

Law Amending the Myanmar Aviation Act

Pyidaungsu Hluttaw Law No. 33/2013

11th Waxing of Thadinggyut 1375 ME

15th October 2013

The Pyidaungsu Hluttaw hereby enacts this Law.

1. This Law shall be called **the Law Amending the Myanmar Aviation Act**.
2. After section 1, sub-section (b) of the Myanmar Aviation Act, the following Sub-sections (c) and (d) shall be inserted:

“(c) to, and to the persons on, aircraft registered outside the Union but for the time being in or over the Union; and

“(d) to an aircraft operated by a person who is not a citizen of the Union but has his principal place of business in the Union.”
3. In Section 2 of Myanmar Aviation Act:
 - (a) sub-section (1) shall be substituted as follows:

“(1) aircraft means any machine which can derive support in the atmosphere from reactions of the air, other than reactions of the air against the earth’s surface and includes balloons, whether fixed or free, airships, kites, gliders and flying machines;”
 - (b) after sub-section (2), the following sub-sections (3), (4) and (5) shall be inserted –

“(3) **“aerodrome reference point”** in relation to any aerodrome, means a designated point established in the horizontal plane at or near the geometric centre of that part of the aerodrome reserved for the departure or landing of aircraft;

“(4) **“air navigation services”** means air traffic management, communication navigation and surveillance, aeronautical information services, aeronautical chart, procedure air navigation operations, aviation meteorology and search and rescue;

“(5) **“safety oversight”** means a function by means of which ICAO Contracting States ensure effective implementation of the safety related Standards and Recommended Practices (SARPs) and associated procedures contained in the Annexes to the Convention on International Civil Aviation and related ICAO documents.”
 - (c) Sub-section (3) and (4) shall be changed to sub-section (6) and (7).

4. The expression “and any amendment which may be made thereto under the provisions of Article 94, thereof .” contained in section (4) of Myanmar Aviation Act, shall be substituted by the expression “including any annex thereto relating to international standards and recommended practices as amended from time to time.”
5. After section 4 of the Myanmar Aviation Act, the following section 4 (a) shall be inserted –
“Safety Oversight Functions
4A. The Director General of the Department of Civil Aviation or any other officer specially empowered in this behalf by the President of the Union shall perform the safety oversight functions in respect of matters specified in this Act or the rules made there under.”
6. In section 5, sub-section (2) of Myanmar Aviation Act-
 - (a) The expression “the licensing, inspection” contained in the sub-section (b) shall be substituted by the expression “the licensing, certification, inspection” and the expression “unlicensed aerodromes” shall be substituted by the expression “unlicensed or uncertified aerodromes”.
 - (b) After sub-section (g), the following shall be inserted -
 - “(ga) the licensing of persons engaged in air traffic control;
 - (gb) the certification, inspection and regulation of air navigation services or air traffic management facilities;
 - (gc) the certification, inspection and regulation of Training Organization and Aircraft Maintenance Organization;
 - (gd) the measures to safeguard civil aviation against acts of unlawful interference;”
 - (c) the expression “the safety of lives, ”contained in the sub-section(m) shall be substituted with the expression“ the safety of lives and the limitation and regulation of aircraft noise and engine emission;”
 - (d) After sub-section (q) , the following shall be inserted -
 - “(qq) the prohibition of slaughtering and flaying animals and of depositing rubbish, filth and other polluted and obnoxious matter within a radius of ten kilometers from the aerodrome reference point; and“
7. In section 5 (a) of Myanmar Aviation Act-
 - (a) The expression “make such rules as may be necessary” contained in sub-section (b) shall be substituted with the expression “make such rules, regulations and by-laws as may be necessary.”

(b) Sub-section (c) shall be substituted as follows –

“(c) For the implementation of the provision of this Act, the Ministry of Transport may issue necessary notifications, orders, directives and notices and specially empower the Director General of the Department of Civil Aviation to issue necessary notifications, orders, requirements, directives and procedures for any matters specified in clauses (aa), (b), (c), (e), (f), (g), (ga), (gb), (gc), (gd), (h), (i), (j), (m), (n), (o) and (q).”

8. The expression “accident” contained in section 7 of Myanmar Aviation Act shall be substituted with “accident or serious incident”, the expression “accidents” shall be substituted with “accidents or serious incidents.”

9. After section 8(b) of the Myanmar Aviation Act, the following section 8(c) shall be inserted-
“Power of the President to Issue Rules for Securing Safe Custody and Redelivery of Unclaimed Property

8C.(1) Subject to the provisions of section 14, the president of the Union may, by notification in the Official Gazette, issue rules aimed at securing the safe custody and re-delivery of any property which, while not in proper custody, is found on any aerodrome or in any aircraft on any aerodrome and any such rules may, in particular, provide for –

- (a) the payment of charges in respect of any such property before it is re-delivered to the person entitled thereto; and
- (b) the disposal of any such property in cases where the same is not re-delivered to the person entitled thereto before the expiration of such period as may be specified therein.”

10. Section 9(a) of Myanmar Aviation Act shall be substituted as follows-

Power of the President to Prohibit or Regulate Construction of Buildings, Planting of Trees, Etc.

“9A.(1) If the president is of opinion that it is necessary or expedient so to do for the safety of aircraft operations, he may, by notification in the Official Gazette,-

- (a) direct that no building or structure shall be constructed or erected, or no tree shall be planted on any land within such various, not exceeding ten kilometers from the aerodrome reference point, as may be specified in the notification and where there is any building, structure or tree on such land, also direct the owner or the person having control of such building, structure or tree to demolish such building or structure or, as

the case may be, to cut such tree within such period as may be specified in the notification;

- (b) direct that no building or structure higher than such height as may be specified in the notification shall be constructed or erected, or no tree, which is likely to grow or ordinarily grows higher than such height as may be specified in the notification, shall be planted, on any land within such radius, not exceeding ten kilometers from the aerodrome reference point, as may be specified in the notification and where the height of any building or structure or tree on such land is higher than the specified height, also direct the owner or the person having control of such building, structure or tree to reduce the height thereof so as not to exceed the specified height, within such period as may be specified in the notification.

(2) In specifying the radius under clause (a) or clause (b) of sub-section (1) and in specifying the height of any building, structure or tree under the said clause (b), the president shall have regard to –

- (a) the nature of the aircraft operated or intended to be operated in the aerodrome; and
- (b) the international standards and recommended practices governing the operations of aircraft.

(3) Where any notification has been issued under sub-section (1) directing the owner or the person having control of any building, structure or tree to demolish such building or structure or to cut such tree or to reduce the height of any building, structure or tree, a copy of the notification containing such direction shall be served on the owner or the person having the control of the building, structure or tree, as the case may be,-

- (a) by delivering or tendering it to such owner or person; or
- (b) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such owner or person or any adult male member of the family of such owner or person or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which such owner or person is known to have last resided or carried on business or personally worked for gain; or failing service by these means;
- (c) by post.

(4) Every person shall be bound to comply with any direction contained in any notification issued under sub-section (1).”

11. After section 9(a) of Myanmar Aviation Act, the followings shall be inserted as section 9(b)-

“Payment of Compensation

9B. If in consequence of any direction contained in an notification issued under sub-section (1) of section 9A, any person sustains any loss or damage, such person shall be paid compensation. Where the amount of compensation may be fixed by agreement, it shall be paid in accordance with such agreement,”

12. After section 11 of Myanmar Aviation Act, the following shall be inserted as sections 11(a) and 11(b) –

“Penalty for Failure to Comply with Directions Issued under Section 5A

11A. whoever willfully fails to comply with any notifications, orders, notices and directives issued under sub-section (c) of section 5A, shall be punishable with imprisonment for a term which may extend to 1 month or with fine which may extend to kyat 20,000/- or with both.

11B.(1) If any person willfully fails to comply with any direction contained in any notification issued under section 9A, he shall be punishable with fine.

(2) Without prejudice to the provisions of sub-section (1), if any person fails to demolish any building or structure or cut any tree or fails to reduce the height of any building, structure or tree in pursuance of any direction contained in any notification issued under sub-section (1) of section 9A within the period specified in the notification, then, subject to such rules as the president may make in this behalf, is shall be competent for any officer authorized by the president in this behalf to demolish such building or structure or cut such tree or reduce the height of such building, structure or tree: Provided that the power to make rules under this sub-section shall be subject to the provisions of section 14.”

13. After section 16 of Myanmar Aviation Act, the followings shall be inserted as sections 16(a) and 16(b)-

“16A. The President of the Union of Myanmar may delegate to the Ministry of Transport the power to grant the permission for import or export of aircraft and its spares, tools or equipment without the need to obtain an import or export license.

16B. The President of the Union of Myanmar may exempt or relieve from import duties and other taxes in respect of aircraft and its spares, tools or equipment, subject to compliance with the customs regulations.”

*CONVENIENCE TRANSLATION – for further
information, contact info@pwplegal.com*



I hereby sign according to the Republic of the Union of Myanmar.

(Sign) Thein Sein
The President
The Republic of the Union of Myanmar