

LEGAL ALERT

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Author

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

Pyae Sone Thein Htike
Paralegal
ZICO Law Myanmar
pyaesone.theinhtike
@zicolaw.com

A New Registration of Deeds Law 2018 for the Registration of Instruments Relating to Moveable and Immoveable Properties

On 20 March 2018, Pyidaungsu Htuttaw enacted the Registration of Deeds Law 2018 (“the Act”) which repeals and replaces the previous Registration Act 1908. However, the rules, regulations, by-laws, notifications, orders, directives and procedure issued under the old Registration Act 1908 will continue to apply unless it is contrary to the Act. While the Act was enacted in March 2018, it only came into force on 1 October 2018 via a notification issued by the President.

The Act empowers the Office of the Registration of Deeds to handle registration process for instruments relating to movable properties and immovable properties, however documents required for the registration remains the same. The Director General of the Department of Agricultural, Land Management and Statistics under the Ministry of Agriculture, Livestock and Irrigation shall be appointed as the chief of the deeds registration process.

Registration of Deeds

The Act distinguishes between compulsory and discretionary deed registration. Section 16 provides for instruments that are compulsory for registration while section 17 provides for the instruments that are discretionary. If the instruments are in English, a Myanmar translation certified by the Notary Public is required when submitting the documents for registration. In short, any document relating to immovable property with a value of more than MMK100,000, e.g. Land Purchase Agreement, Land Lease Agreement and Gift Deed, must be registered. Registration of any document relating to immovable property with a value of less than MMK100,000 is optional. Other documents such as Family Settlement Agreements, court’s decisions, arbitration awards, can also be registered under the Act.

The Ministry of Agriculture, Livestock and Irrigation shall prescribe the fees for the registration documents and publish the rates in the national gazette, and display them at a public area in the townships of the registration of deeds.

Time Frame for Registration

Section 21 of the Act provides that for instruments other than will, if such instrument was executed in the Republic of the Union of Myanmar it shall be registered within 120 days from the date of execution or the date of issuance of the court decree or order. Where the instrument has been executed by more than two signatories at different times, such instrument shall be registered within 120 days from the date of last execution.

For any instruments executed outside of Myanmar, if registration is required, it shall be registered within 120 days from the date of arrival of the instrument at the Republic of the Union of Myanmar. Where any instrument has not been registered within 120 days from the date of execution, section 23(c) of the Act provides that such instrument can be registered with the approval of the Registrar upon the payment of the late penalty fees. The Registrar may also extend the period for registration for another 120 days from the last date of the prescribed period.



However, the law does not mention the consequences if the instrument is still not registered after the expiry of the extended registration period.

Effect of Registration

Any registered documents shall be effective from the date of execution, and where it relates to movable or immovable properties, the document shall be effective against any oral agreement or declaration relating to such property that is contrary to the terms contained in the document.

Section 47 of Act provides that failure to register documents that are compulsory to be registered shall render such document:

- a. not to have any effect on lease or transfer of immovable property;
- b. not to confer any power to adopt; and
- c. not to be considered as official evidence of any transaction relating to the properties that are contained in the documents or conferring of power.

Prohibitions & Penalties

Section 72 of the Act prohibits any person who is appointed and assigned under the law to carry out the registration of documents to improperly fill, amend, delete, copy, translate or register a document which has been deposited or presented for registration with the intent to cause injury or knowing it to be likely to cause injury, or in a manner which he knows or has ground to know as incorrect. Furthermore, section 73 provides that nobody shall commit the following:

- a. make false statements in front of an officer acting in execution of the law, or any proceeding or enquiry under the law;
- b. intentionally deliver to a registering officer a false copy or translation of a document or map or plan; and
- c. where criminal case or investigation case have been inquired under the Act, present the false documents, make any statement or act improperly in any way without being the representative or an executor.

Any person who violates the prohibition under sections 72 and 73 of the Act shall be punished with imprisonment for a term which may extend to 7 years or with fine or both. The penalty also extends to any persons who abet in such violation of the sections.

Conclusion

Registration is an important step in preserving the rights of foreign investors, as it will essentially provide priority rights to foreign investors over any third parties claiming any rights over the immovable property. Since the Act came into force, it is now easier to register leases of immovable property and any document which creates or purports to create a security interest in immovable property with the Office of the Registration of Deeds. The new registration guide confers better legal protection to lessee and charge of immovable property in Myanmar.

With respect to instruments which are under compulsory registration requirement, the statutory timeframe for registration should be observed to avoid any payment of late penalty fees.

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

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