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REGIONAL ROUND-UP 2020: MYANMAR



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Introduction



Throughout the year, we have been keeping you up to date on noteworthy developments across the region with our Regional Round-up Publications. As we enter 2021, we are pleased to share with you our inaugural year-in-review edition of the Regional Round-up for our Regional Offices in the Rajah & Tann Asia network.

In each jurisdiction, we will recount the milestones in the path that has been travelled in 2020, as well as consider the terrain of the road that lies ahead in 2021. In the "Looking Back: 2020" section, we take stock of the past year and highlight the key legal and regulatory developments affecting each jurisdiction in 2020. In the "Gazing Into: 2021" section, we look ahead to some key areas of development that you should take note of in the year to come, referencing the legal and business trends shaping up potential legislative and regulatory changes in each jurisdiction.

We hope that this year-in-review edition of the Regional Round-up provide some perspective and insight into the legal landscape of the jurisdictions across the region. As always, please feel free to contact our lawyers in our Regional Offices if you have any queries or for further discussions.

Please click on the links below to access the full collection of our country-specific Regional Round-up 2020:

- [Cambodia](#)
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Looking Back: 2020

2020 was a year of numerous regulatory changes, in particular to address the economic and social ramifications of the **COVID-19 pandemic**. Ongoing stringent measures were imposed in September as the second wave of the pandemic took hold in the country. Directives were issued to implement Stay-at-home measures and travel bans, and to give out allowances for employees insured under the Social Security Board ("**SSB**") in the private sectors.

The Government of Myanmar continued its steady implementation of **electronic systems** in order to streamline various processes. In particular, the **trademark regime** has been transformed from a 'First-to-Use system' to a 'First-to-File system', together with the introduction of the E-filing system for Trademarks. An E-filing system and

payment platforms was also introduced for **taxpayers** by the Internal Revenue Department ("**IRD**") to be in-line with the Stay-at-home practices introduced to address the COVID-19 pandemic.

A significant change to the corporate market came in the form of the **new Insolvency Law**, seeking to modernise the old regime and introducing new alternatives to liquidation. Additionally, **Industrial Zones** are being promoted through the newly enacted Industrial Zone Law by the Parliament.

Summaries of the key developments relating to the above areas are provided below.

COVID-19 – Allowances for Employees Insured under the Social Security Board

The Ministry of Labour, Immigration, and Population issued Directive No.196/2020, implementing an allowance regime for employees insured under the SSB in order to address the economic ramifications arising out of the pandemic. Pursuant to the directive, employees who had contributed to the social security fund for the month of June 2020 and are in continuous employment until 23 September 2020 would be eligible to apply for allowance. The allowance would equate to 40% of their salary for June 2020, but only extends to employees in privately-owned sectors. Click [here](#) for more information.

E-filing System for Trademarks

The Ministry of Commerce introduced a new E-filing system for Trademarks. Previously, trademarks which are not filed but are in actual use within the market enjoyed a right of priority for a period of time to register their marks. This period of time is now defined as starting from 1 October 2020 until the official commencement filing date (which is to be announced by the Government). Subsequently, owners of the marks may file for registration through the newly implemented E-filing



system from 1 October 2020 until the official commencement filing date in order to protect their rights.

Currently, the filing system can either be undertaken by service companies or law firms as a first phase. Owners of the marks may file themselves when the second phase of the system is introduced – which is yet to be commenced. Click [here](#) for more information.

E-filing and Payment Platforms for Taxpayers

As Stay-at-Home practices were implemented across the country, IRD has introduced an E-filing and Payment Platforms for taxpayers. Under the E-filing system, taxpayers are able to file tax returns online by registering through the IRD website. This is not mandatory yet; however, IRD is encouraging its use amidst COVID-19. This is also in line with the mandatory use of the E-Payment system. E-Payments may be made by way of online banking systems or mobile payment systems. These electronic systems are only available for filing and payment pertaining to Commercial Tax, Capital Gains Tax, and Specific Goods Tax. Their use in relation to Personal Income Tax and Corporate Income Tax have yet to be announced. Click [here](#) for more information.

Insolvency Law of 2020

On 14 February 2020, the Insolvency Law ("**Law**") was enacted. It was made effective by way of a Notification from the President's Office on 25 March 2020. The Law modernises the age-old insolvency regime by repealing the old Yangon Insolvency Act of 1909 and the Myanmar Insolvency Act of 1920. Chapter 10 of the Law, which relates to cross-border insolvencies, has yet to be made effective.

A particular addition conferred by the new Law is an alternative method to liquidation, that is, rescue and rehabilitation. The Law contains provisions that may restrict the enforcement of security interests, depending on the operation of the rehabilitation proceedings for distressed companies. The Law aims to provide efficient corporate rescue and rehabilitation for failing businesses, and an effective liquidation process in the event of a failure of the rehabilitation process.

Industrial Zone Law of 2020

On 26 May 2020, the Industrial Zone Law was enacted by the Parliament of Myanmar to promote industrialisation, create job opportunities, attract foreign investments, and increase the value of products based on domestic raw materials. This marks the realisation of Myanmar's plans to shift its reliance on agriculture to industrials, which includes mining, energy, manufacturing and processing, electric power, and construction.

The new law will allow investors to carry out investment activities within the designated zone such as manufacturing products, transport and delivering of raw materials, business relating to road maintenance and upgrade, trading business of products manufactured from the investment business, and other services connected with the business. The investor who obtains the permit to carry out investment activities will have land use rights similar to those who obtain a Myanmar Investment Commission ("**MIC**") permit or endorsement under the Myanmar Investment Law ("**MIL**"). They will also be entitled to the same income tax benefits as under the MIL, depending on the location of the investment zone.

Gazing Into: 2021

A major development in the regulatory framework in Myanmar comes in the form of modernising the **electronic commerce market** through the introduction of the E-Commerce Guidelines. In the area of **trademarks**, the official commencement date of the filings is expected to be announced in 2021. The second phase of the E-filing system for trademarks is also expected to be introduced, allowing owners of marks to register by themselves.

Another major **shift in the governance of Myanmar** is the completed elections in the country, seeing another landslide win by the ruling majority party, National League for Democracy. This is expected to result in changes to personnel in all the Ministries, which may affect the regulation of certain laws. Additionally, the term of the

State Counsellor of Myanmar Law of 2016 will need to be extended as the current statute only provides for a term of up to the end of the second session of the Hluttaw – which is due to expire soon.

Additionally, the **Law to Prevent an Increased Quantity of Imports**, which was passed by Parliament in 2019, will take effect on 1 July 2021. The Law seeks to protect domestic production from increased imports and is expected to significantly impact the market.

A summary of the development on E-Commerce Guidelines is provided below.

E-Commerce Guidelines

The Ministry of Commerce has prepared draft E-Commerce Guidelines in the year 2020, which is expected to take effect in 2021. The comprehensive guidelines seek to promote and regulate electronic transactions, as well as to protect the rights and interest of consumers. The Guidelines will impose licensing obligations on businesses, as well as set out regulations on contractual obligations, data privacy, and information disclosure. Existing pieces of legislation, in particular the Consumer Protection Law, will apply to electronic transactions due to the guidelines. Click [here](#) For more information.



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