

Telecommunications Law

Law No. 31/ 2013 dated 8 October 2013

Chapter I

Title, application and definition

1. The Law shall be called the Telecommunications Law.
2. The provisions in this Law and its subsidiary legislation shall apply:
 - (a) To any person, department and organization within the land, sea and airspace territory of the Republic of the Union of Myanmar ;
 - (b) To Myanmar citizens outside of the Republic of the Union of Myanmar, wherever they reside.
3. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) **Telecommunications** means a transmission or reception of information in its original or modified form by wire, fiber optic cable or any conducting cable, or by means of radio, optical or any other form of electromagnetic transmission;
 - (b) **Information** includes data, texts, images, sounds, codes, signs, signals, databases and any combination thereof;
 - (c) **Wireless communications** means transmission or reception of information by means of radio, optical, electromagnetic transmission or any other means without the use of wires, fiber optical cables or any conducting cable between the transmitter and the receiver;
 - (d) **Telecommunications network** means a network of telecommunications facilities, telecommunications equipment, computers, or any peripherals used in conjunction with any or more of the above, by means of any form of wired or wireless communications technology;
 - (e) **Network territory on user's side** means the place where telecommunications equipment is initially connected or where information from a user is received or where a network facility which sends information to a user is situated;
 - (f) **Telecommunications service** means provision of one or more network facilities service, network service and application service;
 - (g) **Network facilities service** means a service provided by the owner of network facilities including leasing all or part of the network facility to other licensees, or the self-provision of any telecommunications services on the facility;
 - (h) **Network service** means a service for transmission and reception of information by any means of guided or unguided electronic radiation. This expression does not include services provided solely on the customer side of the network boundary;
 - (i) **Application service** means a service provided by means of one or more network services. This expression does not include services provided solely on the customer side of the network boundary;
 - (j) **Telecommunications equipment** includes the telecommunications equipment specified by the Ministry in accordance with this law;
 - (k) **Telecommunications market** means the market for any telecommunications service or for goods or services used in conjunction with any of the telecommunications service;

- (l) **Content** means text, sound, still or moving picture, or other audio-visual representation, tactile representation, or any combination of the preceding which can be created, manipulated, stored, retrieved, or communicated electronically;
- (m) **Network facilities** means any element or combination of such elements of physical infrastructure which are used principally for the provision of network services;
- (n) **Frequency spectrum** means a continuous frequency range of electromagnetic wave frequencies from 3 hertz to 420 Terahertz;
- (o) **Telecommunication numbering plan** means the numbering plan of the Union of Myanmar prescribed to be used in telecommunications services;
- (p) **Electronic addressing plan** means the systematically arranged electronic addressing plan for the Union of Myanmar which makes use of alphabets or numbers, or the combination of alphabets and numbers in the communication processes and routing between information technology systems;
- (q) **Telecommunication equipment license** means the license in respect of telecommunications equipment issued to any person, department or organization, for the purpose of possession or use of any telecommunications equipment;
- (r) **Service license** means a service license granted pursuant to this law to any person, department or organization to establish and provide any telecommunication service;
- (s) **License** means the service license and telecommunication equipment license issued to any person, department or organization in pursuant to this Law;
- (t) **Ministry** means the Union Ministry of Communications, and Information Technology;
- (u) **Regulator** means Department of Posts and Telecommunications, Ministry of Communications and Information Technology;
- (v) **Board of Appeals** means the appellate board formed by the Government to allow appeal in case of dissatisfaction with the decision by the Ministry.

Chapter II

Objectives

- 4. The objectives of the law are as follows:
 - (a) To contribute, with information technology, to the development of the country;
 - (b) To establish high-quality telecommunication services that through transparent and fair competition from local and foreign companies in an ever-growing telecommunication sector;
 - (c) To expand the communications network all over the country thereby giving people access to telecommunication services;
 - (d) To provide legal protection to both the telecommunication service providers and users;
 - (e) To supervise telecommunications services, network facilities and telecommunications equipment for the purpose of ensuring the stability and security of the State.

Chapter III

Licensing Telecommunications Service

5. Any local and foreign person, department or organization which wants to set up and operate any of the following communication service businesses shall apply for the permit and license to the regulator in the prescribed manner:
 - (a) Network facilities service
 - (b) Network service
 - (c) Application service
6. The Regulator shall announce the licensee selection policies, procedures and rules for public awareness.
7. The Regulator shall submit the application under section 5 to the ministry along with the recommendations after having analyzed it under section 6.
8. The Ministr
 - (a) When the Ministry receives the submission under section 7, if an application is from a local company, the Ministry may permit the business (which needs the approval of the Union Government in accord with the prescribed conditions); If the business does not need such approval, the decision of the Ministry is sufficient for approval;
 - (b) If an application is from an overseas country, the Ministry may permit the business having sought the approval of the Union Government;
 - (c) When a communication service business is allowed under subsections (a) and (b), the Ministry shall instruct the regulator to issue the service license with a valid period between 5 to 20 years at a time.
 - (d) If a service license holder applies for the provision of an international gateway service for international calls and connections, the Ministry may allow this in accordance with the rules and regulations prescribed for that business with the consent of the Government.
 - (e) If the Regulator has scrutinized and submitted an application for the extension of validity of a license, it may allow such an extension.
9. The Regulator shall issue the service license to a local or foreign person, department or organization that is allowed to set up a communication service business in accordance with the instruction of the Ministry under section 8 (c) after having prescribed the rules and regulations of each type of business.
10. A service license holder can cooperate with a local or foreign person, department and organization.
11. A service license holder may do the following tasks with another service license holder entering into an agreement:
 - (a) Connecting and reciprocally communicating between communication service businesses in accordance with the provisions of Chapter 12 of this law;
 - (b) Sharing network facilities equipment;
 - (c) Carrying out other matters expressly stated in the service license.
12. (a). If a service license holder wants to continue his or her business after the expiry of the validity of his or her license, he or she shall apply to the regulator in the prescribed manner before the expiry of the validity of his or her license;

(b). The regulator may extend the service license with the approval of the ministry after having assessed the application.

Chapter IV

Telecommunications equipment license

13. A local or foreign person, department or organization shall apply for the license to the regulator if they want to possess or use telecommunications equipment which is prescribed by the ministry to use under license. However, no application is needed for the following:
- (a) A service license holder possesses and uses the telecommunication equipment he or she bought to use;
 - (b) Telecommunication equipment is taken from a service license holder and is possessed and used.
14. The Regulator
- (a) May issue or reject license after having assessed the application for particular telecommunication equipment under section 13;
 - (b) May issue or reject license after having assessed the application for particular telecommunication equipment under section 13;

Chapter V

Duties of a licensee

15. A licensee shall
- (a) Observe this law and the rules, procedures, notifications, orders and directives issued under this law;
 - (b) Observe the rules and regulations of the license;
 - (c) Pay license fee, renewal fee, usage fee and service charge, as well as any technological and other contributions collected from time to time in the prescribed manner;
 - (d) Observe the relevant code of practices, performance norms and the directives of the ministry and regulator;
 - (e) Indemnify the State against the consequences of any breach or failure on the part of the license;
16. A service license holder shall
- (a) Observe the national radio frequency plan allowed under this law;
 - (b) If he or she wants to expand to any telecommunications service business for which no service license is given, wants to form a joint venture with another service license holder, or wants to work with another service license holder, he/she shall apply for a license to the Ministry via the regulator in accord with the provisions of Chapter (3) of this law;

- (c) Observe when he or she is instructed to make the required repair work or to temporarily halt any of the tasks of his or her business because it is found or informed that other telecommunication service business is interfered technically.
- 17. A licensee shall safely store the information and contents re-transmitted or received by his or her communication service business and confidential data of each citizen and shall not disclose anything except the matters allowed under the existing laws to any irrelevant person.
- 18. A telecommunication equipment license holder shall
 - (a) Keep and use the telecommunication equipment owned by him or her at the place prescribed in the license.
 - (b) Take measures not to encourage the security of the State under section 60 to deteriorate due to the telecommunications equipment he or she is allowed to use under the license;
 - (c) Observe the directions by the Regulator.

Chapter VI

Frequency spectrum management and satellite orbital position management

- 19. The Ministry shall supervise and manage the frequency spectrum and satellite orbital position allotted to the Republic of the Union of Myanmar under international telecommunications conventions;
- 20. The regulator may assign the frequency bands under the national frequency allocation plan to people to use under the prescribed conditions.

Chapter VII

Telecommunication numbering plan and addressing plan

- 21. The regulator shall instruct licensees to observe the telecommunication numbering plan and addressing plan approved by the ministry.
- 22. The regulator may allow the use of telecommunication numbers and electronic addresses by a service license holder under prescribed conditions.
- 23. The regulator shall inspect and supervise to ensure that telecommunication numbers and electronic addresses are used properly in accordance with the direction under section 21.

Chapter VIII

Technical standards

- 24. The Regulator shall determine and set out the applicable technical standards for each business with the approval of the ministry in respect of the licenses.
- 25. The regulator shall supervise as to whether licensees obey the technical standards prescribed.
- 26. The Regulator shall prescribe the standards of network facilities for the purposes of importation and exportation.

27. Anyone who wants to produce, sell or distribute any of network facilities or telecommunication equipment shall apply to the regulator first in the prescribed manner to obtain the recommendation on the technical standards of the network facility equipment or telecommunication equipment which will be produced, sold or distributed by him or her.
28. The regulator may issue or reject the application for technical standards recommendation after assessment.

Chapter IX

Consumer protection

29. a. A licensee shall submit the schedules of tariffs for the existing services or the services to be introduced in respect of any telecommunications service business to the regulator;
b. The regulator shall allow the proposed schedules of tariffs with the approval of the ministry.
30. A service license holder shall
 - (a) Provide services according to the tariffs allowed under section 29(b);
 - (b) If a licensee wants to alter or repeal the allowed tariffs, he or she shall do so after obtaining the prior permission from the regulator.
31. a. The regulator shall determine the suitable standards by which customers are protected in respect of
a service license;
b. A service license holder shall observe the customer protection standards prescribed.

Chapter X

Access and interconnection

32. The regulator shall make the rules and regulations concerning access and interconnection of network facilities and telecommunication services.
33. A service license holder may, where making network services, have access and interconnection with network facility equipment, as requested by another service license holder, by reaching agreement between license holders and with the approval of the regulator.
34. When access to each other's network is allowed,
 - (a) The access shall be on an equitable and non-discriminatory basis and its technical standards and quality shall not be lower than normal in the network;
 - (b) If the regulator inspects the quality and standards, licensees shall undergo the inspection.

Chapter XI

Prohibiting anti-competitive activities

35. A service license holder shall not do any act that will considerably erode competitiveness.
36. A service license holder shall not enter into any understanding, agreement or arrangement with any person, department or organization for the following purposes:
- (a) Tariffs being changed at his or her own will;
 - (b) Market sharing;
 - (c) Boycotting a telecommunication equipment supplier or vendor;
 - (d) Undue opposition to a rival.
37. A service license holder shall not limit or restrict the ability of his or her customer to use telecommunications equipment and/or service from him or her or any other licensee.
38. With the approval of the ministry, the regulator may issue instructions to stop any act that prevents competitiveness in the telecommunications market and was prohibited under sections 35, 36 and 37, as they appear.

Chapter XII

Inspection and supervision

39. The regulator
- (a) Shall carry out inspections and supervision in accordance with the guidance of the ministry when the provisions of this law are executed;
 - (b) Shall inspect and supervise the licensed telecommunications service businesses, network facility businesses and telecommunications equipment businesses.
 - (c) If necessary, may form and entrust an inspection team with suitable people for the purpose of inspection under subsection (b).
40. When the provisions of this law are executed,
- (a) The regulator
 - (1) May summon and question the required people and have the relevant sources produce the required information and documents;
 - (2) May enter and inspect the building and places and equipment offering telecommunication services;
 - (3) May inspect, excerpt, and reproduce statistics, documents and records in respect to a telecommunication service;
 - (4) May prescribe the conditions a licensee will have to follow in respect to the preparation and storage of statistics and records;
 - (b) The inspection team formed under section 56(c) may exercise the powers stated in subsection a(1), a(2) and a(3) as per the instruction by the regulator;

Chapter XIII

Installing, maintaining and repairing network facilities

41. A service license holder may do the following things at the place where it is allowed to do with a mutual agreement, including a lease term, after negotiating with the relevant land and building owner or his or her authorized agent to install or connect network facilities:
 - (a) Enter and do such things as surveying, measuring, taking surface levels of land, taking soil samples, digging of pits and inspecting the surface of the land;
 - (b) Lay, place, install and connect the required network facilities upon and under such land and water for the purposes of carrying out network and related services;
 - (c) Enter and inspect, maintain and repair network facilities.
42. Should there be a change in the ownership of the land and building where the tasks under section 41 are agreed to do, the service license holder must again seek to reach agreement to continue the installation and connection of network facilities.
43. Where a service license holder installs, maintains, repairs, alters and removes network facilities, such activities shall not pose a disturbance or hindrance to roads or bus routes or waterways or air ways that the public uses.
44. A service license holder shall not enter any land without giving prior notice to the land owner for the purpose of making surveys for installing or removing network facilities.
45. A service license holder shall take all reasonable steps to minimize damage in installing or maintaining network facilities.
46. If anyone is injured or any of his or her property is damaged due to gross negligence or a deliberate act of failure when a service license holder is installing or maintaining his or her own network facilities, the person who is injured or the owner of the land and building or his or her authorized agent is entitled to damages from the service license holder in accordance with the prescribed conditions.
47. A licensee shall do things in accordance with the law having taken into account the safety of humans and properties when he or she is carrying out their work on highways, roads, railroads, rivers, canals, other waterways, irrigation systems, drainage, water supply, telecommunications, port operation or something which may be detrimental to public or private businesses or is installing network facilities on and under the ground for a telecommunications service.
48. If the Regulator thinks that any telecommunication service or telecommunication network is required to be carried out in a building, whether under construction or completed, and on the land thereof or raising the quality of network service in a building and on the land thereof is required,
 - (a) The Regulator may negotiate with the relevant organizations for enabling the investor or the owner of the building and land to install network facilities in or at the top of the building or on the land in the stipulated time frame.
 - (b) The Regulator may direct a service license holder to install network facilities in the stipulated time frame;
 - (c) The Regulator may direct a service license holder to bear part of all of the costs for providing network facilities.
49. The Regulator may encourage cooperation so as to avoid the unnecessary expenditure of financial resources in the building and facilitate the installation of network facilities of the service license holder and to conserve the environment.

Chapter XIV

Settlement of disputes

50. Service license holders
- (a) May submit the dispute to the regulator if a dispute arises in operation of a telecommunication service business or in supplying network facilities and the dispute cannot be settled by the people in dispute.
 - (b) May submit the dispute to the regulator if a dispute arises in obtaining network services in order to have access to and interconnection with network facilities.
51. The regulator shall negotiate the submission by service license holders under section 50 or negotiate the dispute if the dispute harms the interests of the people even if the dispute is not submitted to the regulator.
52. a. Anyone who is not satisfied with the ruling by the regulator under section 51
- (1) If it is a matter relating to telecommunications technology, he or she may appeal to the ministry within 30 days of issuance of the ruling;
 - (2) If it is a matter not relating to the telecommunication technology, he or she may claim relief and rights for his or her grievance at the relevant law court under the existing laws;
- b. The Ministry
- (1) May investigate the appeal under subsection (a)(1) if necessary;
 - (2) May approve, amend or repeal the ruling of the regulator.
- c. Anyone dissatisfied with the ruling of the Ministry may appeal to the board of appeals within 45 days in accordance with the procedures.

Chapter XV

Universal service obligation

53. The Ministry may direct the regulator to formulate plans to expand the telecommunications infrastructure and enhance telecommunications service in the underserved areas so as to enable people to have access to telecommunications service.
54. The Ministry shall set up and administer a universal service fund for universal telecommunication service activities.
55. Using the funds raised under section 54, the Regulator shall administer when universal service requirements are fulfilled.
56. The Regulator shall define the following matters with the approval of the Ministry:
- (a) Define underserved areas;
 - (b) Set universal targets to fulfill basic communication requirements for the benefit of the people;
 - (c) Set universal service obligations of the license holder to fulfill basic communication requirements for the benefit of the people.

Chapter XVI

Administrative actions

57. The regulator may pass any of the following orders if a licensee breaches any of the terms of the license, fails to follow any of the duties of the licensee stated in chapter 5 or the direction under section 38, or the settlement made under section 51 in a dispute or the ruling under section 52(b) by the Ministry:
- (a) Warning;
 - (b) Temporary suspension of the term of the license;
 - (c) Repeal of the license.
58. a. The licensee who is dissatisfied with the administrative ruling passed under section 58 by the regulator may appeal to the ministry within 30 days of passing the punishment;
- b. Regarding the appeal under section 58, the ministry
- (1) May investigate if necessary;
 - (2) May approve, amend or repeal the ruling.

Chapter XVII

Appellate board formation, assignment, hearings and rulings

59. The Government shall
- (a) Form a board of appeals to enable an aggrieved party to re-appeal his or her grievance in respect to an administrative decision by the Ministry over a dispute;
 - (b) Form a board of appeals with no less than nine members including the chairman;
60. The chairman and members shall have the following qualifications:
- (a) The board of appeals chairman shall be the person who has worked for at least five years as the region or state high court judge or at least ten years as the judicial officer or law officer at a level not lower than the region or state level.
 - (b) The board of appeals' members shall be experts who are famous in terms of telecommunication technologies, law and economy.
61. a. The board of appeals shall announce the hearing date in advance and shall hear the matter on the set date.
- b. The board of appeals may hear testimony on the relevant people in respect to the case;
- c. The final decision of the board of appeals shall be passed with the consent of more than half of the members including the chairman.
62. The decision of the board of appeals is final.
63. The chairman and members of the board of appeals have the right to enjoy remunerations and allowances prescribed by the Government.
64. The tenure of the board of appeals is from the date it is formed until the period the final report has been submitted to the Government.

Chapter XVIII

Offences and penalties

65. Whosoever convicted of providing telecommunication service without any license is liable to an imprisonment not exceeding five years and a fine.
66. Whosoever convicted of any of the following offences is liable to an imprisonment not exceeding three years or a fine or both:
 - (a) Hacking into a telecommunications network without the permission of the network owner or his or her authorized agent, viewing, using, disturbing, or altering or destroying the standards or the original state of the network;
 - (b) Hacking into a telecommunication network by means of a virus or any other way in order to have a telecommunication network destroyed;
 - (c) Stealing, swindling, misappropriating or making mischief using a telecommunication network;
 - (d) Blackmailing, bullying, making wrongful restraint on, defaming, disturbing, exerting undue influence on or threatening a person using a telecommunication network.
67. Whosoever convicted of possessing or using telecommunication equipment that is prescribed to use under a license without any license is liable to an imprisonment not exceeding one year or a fine or both.
68. Whosoever convicted of any of the following offences is liable to an imprisonment not exceeding one year or a fine or both:
 - (a) Communicating, receiving, transmitting, distributing or delivering false information maliciously;
 - (b) Prohibiting, obstructing or disturbing the transmission, reception, communication, delivery or distribution of information without the permission;
 - (c) Trespassing on the place where a telecommunication service is being done and trespass is prohibited with the consent of the regulator;
 - (d) Prohibiting, obstructing or disturbing the discharge of the duties of an official assigned to any telecommunication service by its licensee;
69. Whosoever is convicted of disclosing in any way the information stored by means of a reliable system or a secret system (except a lawsuit in respect to telecommunications and the matter allowed to be disclosed by order of a law court), to a person who is not related to it, is liable to an imprisonment not exceeding one year or a fine or both.
70. Any licensee convicted of using, possessing, supplying or importing network facilities or telecommunication equipment, which does not meet the prescribed technical standards, is liable to an imprisonment not exceeding one year or a fine or both.
71. Anyone who obstructs or interferes with the discharge of an official duty by the regulator or the inspection team formed by the regulator is liable to an imprisonment not exceeding six months or a fine or both.
72. Whosoever is convicted of violating any prohibition stated in the rules, notification, orders, directives and procedures issued under this law is liable to an imprisonment not exceeding six months or a fine or both.
73. Whosoever attempts to commit any of the offences stated in this law or conspiring to do so or abetting in doing so is liable to a penalty stated in this law.

Chapter XIX

Miscellaneous

74. The Ministry may form the National Communication Advisory Committee with the minister or the person assigned by the minister as the chairman and the representatives of the licensees, customers, intelligentsia and the regulator as members, by notification, with the approval of the government to advise on the technical standards of the telecommunications sector of the Republic of the Union of Myanmar, the customer protection and the formulation of strategies for the development of telecommunications sector. The duties of the Committee shall be specified.
75. The Union Government may direct the relevant organizations to secure any information or communication which may harm the security, rule of law and peace of the State without hurting the fundamental rights of citizens.
76. The Ministry or the department or organization assigned by the ministry may enter and inspect, supervise or have documents produced if necessary when a telecommunication service is in operation by a service license holder for the purposes of the defense and security of the State or for the benefit of the people.
77. The Ministry may direct a service license holder with the approval of the Government to temporarily suspend a telecommunication service, stop or prohibit any type of communication or use telecommunication services and telecommunication equipment in a temporarily restricted manner when the circumstances warrant for the benefit of the people.
78. The licensee shall have a plan to carry out any of his or her telecommunication services under section 77 according to the laws for the purpose of security.
79. If in respect of an offence for which a prosecution is made under this law an exhibit cannot be sent before the law court, a report will be made explaining how the exhibit is kept or the relevant documents can be submitted. The relevant law court may regard such a submission as an exhibit shown before the law court and administer justice in accordance with the law.
80.
 - a. The offences under this law are deemed as cognizable offences.
 - b. When anyone is prosecuted for an offence under this law, the prior permission of the ministry is needed.
81. The Ministry shall prescribe fees and late fees for license fees, renewal fees, spectrum fees, telecommunication numbering fees and electronic address fees.
82. The Ministry may exempt a government department or organization or a person from acquiring the permission, license and recommendation required under this law or paying fees if necessary with the permission of the Union Government. However, for matters relating to defense and security of the country or natural security, they can do it without the prior permission of the government. Their activities shall be reported to the Government.
83. The regulator shall prescribe the rules and regulations, code of practice and applicable standards in respect of telecommunication services with the approval of the ministry.
84. The regulator
 - (a) May coordinate with international or regional telecommunication organizations under the guidance of the ministry in respect to telecommunication services when the provisions of the international telecommunication conventions ratified by the State are executed;
 - (b) May organize telecommunication technology and expert tests and issue completion certificates in accordance with the international telecommunication conventions.

85.
 - a. The license issued under the Myanmar Telegraph Act 1885 and the Myanmar Wireless Telegraphy Act 1934 (both of which are repealed by this law) will continue to be regarded as valid licenses; however, the said licenses shall only be in force until the date of their expiry.
 - b. The rules, notifications, orders and directives issued under the Myanmar Telegraph Act 1885 and the Myanmar Wireless Telegraphy Act 1934 repealed by this law can only be exercised so long as they do not contradict this law.
86. The Government shall form an independent communication commission of Myanmar headed by a suitable national level person to execute the provisions of this law in respect to telecommunication services within two years of the date this law comes into force.
87. The Ministry may clarify by notification if it is required to define a technical term in respect of telecommunications stated in this law.
88. When the provisions of this law are executed
 - (a) The Ministry may release bye-laws, rules and regulations with the approval of the Union Government;
 - (b) The ministry may release notifications, orders, directives and procedures if necessary and the regulator shall release the required orders and directives.
89. The following laws are repealed by this law:
 - (a) The Myanmar Telegraph Act, 1885
 - (b) The Myanmar Wireless Telegraphy Act, 1934