

LEGAL
ALERT

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Author

Geraldine Oh
Resident Partner
ZICO Law Myanmar
geraldine.oh@zicolaw.com

Thit Thit Kyaw
Senior Associate
ZICO Law Myanmar
thit.thit.kyaw@zicolaw.com



Amendments to the Anti-Corruption Law in Myanmar

The Anti-Corruption Law (“the 2013 Law”) was enacted in 2013 and the Anti-Corruption Commission (“the Commission”) was established a year later tasked with fulfilling the following objectives:

1. to eradicate corruption as a national responsibility;
2. to set up and emerge with clean government and good governance;
3. to enhance the integrity and accountability in public governance;
4. to protect state-owned properties, humanity, rights and interests of citizens due to corruption;
5. to take action effectively against those who commit corruption; and
6. to be more transparent in rule of law and the administrative sector and to develop economy by domestic and foreign investment.

Previous initiatives and improvements led by the government and the Commission have helped in combating corruption. This has allowed Myanmar to inch 6 places higher in rank in the Transparency International’s corruption index from 136th in 2016 to 130th in 2017. With recent amendments to the 2013 Law, lawmakers have continued with implementation of further measures to combat corruption which enlarges the scope and reach of the law and confers more powers and authority to the Commission.

Key amendments to the Anti-Corruption Law 2013

Under the existing 2013 Law, “corruption” is defined as the act, either directly or indirectly, of an authoritative person abusing his position, such as giving, accepting, receiving, attempting to receive, offering, pledging, or discussing in any way of a consideration for himself or another person or any organisation in order to refrain from doing any lawful act, give a person his legitimate right, or prohibit a person wrongfully from his legitimate right. Under the law “authoritative person” has been defined as a public servant, foreign public servant, person who possesses the political post, senior official or administrator or representative of any public organisation.

However, with recent amendments to the 2013 Law (“the 2018 Amendments”) the definition of “corruption” has been amended and is now defined as:

1. The misuse of his post by any person in using his authority to do or to avoid the lawful act or to give the legal right to someone or to prohibit the legal right incorrectly, or giving, accepting, obtaining, attempt to obtain, proposal, promise or discussion by any means the corruption from someone either directly or indirectly.
2. Anyone who in the process of handling public finance of a government department, government organization, public organization or any other organisation or claiming acquiring, managing, liquidating proprietary rights of those organizations, or participating, administrating in the agreement relating to those organisations, causes loss or damage to revenue, property and proprietary rights by breaching any existing law, rule, regulation and procedure.

The scope of application has also been widened to include “any person” whereby if an act of corruption is committed by a Myanmar national or resident foreigner or a foreigner residing permanently in Myanmar within the Union or on a vessel registered under existing Myanmar



Law or on an airplane, it falls within the ambit of the law. The wider interpretation of “any person” could also include Myanmar legal entities or foreign legal entities.

Complaints

Under the 2013 Law, while the President or Hluttaw (Parliament) speaker may assign the Commission to investigate any complaints or information received in respect of any acts of corruption, the Commission may also investigate and take action in respect of the following matters:

- a. the President assigns the duty to investigate;
- b. the Hluttaw speaker assigns the duty to investigate in connection with the proposal submitted by Hluttaw representatives in respect of action to be taken against any person who holds a political post;
- c. where any person lodges a complaint to the Commission or any working committee, working group, Preliminary Scrutiny Board and any investigation board formed under the law, to take action upon the offender in accordance with the law; and
- d. where the Commission suspects the news of a person, who has a reputation of committing acts of corruption, such news can be considered as a reliable source of suspicion in relation to the act of corruption.

The 2013 Law also provides that the Commission may commence an investigation upon receipt of a complaint from an aggrieved person.

The 2018 Amendments widened the scope of complaints by allowing any person to inform or complain to the Commission or working committee, working group, Preliminary Scrutiny Board and any investigation board formed under the law or relevant Government department or organisation. Furthermore the Commission is also able to commence an investigation without any formal complaint if the Hluttaws’ representatives are in agreement. This will be helpful to the Commission in order to promote integrity to fight corruption.

The 2018 Amendments also allows the Commission to launch preliminary investigations into an alleged complaint or information received. Prior to this, the Commission can only act in response to a complaint. This amendment broadens the power of the Commission as it allows the Commission to consider indications of unusual wealth as information to justify an investigation. This is seen as an effective measure in combating corruption, especially in instances where the Commission would be empowered to commence an investigation into public servants who have acquired wealth or assets that are clearly beyond their means.

The maximum punishment has also been reduced under the 2018 Amendments, from 5 years to 3 years for those who are found to have provided false information, complaint or evidence or compels another person to do so in order to injure or defame a person.

Many are hoping that the changes under the 2018 Amendments will give the Commission the boost it needs to pursue those involved in grand corruption, graft, money-laundering and other illicit activities.

If you have any questions or require any additional information, you may contact [Geraldine Oh](#), [Thit Thit Kyaw](#) or the ZICO Law partner you usually deal with.

