Human Rights and Gender Equality

Comparative Study on Laws and Policies in the Management of Migrant Workers in ASEAN

National Report: Myanmar

Enhanced Regional EU-ASEAN Dialogue Instrument E-READI
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The European Union Mission to ASEAN

Menara Astra 38th Floor
Jl. Jend Sudirman Kav 5-6
Jakarta 10220
Indonesia
Phone: (62 21) 2554-6200
Fax: (62 21) 2554-6201
E-mail: mission-asean@eeas.europa.eu
Website: http://eeas.europa.eu/asean

The ASEAN Secretariat

Community Relation Division (CRD)
70 Jalan Sisingamangaraja
Jakarta 12110
Indonesia
Phone: (62 21) 724-3372, 726-2991
Fax: (62 21) 739-8234, 724-3504
E-mail: public@asean.org

About the Report

This national report was one of ten national ASEAN Member State reports produced to feed into a regional Comparative Study on Laws and Policies in the Management of Migrant Workers in ASEAN. The regional study offers a comprehensive analysis on how ASEAN Member States have dealt with the movement of migrant workers into their labour markets, covering all skill levels and including occupations under the 8 ASEAN Mutual Recognition Arrangements (MRAs), and providing recommendations as feedback for ASEAN policymakers and practitioners in improving policies and measures pertaining to the mobility of migrant workers.

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¹ As of 1 August 2021 the Ministry of Labour, Immigration and Population was reconstituted as Ministry of Labour and Ministry of Immigration and Population. The Ministry of Labour, Immigration and Population mentioned in this report refers to the current Ministry of Labour.
COMPARATIVE STUDY ON THE LAWS AND POLICIES ON THE MANAGEMENT OF MIGRANT WORKERS IN THE ASEAN REGION

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Abbreviations

ACCSTP  ASEAN Common Competency Standards for Tourism Professionals
ACPE  ASEAN Chartered Professional Engineers
AFAS  ASEAN Framework Agreement on Services
AGTI  Associateship of Government Technical Institute
AJCCCD  ASEAN Joint Coordinating Committee on Dental Practitioners
AMA  Association of Myanmar Architects
AMS  ASEAN Member States
ASEAN  Association of Southeast Asia Nations
CATC  Common ASEAN Tourism Curriculum
CCS  Coordinating Committee on Services
CNE  Certified Nurse Educators
CPD  Continuing Professional Development
DCS  Directorate of Co-operative Society
DICA  Directorate of Investment and Company Administration
FMS  Foreign Medical Specialist
FRC  Foreigner Registration Certificate
FWRC  Foreign Worker Registration Card
GMS  Greater Mekong Sub-region
IPEA  International Professional Engineer Agreement
RFPE  Registered Foreign Professional Engineer
RLE  Registered Limited Engineers
MAC  Myanmar Accountancy Council
MDC  Myanmar Dental Council
MIC  Myanmar Investment Commission
MIFER  Ministry of Investment and Foreign Economic Relations
MMC  Myanmar Medical Council
MMK  Myanmar Kyat (Currency)
MMLEC  Myanmar Medical License Examination
MNNMC  Myanmar Nurse and Midwife Council
MOHS  Ministry of Health and Sport
MOHT  Ministry of Hotels and Tourism
MOLIP  Ministry of Labor, Immigration and Population
MRA  Mutual Recognition Agreement
MRAs  Mutual Recognition Agreement on Services
MRA-TP  Mutual Recognition Agreement on Tourism Professionals
MTF  Myanmar Tourism Federation
SOP  Standards Operating Procedures
UAG  Union Auditor General
COMPARATIVE STUDY ON THE LAWS AND POLICIES ON THE MANAGEMENT OF MIGRANT WORKERS IN ASEAN

Executive Summary

Since 23rd July 1997, the Republic of the Union of Myanmar, formerly known as Burma (which has a population of 53.39 million), has been collaborating with other ASEAN Member States (AMS) to accelerate the ASEAN economic growth, social progress and cultural development. Myanmar has signed the mutual recognition arrangements for 8 professions as the trade-facilitative instruments; on services of Engineering, Architecture, Accountancy, Medicine, Nursing, Dental, Tourism and Surveying in line with the ASEAN Framework Agreement on Services. The findings and recommendations, derived from the study of current Myanmar Laws, have helped to establish the policies and practices regarding the management of foreign migrant workers whether skilled or unskilled. And, they also provided as a part of the key output of this comparative study, with the support of the Enhanced Regional EU-ASEAN Dialogue Instrument (E-READI).

Overseas employment is an ongoing concern in Myanmar. The percentage of foreign workers is insignificant compared to that of Myanmar migrant workers depending on the various grounds such as the unstable political situation in the past. Myanmar had regained its independence in 1948, and for several decades until 1988, socialism had been the State policy. From 1988, the market economy system has been practiced until today. In order to consolidate the democratic governance and the rule of law after promulgating the Constitution of the Republic of the Union of Myanmar in 2008, as a legal reform, the government has been drafting and amending many laws and regulations, to be in line with the basic principles of the Union and to enhance the market economy system. Myanmar Investment Law has been enacted in 2016, Myanmar Companies Law in 2017. Additionally, some new Labour laws, Tax Laws and amendments have been promulgated and the entry and stay measures of foreign workers are governed by the Immigration Laws. Foreign Worker's Law is currently being drafted by the Ministry of Labour, Immigration and Population as the coming governing law for the management concerning migrant workers. Throughout the years, implementation of policies and enforcement of laws need to be strengthened in Myanmar.
I. Introduction

One of Myanmar economic objectives is to create opportunities for the emergence of capable and skilled generations for the benefit of the country. To achieve such objective, government economic policy emphasizes on fostering human capital, creating employment opportunity, and identify changes and development of business changes in ASEAN and beyond. Building an effective management for migrant workers working in Myanmar, concerning occupations under the 8 MRAs in ASEAN is a long-term agenda. As a first step, the necessary development of current Myanmar national policies and Laws to meet the regional commitments as a member of ASEAN is required to be identified. A high-level overview on the laws and policies concerning management relating to migrant workers in the ASEAN region will be achieved by providing the study of Myanmar laws and policies as a part of the study. Since the Foreign Workers' Law is currently being drafted, findings arisen out of the study can contribute to have the appropriate law on foreign workers.

To improve management for the professions of 8 MRAs is the commitment as an AMS and the rights and duties of foreign workers need to be regulated. In Myanmar, rights and duties of the employees, skilled or unskilled and citizen or foreign workers are almost all the same under labour laws, taxation law, criminal law, etc.

Any foreigner who wants to work in Myanmar must have visa as a first step. Stay permit is acquired by the permission of Immigration Department where necessary documents are submitted. Foreign Worker Registration Card is significant for the stay measure though it is temporarily issued by the Immigration Department before the Foreign Worker Bill entering into as law.

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3 Paragraph 3, 5, and 12 of the Policy, ibid.
II. Migration Laws and Policies across Four Areas

All countries around the world allow their citizens to enter their home countries but do not allow noncitizens without permission nor overstay or otherwise they would lose their legal status in visiting countries. In accordance with the Immigration Laws, there are several grounds for inadmissibility of noncitizens such as health issues, national security, political crimes, offences related to smuggling and human trafficking. Among them, misrepresentation of visa or visa fraud, lack of labour certification, unlawful presence, etc. are substantial grounds. Each and every country has the authority to control its immigration under International laws and can take actions; detention and deportation are carried out in line with the immigration laws. Myanmar Immigration (Emergency Provisions) Act 1947 is an existing law to control illegal immigrants entering into Myanmar. Entry and stay measures of foreign workers are not only concerned with Immigration Laws but also with the Myanmar Investment Law by implication.

A. Entry and Stay Measures

The Constitution of the Republic of the Union of Myanmar provides that “the Union shall, to the extent possible, assist to reduce unemployment among the people” as the policy of State. The new Myanmar Investment Law was promulgated in 2016 and it removed a recruitment requirement of Myanmar domestic workers for the foreign investment. Under the old law (Foreign Investment Law 2012) it provided a system that requires to increase the recruitment of Myanmar workers annually and after 5 years of doing business in Myanmar, the law stated that there must be 100% of Myanmar workers ultimately in that business. It means that within the first two-year of foreign investment, the domestic workers shall be at least 25 percent, at least 50 percent within the second two-year and at least 75 percent within the third two-year. But under the new law, Myanmar Investment Law, 2016, there is no such kind of restriction relating to recruitment requirement of Myanmar workers. Under the new system, the investor may appoint any citizen who is qualified as a senior manager, technical and operational expert, advisor or skilled workers in his investment, within the Union in line with legislation though restricted to appoint only citizens for work which is not required skill. The Myanmar Investment Law, 2016, provides that:

- The investor: (a) may appoint of any citizen who is qualified person as senior manager, technical and operational expert, and adviser in his investment within the Union in accordance with the Laws; (b) shall appoint them (any citizen) 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 the works which does not require skills. Therefore, under the new investment law, there is no fixed ratio established in the recruitment system of both domestic and foreign skilled workers. If the investors wish to hire foreign skilled workers only, it is still acceptable. Although Myanmar employers are willing to provide job

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4 Section 31 of the Constitution of the Republic of the Union of Myanmar
5 Section 24 of the Foreign Investment Law, 2012 which is repealed by the Myanmar Investment Law, 2016
6 The investor shall:
   a) In appointing skilled citizen workers, technicians and staff for skilled jobs, citizens shall have been appointed at least 25 percent within the first two-year, at least 50 percent within the second two-year and at least 75 percent within the third two-year from the year of commencement of the business. Provided that the Commission may increase the suitable time limit for the business based on knowledge;
   b) To be able to appoint under sub-section (a), arrange to provide practicing and training to citizen staff for improvement of the working skills;
   c) Appoint only citizens for the works which do not require skills;
6 Section 51 of Myanmar Investment Law (2017)
opportunities for foreign workers, in reality, only a few foreign workers come to work in Myanmar. Normally, foreign workers will not make up 100% of the workforce. In the workforce, mostly Myanmar workers will be hired nonetheless. However, under the new investment law, skilled workers of foreign countries including AMS have the chances to be employed in Myanmar without restrictions except required standard qualifications.

**Entry Measures**

Foreigners who wishes to work or do business in Myanmar are eligible to apply for Business Visa or Employment Visa for entry into Myanmar.

A Business Visa (multiple entry / single entry) can be applied in the Myanmar Embassy or Consular Office of concerned State, Immigration Department of the Ministry of Labour, Immigration and Population. This business visa (multiple entry / single entry) is valid for 70 days stay for one time. Total 70 days stay period can be extended if it is necessary. If the extended period of the Business Visa (multiple entry) is allowed, the foreigner may stay in the allowed period (3 months, 6 months or 1 year) and he or she is allowed for unlimited entries during a lifespan of stay.

There is Business Visa on Arrival. Citizens of 54 countries and Taiwan are entitled to be granted. Citizens of all countries of the world can apply for this business visa from the Myanmar Embassy or Myanmar Consulate. Nationals of eight countries of ASEAN (Brunei, Cambodia, Indonesia, Laos, the Philippines, Singapore, Thailand, and Vietnam) can have visa-exempted stay with a maximum stay of 14 days or 30 days. The visa costs are varied according to the type of visas and not varied based on the country of origin.\(^7\) Single entry visa is less expensive than multiple entry visas.

**Required Documents for Business Visa Application**

1. Visa application form;
2. Copy of passport (passport must be valid at least six months)
3. 2 photos (size: 4cm x 6cm and must be white background)
4. A recommendation letter from the employer, including details about the type of business, purpose of visit, applicant’s name, passport details, position in company, and intended entry and exit dates;
5. Invitation letter with letterhead of a company which registered in Myanmar
6. A guarantor from the Myanmar registered company who is the one officially inviting the applicant. The guarantor must be the managing director or owner of the company and must give a copy of the Myanmar company registration certificate.
7. The guarantor may be contacted by the immigration authorities during the application process.

**Fees for Business Visa**

<table>
<thead>
<tr>
<th>Business Visa</th>
<th>Period</th>
<th>Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single entry</td>
<td>(70) Days</td>
<td>50 USD</td>
</tr>
<tr>
<td></td>
<td>Can apply stay extension according to the rules and regulations.</td>
<td></td>
</tr>
</tbody>
</table>

\(^7\) Message sent by the Population Department, Ministry of Labour, Immigration and Population.
Multiple entry

- Duration of Validity: 3 Months
- Allow multiple entry and stay.
- Can apply stay extension according to the rules and regulations.
- Do not need to exit after staying (70) days.

200 USD

- Duration of Validity: 6 Months
- Allow multiple entry and stay.
- Can apply stay extension according to the rules and regulations.
- Do not need to exit after staying (70) days.

400 USD

- Duration of Validity: 1 year
- Allow multiple entry and stay.
- Can apply stay extension according to the rules and regulations.
- Do not need to exit after staying (70) days.

600 USD

Stay Measures

Registration of Foreigners and Permission to work

Some may argue that Myanmar lacks a comprehensive work permit system concerning foreign workers. However, many foreign workers are currently working in Myanmar through multiple pathways to acquire legal working status.

Under the Registration of Foreigners Act (1940) and its Rules (1948), every foreigner entering, or being present in Myanmar shall report, in person, to the appropriate Registration Officer, the reason for his arrival or presence, as the case may be. As provided in Rule (6) of Registration of Foreigners Rules, any foreigner who wishes to stay in Myanmar for more than 90 days must notify to the relevant Registration Officer and apply for foreigner registration certificate. Also a foreigner who enters Myanmar by land shall report to such authority within seventy-two hours of his arrival at the first land-station in Myanmar. However, this practice is not strictly applied. The employment permit or work permit, whatever name is given, can be acquired by all foreign workers approved by MIC regardless of their nationalities or ethnicities.

The MIC is comprised of representatives and experts from government ministries, departments, and governmental and non-governmental bodies.

The Investors for appointment of foreigners who will work in the position of high-level managers or experts shall apply, with the prescribed form\(^8\), to the MIC\(^9\) for permission to work or the work permit issued by the Union under section 51(a) of the Myanmar Investment Law and Rule 206 of the Myanmar Investment Rules. MIC provides Appointment Approval Letter for stay permit, multiple re-entry visa and foreigner registration certificate (FRC) for foreign workers as well as for the reporting to the labour Department (for foreign worker registration card) (FWRC). With the endorsement of MIC, a company must submit an application for work permits to the Department of Labour, as a Department under the Ministry of Labour, Immigration and Population.

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\(^8\) [https://www.dica.gov.mm/sites/dica.gov.mm/files/document-files/form_12-a_eng_0.pdf](https://www.dica.gov.mm/sites/dica.gov.mm/files/document-files/form_12-a_eng_0.pdf)
After receiving permission from the MIC, one can submit the permit to the Foreigners Affairs Department of the Ministry of Labour, Immigration and Population (MOLIP) or to the Labour Department under the Departmental Cooperation Team (also known as "One Stop Service") established according to the Myanmar Investment Law, together with the necessary forms and documents. After scrutinizing all submitted documents and if they are correct and complete, the Department shall issue the foreign worker registration card (FWRC) to the applicant. Stay permits and visas are to be obtained from the Immigration Department, which lies under the Ministry of Labour, Immigration and Population.

Other foreign national employees of businesses or companies not applicable to MIC can apply for a stay permit and visa renewal through the collaboration of the Directorate of Investment and Company Administration (DICA) with the respective ministries. The Directorate of Investment and Company Administration (DICA) is facilitating the stay permit and visa extension for (a) any member of Board of Directors of a foreign company incorporated in Myanmar and their family members and (b) foreign technicians employed by foreign and local companies and the technician’s family members with the necessary documents and prescribed application form. As a primary interface between businesses and the government, the DICA is mandated to promote private sector development and boost domestic and foreign investment by creating an investment climate. DICA is a key agency within the Government of the Republic of the Union of Myanmar's Ministry of Investment and Foreign Economic Relations (MIFER). DICA has several functions; as a regulator on investment and companies, as a company registrar, as an investment promotion agency and as the secretariat of the Myanmar Investment Commission.

**Stay Measures**

**Registration of Foreigners and Permission to work**

Some may argue that Myanmar lacks a comprehensive work permit system concerning foreign workers. However, many foreign workers are currently working in Myanmar through multiple pathways to acquire legal working status.

Under the Registration of Foreigners Act (1940) and its Rules (1948), every foreigner entering, or being present in Myanmar shall report, in person, to the appropriate Registration Officer, the reason for his arrival or presence, as the case may be. As provided in Rule (6) of Registration of Foreigners Rules, any foreigner who wishes to stay in Myanmar for more than 90 days must notify to the relevant Registration Officer and apply for foreigner registration certificate. Also a foreigner who enters Myanmar by land shall report to such authority within seventy-two hours of his arrival at the first land-station in Myanmar. However, this practice is not strictly applied. The employment permit or work permit, whatever name is given, can be acquired by all foreign workers regardless of their nationalities or ethnicities.

The issuance of foreign workers registration card (FWRC) is based on obtaining the visa and permission of Myanmar Investment Commission (MIC). The Myanmar Investment Commission (MIC) is a government-appointed body which is responsible for verifying and approving investment proposals, and regularly issues notifications about sector-specific developments. The Myanmar Investment Law (2017) has changed the role of the MIC - with fewer investment proposals and requiring formal MIC approvals. A new endorsement process - whereby proposals are fast-tracked by being 'endorsed' by the MIC - is now also available to investors. The MIC is comprised of representatives and experts from government ministries, departments, and governmental and non-governmental bodies.

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The foreigners who work in the position of high-level managers or experts shall apply to the MIC for the work permit and the local residence permit issued by the Union. MIC provides recommendations for stay visa (local residence permit) for foreign workers as well as for the reporting to the labour Department (for foreign worker registration card) (FWRC). With the endorsement of MIC, a company must submit an application for work permits to the Department of Labour, as a Department under the Ministry of Labour, Immigration and Population.

After receiving permission from the MIC, one can submit the permit to the Foreigners Affairs Department of the Ministry of Labour, Immigration and Population (MOLIP) together with the necessary forms and documents. After scrutinizing all submitted documents and if they are correct and complete, the Department shall issue the foreign worker registration card (FWRC) to the applicant. Stay permits and visas are to be obtained from the Immigration Department, the Ministry of Labour, Immigration and Population.

Other foreign national employees can apply for a stay permit and visa renewal through the collaboration of the Directorate of Investment and Company Administration (DICA) with the respective ministries. The Directorate of Investment and Company Administration (DICA) is facilitating the stay permit and visa extension for (a) any member of Board of Directors of a foreign company incorporated in Myanmar and their family members and (b) foreign technicians employed by foreign and local companies and the technician’s family members with the necessary documents and forms. As a primary interface between businesses and the government, the DICA is mandated to promote private sector development and boost domestic and foreign investment by creating an investment climate. DICA is a key agency within the Government of the Republic of the Union of Myanmar’s Ministry of Investment and Foreign Economic Relations (MIFER). DICA has several functions; as a regulator on investment and companies, as a company registrar, as an investment promotion agency and as the secretariat of the Myanmar Investment Commission.

Application for Extension of Stay Permit and Visa

In order to apply for extension of a stay permit and visa for a foreign expatriate, it involves three main steps;

(1) To apply for recommendation for stay permit application at the Directorate of Investment and Company Administration (“DICA”) or other relevant Ministry
(2) To apply for Foreigner Registration Certificate at the Immigration Department
(3) To apply for stay permit and Multiple Re-entry Visa at the Immigration Department

For companies having MIC Permits, step (1) is not required any more since they have the Appointment Approval Letter issued by MIC.

Fees for Extension of Stay Permit and Visa

<table>
<thead>
<tr>
<th>No.</th>
<th>Type</th>
<th>Stay Period</th>
<th>Fees (USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Stay Permit</td>
<td>(1) day to (3) months</td>
<td>50</td>
</tr>
<tr>
<td>2.</td>
<td>Stay Permit</td>
<td>Over (3) months to (6) months</td>
<td>100</td>
</tr>
<tr>
<td>3.</td>
<td>Stay Permit</td>
<td>Over (6) months to (1) year</td>
<td>200</td>
</tr>
</tbody>
</table>
4. Single Re-Entry Visa  
   During Stay Period up to (6) months  
   60

5. Multiple Re-Entry Visa  
   During Stay Period up to (1) year  
   200

**Step (1) Submission to DICA to acquire recommendation letter**

The following documents are to be submitted to DICA and then if DICA accepted that the documents are completed, it would provide further recommendation letter to Ministry of Investment and Foreign Economic Relations (Nay Pyi Taw). After (3) weeks from the official submission date, DICA will issue recommendation letter. *[Please note that following documents must be submitted to the DICA at least 3 weeks before the expiry date of the relevant visa. Applications submitted after this deadline will not be accepted.]*

When the recommendation letter from DICA has been received, further approval letter from the Ministry of Immigration and Population (Nay Pyi Taw) has to be obtained. Normally, it would take around two weeks to get such approval letter.

**Documents requested submitted to DICA**

1. Prescribed Application Form¹²;
2. Undertaking Letter signed by Managing Director;
3. Copy of passport and 2 Colour passport photos. (1.5 × 2 inches) for every person seeking visa extension.
4. Copies of Company Registration Certificate, Form of director list
5. The current business activities of the Company (including copies of any permit or license issued to the company by relevant government agencies or organizations or evidence of tax payment) and documents relating to business operation (e.g. Contract, Agreement, Invoice)
6. List of all foreign and local employees of the company signed by the Managing Director or Director;
7. Authorized Representative Letter signed by the Managing Director or a Director if the Foreign Director or foreign technician cannot come to DICA in person;
8. Professional Qualification Certificate of foreign technicians and copy of Employment Contract signed by the Managing Director or Chief Representative of Parent company or Myanmar Branch Office.
9. Job title and all responsibilities of the foreign technicians in company.

**Step (2) Applying for Foreigner Registration Certificate (FRC)**

- Any foreigner who wishes to stay for more than (90) days consecutively in Myanmar will require to apply for Foreigner Registration Certificate (FRC)¹³. FRC shall be applied for the renewal of the valid visa within 1st December to 30th December. The followings are the required documents to apply for FRC.

**Documents requiring requested by Immigration Department**

1. The application form

¹¹ Source- DICA
¹³ https://www.mlis.gov.mm/mLsView.do?sessionid=C03D8ABE99381D35CC71C5D9236D1904?lawordSn=9099
2. Valid passport Original and Copy
3. 5 photos (1.5” × 2”)
4. The particulars of the applicant
5. The permitting letter to extend the stay permit from Ministry of Immigration and Population

**Official fees for FRC**

<table>
<thead>
<tr>
<th>Payment of FRC Fees</th>
<th>Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 USD</td>
<td>Before December 31st</td>
</tr>
<tr>
<td>18 USD</td>
<td>After December 31st</td>
</tr>
</tbody>
</table>

The foreigner who is residing in foreign country in December must conduct the renewal of the FRC when they come back to Myanmar with the fees of 9 USD.

**Step (3) Applying for Extension of Stay Permit and Multiple Re-Entry Visa**

All the required documents shall be submitted to the Immigration Department. The waiting time and the processing time for getting stay permit is only one day.

**Documents requested by Immigration Department**

1. Cover Letter
2. Recommendation Letter from DICA
3. Recommendation Letter from Immigration Department
4. Passport Copy and Original
5. FRC Copy
6. Copies of Company Incorporation Certificate, Form of shareholder list and director list
7. 2 colour photos
8. Stay Permit and Multiple Re-Entry Visa form
9. Authorization letter

**Application of Foreign Worker Registration Card**

Investor, on behalf of the applicant, or the applicant itself, shall apply for the Foreign Workers Employment Registration at Labor Section of Departmental Cooperation Team of Myanmar Investment Commission and Labor Section of One Stop Service Center (OSSC) at the Special Economic Zone Management Committee.

For such application, the permit & recommendation from Myanmar Investment Commission or recommendation from the Special Economic Zone Management Committee is required.

**Required Documents**

- Application Form
- Letter of Attorney
- Recommendation from Investor
- Form of Employment Registration of Foreign Workers in Myanmar\(^{14}\)
- Foreigner's CV
- Contract of Employment, Passport Copy
- Income Tax receipts
- Copy of Company Registration
- Copy of Registration in Private Industry
- Recommendation from Myanmar Investment Commission or the Special Economic Zone Management Committee
- Photo of Applicant

**Official Fees for FWRC**

According to Myanmar Investment Commission or the Special Economic Zone Management Committee fee for -

- 1 Year Period - 11,000 Kyats
- 6 Months Period - 5,500 Kyats

**B. Incorporation Measures**

The Myanmar Investment Law, 2016 provides that the investor may appoint of any citizen who is a qualified person as senior manager, technical and operational expert, and an advisor in his investment within the Union in accordance with the laws.\(^{15}\) As one of the responsibilities of the investor, labour laws shall be respected and complied with.\(^{16}\)

The investor shall appoint skilled citizen and foreign workers, technicians, and staff by signing an employment contract between the employer and employee in accordance with the labour laws and rules.\(^{17}\)

It is to be noted that appointment of foreign skilled workers, technicians, and staff by the employment contract shall be in accordance with the labour laws and rules of Myanmar which means the labour laws of Myanmar apply to foreign workers who are not citizens.

**Employment Contract**

The employment of foreign experts and technicians by enterprises which have been issued with a permit from the Myanmar Investment Commission (MIC) is legal. As mentioned in S.65 (m) of the Myanmar Investment Law, 2016, The investor shall appoint any foreign worker, technician, and staff by an employment contract between the employer and employee in accordance with the labour laws and rules.

S.51 (e) of the Myanmar Investment Law, 2016, provides that the investor shall ensure to obtain the entitlements and rights under the labour laws and rules, including minimum wages and salary, leave, holiday, overtime fee, damages, workman compensation, social welfare, and other insurance relating to workers, these rights and duties of employers and employees, occupational terms and conditions may be stipulated in the employment contract.

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\(^{14}\) http://www.myanmarthilawa.gov.mm/download/file/fid/355

\(^{15}\) Section 51 (a) of the Myanmar Investment Law (2016)

\(^{16}\) Section 65 (m) of the Myanmar Investment Law (2016) " The investor shall respect and comply with the labour laws."

\(^{17}\) Section 51 (d) of the Myanmar Investment Law (2016)
by negotiating employer and employees.\textsuperscript{18} In order to be sure to obtain the entitlements and rights under the labour laws and rules, including minimum wages and salary, leave, holiday- - etc., these rights and duties of employers and employees, occupational terms and conditions may be stipulated in the employment contract by negotiating employer and employees in accordance with the Myanmar Investment Law, 2016.

The employment contract is significant because these rights and duties of employers and employees can be mentioned as occupational terms and conditions which may be stipulated in the employment contract by negotiating employer and employees. Therefore, in practice, the rights given under some occupational terms and conditions of employment contracts between employer and foreign workers are higher than the labour laws and rules because some rights given under the existing labour laws are not covered for cost of living for example minimum wages under Myanmar Labour Law which are The Minimum Wage Law (2013) and Payment of Wages Law (2016).

Under Section 5 (a) (1) of the Employment Skill and Development Law (2013), the employer shall conclude an employment agreement within 30 days after appointing a worker to do any work. However, it does not concern with the appointment of permanent staff at the Government departments and Government organizations. A written employment contract must be made by the employer and employee in all business working 5 or more employees.\textsuperscript{19}

The compulsory elements included in the employment contract is provided in Section 5 (b) of the Employment Skill and Development Law (2013) which includes remuneration, working hours, duration, holidays and leave, accommodation, termination of contract, etc. The mandatory contract form was issued by the MOLIP as a reference for all the employers and which contains all of the terms and conditions that the Government envisions might need to be included in an employment agreement.\textsuperscript{20} However, employer and worker or workers may, by mutual consent, change the rules or the rights of workers in line with existing laws.

The employer shall submit a copy of the Employment Contract to the concerned Labour Exchange Office for confirmation.

**Wages/Salary**

As above mentioned, S. 51(e) of The Myanmar Investment Law, 2016 provides that the investor shall ensure to obtain the entitlements and rights in the labour laws and rules, including minimum wages and salary, relating to workers in stipulating the rights and duties of employers and employees and occupational terms and conditions in the employment contract.\textsuperscript{21} The Myanmar Citizen investor or Foreign investor\textsuperscript{22} may appoint any citizen who is a qualified person as senior manager, technical and operational expert, and an advisor in his investment within the Union in accordance with the laws.\textsuperscript{23}

The Minimum Wage Law (2013) and Payment of Wages Law (2016) state that calculation of wages includes: • Wages or salaries; • Overtime pay; • Bonuses for good work or good character (for example, consistently arriving on time); • Other compensation or benefits that may be determined as income.

\textsuperscript{18} Section 51 (e) of the Myanmar Investment Law (2016)
\textsuperscript{19} Notification No. 1/2015 of the MOLIP
\textsuperscript{20} Notification No. 140/2017 of the MOLIP
\textsuperscript{21} Section 51 (e) of the Myanmar Investment Law (2016)
\textsuperscript{22} Section 2(q) of the Myanmar Investment Law (2016) provides that Investor means The Myanmar Citizen investor or Foreign investor who invest within the Union in accordance with the law.
\textsuperscript{23} Section 51 (a) of the Myanmar Investment Law (2016)
The National Committee for Determining Minimum Wage adjusted and set the minimum wage at 600 kyats per hour and 4800 kyats for eight hours per day for the whole country irrespective of regions and industry categories with the notification number 2/2018 and it also entered into effective from the date of 14.5.2018, with the exemption of businesses which are employing with 9 or less workers, and family informal businesses.

According to Section 3 of the Payment of Wages Act (2016), employers have to pay in local currency or foreign currency recognized by the Central Bank of Myanmar. This may be in cash, check or deposit into the bank account of Employee. The employer must pay part-time, daily, weekly or other part-time job, temporary or piecework when the work is done OR at the agreed time.  

One salient point of the Leave and Holiday Act (1951) that the salary-paid employee has the right to enjoy a holiday per week with pay in the salary-paid. If he is employed in such holiday, he shall have the right to obtain over-time fee in accord with the existing law.

The employee who is entitled to obtain the wage and other benefits and if he does not obtain all wages or other benefits entitled to be obtained, or obtains less than the stipulated minimum wage, may submit to the relevant Union Committee, Region or State Committee and Department within one year from the day he is entitled to obtain such injured wages and other benefits. The employee may sue under civil proceeding for all wages that is entitled to obtain.

Working Hours

Working hours are normally set at eight hours per day or 44 hours per week, according to the nature of the work. Adult workers in factories shall not be required to work more than 8 hours per day or 44 hours per week. Adult workers in shops/establishments shall not be required to work for more than 8 hours per day or 48 hours per week. It is the consent of the employee who wishes to work overtime can work for more than 8 hours in any day and for 48 hours in any week. However, the total number of hours so worked overtime by such persons shall not exceed 12 hours for any one week. The rest period are unpaid.

Adult male workers in factories engaged in work that, for technical reasons, must be continuous throughout the day may be required to work 48 hours in a week.

Leave and Public Holidays

S. 51(e) of The Myanmar Investment Law, 2016 provides that the investor shall ensure to obtain the entitlements and rights in the labour laws and rules, including minimum wages and salary, leave, holiday, overtime fee, relating to workers in stipulating the rights and duties of employers and employees and occupational terms and conditions in the employment contract.

The Leave and Holidays Act (1951) covers any employee, permanent or temporary, in factories, railways, ports, oilfields, mines, shops and establishments, and government-controlled factories. The Act does not apply to family members in small family enterprises

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24 Section 4 of the Payment of Wages Act
25 Section 15 of the Minimum Wage Law
26 Section 59 of the Factories Act 1951
27 Section 11 (a) of the Shops and Establishments Law 2016
28 Section 11 (b) of the Shops and Establishments Law 2016
(such as spouses, parents, children, or siblings), shareholders, domestic workers, and government workers not employed in government factories.\(^{29}\)

Every worker is entitled to a weekly day off with salary/wages and the matters concerning the leave.\(^{30}\) If the weekly day off of the employee is coincidence with a gazette holiday, it must be considered as a gazette holiday.

All employees can be entitled all official public holidays upon the announcement of the Union Government in the Official Gazette and the government newspaper, amounting to between 20-26 days in a calendar year. If the employee works in a holiday with his consent, it can be paid twice wages upon his/her work.\(^{31}\) There is statutory provision not to provide alternative holiday in a case where a public holiday coincides with a weekly day off.\(^{32}\) However, since 2019, the government granted alternative holidays for overlapping public holidays with the weekly day off.

Every workers in Myanmar can enjoy different types of leave _ Earned Annual Leave, Casual Leave, Medical Leave as well as Maternity and Paternity Leave with paid or without paid depending on the types of leaves and their employment contract.\(^{33}\) If there are holidays just before or right after one’s leave commences, these days cannot be counted as part of the leave period.

Concerning **Earned Annual Leave**, all workers earn 10 days of paid leave per year after their first 12 continuous months of work. Earned annual leave must be used consecutively. Employers and employees are free to modify this policy in their Employment Contract, but may not increase the number beyond 24 days per month.\(^{34}\) However, workers are entitled to take earned leave with respective average wages or average salary.\(^{35}\) Days off and gazette holidays that fall within ten continuous days of earned leave are counted as earned leave.

For **Casual Leave**, workers are given six days of paid casual leave per year. Workers may take maximum three days of casual leave at one time, but such leave cannot be combined with other kinds of leave. The enjoyment of casual leave is lost at the end of the calendar year.\(^{36}\) A worker has the right to take casual leave with respective wages or with full basic salary within the respective year for every two months of service starting from that worker’s service.\(^{37}\)

Concerning the enjoyment of **Medical Leave**, all employers have to give workers leave without deduction from wages for medical treatment when workers cannot work due to illness. Workers who present a medical certificate may take paid medical leave up to 30 days per year after working for at least 6 months. Medical leave can be enjoyed continuously in combination with Earned Annual leave. According to the Social Security Law, workers who are registered in Social Security Board can be enjoyed the medical leave recommended by a doctor recognized by the Social Security Board. They may take medical leave 26 weeks to 52 weeks when they are sickness or illness.

Under the Social Security Law, Female employee can enjoy **Maternity Leave** as pregnant mothers who are provided 6 weeks of prenatal leave and 8 weeks of postnatal

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29 Section 2(4) of the Leave and Holidays Act 1951.
30 Section 3 (4) of the Leave and Holidays Act 1951.
31 Section 3 of the Leave and Holidays Act 1951.
32 Section 3 (2) of the Leave and Holidays Act 1951.
34 Section 4 of the Leave and Holidays Act 1951.
36 Section 5 of the Leave and Holidays Act 1951.
leave, for a total of 14 weeks of maternity leave and another four weeks for twin delivery, one
day per time and up to a maximum of seven times for prenatal examination, up to six weeks
for miscarriage, eight weeks for child care for one adopted child. Male workers are entitled
to 15 days of paternity leave for the confinement of his wife if he is covered by the Social
Security Law.\textsuperscript{38}

Payment for such leave under the Leave and Holidays Act is the responsibility of the
Employer unless the worker contributes to the Social Security Scheme. According to Social
Security Law, all companies with five workers or more shall register with the Social Security
Township Office of the Social Security Board within 30 days of the start of business, and the
company shall register their workers within 10 days after those are appointed. For registered
workers, the employer shall pay regular contributions in order to protect workers in case of
sickness, maternity, paternity, miscarriage, adoption of child under one year old, health care
for her child up to one year after confinement, injury or death due to occupational accident.

\textbf{Occupational Safety and Health measures and Compensation for Injury and Loss}

On 15 March 2019, Pyidaungsu Hluttaw (Legislature) of Myanmar has enacted the
Occupational Safety and Health Law (Law No. 8/2019) to implement occupational safety and
health matters effectively in the respective industries or business. The law covers to all
business and factories under existing Factories Act, Shops and Establishments Law, and
other types of business owned by government departments or organizations, cooperatives,
national citizens or foreigners in private or joint venture.

Workers who made contribution and insured under the SSL may enjoy health care,
medical treatment and cash benefit according to the type of diseases in time of sickness
owing to any cause and are also entitled to several types of cash benefits during the period
of reduced or lost income due to injury and illness.\textsuperscript{39}

Employers are also liable to pay compensation to workers for personal injuries and
diseases arising out of and in the course of employment. For those workers who has been
injured due to an Occupational Accident or contacted with Occupational Disease is not
covered under the Social Security Law 2012, the Employer must pay for medical expenses
to check the extent of capacity reduction and class of disability of such Worker.\textsuperscript{40}

In accordance with S. 51(e) of the Myanmar Investment Law, 2016, the investor shall
ensure to obtain the entitlements and rights in the labour laws and rules, including minimum
wages and salary,-------- damages, workman compensation , ------------------relating to
workers in stipulating the rights and duties of employers and employees ( and occupational
terms and conditions in the employment contract.\textsuperscript{41}

In accordance with S. 51(a) of the Myanmar Investment Law, 2016, any citizen who
is a qualified person as senior manager, technical and operational expert, and an advisor
may be appointed in Myanmar in accordance with the laws.\textsuperscript{42}We may say that these
provisions mean the labour laws of Myanmar apply to foreign workers who are not citizens.

\textsuperscript{38} Section 28 of the Social Security Law (2012).
\textsuperscript{39} Section 21 of the Social Security Law (2012).
\textsuperscript{40} Section 28 of the Occupational Safety and Health Law (2019).
\textsuperscript{41} Section 51 (e) of the Myanmar Investment Law (2016)
\textsuperscript{42} Section 51 (a) of the Myanmar Investment Law (2016)
Termination of Employment

An employment contract must include detailed provisions on resigning and termination of service as well as termination of agreement. Regulations on resignation, dismissal and termination of employment are governed by policies of the Ministry of Labour and can also be inferred from the contents of the prescribed employment contract template.

The causes for termination of the employment contract can include expiration of the contract, closure of the factory or company, reduction of jobs because of unexpected problems not caused by the Employer, violation of any term in this contract either by the Employer or the Employee, death of the Employee and the Employee has committed crimes.

As per the Ministry mandatory employment contract template, if a permanent employee desires to resign from the job, he or she shall inform the employer 30 days in advance with sound reason.\(^43\) The Employer can, during the probationary period, either terminate or dismiss the Employee for important reasons with one month’s notice without paying any compensation. If the Employer fails to give one month’s notice to the Employee, he or she can still dismiss the Employee during the probationary period by paying compensation in the amount of the probationary salary for one month. The Employer can dismiss the Employee by giving one month’s notice and paying compensation if it is not duly provided warnings.

The severance payment for the wrongful dismissal of the employee is stipulated by the notification\(^44\) of the MOLIP. Pursuant to the official Employment Contract Template, terminations due to redundancy shall be coordinated with a representative of the Labour Organization and a representative of the Workplace Coordination Committee, or, in the absence of a Labour Organization, directly with the Workplace Coordination Committee formed under the Settlement of Labour Disputes Law (2012).

It is the primary responsibility for workers and employers to settle the employment disputes peacefully. The specific legislation concerning the settlement of labour disputes is the Settlement of Labour Disputes Law,2012 which was enacted by the Pyidaungsu Hluttaw as Law No. 5/2012) and the focal ministry is the MOLIP. The core objective of the law is to provide a fair and quick dispute resolution forum as an alternative to litigation and to prevent strikes or lock-outs.

Right to form Labour Organizations and Labour Union

The 2008 Constitution of the Republic of the Union of Myanmar affirms the right of every citizen to form associations and organizations\(^45\) and reaffirms this right in specific legislation. Pyidaungsu Hluttaw enacted the Labour Organization Law as Law No. 7/2011 with the aim to protect the rights of the workers, to have good relations among the workers or between the employer and the worker, and to enable to form and carry out the labour organizations systematically and independently.

Basic Labour Organizations may be formed by a minimum number of 30 workers working in the relevant trade or activity according to the category of trade or activity. If it is a trade or activity having less than 30 workers, it may form so jointly with any other trade of the same nature by not less than 10 percent of all workers of the relevant trade or activity. Registration of Labor organization is mandatory and the Labour Organization formed under

\(^{43}\) Clause 14 (a) (1) of the Employment Contract Template provided by the MOLIP.

\(^{44}\) Notification No. 84/2015 of the Ministry of Labour, Immigration and Population.

\(^{45}\) Section 354 (c) of the 2008 Constitution.
the law shall have the right to carry out under its own name and common seal and perpetual succession and the right to sue and be sued.\textsuperscript{46}

If the workers are unable to obtain and enjoy the rights of the workers contained in the labour laws, the labour organizations have the right to negotiate and settle with the employer. The labour organizations have the right to send representatives to the Conciliation Body in settling the employment dispute.

The Myanmar Labour Confederations and Labour Federations can work with other organizations as well as other Labour Federations, the International Labour Organizations, and the Labour Confederations or Federations of any foreign country. They may also affiliate with international labour confederations and federations.

All Myanmar IP Laws (Trademarks Law, Industrial Design Law, Patent Law as well as Copyright Law) contain clear provisions concerning the ownership of intellectual property in the employment business. Generally, the laws designate the employer as the default owner of IP created by his employee during the course of employment or under the contract of employment. If the creation is done by the employee during working hours under a specific agreement or under the consequences of such agreement, the economic rights of such creation will be entitled by the employer unless otherwise provided in the agreement.

\section*{Taxation of Income}

There are two types of foreign nationals who are levied by the tax laws of Myanmar: Resident foreigner and Non-resident foreigner. The Income Tax Law provides the definition of these terms. Resident foreigner includes a foreigner who resides in Myanmar for not less than one hundred and eighty-three days during the income year. Non-resident foreigner means any foreigner who is not a resident foreigner. Under the Union Taxation Law (2019), the total income of non-resident foreigners received under the heading of salary has to be levied at the rate of 0-25\% on the basis of income layers as prescribed, without deduction of any allowances under Section 6 and 6-A of the Income Tax Law while the same rate of tax are applicable for resident foreigners and Myanmar citizens after deduction of the allowances under Section 6(a) of the Income Tax Law. If non-resident foreigners receive income other than salary, tax shall be charged at the rate of 25\% before deduction of allowances under Section 6 of the Income Tax Law. Individuals with an annual salary income below MMK 4.8 million are exempted from paying income tax.

\section*{Mutual Recognition Arrangement in Services (MRAs)}

Myanmar has signed the Mutual Recognition Arrangement in Services (MRAs) in 8 professions. Since each of the MRA has its own mechanism for recognition and facilitation of qualified professionals in the ASEAN region and in order to implement these MRAs, various laws have been enacted and several councils have been established in Myanmar.

ASEAN Framework Agreement on Services (AFAS) was signed on 15 December 1995, to recognize the importance of Mutual Recognition Arrangement in Services (MRAs) to facilitate deeper services trade integration in ASEAN. Since 7\textsuperscript{th} Summit of ASEAN Leaders in 2001 MRAs in several occupations have been signed as follows:

1. MRA on Engineering Services (9 December 2005)
2. MRA on Nursing Services (8 December 2006)

\textsuperscript{46} Section 5 of the Labour Organization Law (2011).
3. MRA on Architectural Services (19 November 2007)
4. MRA on Surveying Qualifications (19 November 2007)
5. MRA on Medical Practitioners (26 February 2009)
6. MRA on Dental Practitioners Services (26 February 2009)
7. MRA Framework on Accountancy Services (26 February 2009) and subsequently as MRA on Accountancy Services (13 November 2014)
8. MRA on Tourism Professionals (9 November 2012)

1. **Laws of Engineering Services Regarding MRA**

   Myanmar Engineering Council Law, enacted on 28th November 2013, is the governing law regarding the engineering profession in Myanmar. This Council is the leading professional regulatory body. In addition to these laws and regulations, certain departments and authorities hold power over some categories of engineering practice as they already have established regulations and codes of practices. For example, the Ministry of Rail Transportation tackle railways related engineering issues, the Ministry of Construction hold responsibility for infrastructure-related engineering, and the Ministry of Agriculture and Irrigation resolve issues relating to irrigation related engineering. Moreover, the Ministry of Electric Power deals with power distribution related engineering and City Development Committees, including Nay Pyi Taw, Yangon and Mandalay committees promote regional engineering activities.

**Qualifying as a Professional Engineer**

There are three levels in the registration process for the engineers; viz registered engineer, registered professional engineer and professional engineer. If a graduate engineer wants to apply for registration as an apprentice engineer, he can do so if he has obtained an engineering degree from a recognized university.

In addition to graduate engineers, the Graduate Technicians (B. Tech.) and the Technicians Diploma holders (AGIT) are also admissible to enter the pathway to become a Professional Engineer.

**Establishing an Engineering Practice**

According to the ASEAN Framework Agreement on Services (AFAS), regarding engineering administration, Myanmar permits foreign suppliers and providers’ commercial presence, in accordance with the latest Union of Myanmar Foreign Investment Law and the Myanmar Companies Act.

Foreign engineers who want to deliver engineering services in Myanmar are expected to abide by all the other existing Myanmar laws and regulations, and it is the case for all other foreign workers coming to work in Myanmar. Only registered foreign engineers (Registration should also be done by each successive Professional Body of their home countries) are allowed to work in Myanmar, and the registration process will vary on a case-by-case basis.

**Registration of Foreign engineers**

When a foreign engineer is offered to work in Myanmar, they must apply for registration as an engineer, according to the following conditions;
1. The applicant must hold the necessary qualification, with the registered engineer status, approved by the country where he practices;
2. The applicant must obtain a necessary expertise of a minimum of 8 years’ experience in the field he intends to practice;
3. The applicant’s physical presence for not less than 180 days in Myanmar
4. The applicant is employed as an engineer and has been assigned to a specific project by a particular company;
5. A recommendation from a Myanmar Professional Engineer of the relevant project in which the applicant is assigned
6. The applicant is to attach with the Myanmar Professional Engineer

The processing fee plus the registration fee (in USD) are required to pay by the applicant and they are not refundable if the application is rejected. All copies of necessary certificates as true copies must be certified by a Myanmar Professional Engineer before submission to the Myanmar Engineering Council.

When approved, a temporary registration may be issued by the Council, which shall not exceed over 1 year and is required to be renewed every six months. However, the certificate expires on 31st December of each year regardless of the status of the project on that period. The conditions of the Engineering registration in which the certificate upholds will state the specific branch of engineering the applicant is registered and the project he/she is allotted to.

An unsuccessful applicant may submit an appeal with the Council within 21 days of after he/she has been notified of the refusal of registration. If appropriate, the Council will review his/her application.

An engineer is permitted only to work on a particular project, such as submitting plans or drawings for that particular project. The registered engineer is allowed neither holding a position as a Director or Shareholder nor setting up his/her own consultancy practice in Myanmar. Moreover, an engineer is prohibited from changing jobs; they will have to submit a new application for registration if they are offered another job.

The engineering registration will lapse upon the completion of the project in which the foreign engineer is assigned to. The engineer may be reassigned to another project upon application according to the Myanmar Engineering Council rules and regulations. Every engineer shall notify the Registrar of any change in his business address.

Registered Foreign Professional Engineer (RFPE)

According to ASEAN Mutual Recognition Arrangement (MRA) on engineering services agreed on 9th December 2005, at the ASEAN summit in Kuala Lumpur and also as per our Myanmar Engineering Council Law and Myanmar Engineering Council Regulations, Myanmar will register the ACPE holder of any ASEAN member state as a Registered Foreign Professional Engineer (RFPE) after completing his/her application assessment. A Registered Foreign Professional Engineer (RFPE) may be permitted to work, not as an independent practitioner, but in collaboration with a designated Myanmar Professional Engineer according to suitable domestic professional regulatory laws. The following tables are valid data as of June 2020.
2. **Laws of Nursing Regarding MRA**

MRA on Nursing Services set simple requirements that could allow nursing professionals of each ASEAN country to be able to work in another. Those requirements are\(^47\); -

(a) Nursing Qualification
(b) Valid registration or license and practicing certificate or license
(c) Minimum of 3 continuous years of experience
(d) Compliance with satisfactory continuing professional development
(e) Other requirements as to personal medical examination or competency assessment

**Requirement Criteria**

The requirement criteria for foreign nurses who come to work in Myanmar are as follows;

1. Diploma/Bachelor of Nursing graduated from nursing schools / institutions accredited by PRA and verification of course/training transcript from country of qualification
2. Valid Licensure as a Registered Nurse/ Verification of Registration from country of qualification
3. Valid practicing certificate, Certificate of Good Standing and No pending Criminal case or illegal proceedings
4. Minimum 3 years of continuous clinical experiences in related field and must not have lapsed nursing practice for 5 years and more
5. Compliance to National, Immigration and Laws
6. Work permit granted by the MOHS or related Ministry and application may proceed through employer
7. Licensing requirements and procedures will be according to domestic MNMC Law, Rules and Regulations, and Procedures as required

The application for Myanmar nationals who obtained nursing qualification from foreign country and those foreign national with nursing qualification are same. First, one must apply for registration and then application for license. And license to practice nursing can be divided into 3 category – nursing, midwife, and both. The application form includes\(^48\);

(a) Name of Applicant and sex
(b) National Registration Card No. or Passport No., Visa Number, Date of Issue/Expiry
(c) Date of Birth
(d) Race and Religion
(e) Father’s name and his NRC no.
(f) Degree/ Diploma/ Completion Certificate on Nursing/Midwife/ Nursing and Midwife
(g) Name, address of the location, phone, fax, and email of the university, degree college, college, school or training centre and the name of the Country

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(h) Expertise and experience
(i) Exam fees and receipts
(j) Permanent address and contact phone, fax and email

Process
First of all, applications with the required documents should be submitted to Myanmar Nurse and Midwife Council (MNMC). Then, the assessment committee of MNMC will carry out the registration examination or Interviews for the applicants. When successful, MNMC will issue a Special temporary registration for Temporary Registered (Nurse) and Temporary Registered (Nurse-Midwife) with the validity for one year.

With the temporary registration, they can now apply for Full Limited Licensure (Nurse) with the validity of one year.

Monitoring
Continuous monitoring is routinely carried out for the compliance with the code of Ethics and Professional conducts, and in relation to Core competencies standards. To support continuous monitoring, the renewal of Temporary/ Limited Registration and Temporary/ Limited Licensure will be performed by the MNMC at regular intervals.

Additionally, monitoring process is strengthened by informal or formal performance appraisals, competency assessments, Reports/Feedbacks from Nursing Supervisor of the related hospitals, or institutions, or by the Supervisory Board of MNMC.

Moreover, the applicants should participate in self-development courses constructed by Certified Nurse Educators (CNE) approved by MNMC, to meet the required Continuing Professional Development (CPD) points set by MNMC for the renewal of licensure.

Policies
The applicants should abide by the laws and policies set up by;

1. Domestic Rules and Regulations of Immigration Department, Myanmar, related to Foreigners’ VISA and any other requirements
2. Domestic Rules and Regulations of MOHS, Myanmar, regarding permission to visit, to give service or to work in the hospital or any other health institutions or health care settings
3. Employer’s Policies and Contract Agreements
4. MNMC Law, Rules and Regulations, and Procedures
5. ASEAN Mutual Recognition Arrangement (MRA)
6. Codes of Ethics and Professional Conduct
7. Core Competencies Standards
8. Institutional Policies and Standards Operating Procedures (SOP)

There are newly added policies which stated that the foreign registered nurses have to abide by the National MNMC Law. as follows;

3. Laws of Architectural Services Regarding MRA
Myanmar Architect Council, a governmental organization, was formed on 31 March 2015 under the Myanmar Architect Council Law (2014) by the Ministry of Construction as the
focal Ministry. On 17 January, 2020, the second term Myanmar Architect Council was formed and it comprises of 31 eligible architects of Ministry of Education, concerned government departments and universities as well as senior architects. The responsibilities of the Council concerning foreign architects are; to recognize or refuse to recognize the persons who hold a degree or diploma conferred by any local or foreign Architectural related University, College and Institute;\(^{49}\) and issuing registration certificates,\(^{50}\) scrutinizing and replying remark when so requested by the focal Ministry. The scrutinizing means whether or not the local and foreign architectural consultants and architectural companies, organizations, contractors and contractor companies are in conformity with the specified procedures and basic standards, etc.

Except civil servant architects, any person without a Registration Certificate, shall not practice specified architectural and technical works\(^{51}\). Whoever violates this prohibition, shall be punished with not exceeding two years imprisonment or with fine or with both.\(^{52}\)

If a Bachelor Degree holder of Architecture conferred by any local or foreign Architectural, Technology or Engineering University and College or a qualified person who holds a Technician Registration Certificate by the Council wants to obtain a Registered Architect Certificate, he or she shall apply to the Council. The term of such Registered Architect Certificate shall be prescribed in the Certificate. If a foreign architect wants to obtain a Foreign Architect Registration Certificate, he or she needs to apply to the Council. Foreign Architect Registration Certificate means a Recognition Certificate with type of permitted architecture, level, permitted area and limited period, issued by the Council to a foreign architect in conformity with the stipulations under this Law.\(^{53}\) If a Foreign Architect Registration Certificate is permitted, the type of permitted architecture, permitted area, limited period and other necessary terms and conditions shall be prescribed after paying the specified registration fees.\(^{54}\) Such registration certificate holder has the right to practice legally the specified architectural and technical works related to his discipline. A Registered Architect Certificate holder shall, when the prescribed period has ended, apply to the Council to obtain an Architect License. The Council has the member of about 180 persons as an architect license holder. If an Architect License holder is desirous to obtain a Senior Architect License when the prescribed period is ended, he or she shall apply to the Council. Currently, there are (1057) Registered Architects, (533) Licensed Architects, (278) Senior Licensed Architects and 16 ASEAN Architects in Myanmar.\(^{55}\) For the renewal of any kind of Architect Registration Certificate, he or she shall apply to the Council 60 days in advance before the expiration.

4. **Laws of Surveying Qualifications Service Regarding MRA**

Regarding business of surveying, it is limited to the government administration of land in Myanmar. And the profession is also widely restricted to the department Farmland Management and Statistic formerly know as Surveying and Land Registration Department which mainly deal with land allocation, registration, partition, and uses. The role private professionals on this area still needs to promoted. As of now, there is no special law in Myanmar tackling the affairs of surveying. The government runs an internal surveying training school, but it is closed to the public.

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\(^{49}\) S.8 (c) of the Myanmar Architect Council Law (2014)

\(^{50}\) S.8 (g) of the Myanmar Architect Council Law (2014)

\(^{51}\) S.36 of the Myanmar Architect Council Law (2014)

\(^{52}\) S.39 of the Myanmar Architect Council Law (2014)

\(^{53}\) S.2(p) of the Myanmar Architect Council Law (2014)

\(^{54}\) S.30 (c) of the Myanmar Architect Council Law (2014)

\(^{55}\) Data valid as of June, 2020.
5. Laws of Medical Practitioners Services Regarding MRA

The Myanmar Medical Council Law 2000 was repealed by the Myanmar Medical Council Law 2015. Under the new law, the Myanmar Medical Council (MMC) was reformed on February 6, 2016 as an independent body with a more comprehensive role. One of the functions is the issuance of license to practise in Myanmar. No person shall practise medical treatment without a medical practitioner license. Under Section 58 of the Myanmar Medical Council Law, if any person practise medical treatment without a medical practitioner license, he or she shall, on conviction, be punished with imprisonment for a term from a minimum of one year to a maximum of five years and may also be liable to fine.

Therefore, before practising medicine in Myanmar, all medical practitioners, whether local or foreign, must register with MMC in order to obtain a practising license. However, the foreign medical practitioner is eligible to apply for limited General Practitioner License when he or she is the holder of the Medical Science Degree recognized by their relevant foreign Medical Council which is recognized by the Myanmar Medical Council.

Currently, most of the licenses given to the foreign medical practitioners are Limited Special Medical Practitioner Licenses so that there is a few data for providing limited General Practitioner license to foreign practitioner by the Council till 2018.

Any foreign medical practitioner may apply for limited Special Medical Practitioner License who meets the prescribed qualifications. Special Medical Practitioner License means a medical practitioner license issued by the Council to a registered practitioner who has obtained postgraduate degree and postgraduate diploma conferred by any local Medical Institute which is recognized by the Council or recognized by the relevant foreign Medical Council and who has been determined that he meets the qualification and has experience and expertise of general special medical treatment or specialized special medical treatment.

After scrutinizing the application, the Executive Committee of the Council may issue the limited special medical license prescribing the permitted category of medical science, the place and regions of work, and also the term of the period which are allowed to practise medical treatment in Myanmar. The prescribed fees has to be paid by the applicants. However, license fees can be waived by a medical practitioner for humanitarian mission, teaching/training, expert visits to Myanmar. The foreign medical practitioners including ASEAN nationals come to work in Myanmar in public sector as a Specialist Medical Practitioner are not responsible to pay fees because public sector or Government provides the people the health care service with almost free of charge. Except humanitarian mission, all foreign medical practitioners who come to work in Myanmar in private sector as a Specialist Medical Practitioner have to pay the license fees.

The duration of limited license is one year and it can be renewable with prescribed fees. As of 31 December 2018, there are total 636 foreign medical practitioners including ASEAN nationals came to work in Myanmar in both private and public sector as a Specialist Medical Practitioner. In such kind of application, the local counterpart from the same field of specialty and competency must take co-responsibility in clinical practice with foreign medical practitioners.

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56 Section 54 of the Myanmar Medical Council Law, 2015.
57 Section 39 of the Myanmar Medical Council Law, 2015.
58 Section 2 (j) of the Myanmar Medical Council Law, 2015.
practitioner. The president of the MMC submitted the application with his recommendation to the Ministry of Health and Sports to approve it.

For those foreign medical practitioners employing hospital/clinic/health care institute in private sector, it needs to apply for registration to MMC with required documents which are as follows:

- CV/resume of foreign medical specialist (FMS)
- Copy of valid passport of foreign medical specialist
- Certificate of good standing/ Certificate of Registration Status of FMS
- Copy of graduate medical qualifications and specialty qualifications
- Letter of co-responsibility of local specialist counterpart in the same specialty and copy of his/her valid specialist license
- Copy of valid license of employing hospital/health care institute
- Three recent 1.5" X 1.5" sized photographs [taken within the last three months in colour and against a blue background]
- Receipts of payments to the books for desirous foreign medical specialists

The Institute must submit a Letter of Responsibility for the practice of the foreign medical practitioner.

All documents stated above must apply to MMC prior to one month [4 weeks] before practice. Although exemption of fees for humanitarian mission, teaching/training, expert visits, the general registration fees are as follows:

Limited registration for foreign specialist doctors – fees 400,000 kyats (approximately USD 350)

Limited registration for foreign general doctors - fees 100,000 kyats (approximately USD 90).

Regarding the International medical graduates, they can apply for full registration only if they are nationals holding MBBS or equivalent degree awarded by any of foreign medical institutions recognized by the council and must sit licensing exam MMLE (Myanmar Medical License Examination).

The MRA needs the qualifications of services suppliers of an AMS have to be mutually recognized by the authorities of other AMS as in their home country. The MMC has its own mechanism for recognition and facilitation of qualified medical professionals in Myanmar. The following table shows the number of Foreign Medical Practitioners from AMS who obtained the license from MMC.

6. Laws of Dental Practitioner Services Regarding MRA

The Myanmar Dental Council, MDC, was formed under the Myanmar Dental Council Law, 2011. No one shall carry out dental treatment without the dental practitioner license. Regarding the application of the license by the foreign dental practitioner including ASEAN Dentists, the Myanmar Dental Council has the authority to issue Limited Dental Practitioner License.

Limited Dental Practitioner License means a limited dental practitioner license issued by the Myanmar Dental Council to a foreign dental practitioner who has obtained dental degree limiting the specific branch of dentistry, the locality and the period allowed to

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59 S.32 of the Myanmar Dental Council Law, 2011
Limited means time, place and field are limited for the foreign dental practitioner under license.

Foreign dental surgeons who wish to practice in Myanmar should send the application letter addressed to the chairman of the MDC at least 2-3 months ahead before he practices. The following documents are required for license application;

1. Evidence on 5 years clinical experience
2. Proof of registration from Dental Council of Country of origin
3. Brief CV
4. Passport copy photo page
5. Good Standing Certificate / Certificate of current professional status from Country of origin
6. Dental Council/ Dental Association/ University Degree Certificate
7. Invitation of Job Offer in approved Institutions/ Clinic
8. 3 passport sized photographs
9. Name of local counterpart

Name of local counterpart is significant in the applying procedures of Limited Medical Practitioner License because local counterpart (local dentist) needs to undertake or support the foreign dentist for the sake of the patients when foreign dentist leaves from the country. No foreign dental practitioner can acquire the Limited Medical Practitioner License without local counterpart.

Currently, License fee is MMK 400,000 (approx., $ 350). The purposes of the application on foreign dental practitioners on temporary licensing may be expert visits or education and training or humanitarian missions or research. If it is the humanitarian missions, there is no fee for that. Myanmar Dental Council will issue the letter of Limited Dental Practice License granted by the President of MDC with the approval of the Ministry of Health and Sports. The license can be extended by application at least 30 days before the expiry for the same locality of business.

7. **Laws of Accountancy Regarding MRA**

Myanmar Accountancy Council (MAC) was primarily formed by the Myanmar Accountancy Law (1972) (Union of Myanmar Revolutionary Council’s Law No.2) on 12 January 1972. The 1972 Law was repealed by the Myanmar Accountancy Law in 1994. Again, in 2015, new Myanmar Accountancy Law was promulgated as Pyidaungsu Hlutaw Law No. 31/2015 and the Myanmar Accountancy Council was also reformed under the new Law. The MAC is an independent body for four-year term as well as it is the only body in the Union to decide on matters of accounting policy. The office of the Auditor-General of the Union (UAG) acts as MAC Secretariat.

The Council has the main responsibility concerning accountancy including the duty to open and supervise the courses or trainings on accountancy, to regulate rules on examining and awarding diplomas and certificates on accountancy, to scrutinize and recognize the local as well as foreign accountancy certificate and degrees and prescribing the registration of citizens of such certificate and degrees holder, etc. It is also the duty of the Council to

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60 S.2 (i) of the Myanmar Dental Council Law, 2011
communicating with international accounting entities and entering into mutual agreements with international accounting entities.

Foreign Professional Accountant means a Foreign Certified Public Accountant or similar Professional Accountant who is permitted to register in accord with the regulations by the Council to practice accounting in Myanmar under any existing law or a contract or an agreement concluded between the Myanmar Government and foreign Government or International Organizations, or under a bilateral or multilateral mutual programme made by accounting entities.

The foreign professional accountant who will be granted to practice the accountancy service in Myanmar when they are conformity with the following particulars as

(a) enabling to permit as per the contract made between the Myanmar Government and a foreign Government;

(b) enabling to permit as per the mutual agreements between countries or international professional accounting organizations.  

Such foreign professional accountant shall also be the person (a) who has obtained a Professional Accounting Certificate and a Practicing Accountant Certificate registered at the National Professional Accountancy Organization of the relevant country, (b) being recognized as Certified Public Accountants who are Myanmar citizen registered at the Council by the National Professional Accountancy Organization of the relevant country; and (c) being allowed to practice accounting to Certified Public Accountants who are Myanmar Citizen in the said country like its own citizens.

After submitting the necessary particulars, the foreign professional accountant can apply to the Council to register as a professional accountant in Myanmar. In such application, the accountant shall submit

(a) the documents which grant the permit to enter and stay in Myanmar;

(b) the original passport and its copy;

(c) the original examination certificate of accounting issued by the National Professional Accountancy Organization of the relevant country and its copy;

(d) the original practicing certificate issued by the National Professional Accountancy Organization or the relevant department of the respective country and its copy;

(e) other documents prescribed by the Council if necessary.

International Accounting Entities that are legally registered to establish a business in Myanmar with a permit shall practice accounting as per the organization set-up by the Council. Such application for the permit to practice accounting only with the organizational set-up shall be made to the Council directly.

A Practicing Accountant shall not act any conduct that is not in conformity with the Code of ethics in the provisions of the Myanmar Accounting Standard issued by the Council and if he/she fails to abide the principles, on conviction, he/she shall be punished with imprisonment for a term not exceeding one year or with a fine not exceeding one million kyats.

8. **Laws of Tourism Regarding MRA**

As a signatory to the ASEAN Tourism Agreement, Myanmar participates in special working groups on ASEAN tourism integration and cruising. Representatives of The Ministry

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of Hotels and Tourism, (MOHT) and other agencies attend semi-annual working group meetings on tourism product development, tourism marketing and communication, quality tourism, and meetings of the tourism professionals monitoring committee, and the tourism integration and budget committee. Myanmar endorsed the ASEAN Tourism Strategic Plan 2011–2015, the ASEAN Tourism Marketing Strategy 2012–2015, and the GMS Tourism Sector Strategy 2005–2015. These regional strategies aim mainly to develop quality tourism products and services, strengthen human resources, and promote regional cooperation and integration by reducing physical and nonphysical barriers to travel. In 2009, Government of Myanmar endorsed the ASEAN Mutual Recognition Arrangement on Tourism Professionals (MRA), further emphasizing its intent to pursue opportunities for cooperation and capacity building with ASEAN member states. The Ministry of Hotels and Tourism is Government of Myanmar’s designated agency with a mandate to guide the development of tourism in Myanmar including to cooperate with ASEAN and other countries in tourism. In 2012, Myanmar’s tourism businesses and associations formed the Myanmar Tourism Federation (MTF).

Section 2(a) of Myanmar Tourism Law 2018 defines Tourism as “Tourism means the business of providing services for people visiting places for their pleasure. This expression includes provisions of tour operation, hotel and guest-house business, tour guiding and other services related to tourism”. Hotel and Tourism sector, especially development of hotel and resort services, tour and sight-seeing tour, is one of the prioritize sectors of the State and open for investment with the approval of Union Government. Even though local tourism is one of the businesses that a foreign investor could invest in joint venture with local private citizen or locally owned business entity, tour guide profession is still limited to Myanmar citizen only.

National Tourism Professional Board of each ASEAN countries are responsible to promote, update, maintain, and monitor the ASEAN Common Competency Standards for Tourism Professionals (ACCSTP) and Common ASEAN Tourism Curriculum (CATC). Formerly setting the minimum requirement of competency standards in hotel and travel services and later refers to common curriculum for ASEAN Tourism Professionals. According to MRA-TP, tourism professionals can be divided into following professionals:

1. **Front Office Personnel** such as front office manager and supervisor, receptionist, telephone operator, and bell boy
2. **House Keeping Personnel** such as executive house keeper, laundry manager, floor supervisor, laundry attendant, room attendant, and public area cleaner
3. **Food Production Personnel** such as executive chef, demi chef, commis chef, chef de partie, commis pastry and baker.
4. **Food and Beverage Service Personnel** such as F&B director, F&B outlet manager, head of waiter, bartender, and waiter
5. **Travel Agencies Personnel** such as general manager, assistant general manager, senior travel consultant, and travel consultant

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63 Notification No. 13/2017, Myanmar Investment Commission (1 April 2017)
64 Schedule C.21, Notification No. 15/2017, Myanmar Investment Commission (10 April 2017)
65 Schedule B. 11, ibid.
66 Article 5.1.2 of ASEAN Mutual Recognition Arrangement on Tourism Professionals (2012)
67 Article 2.1 and 2.6, ibid.
68 Appendix, ibid.
6. **Tour Operation Personnel** such as product manager, sale and marketing manager, credit manager, ticketing manager, and tour manager.

Newly promulgated Myanmar Investment Law, 2016 only restricts employment of foreign workers in a position that does not require any special skills\(^{69}\). Tourism is also an area open for foreign investment.

**Licensing Requirement**

Tourism industry can be divided into four main types each of which require to follow separate licensing process at local tourism committee namely\(^{70}\):

(a) Tour  
(b) Hotel  
(c) Guest House  
(d) Tour Guide  
(e) Tourism related other services

If an applicant is a company, it must register in DICA.\(^{71}\) If an applicant is co-operative society, it must register in Directorate of Co-operative Society (DCS).\(^{72}\) In addition, the applicant of company must apply licence to the Local Tourism Committee concerned. According to Paragraph 3 of Order 2/2019 of Ministry of Hotel and Tourism, application for inbound and local tour requires; -

1. Application Form  
2. Photocopy of valid company registration certificate or cooperative society registration certificate  
3. Photocopy of lists of directors, office address, and share ratio list as registered at DICA or DCS  
4. List of employees  
5. Tour condition and agreement as to route, price, and service plan  
6. Biography of applicant and photocopy of his/her national registration card  
7. Two passport sized photo with colours took within 6 months.

For international tours, required document for license, as prescribed in the Order are as follows\(^{73}\):

1. Application form  
2. Photocopy of valid inbound and local tourism license  
3. Tour condition and agreement as to route, price, and service plan  
4. Affidavit on absolute undertaking of the services provided by the company  
5. Evidence of the directors’ two year experiences by the recommendation of the previous company’s responsible  
6. Two passport sized photo with colours took within 6 months.

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\(^{69}\) Section 51(c) of Myanmar Investment Law 2016 (18 Oct 2016) as amended in 2019  
\(^{70}\) Section 18 of Tourism Law 26/2018 (17 September 2018)  
\(^{71}\) Paragraph 2(a) of Order 2/2019 (14 March 2019) of Ministry of Hotel and Tourism  
\(^{72}\) Paragraph 7 of ibid.  
\(^{73}\) Para 3(b) of Order 2/2019 (14 March 2019) of Ministry of Hotel and Tourism
(7) In case of religious tour, undertaking of abidance of order and instructions of relevant departments

Response to the application has to be made by the local tourism committee within 20 workings days from the date of recipient of the application and the applicant has to submit the license fees upon receiving the license. License Fees for joint-venture or foreign owned tour business are as follows:

<table>
<thead>
<tr>
<th>No.</th>
<th>Subject</th>
<th>JV</th>
<th>Foreign</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>License Fee</td>
<td>$1,800 USD eqv MMK</td>
<td>$2,000 USD eqv MMK</td>
</tr>
<tr>
<td>2.</td>
<td>License Fee for branch office</td>
<td>$200 USD eqv MMK</td>
<td>$250 USD eqv MMK</td>
</tr>
<tr>
<td>3.</td>
<td>Renewal Fees</td>
<td>Same as License Fees</td>
<td>Same as License Fees</td>
</tr>
<tr>
<td>4.</td>
<td>Penalty Fees</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) Expire license fees (per day)</td>
<td>$10 USD eqv MMK</td>
<td>$15 USD eqv MMK</td>
</tr>
<tr>
<td></td>
<td>(b) Failure to recollect the license (per day)</td>
<td>$10 USD eqv MMK</td>
<td>$15 USD eqv MMK</td>
</tr>
<tr>
<td>5.</td>
<td>Service Fees</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) Company name changes, Reissuance of license due to destruction or lost</td>
<td>$1,000 USD eqv MMK</td>
<td>$1,500 USD eqv MMK</td>
</tr>
<tr>
<td></td>
<td>(b) Office relocation across Union Territory, Region or States, Ownership changes</td>
<td>$1,000 USD eqv MMK</td>
<td>$1,500 USD eqv MMK</td>
</tr>
</tbody>
</table>

License fees for foreign owned or Joint-Ventured hotel business as prescribed by Ministry of Hotel and Tourism are as follows:

1. License fees
   (aa) Up to 50 Rooms - $4,000 USD equivalent Myanmar Kyat
   (bb) From 51 to 100 Rooms - $5,000 USD equivalent Myanmar Kyat
2. License renewal fees - Same as the License Fees
3. Penalty Fees
   (aa) Expire license fees (per day) - $20 USD equivalent Myanmar Kyat
   (bb) Failure to recollect the license (per day) - $20 USD equivalent Myanmar Kyat
4. Service Fees
   (aa) Room increase or reduction - $1,500 USD equivalent Myanmar Kyat
   (bb) Hotel name changes, Owner name changes, Ownership changes, Reissuance of license due to destruction or lost, changes of business types - $1,500 USD equivalent Myanmar Kyat

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74 Para 5 and 6 of the Order, ibid.
75 Para 2(e) and (f) of the Notification No. 6/2019 (30 April 2019), Ministry of Hotel and Tourism Ministry
76 2(b) of the Notification, ibid.
As reflected in the Myanmar Investment Law (2018), Tourism Law (2018) and subsequent notifications and orders, it is important that the tourism business entity need to respect the culture, customs, and practices of various ethnic groups residing in Myanmar. Any person who operates a tourism business has the responsibility to operate in a responsible and sustainable manner; respect Myanmar cultural heritage, customs and traditions, and conserve the natural environment; ensure the fundamental health, security and safety of tourists; and protect the privacy and personal data of tourists. Other aspects such as employment of foreign workers, and their work permit (including visa processing) will be governed by relevant labours and immigration laws.

C. Exit Measures

There are some laws concerning exit of a foreigner leaving Myanmar as follows: -

Regarding the payment of tax, Section 38 (a) of the Income Tax Law provides that "No person shall leave Myanmar unless he obtains a certificate from the authority delegated for this specific purpose stating that he has no liability to pay tax or that satisfactory arrangement has been made for the payment of the tax. Provided that the Union Government may by notification make exceptions to the above requirement." Always provided that the stay of the foreigner in Myanmar during the period specified in the temporary certificate, including any extension, is authorized by the Immigration or Passport Regulations.

Regarding the Foreigner Registration Certificate (FRC), paragraph (1) of Rule 15 of the Registration of Foreigner Rules provided that "Every foreigner who is about to depart from Myanmar shall produce his Certificate of Registration before the Registration Officer of the district from which he proposes to leave Myanmar; and such Registration Officer shall make, sign and seal on the said certificate an endorsement to the effect that the said report has been duly made. The Registration Officer shall then retain the certificate and shall provide the foreigner with a temporary certificate stating that the foreigner had surrendered his Registration Certificate as he is about to leave Myanmar and specifying the period for which the temporary certificate is valid. If for any reason, the foreigner is unable to leave Myanmar within the period of validity of the temporary certificate, he shall report to the Registration Officer giving full reasons, and the period of validity may thereupon be extended by the Registration Officer."

In practice, when a foreigner exits from Myanmar, the Immigration Officer at any International Airport of Myanmar is able to check his passport only and may not be deemed to get authorized to inspect whether such foreigner has already paid all taxes payable under Myanmar laws and surrendered his FRC under the Registration of Foreigners Rules. Therefore, there should be an integrated system for checking the status of foreigners coming into and leaving Myanmar, with the collaboration of all respective Ministries and departments, especially Internal Revenue Department, Directorate of Investment and Company Registration, Trade Department, Labour Department and Immigration Department.

77 Section 13 of the Tourism Law 26/2018 (17 September 2018)
D. Enforcement Measures

Regarding the illegal entry and stay measure, the provisions of law on enforcement under Immigration Law is as follows;

"Whoever enters or attempts to enter the Union of Myanmar or whoever after legal entry remains or attempts to remain in the Union of Myanmar in contravention of any of the provisions of law or the rules made thereunder or any of the conditions set out in any permit or visa shall be punished with imprisonment for a term which may extend from a minimum of six months to a maximum of five years or with fine of a minimum of MMK 1500 (maximum between MMK 30,000 to MMK 500,000) or with both. Foreign national registration certificate holders are expected to report their entry and exit from the country to the Immigration Department and pay a fee (about USD6) for every re-entry.

78 Section 13 (1) of the Myanmar Immigration (Emergency Provisions) Act 1947
III. Progress and Challenges in Implementation

Myanmar had signed all MRAs and implementation of several MRAs are run by establishing new regulatory bodies and also reforming the existing regulatory bodies in line with MRAs. For example, the Myanmar Engineering Council, The Myanmar Dental Council, have been established in recent years. It is still challenging to make public awareness and no incentives for the entry into MRA. Though conducting many Seminars and workshops in some sectors in Myanmar, there is still demanding for many workshops, seminars, trainings and awareness-campaign for different governing bodies and different stakeholders in different sectors.

Myanmar is in the process of developing a Foreign Worker Law to regulate foreign workers. The law is aiming to protect rights of foreign workers and strengthen the skill and technical expertise of indigenous workers. It mainly focusses on application of work permit, health condition, and process for both the foreign worker and the employer. Foreign workers may be entitled to the same rights as national workers under the Bill. Thus, draft law concerning foreigners contains inter alia provisions on introduction of a foreigner registration certificate, temporary travel and relocation, obligations on foreigners and landlords providing private accommodation to foreigners, duties and powers of the registrars and immigration officers.

The most important aspect that needs to be considered thoroughly when regulating the foreign worker affairs is that law, rules, regulations, policies needs to be transparent, easily assessable and clear. To achieve this, it is important that any regulatory body or institution should be composed of relevant policy making and administrative body such as personal from tax and custom department to deal with taxation and incoming gadgets, personnel from labour affairs to deal with general administration of the whole process, and personnel from immigration department to manage the traffic flow of the foreign workers. But most importantly, personnel from foreign relationship department to maintain its policy, laws, rules, and regulations in line with international agreements or other regional mutual recognition arrangements to honour its commitment.

As being a bill, Foreign Worker Law is being drafted and not sure whether it will become the actual provision of law.

Even if the technical and institutional challenges of implementation are fully addressed, there is no guarantee that professionals and employers will utilize MRA systems. Wage disparities, poor working conditions, and complex regulation process in some sectors have generally discouraged Myanmar utilizing MRA system.

Myanmar presented her roadmap to implementation of ASEAN on MRANS for Nursing since 2013. There are certain challenges that the applicants and MNMC are facing, which include promoting Health Insurance, recruiting Continuous Nurse Educators (CNE) and ongoing Continuous Professional Development (CPD). Healthcare services are concentrated

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79 1. MRA on Engineering Services (9 December 2005)
2. MRA on Nursing Services (8 December 2006)
3. MRA on Architectural Services (19 November 2007)
4. MRA on Surveying Qualifications (19 November 2007)
5. MRA on Medical Practitioners (26 February 2009)
6. MRA on Dental Practitioners Services (26 February 2009)
7. MRA Framework on Accountancy Services (26 February 2009) and subsequently as MRA on Accountancy Services (13 November 2014)
8. MRA on Tourism Professionals (9 November 2012)
in densely populated urban area such as Yangon and Mandalay but difficult to meet the rural needs. Even though the demand for foreign health care services is on the rise, many foreign investors tend to focus on providing complementary services and transferring clients to their head medical centres rather to provide first-hand services. In addition, Myanmar is in need of competition in health care sector in order to improve it. Reluctance to invest in rural healthcare service hindering the success of Myanmar health care system. The State may need relax more of its rules and regulations in combination higher transparency and visibility to in order to widen its door for health care sector.

In order to practise profession in Myanmar, the professionals have to pass the national licensure exams and also English language fluency test, which substantially reduces the value of going through the MRA system.

Regarding Engineering, there are varying degrees of regulation, different scope of engineer tasks and differential recognition of engineering education. For example, not all ASEAN are signatories to Washington Accord, International Professional Engineer Agreement [IPEA] and APEC engineer agreement. The organization of engineering often differs between jurisdictions. Agreements between regional professional bodies are often not binding on other bodies that recognize professionals.

Issues pertaining to Labor Laws, Immigration Laws, other related laws and regulations need to facilitate the implementation of the MRA. The number of ACPEs (not less than 20 percent of registered Professional Engineers) should be increased or 1000 ACPEs which number is lower. (Timeline: December 2020) A technical working group on Mobility of ASEAN Engineers should be established. It should be considered to set up a pilot ASEAN project to be undertaken by the ASEAN professionals.

Regarding the Architectural Services, challenges and issues that hinder the expansion of the MRA implementation includes being under processing to provide the accreditation for architects from the other schools or universities that are not accredited yet by the Myanmar Architect Council. The current plans to overcome the challenges and issues on the further expanding of MRA implementation are as follows;

- Announcing Architecture guidelines to be in harmony with the nature and environment, to safe-guard the public health and safety, to avoid any natural disaster to the public both mentally and physically
- Specifying qualification of Architectural Designs
- Announcing Architectural guidelines and standards for upgrading building
- Announcing Architectural guidelines to control heritage buildings
- Checking/Observation to specify standards and guidelines
- Keeping the list of register, registration, checking of qualification and work experience of architects for them to join the Association of Myanmar Architecture for registration
- Joining the Association of ASEAN Architecture and other countries’ Architectural Organizations
- To support and register foreign Architects and foreign Architectural organizations in Myanmar.

Regarding the Dental Practitioners, challenges include

- To set up a website with all the necessary information for license application
- Lack of funds to maintain a website and the website operator
- No proper guidelines for recognition of ASEAN dentists
- Assessment/ Examinations in local language is not applicable; therefore, common language for ASEAN licensing examination should be considered
- More AJCCD Meetings but lack of funds to attend MRA meetings
- Accountability of Ministries concerned

These challenges should be made aware by the ASEAN secretariat to the ASEAN Ministers at the respective meetings in order to proceed with MRA. Sufficient budget and funding should be allocated for ASEAN meetings. Additionally, CCS awareness talks should be conducted for local dentists and faculty members of Dental Universities by Myanmar Dental Council. A more direct involvement and accountability from Ministries should be expected in the future and more Myanmar Government support would be required.

In tourism, there is limited awareness of tourism stakeholders on MRA-TP and also there is an overlapping of regulatory bodies; in MRA-TP implementing (MRA-TP) initiative is led by Ministry of Hotels and Tourism but labour sectors are under the supervision of MOLIP.

There is a lack of training institutions' interest to implement the MRA-TP due to low demand for competency standard based teaching materials. There are barriers to adapt to the localization of MRA-TP resource tools. There is no legal binding to be functioned the MRA-TP among AMA and lack of Human Resources to monitor the implementation. In order to overcome these challenges, the following should be considered;

- Reviewing and updating the MRA-TP operational mechanisms as per MRA-TP Work plan (2019-2023)
- Developing occupational standards to meet the local needs based on MRA-TP tools
- Encouraging industry stakeholders to register in the MRA-TP implementing activities

To sum up, Myanmar government has not yet operated her mandate as financial and technical resources are to complete it. Poor coordination between Governments agencies is one reason to implement MRAs. Another reason is that complex government procedures are leading to delayed implementation, hindered data collection and sharing, and resulted in incomplete legislative and regulatory frameworks. If a new law prescribes covering all the matters concerning foreign labours, to some extent, will overcome many of the challenges that currently faced by the stakeholders.

In addition, Myanmar found difficulties in recruiting skilled technicians to develop quality assessment mechanism which is the key step for implementation of MRAs. Absent of such measure it will create vacuum with uncertainty and will hinder the achievement of MRAs and thereby hindering the development of labour market in Myanmar.

If there is no proper arrangement regarding labour migration, it generates irregular migration, human trafficking, and exploitation and, in the worst case, generates modern slavery, particularly, in unskilled labour. Due to the lack of effective protection by the government and weak institutions and public trust, most foreign or local migrant workers are reluctant to inform the government authorities or police about abused by employers.

The one challenge is that the unlicensed recruitment agencies and brokers due to the weakness of the government in regulating and controlling the recruitment process resulting in irregular migrations, labour exploitation, and tax cannot be obtained for the interest of the country, Myanmar.
IV. Lessons Learned

The foreign companies in Myanmar had requested to remove the restriction of employment of skilled workers that was mentioned in 2012 Foreign Investment Law when the new Myanmar Investment Law, 2016 was being drafted and the investors pointed out this was a difficult step in doing business. This is why it was removed in new law, Myanmar Investment Law, 2016, following upon their request and also the policy behind it is to welcome and promote the foreign Investment which has been undertaking by MIC in Myanmar.

The employment contract is an important tool for clarifying rights and obligations in employment relationships, as well as the agreed terms and conditions for the relationship. However, employment contracts may not offer conditions that are less than the minimum protections provided in the law. Any provisions in an Employment Contract less favourable to the worker than the provisions in the relevant law (or of a collective bargaining agreement) are considered null and void. In order to implement MRAs successfully, the laws must be transformed into a clear working process of mutual recognition and registration. Outdated domestic laws and regulations cannot support MRAs. Myanmar is still drafting the employment of foreign workers Law as Myanmar is difficult to build a comprehensive work permit system for foreign workers. Draft laws aimed at the rights that the foreign workers can be entitled but also the responsibilities they need to undertake while they perform their function/ duties in Myanmar.

Government still needs to upgrade the institutional capacity of the regulatory bodies to implement the MRAs. Though some national regulatory authorities have been established and the law concerned that already exist but still need to do many things including post scrutiny legislation.

Myanmar Government needs seeking to simplify and reduce barriers to professional practice faces a complex system. The coordination among ministries is important in Myanmar where many existing laws and regulations running are necessary to be in line with international standards and commitments.

It is obvious that the extent of mobility of professionals is hard to collate though as a member of ASEAN Movement of Natural Person Agreement. Another concern is that the frequent turnover of personnel in the implementation bodies has also delayed implementation of MRAs in Myanmar.
V. Recommendations and Opportunities for Cooperation

The Myanmar Constitution stated that "The Union shall enact necessary laws to protect the rights of workers".81 This basic principle of the Constitution serve as the foundation in formulating national policies in addressing not only for citizens but also for foreign migrant workers who are working in Myanmar. Although there is no specific law that governs foreign migrant workers in the past, the government of Myanmar has been cooperating with international agencies, particularly International Organization of Migration, to develop the key strategic documents related to the management of international migration. These National Action Plans mainly focus on governance over labor migration, protection, and empowerment of migrant workers, migration and development, and data collection and management. Furthermore, it also recognizes the importance of remittances to the development of the country.

Although Myanmar is not a contracting State of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, adopted in 1990, International Covenant on Economic, Social and Cultural Rights (ICESCR) has been ratified on 6 October 2017. Myanmar, as a member of the World Trade Organization, is bound by the obligations set out in the General Agreement on Trade in Services (GATS), the scope of which obligations are more wider than those in the ASEAN region.

As an ASEAN member country, Myanmar needs to share and agree among other members for recognition of professional degrees through bilateral or multilateral registration processes and arrangements. Though all 8 professions cannot be managed effectively, engineering, medical, nursing professions have been recognized and implemented to some extent.

Healthcare services are concentrated in densely populated urban area such as Yangon and Mandalay but difficult to meet the rural needs. Even though the demand for foreign health care services is on the rise, many foreign investors tend to focus on providing complementary services and transferring clients to their head medical centres rather to provide first-hand services. The health insurance should be substantially used in Myanmar. Myanmar is in need of competition in health care sector to improve it.

Not only healthcare services, but also other sectors, engineering and architectural services, accountancy and tourism services are needed to be developed to fulfil the commitments under MRA. In the field of surveying sector, concerned law, Myanmar Geoscience Council Law has been promulgated in the March 2020 and now the Rules in line with this Law is being drafted to implement this Law including the forming of Myanmar Geoscience Council.82

The State may need relax more of its rules and regulations in combination higher transparency and visibility to in order to widen its door not only in health care sector but also in other sectors MRA concerned. In order to successfully implement the MRA and to respect and protect the rights of the migrant workers in ASEAN region, laws, policies and practice of our country have to be analysed and the gap between laws and practice must be identified.

The cooperation, coordination and integration of the Government departments to each other and stakeholders in Myanmar are essential to contribute the successful implementation of MRA.

81 Chapter 1, article 24 of the Constitution of the Republic of the Union of Myanmar, 2008
Since foreign workers in Myanmar is likely to grow due to more opportunities in investment under new investment and the foreign investor are willing to appoint their citizens and, it became crucial for the government to ensure more positive impacts and reduce possible risks and proper management to the foreign workers including to fulfill their tax duties. The following key recommendations must be considered in reviewing and formulating labor migration policies for foreign workers in Myanmar.

- Learn good practices and experience from ASEAN member countries and apply these good practices and experience where in proper channel.
- More close cooperation with sending countries, local organization and international organizations for regular and safe migration channel including cross border migration.
- To review and amend existing Laws supporting and managing foreign workers in having more accessible government services and reducing negative impacts.
- To encourage the labor unions, civil society organizations, and international experts in this legal review process and integrate their recommendations in the drafting of new Foreign Workers Law.
- To establish an effective mechanism in providing information and awareness raising regarding the laws concerning the foreign workers by collaborating with Government Organs, civil society organizations, media and international agencies.

Myanmar is now trying to have more effective legal framework in various sectors for foreign migrant workers, pre-legislative scrutinizing and post - legislative scrutinizing are necessary so that the comparative study on the laws and policies on the management of migrant workers in the ASEAN region will be essentially contributed.
VI. Annexes

A. Research Methodology

For the completion of this research, many experts from the different areas of works have contributed enthusiastically to the efforts. Two approaches have been used for data collection and analysis and assessment of the result.

First approach is key informant interviews (KII) with governmental officials, stakeholders, and technical experts such by using questionnaire. Those KII focus on exploratory approach to understand the awareness of government stakeholders and existing legal and policy frameworks on MRAs.

In the second approach, in depth review on existing laws, rules, regulations, policies, and practices in order to explore possible opportunities for adoption and effective implementation of MRA in Myanmar. In addition, reviewed various research publication, presentations, draft policies and bills, conference papers, and other information sources to identify gaps in adoption and implementation of different MRAs.
### B. List of individuals consulted and Interviewed

<table>
<thead>
<tr>
<th>Name</th>
<th>Mr. Win Shine</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country</td>
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<td>Email address</td>
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Enhanced Regional EU-ASEAN Dialogue Instrument
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C. List of documents reviewed

**ASEAN Mutual Recognition Arrangement**


**Laws**


Rules, Regulations, Notifications and Orders

Others


**Myanmar Engineering Council: Registered Limited Engineers (RLE)**

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<td>Engr. Jac Hyun, Ha</td>
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Source: Myanmar Engineering Council

**Myanmar Engineering Council: Registered Limited Professional Engineers (RLPE)**

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### Myanmar Engineering Council: Registered Foreign Professional Engineers (RFPE)

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## ASEAN Foreign Dental Practitioners on Temporary Licensing (2018 Jan – 2018 Jun)

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Source: MDC

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Source: MMC (Consolidated 2015 to 2018 Statistics, as of AJCCM 24& 25)
### Implementation of 8 MRAs in Myanmar

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