 73**

The investor shall insure the types of insurance stipulated in the provision of the rules at any insurance enterprise which is entitled to carry out insurance businesses within the Union.

## **Chapter XVIII. Exemptions and reliefs**

#### **Article 74**

The Commission shall, for the purpose of supporting the development of the Union by allowing investment in sectors which need to be developed, and for the proportionate development of Regions and States, scrutinize and may grant one or more tax exemptions or reliefs if the investor applies for such exemptions or reliefs.

#### **Article 75**

- a) With respect to the income tax exemption, designated the less developed regions as Zone (1), the moderate developed regions as Zone(2), and the adequate developed regions as Zone (3), the Commission shall, with the approval of the Government, issue a notification and may grant income tax exemptions to investment businesses in Zone(1) for a period of 7 consecutive years including the year of commencement of commercial operation, investment businesses in Zone (2) for a period of 5 consecutive years including the year of commencement of commercial operation, and investment businesses in Zone(3) for a period of 3 consecutive years including the year of commencement of commercial operation.
- b) With the approval of the Government, the Commission may change the designation of the zones from time to time depending on the development of the respective regions.
- c) Income tax exemptions shall be granted only for the sectors specified by the Commission in the notification as the sectors to promote the investments.

#### **Article 76**

In addition to the provisions under Chapter XI of Treatment of Investors, the Government may undertake subsidies, funding, capacity building and training to Myanmar citizen investors and citizen-owned small and medium-sized enterprises. The Government may also allow exemptions and reliefs for the locations where Myanmar citizen-owned businesses are operated or other economic activities.

#### **Article 77**

The Commission may scrutinize and grant the following exemptions or reliefs from customs duty and other internal taxes to the investor if applied.

- a. exemptions or reliefs from customs duty or other internal taxes or both on machineries, equipments, instruments, machinery components, spare parts, construction materials unavailable locally, and materials used in the business, which are imported as they are actually required, during the construction period or during the preparatory period of the investment business;
- b. exemptions or reliefs from the customs duty or other internal taxes or both on the importation of the raw materials and partially manufactured goods conducted by an export-oriented investment business for the purposes of the manufacture of products for export;
- c. reimbursement of customs duty or other internal taxes or both on imported raw materials and partially manufactured goods which are used to manufacture products for export;
- d. if the volume of investment is increased with the approval of the Commission and the original investment business is expanded during the permitted period of investment, exemption or relief from the customs duty or other internal taxes or both on machineries, equipment, instruments, machinery components, spare parts, materials used in the business, and construction materials unavailable locally, which are imported as they are actually required for use in the business which is being expanded as such.

#### **Article 78**

The Commission may scrutinize and grant the following exemptions and relief as required to the

investor if applied:

- a. exemption or relief from income tax if the profit obtained from the investment business that has obtained a permit or an endorsement is reinvested in such investment business or in any similar type of investment business within one year;
- b. right to depreciation for the purpose of income tax assessment, after computing such depreciation from the year of commercial operation based on a depreciation rate which is less than the stipulated lifetime of the machinery, equipment, building or capital assets used in the investment;
- c. right to deduct expenses which are incurred for the research and development relating to the investment businesses carried out within the Union and actually required for the economic development of the Union from the assessable income.

#### **Article 79**

The foreign investors have to pay income tax on their income at the rates applicable to the citizens residing within the Union.

#### **Article 80**

Except the exemptions and reliefs under section 75, 77 and 78, other taxes shall be carried out in accordance with relevant tax laws.

#### **Article 81**

The exemptions and reliefs under sections 75, 77, 78 and 80 shall not apply to businesses operating in special economic zones.

## **Chapter XIX. Settlement of dispute**

#### **Article 82**

In effective implementation of this Law, the Commission shall establish and manage a grievance mechanism to resolve, prevent the occurrence of disputes, and carry out the relevant inquiries for the investment issues before reaching at the stage of legal disputes.

#### **Article 83**

Before any investment dispute between the investor and the Union or between the investors is brought to any court or arbitral tribunal, all disputing parties shall use due attempts to settle the disputes amicably.

#### **Article 84**

If investment disputes are not able to be settled amicably:

- a. if the dispute settlement mechanism is not stipulated in the relevant agreement, it shall be settled in the competent court or the arbitral tribunal in accord with the applicable laws;
- b. if the dispute settlement mechanism is stipulated in the relevant agreement, it shall be complied with and carried out in accord with the mechanism.

## **Chapter XX. Administrative penalties**

#### **Article 85**

The Commission:

- a. may impose one or more of the following administrative penalties against an investor who violates or fails to comply with any provision of this Law and its rules, regulations, notifications, orders, directive, procedures or terms and conditions contained in the permit or endorsement issued by the Commission:
  - i. censure;
  - ii. temporary suspension of business;
  - iii. temporary suspension of tax exemption and reliefs;
  - iv. revocation of the permit or endorsement;
  - v. adding to the business on a blacklist for which no permit or endorsement shall be issued in the future;
- b. shall inform a prior notice in respect of the administrative penalties to the investor before imposing the administrative penalties according to subsection (a), and the investor has the right to question in writing upon the administrative penalties;
- c. shall describe the reason for imposing an administrative penalty together with the decision, imposing the administrative penalty under subsection (a).

#### **Article 86**

- a) The investor dissatisfied with any decision made by the Commission under section 85 shall have the right to apply the appeal to the government within 60 days from the date of the decision in accordance with the stipulations.
- b) The government may amend, revoke or approve any decision made by the Commission.
- c) The decision of the Government shall be final and conclusive.

#### **Article 87**

An investor shall be prosecuted if there is credible evidence that he describes dishonestly false

information or concealment of information when submitting any proposal, accounts, evidence of contracts, financial and evidence of employment and so forth to the Commission, or any relevant government department or government organization.

#### **Article 88**

If an investor fails to comply with or violate any provisions of this Law, including the performance of the prohibited investment businesses under section 41, he shall be prosecuted under this Law and, if required, any existing Laws.

## **Chapter XXI. Exceptions**

#### **Article 89**

Nothing in this Law shall be construed to prohibit the following fair measures adopted or maintained prudently by the Government:

- a. necessary to protect public morals or to maintain public order;
- b. necessary to protect lifespan or health of human, animals, or plants;
- c. the protection of investors, depositors, financial market participants, policyholders, policy-claimants, or persons to whom a fiduciary duty is owed by a financial institution;
- d. ensuring the safety, standing, soundness and stability of financial institutions;
- e. ensuring the integrity and stability of the financial system of the Union;
- f. aiming to ensure fair and effective assessment of tax or direct taxation relating to investors;
- g. carrying out the protection of artistic, historical or archaeological valued national treasures and heritage;
- h. preservation of natural resources not to be damaged ,where effect is caused by domestic production or consumption.

## **Chapter XXII. Security exception**

#### **Article 90**

- a) Nothing in this Law shall be construed to prohibit the Government from adopting or enforcing necessary measures for the protection of its essential security interests.
- b) The provisions under this Law shall not prevent any of the following actions necessary for the Government to protect essential security interests, including but not limited to:
  - i. action relating to the traffic in arms, ammunition and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying military or other security forces;
  - ii. action taken, as required, in time of war or other emergency in international relations.

## **Chapter XXIII. Miscellaneous**

#### **Article 91**

If there is any provision of this Law contrary to any matter provided for in the international treaties and agreements adopted by the Union, the provisions contained in the international treaties and agreement shall be abided by for such contradictory provision.

#### **Article 92**

Within the period after the enactment of this Law and before promulgating the necessary rules and procedures, the rules issued under the Foreign Investment Law (the Pyidaungsu Hluttaw Law No. 21/2012) may continue to be complied so far as it is not contrary to this Law.

#### **Article 93**

Any permit for investment granted by the Commission subject to the Union of Myanmar Foreign Investment Law (The State Law and Order Restoration Council Law No. 10/1988) or the Foreign Investment Law (the Pyidaungsu Hluttaw Law No. 21/2012) or the Myanmar Citizens Investment Law (the Pyidaungsu Hluttaw Law No.18/2013) shall continue to be effective till the term of such permit is expired.

#### **Article 94**

Notwithstanding anything contained in any other law, matters relating to any provision in this Law shall be carried out in accordance with this Law.

#### **Article 95**

If there is credible evidence for performing in good faith of powers conferred under this Law, no criminal or civil actions shall be taken against any member of the Commission, any member of a committee or body, or any civil servant for such act.

#### **Article 96**

In performing duties under this Law, the members of the Commission and the officers of the Commission Office shall impartially carry out such duties in accordance with the Anti-Corruption Law.

#### **Article 97**

The members of the Commission shall not use the acquired information for any other purposes, except for law enforcement of the prohibitions under this Law.

implementation of the objectives under this Law.

**Article 98**

Any decision made by the Commission under the powers conferred by this Law shall be final and conclusive except any appeal in relation to the imposition of administrative penalties under section 85.

**Article 99**

In carrying out the provisions under this Law, the Ministry of Planning and Finance shall;

- a. undertake the office-work of the Commission;
- b. bear the expenditures of the Commission in accordance with financial rules and regulations.

**Article 100**

In implementing this Law:

- a. the Ministry may, with the approval of the Government, issue necessary rules, regulations, notifications, directives, orders and procedures;
- b. the Commission may issue orders, notifications, directives and procedures.

**Article 101**

The Foreign Investment Law (The Pyidaungsu Hluttaw Law No. 21/2012) and the Myanmar Citizens Investment Law (The Pyidaungsu Hluttaw Law No. 18/2013) are hereby repealed by this Law. Although the Foreign Investment Law is repealed, the Myanmar Investment Commission formed by that law shall have the power to perform its duties until the date that its duties and powers have been delegated to the Commission that will succeed under this Law.