



REPUBLIC OF THE UNION OF MYANMAR
MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY
UNION MINISTER'S OFFICE

Annex A:
Proposed Licensing Rules

November 4, 2013



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PART I. PRELIMINARY

1. Citation

These Rules shall be cited as the “Licensing Rules of the Republic of the Union of Myanmar, 2013.”

2. Objectives

The objectives of these Licensing Rules are to:

- a) Promote competition and liberalization of the telecommunications market in the Republic of the Union of Myanmar;
- b) Ensure transparency in licensing application, award and administration processes;
- c) Establish a technology- and service-neutral approach to licensing, to the greatest extent possible; and
- d) Ensure non-discriminatory treatment of similarly situated licensees.

3. Scope

These Licensing Rules set forth:

- a) The framework for the licensing of telecommunications networks and services;
- b) The authorized activities, rights and obligations pursuant to the telecommunications networks and services Licenses;
- c) Overview of authorizations to scarce resources for licensees of telecommunications networks and services;
- d) Monitoring and enforcement mechanisms for licensees of telecommunications networks and services; and
- e) Transitional provisions from the current licensing regime to the framework specified under these Licensing Rules.

4. Application

These Rules apply to those Persons requiring a License from the Department, including for the provision or operation of Telecommunications Services and Telecommunications Equipment, in the Republic of the Union of Myanmar.

5. Interpretation

Headings and titles used in these Rules are for reference only and shall not affect the interpretation or construction of these Rules.

The terms below shall have the following meanings for purposes of these Rules only. To the extent that a term is capitalized in these Rules and not defined below, the term is defined in the Telecommunications Law.



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- a) "Applicable Regulatory Framework" means the rules, regulations, orders, directives, instructions, codes, procedures, and directions issued by the Ministry or Department.
- b) "Application" means the form and procedure for obtaining or renewing a Network Facilities Service (Individual), Network Service License or a Telecommunications Equipment License.
- c) "Application Service" means a service provided by using one or more networks.¹ This expression does not include service[s] provided solely on the customer side of the network boundary.
- d) "Days" means calendar days.
- e) "Department" means Posts and Telecommunications Department under the Ministry of Communications and Information Technology of the Union Government.
- f) "Dominant Licensee" means a situation in which an enterprise, either individually or jointly with others, enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors and consumers;
- g) "End User" means a business or an individual, other than an Other Licensee, to whom a Licensee provides a Telecommunications Service.
- h) "Foreign Person" means a Person who is not a citizen of the Republic of the Union of Myanmar. The said expression also includes an economic organization formed with foreign investment only.
- i) "Information" means data, texts, images, sounds, codes, signs, signals and any collection of data or any combination thereof.
- j) "Internet Content Application" means an application that allows End Users to access, send or share Information through a connection to the Internet or uses an Internet browser to accomplish one or more tasks over a network. This may also be referred to as an "over-the-top" application.
- k) "International Gateway Service" means the construction and operation of a Network Facility for the provision of Telecommunications Services that enables international communications and connectivity between the Republic of the Union of Myanmar and one or more foreign points.
- l) "License" means the Service License and Telecommunications Equipment license issued to any person, department or organization in pursuant to the Telecommunications Law.
- m) "License Category" means a Network Facilities Service (Individual), Network Facilities Service (Class), Network Service or Application Service License.
- n) "Licensee" means a Person that holds a Telecommunications Service License and/or Telecommunications Equipment License issued by the Department.

¹ The term "Application Service" does not refer to Internet Content Applications, which are not regulated or licensed under the Licensing Rules.



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- o) "Licensing Framework" means the basic structure and principles for the licensing of Telecommunications Services and Telecommunications Equipment in the Republic of the Union of Myanmar.
- p) "Ministry" means Ministry of Communications and Information Technology of the Union Government.
- q) "Network Facility" means any element or combination of such elements of physical infrastructure which is used for the provision of network services.
- r) "Network Facilities Service" means a service of leasing any network facility or part of the facility to a licensee[s] of a service license, by keeping any kind of network facility in his possession, or provision of any communications service on the facility by him/herself.
- s) "Network Service" means a service for transmission and reception of information by any means of communications. This expression does not include services provided solely on the customer side of the network boundary.
- t) "Other Licensee" means a Person, other than the Licensee, that holds a Telecommunications Service License or other License issued by the Department.
- u) "Person" means any individual, legal entity or governmental body.
- v) "Registration" means a simplified licensing application process used for obtaining an Application Service or Network Facilities Services (Class) License.
- w) "Relevant Revenue" means the sum of:
 - i. the portion of the revenue that the Licensee receives from the provision of Telecommunications Services to End Users and to Other Licensees minus payments that the Licensee makes to Other Licensees for interconnection, access or wholesale services that the Licensee uses to provide those services; and
 - ii. the revenue that the Licensee receives from the sale and/or leasing of Telecommunications Equipment to End Users.
- x) "Telecommunications" means a transmission or reception of information in its original or modified form by wire, fiber optic cable or any conducting cable, or by means of radio, optical or any other forms of electromagnetic transmission.
- y) "Telecommunications Equipment" means telecommunications equipment specifically set out by the Ministry in order to support the Telecommunications Law.
- z) "Telecommunications Law" means the Telecommunications Law 2013 enacted by the Union Parliament and signed by the President of the Republic of the Union of Myanmar.
- aa) "Telecommunications Network" means a network of communication facilities, telecommunications equipment, computers, and devices similar to a computer, and any peripherals used in conjunction with any or more of the above, by means of any forms of wired or wireless communications technology.
- bb) "Telecommunications Service" means provision of Network Facilities Service, Network Service, or Application Service, or provision of more than one of those services.



PART II. FRAMEWORK FOR LICENSING TELECOMMUNICATIONS NETWORKS AND SERVICES

6. General licensing framework

Subject to Chapter III of the Telecommunications Law and Sections 10 and 11 below, these Licensing Rules establish a multi-service licensing framework to simplify licensing processes, encourage entry and expansion of services, and increase End User access to Telecommunications Networks and Telecommunications Services.

- a) Pursuant to Section 7 below, a Person shall generally apply for only one License Category. An Application form or Registration form shall identify the License Category of Telecommunications Services that the Applicant seeks to offer within the scope of activities permitted under that License Category.
- b) Where the Application or Registration is granted and the Licensee subsequently seeks to offer new or additional Telecommunications Services:
 - i. A Network Facilities Service (Individual) Licensee or Network Service Licensee must obtain written approval from the Department before additional services are offered to End Users or to an Other Licensee under the Licensee's existing License.
 - ii. A Network Facilities Service (Class) Licensee or Application Service Licensee must provide notification to the Department to offer additional services under the Licensee's existing License.
- c) The Department will update the Licensee's License to reflect the new and/or additional Telecommunications Services that the Licensee may offer.

7. Hierarchical basis

Pursuant to Part III of these Licensing Rules, this Licensing Framework is structured on a hierarchical basis whereby a Person shall generally be issued and hold only a single License.

- a) The Network Facilities Service License (Individual) (hereafter referred to as the NFS(I) License) is at the highest hierarchical level and permits Licensees holding this authorization to engage in all activities authorized by the NFS(I) License, Network Facilities (Class) License, Network Service License and Application Service License. NFS(I) Licensees shall not be required to apply for or register for any other Licenses issued under this Licensing Framework.
- b) The Network Facilities Service (Class) License (hereafter referred to as the NFS(C) License) permits Licensees to engage in only those activities authorized by the NFS(C) License unless the Licensee holding this authorization also applies for and obtains another Telecommunications Service License. An NFS(C) Licensee may apply for and obtain a Network Service or Application



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Service License, and would subsequently hold a maximum of two (2) Telecommunications Service Licenses.

- c) The Network Service License (hereafter referred to as the NS License) permits Licensees to engage in all activities authorized by the NS License and the Application Service License, but does not permit such Licensees to engage in activities authorized by the NFS(I) License or NFS(C) License. An NS Licensee may apply for and obtain an NFS(C) License, and would subsequently hold a maximum of two (2) Telecommunications Service Licenses. If an NS Licensee applies for and obtains an NFS(I) License, then the NFS(I) License would replace the NS License.
- d) The Application Service License (hereafter referred to as the AS License) permits Licensees to engage in only those activities authorized by the AS License. An AS Licensee may apply for and obtain an NFS(C) License, and would subsequently hold a maximum of two (2) Telecommunications Service Licenses.
- e) In instances where an NFS(C) Licensee, NS Licensee, AS Licensee or holder of a combination of these Licenses, seeks to expand its scope of activities to another License Category, such Licensee must submit an Application or Registration to the Department pursuant to Section 20 of these Licensing Rules.
 - i. For an NS Licensee, a newly awarded NFS(I) License would replace the NS License, which is revoked. For an NS Licensee, a newly awarded NFS(C) License would be granted in addition to the NS License.
 - ii. For an AS Licensee, a newly awarded NS License or NFS(I) License would replace the AS License, which is revoked. For an AS Licensee, a newly awarded NFS(C) License would be granted in addition to the AS License.
 - iii. For an NFS(C) Licensee, a newly awarded NFS(I) License would replace the NFS(C) License, which is revoked. For an NFS(C) Licensee, a newly awarded NS License or AS License would be granted in addition to the NFS(C) License.

8. Licensed activities

- a) Subject to Chapter I, Chapter III and Chapter XIX of the Telecommunications Law, a License is required to offer Network Facilities Services, Network Services and Application Services, unless exempted by the Law or by the Ministry. The Ministry has authority to exempt certain Persons or class of Persons from obtaining a relevant License, based on transparent and objective criteria and subject to public consultation.
- b) Subject to Chapter IV and Chapter VI of the Telecommunications Law, the Department or Ministry may issue other Licenses and/or assignments, including Telecommunications Equipment Licenses or Spectrum Licenses, according to the Applicable Regulatory Framework.
- c) Operation of a Telecommunications Network or the provision of Telecommunications Services may require a Licensee under these Rules to also obtain an additional, separate authorization per paragraph 8(b) above. See Sections 37 and 38 of these Rules and the Applicable Regulatory Framework, particularly the Numbering Rules and the Spectrum Rules.



9. License-exempt activities

- a) The Ministry reserves the right to exempt any Telecommunications Service(s) from licensing obligations. Any decision to declare a Telecommunications Service as license-exempt shall be made on a transparent and objective basis and subject to public consultation.
- b) Pursuant to Section 82 of the Telecommunications Law, the Ministry reserves the right to exempt any government department, organization or person from licensing obligations, subject to Union Government approval.

10. General licensing procedures for Network Facilities Service (Individual) and Network Service Licenses

Pursuant to Chapter III of the Telecommunications Law, an Application for an NFS(I) License or NS License shall require a relatively high degree of regulatory control and may include special conditions than for an NFS(C) License or AS License.

- a) Application forms.
 - i. The NFS(I) License and NS License shall be applied for through a standard Application form and submitted to the Department.
 - ii. An applicant must determine the appropriate License Category for the activities in which it intends to engage and complete all information contained in the Application that is associated with the relevant License Category prior to submitting the Application to the Department.
 - iii. Application forms shall be standardized and made publicly available on the Department's website.
- b) Information and fee required.
 - i. The required information to be provided in an Application will be published by the Department, and may be changed from time to time as is reasonably necessary to ensure the Department and Ministry possess adequate information to make informed decisions.
 - ii. The standard Application form shall contain the same information requirements for all License applicants within the same License Category.
 - iii. The License applicant shall pay an application fee, as determined by the Ministry to recover administration costs, unless exempt by these Licensing Rules.
- c) If the Department or Ministry has reason to believe that the information provided in a submitted Application is not complete or accurate, the Department shall provide written notice to the applicant of any deficiencies or further information that is required to process that Application. The applicant may then amend its Application form to correct any issues identified by the Department and resubmit it
- d) Where an Application requires remedy of any deficiencies or further information, the applicant must amend its Application to correct any issues identified by the Department and resubmit it within thirty (30) days of receiving written notice. An applicant's failure to respond within thirty (30) days may result in rejection of the Application.



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- e) Within sixty (60) days of receiving an Application form for an NFS(I) License or NS License deemed to be complete and accurate, the Department and Ministry shall complete their review of the Application.
- f) If the review of a complete and accurate Application is expected to exceed sixty (60) days, the Department shall provide written notice to the applicant explaining the reason(s) for delay. The notice shall include an expected date for completion of the Application review and decision.
- g) Once review of the Application is completed, the Department shall notify the applicant in writing whether the Application is approved or denied.
 - i. If an Application is approved, the Department shall notify the applicant in writing of the applicable fees the Applicant must pay to be issued the NFS(I) License or NS License.
 - ii. If an Application is denied, denial of such Application must be based on objectively justifiable reasons and the Department shall provide the reasons for such denial in writing. The applicant may reapply, subject to submission of a new Application and new Application Fee.
- h) NFS(I) License and NS License shall be issued on a non-exclusive basis and there shall be no pre-determined number of these Licenses. Any decision to limit the number of NFS(I) Licenses or NS Licenses issued shall be based on justifiable reasons, such as scarce resource constraints. A decision to limit the number of NFS(I) Licenses or NS Licenses shall be subject to public consultation.
- i) Licenses for scarce spectrum resources assigned by the Department must be applied for separately from the Application for an NFS(I) License under these Rules; the NFS(I) License does not guarantee access to scarce resources.
- j) Allocations for numbers must be applied for separately from the Application for an NFS(I) License or NS License under these Rules, pursuant to the Numbering Rules.

11. General licensing procedures for Application Service and Network Facilities Services (Class) Licenses

Pursuant to Chapter III of the Telecommunications Law, a Person applies for an AS License or NFS(C) License to the Department through Registration, which involves a simpler process than an Application for an NFS(I) or NS License.

- a) Registration forms.
 - i. The AS License and NFS(C) License shall be applied for through a standard Registration form and submitted to the Department.
 - ii. An applicant must determine the appropriate License Category for the activities in which it intends to engage and complete all information contained in the Registration that is associated with the relevant License Category prior to submitting the Registration to the Department.
 - iii. Registration forms for the AS License and the NFS(C) License shall be standardized and made publicly available on the Department's website.
- b) Information and fee required.



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- i. The required information to be provided in a Registration form will be published by the Department, and may be changed from time to time as is reasonably necessary to ensure the Department and Ministry possess adequate information to make informed decisions.
 - ii. The standard Registration forms shall contain the same information requirements for all License applicants within the same License Category.
 - iii. Except where exempted by these Licensing Rules, the License applicant shall pay a Registration fee, as determined by the Ministry to recover administration costs, upon submission of a Registration form.
- c) Upon written submission of a complete, accurate and signed Registration form and payment of applicable fees to the Department, any Person satisfying the qualification criteria set out in the Registration form shall receive the AS License or NFS(C) License for which such Person applied.
- d) Registration for an AS License or NFS(C) License shall not be effective in instances where:
- i. The Person does not satisfy all qualification criteria set out in the Registration form.
 - ii. The Registration form is incomplete, inaccurate or not signed; or
 - iii. The Person has not paid the applicable fees.
- e) If the Department or Ministry has reason to believe that the information provided in a submitted Registration is not complete or accurate, the Department shall provide written notice to the applicant of any deficiencies or further information that is required to process that Registration. The applicant may then amend its Registration form to correct any issues identified by the Department and resubmit it.
- f) In the event that the Department requests further information, the applicant should submit the requested information promptly. An applicant's failure to respond within thirty (30) days may result in rejection of the Registration.
- g) Within thirty (30) days of receiving a Registration form for an NFS(C) License or AS License deemed to be complete and accurate, the Department shall complete its review of the Registration.
- h) If the review of a Registration is expected to exceed thirty (30) days, the Department shall provide written notice to the applicant explaining the reason(s) for delay. The notice shall include an expected date for completion of the Registration review and decision.
- i) Once review of the Registration is completed, the Department shall issue the relevant License if the Registration is approved. If a Registration is denied, denial of such Registration must be based on objectively justifiable reasons and the Department shall provide the reasons for such denial in writing. The applicant may reapply, subject to submission of a new Registration and new Registration Fee.
- j) There shall be no limit to the number of AS Licenses or NFS(C) Licenses issued.



12. Special licensing procedures

Pursuant to Section 8(b) and 8(d) of the Telecommunications Law , an Application or Registration form submitted by a Foreign Person or an Application submitted to offer International Gateway Services must be approved by the Union Government. Where Union Government approval is required for review of an Application or Registration form, the relevant procedures set out in Section 10 and Section 11 above shall apply, but with the following conditions:

- a) For an Application for an NFS(I) License or an NS License, the period for awarding or denying an Application shall be ninety (90) days. If the review of an Application is expected to exceed ninety (90) days, the Department shall provide written notice to the applicant explaining the reason(s) for delay. The notice shall include an expected date for completion of the Application review.
- b) For a Registration for an AS License or NFS(C) License, the period for awarding or denying a Registration shall be sixty (60) days. If the review of a Registration is expected to exceed sixty (60) days, the Department shall provide written notice to the applicant explaining the reason(s) for delay. The notice shall include an expected date for completion of the Registration review.

13. Operation of Telecommunications Equipment

Network Facilities and Telecommunications Equipment operated pursuant to any Telecommunications Service License may be subject to technical standards requirements per Chapter VIII of the Telecommunications Law.

14. Amendments to the Licensing Rules

Pursuant to Section 88 of the Telecommunications Law, the Ministry and Department reserves the right to amend these Licensing Rules, as needed to achieve the Objectives set forth in the Telecommunications Law and the Applicable Regulatory Framework. Any proposed changes to the Licensing Rules shall be subject to an open public consultation process.

PART III. AUTHORIZED ACTIVITIES OF LICENSED NETWORK FACILITIES AND SERVICES

15. Network Facilities Service (Individual) License

- a) Persons seeking to engage in activities authorized by the NFS(I) License must apply for a License according to Section 10 and Section 12 (if applicable) of these Rules.
- b) An NFS(I) License authorizes the Licensee to:
 - i. Construct, maintain and operate Network Facilities;
 - ii. Lease all or part of the Licensee's network to an Other Licensee; and
 - iii. Provide any type of public or private Telecommunications Services, whether on an international or national level, to the public and/or to an Other Licensee holding a valid NFS(C) License, NS License or AS License.



- c) The activities authorized by the NFS(I) License include, but are not limited to, the construction, maintenance and operation of and the provision of Telecommunications Services over:
 - i. Terrestrial fixed line transmission facilities;
 - ii. Terrestrial radio transmission facilities;
 - iii. Mobile base station facilities;
 - iv. Submarine cable facilities;
 - v. International Gateway Services facilities;
 - vi. Satellite earth station facilities; and
 - vii. Other satellite facilities located in Myanmar providing capabilities for transmission of telecommunications services.
- d) The NFS(I) License is technology- and service-neutral.

16. Network Facilities Service (Class) License

- a) Persons seeking to engage in activities authorized by the NFS(C) License must apply for a License according to Section 11 and Section 12 (if applicable) of these Rules.
- a) An NFS(C) License authorizes the Licensee to construct, deploy and maintain passive Telecommunications Network infrastructure and to lease such infrastructure to an NFS(I) Licensees and/or to construct, deploy and maintain a Telecommunications Networks solely for the self-provision of telecommunications.
- b) The activities authorized by the NFS(C) License relating to the deployment and maintenance of any type of passive network infrastructure for civil engineering and non-electronic elements, include but are not limited to:²
 - i. Towers;
 - ii. Masts;
 - iii. Ducts;
 - iv. Trenches;
 - v. Poles; and
 - vi. Dark fiber.

² A Person is not required to obtain a telecommunications service license if: (i) not deploying or operating network facilities on its side of the network boundary, but is instead purchasing private line telecommunications services from a duly authorized License; (ii) such services are capable of providing for the Person's internal communications only and do not interconnect with a public network; and (iii) the Person is not offering access to its private line telecommunications to a third party



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- c) The activities authorized by the NFS(C) relating to the deployment and maintenance of Telecommunications Networks and the self-provision of Telecommunications Services used solely for internal communications are limited to:
 - i. Network infrastructure that only permits internal/intra-organizational communications and does not provide interconnection with any other network, whether public or private; and
 - ii. Closed user group telecommunications services that are not offered or provided to any other Person.
- d) The Ministry may determine that other types of Network Facilities Services are subject to the Class License, subject to public consultation.
- e) The NFS(C) License is technology-neutral.

17. Network Service License

- a) Persons seeking to engage in activities authorized by the NS License must apply for a License according to Section 10 and Section 12 (if applicable) of these Rules.
- b) An NS License authorizes the Licensee to lease transmission capacity directly from an NFS(I) licensee and/or an Other Licensee in order to provide all public and private Telecommunications Services, whether on an international or national basis, to End Users and/or to an Other Licensee.
- c) An NS License authorizes the Licensee to provide all services that are authorized by the NS License and the AS License.
- d) An NS License does not authorize the Licensee to construct, maintain and operate a Telecommunications Network Facility, except for switches, routers and processing equipment necessary to provide the licensed service(s).
- e) The types of activities authorized by the NS License generally include Telecommunications Services that require leasing international transmission capacity and/or access to numbers pursuant to the Numbering Rules.
- f) An NS Licensee is not authorized to engage in activities requiring scarce spectrum resources assigned by the Department.³
- g) The activities authorized by the Network Service License include, but are not limited to, the provision of the following telecommunications services:
 - i. Resale of wireline connectivity services;
 - ii. Resale of terrestrial wireless connectivity services;
 - iii. International and domestic network transport and switching services; and

³ The NS License permits the Licensee to use spectrum resources that are not assigned by the Ministry, such as spectrum in "unlicensed" frequency bands.



- iv. Resale of International Gateway Services.
- h) The Network Service License is technology- and service-neutral.

18. Application Service License

- a) Persons seeking to engage in activities authorized by the AS License must apply for a License according to Section 11 and Section 12 (if applicable) of these Rules.
- b) An AS License authorizes the Licensee to lease transmission capacity directly from an NFS(I) licensee and/or an Other Licensee in order to provide public and private Telecommunications Services on a national basis, to End Users and/or to an Other Licensee.
- c) An AS License authorizes the Licensee to provide only those services that are authorized by the AS License.
- d) An AS License does not authorize the Licensee to construct, maintain and operate telecommunications network facilities and infrastructure, except for switches, routers and processing equipment necessary to provide the licensed service(s), or to offer Telecommunications Services on an international basis, or to offer Telecommunications Services requiring telephone numbers or scarce spectrum resources assigned by the Department.⁴
- e) The activities authorized by the AS License include, but are not limited to, the provision of the following Telecommunications Services:
 - i. Public payphone services;
 - ii. Public switched data services;
 - iii. Audiotext hosting services provided on an opt-in basis;
 - iv. Directory services;
 - v. Internet service provider services;
 - vi. Public access center services;
 - vii. Messaging services;
 - viii. Private line voice and/or data services;⁵ and
 - ix. Value-added services.
- f) The AS License is technology- and service-neutral.

PART IV. GENERAL RIGHTS AND OBLIGATIONS OF TELECOMMUNICATIONS SERVICE LICENSEES

⁴ The AS License permits the Licensee to use spectrum resources that are not assigned by the Ministry, such as spectrum in “unlicensed” frequency bands.

⁵ This includes the leasing of capacity to provide Wide Area Network services to third parties on a commercial basis.



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19. License duration

All Telecommunications Service Licenses issued under these Rules shall be issued for a period of fifteen (15) years.

20. Provision of additional capabilities

Pursuant to Section 6 of these Rules, any Telecommunications Service Licensee that intends to provide additional networks or services under its existing License shall notify the Department in writing. At the time of submitting the notification, the Licensee shall also submit a fee equal to half of the Application or Registration fee associated with the License.

- a) The written notification shall describe the additional activities that the Licensee seeks to offer and shall demonstrate that the Licensee can satisfy any additional conditions and/or obligations associated with the provision of the additional activities.
- b) For activities falling under an NFS(I) License or NS License, the Department shall notify the Licensee in writing within thirty (30) days whether the Licensee may offer the additional services within the scope of its existing License.
- c) For activities falling under an AS License or NFS(C) License, the Licensee may begin engaging in the additional activities permitted within the scope of its existing License upon submission of the notification. The Department shall notify the Licensee in writing within thirty (30) days if the notification to engage in additional activities is rejected.
- d) In instances where the Department rejects the notification to engage in additional activities, the Department's written notice shall specify reasons for such rejection and afford the Licensee an opportunity to re-submit the notification.
- e) If the provision of additional services is denied, additional services must not be provided, or in the case of an AS or NFS(C) License, engagement in new activities must cease.

21. License renewal

Subject to the renewal process specified in Section 8 and Section 12 of the Telecommunications Law, a Licensee may request renewal of its relevant License by submitting a written request to the Department.

- a) Any request for renewal shall be made no more than twenty-four (24) months and no less than twelve (12) months prior to the License expiry date.
- b) Upon receiving a request for renewal, and unless the Department and the Licensee agree otherwise, the Department shall renew the relevant License on the same or substantially similar terms, and for the same duration as the initial License period, if the Licensee has substantially complied with:
 - i. The Telecommunications Law;
 - ii. All applicable legislation, rules, regulations and other applicable decisions issued by the Department and
 - iii. The terms, conditions and obligations contained in the License.
- c) The Licensee may request subsequent renewals.



22. Refusal to renew License

Where the Department refuses to grant an Application to renew a License, the Department shall provide written notice to the Licensee. Such notice shall:

- a) State the reasons for refusal to renew the License, which may be based on;
 - i. Failure to comply with any of the duties of a Licensee specified in the Telecommunications Law;
 - ii. Any decision made by the Department pursuant to Chapter XI of the Telecommunication Law relating to anti-competitive conduct;
 - iii. Any decision made by the Department pursuant to Chapter XIV of the Telecommunications Law involving a dispute resolution regarding:
 - a. The operation and provision of Telecommunications Services or
 - b. Access and interconnection.
 - iv. Pursuant to Section 58, Chapter XVI and Chapter XVII of the Telecommunications Law, any decision made by the Ministry following an appeal of a decision made by the Department; or
 - v. Any term, condition or obligation contained in its License
- b) Provide the Licensee a reasonable opportunity to remedy any defect identified by the Department and resubmit the Application to renew; and
- c) Be provided to the Licensee within six (6) months of receiving the Application to renew.

23. Transfer or assignment of License

Prior to transferring control of operations or assigning any right, interest, entitlement or obligation under its relevant License to another Person, a Licensee must apply in writing to the Department and obtain prior written approval.

24. License modification

The Department may modify a License:

- a) At the request, or with the consent, of the Licensee;
- b) In order to be consistent with, and comply with any requirement contained in any applicable legislation, rules, regulations, notifications and other applicable decisions issued by the Department, as they may be amended from time to time;
- c) If the Department, pursuant to applicable legislation, rules, regulations, notifications and other applicable decisions issued by the Ministry or Department, concludes that doing so is necessary in the public interest; or
- d) If the Department, following an administrative action, determines that the Licensee has failed to comply with any applicable legislation, rules, regulations, notifications and other applicable decisions issued by the Department or the terms, conditions and obligations contained in the relevant License.



25. License suspension or termination

Pursuant to Section 57 of the Telecommunications Law and any other applicable legislation, rules or regulations, the Department may suspend or terminate a License if the Department, following an administrative action, determines that the Licensee has failed to comply with:

- a) Any of the duties of a Licensee specified in the Telecommunications Law;
- b) Any decision made by the Department pursuant to Chapter XI of the Telecommunication Law relating to anti-competitive conduct;
- c) Any decision made by the Department pursuant to Chapter XIV of the Telecommunications Law involving a dispute resolution regarding:
 - i. The operation and provision of Telecommunications Services or
 - ii. Access and interconnection.
- d) Pursuant to Section 58 of the Telecommunications Law, any decision made by the Ministry following an appeal of a decision made by the Department, if the Licensee declined to submit an appeal to the Appeal Tribunal pursuant to Chapter XVII of the Telecommunications Law;
- e) Any decision made by the Appeal Tribunal pursuant to Section 62 of the Telecommunications Law; or
- f) Any term, condition or obligation contained in its License.

26. License surrender

- a) A Person holding an NFS(I) License or NS License may only surrender the respective License with the prior written approval of the Department.
 - i. The NFS(I) License or NS License holder shall submit a written request to surrender the relevant License to the Department at least one hundred eighty (180) days in advance of the date on which the Licensee proposes to surrender this License.
 - ii. If the Department agrees to the surrender of the NFS(I) License or NS License, the License holder shall make such reasonable efforts as the Department may require to transition affected End Users to alternative providers of Telecommunications Services.
- b) A Person holding an AS License or NFS(C) License may surrender the relevant License by providing prior written notification to the Department at least ninety (90) days prior to the planned surrender of the License. An AS License or NFS(C) License holder shall make such reasonable efforts as the Department may require to transition affected End Users to alternative providers of Telecommunications Services.

27. Fees

- a) Where applicable, the Licensee shall pay to the Ministry the fees as may be set by the Ministry pursuant to the Telecommunications Law and these Rules. Such fees shall include:
 - i. An Application fee or Registration fee with the submission of the relevant Application or Registration;



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- ii. An initial License fee payable before the License is issued;
 - iii. An annual regulatory fee based on a percentage of Relevant Revenues;
 - iv. A Renewal fee;
 - v. A fee to provide additional services; and
 - vi. Other fees as determined by the Ministry.
- b) Subject to Section 15, Section 81 and Section 82 of the Telecommunications Law, as well as to other relevant legislation and the Applicable Regulatory Framework, the Ministry shall set fees that will be applied consistently and in a non-discriminatory manner to all similarly situated Licensees. Fees shall be based on the Department's administrative costs.
- c) Any fees applicable for Telecommunications Service Licenses shall be set forth in a Fee Schedule.
- d) The Ministry shall conduct a fee review process every three years that shall be subject to public consultation. After conclusion of the public consultation, the Ministry shall publish a revised Fee Schedule.
- e) The Ministry reserves the right to exempt from payment of fees certain Licensees or class of Licensees or certain types of Licenses or class of Licenses. Such exemptions must be based on transparent and objective criteria, and shall be subject to public consultation.

28. Non-payment of fees

Pursuant to Section 81 of the Telecommunications Law, unless a Licensee has an accepted justification:

- a) A Licensee's failure to pay any fee due to the Ministry within thirty (30) days of the date on which the payment is due shall pay to the Ministry interest, retroactive to the date on which the payment was due, at a rate to be specified by the Ministry based on the then-prevailing commercial lending rate in the Republic of the Union of Myanmar.
- b) If the Licensee willfully or repeatedly fails to pay any fee (or make other payment) due to the Ministry within thirty (30) days of the date on which the payment is due, the Ministry may initiate an enforcement action pursuant to Section 43 of these Rules and any other relevant legislation or rules.

29. Codes of practice, notifications, orders, directives, instructions and procedures

Subject to Section 15 and Section 83 of the Telecommunications Law, the Ministry and Department are authorized to issuing any code of practice, notification, order, directive, instruction or procedure to implement these rules or provide guidance to providers of Telecommunications Services regarding activities not covered by other rules or regulations.

- a) Prior to issuing any code of practice, notification, order, directive, instruction or procedure that may affect the Licensee, notice and a reasonable opportunity for the public to comment shall be provided.
- b) Any code of practice, notification, order, directive, instruction or procedure shall be made publicly available, and shall contain a reasonable explanation regarding the factual and legal basis on which the code of practice, notification, order, directive, instruction or procedure rests.



PART V. SPECIFIC RIGHTS AND OBLIGATIONS OF TELECOMMUNICATIONS SERVICE LICENSEES

30. Obligations for Dominant Licensees

The Department may impose specific obligations on those Licensees determined to be Dominant Licensees pursuant to a review of the relevant market and subject to the Telecommunications Law, other relevant legislation and the Applicable Regulatory Framework, particularly the Competition Rules.

31. Types of specific obligations applicable to Dominant Licensees

Subject to relevant legislation and the Applicable Regulatory Framework, including the Interconnection and Access Rules, the types of specific obligations conditions to which the Department may subject a Dominant Licensee include, but are not limited to:

- a) Access and interconnection;
- b) Infrastructure sharing;
- c) Domestic and/or international roaming;
- d) Use of cost-oriented pricing and tariff obligations
- e) Use of approved standards and apparatus; and
- f) Provision of universal service.

32. Access to private property

Subject to the protections afforded in Chapter XIII of the Telecommunications Law, an NFS(I) Licensee or NFS(C) Licensee may enter private property for the purpose of installing or repairing Network Facilities.

33. Access to public rights-of-way

An NFS(I) Licensee or NFS(C) Licensee may gain access to public rights-of-way where necessary and practicable. Before doing so, the Licensee shall obtain any approval required by law.

- a) Where a Licensee seeks access to public rights-of-way, such Licensee shall notify the Department and may request the Department's assistance.
- b) When deploying a Network Facility under, on or above public rights of way, the Licensee shall take all reasonable measures to:
 - i. Avoid causing injury to any Person or damage to public property and
 - ii. Minimize any obstruction to public travel on roads, railway, waterways and by air.

34. Provision of directory and directory enquiry services

Subject to relevant legislation and the Applicable Regulatory Framework, a Licensee that has been assigned Numbers under the Telecommunications Numbering Plan:



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- a) May publish Directories and provide Directory Enquiry Service. If the Licensee chooses to do so, the Licensee shall provide End Users with the option to be excluded, at no charge, from any Directory and Directory Enquiry Service that the Licensee chooses to provide.
- b) Shall maintain a complete and accurate database of its End Users' numbers and make that data (including and clearly identifying numbers that End Users have asked be excluded from Directories and Directory Enquiry Services) available on reasonable terms and conditions to any Other Licensees designated by the Department that seek to provide Directories and Directory Enquiry Services.

35. Provision of public emergency call services

Subject to relevant legislation and the Applicable Regulatory Framework, a Licensee that has been assigned numbers under the Telecommunications Numbering Plan shall:

- a) Make available to any End Users, free of charge, access to any national emergency number specified in the Telecommunications Numbering Plan from Telecommunications Equipment used in conjunction with the Licensee's network and
- b) Comply with other technical and other requirements relating to the provision of emergency call services as the Department may adopt.

36. Consumer protection obligations

Subject to Chapter IX of the Telecommunications Law and relevant rules, Licensees shall

- a) Establish standardized contracts with subscribers;
- b) Provide subscribers detailed and accurate billing;
- c) Make available to subscribers a fair and transparent a dispute resolution procedure;
- d) Publish service access conditions, including tariffs and quality of service; and
- e) Provide specific, written protections to subscribers relating to personal data and information privacy.

PART VI. OTHER AUTHORIZATIONS

37. Telecommunications Equipment License

Pursuant to Chapter IV of the Telecommunications Law, the Ministry may develop a list of Telecommunications Equipment that requires a Telecommunications Equipment License to be obtained before such equipment can be possessed or used by an End User.

- a) The list of Telecommunications Equipment requiring a Telecommunications Equipment License shall be set forth in a schedule.
- b) Any further Telecommunications Equipment may only be subject to a Telecommunications Equipment License after conducting a public consultation process. Such equipment will generally be subject to a Telecommunications Equipment License where there is a high likelihood of harmful interference and/or it is in the national security and public interest.



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- c) Any public consultation process to determine if a type of Telecommunications Equipment should be notified will include:
 - i. The proposed terms and conditions of such License(s); and
 - ii. The proposed duration of such License(s).
- d) The general terms, conditions and duration of a Telecommunications Equipment License shall be the same for all Licensees who desire to also use previously notified and licensed Telecommunications Equipment.
- e) The following types of equipment are exempt and do not require a Telecommunications Equipment License:
 - i. Telecommunications Equipment that is possessed and used by a Telecommunications Service Licensee for the Licensee's own operations and services; and
 - ii. Telecommunications Equipment that is leased by an End User from a Licensee.
- f) Authorization Process
 - i. A standard Registration for a Telecommunications Equipment License shall be submitted to the Department.
 - ii. The required information to be provided in a Registration form will be published by the Department, and may be changed from time to time as is reasonably necessary to ensure the Department possesses adequate information to make informed decisions.
 - iii. The standard Registration form shall contain the same information requirements for all Telecommunications Equipment License applicants.
 - iv. The License applicant shall pay a Registration fee, as determined by the Ministry to recover administration costs, upon submission of a Registration form.
 - v. Upon written submission of a complete, accurate and signed Registration form and payment of any applicable fee to the Department, any Person satisfying the qualification criteria set out in the Registration form shall receive the Telecommunications Equipment License.
 - vi. If the Department has reason to believe that the information provided in a submitted Registration is not complete or accurate, the Department shall provide written notice to the applicant of any deficiencies or further information that is required to process that Registration. The applicant may then amend its Registration form to correct any issues identified by the Department and resubmit it.
 - vii. In the event that the Department requests further information, the applicant should submit the requested information promptly. An applicant's failure to respond within thirty (30) days may result in rejection of the Registration.
 - viii. Within thirty (30) days of receiving a Registration form for a Telecommunications Equipment License deemed to be complete and accurate, the Department shall complete its review of the Registration.



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- ix. Once review of the Registration is completed, the Department shall issue the Telecommunications Equipment License if the Registration is approved. If a Registration is denied, denial of such Registration must be based on objectively justifiable reasons and the Department shall provide the reasons for such denial in writing. The applicant may reapply, subject to submission of a new Registration and new Registration Fee.
 - x. There shall be no limit to the number of Telecommunications Equipment Licenses issued.
- g) Pursuant to Chapter IV and Chapter V of the Telecommunications Law, a holder of a Telecommunications Equipment License shall:
- i. Possess and use the Telecommunications Equipment only in the location permitted in the license;
 - ii. Take measures to prevent any interference into the State's security;
 - iii. Follow the directions of the Department in relation to the Telecommunications Equipment being used; and
 - iv. Comply with any technical standards requirements established under Chapter VII of the Telecommunications Law.

38. Separate spectrum license

Pursuant to Chapter VI of the Telecommunications Law and the Applicable Regulatory Framework, particularly the Spectrum Rules, where the Department awards a spectrum license that confers rights on a Person to use one or more specified frequencies or frequency bands for any purpose consistent with the license conditions, such spectrum license shall be issued separately from a Telecommunications Service License.

39. Access to numbering resources

Pursuant to Chapter VII of the Telecommunications Law and the Applicable Regulatory Framework, particularly the Numbering Rules, NFS(I) Licensees and NS Licensees may seek numbering resources under the Numbering Rules.

PART VII. MONITORING AND ENFORCEMENT

40. Provision of information

- a) Subject to Chapter XII of the Telecommunications Law and Applicable Regulatory Framework, the Department may:
 - i. Establish regular, reasonable reporting requirements on the activities of all or certain categories of Licensees and
 - ii. Issue a written request to specific Licensees for any information, data, document, agreement, operating log, papers or other information required by the Department to discharge its functions under the Telecommunications Law, provided that such request is reasonable and not unduly burdensome.



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- b) All licensees must comply with information requests or reporting requirements from the Department or Ministry.

41. Public Register

- a) The Department shall establish and maintain a publicly available register of all Telecommunications Service Licenses and Telecommunications Equipment Licenses. This register shall be made available on the Department's website and, at a minimum, shall contain:
 - i. Licensee's name, address, phone number and fax number;
 - ii. License(s) held;
 - iii. Types of networks and/or services the Licensee is authorized to provide; and
 - iv. License effective and expiration dates.

42. Permission to inspect

Subject to Chapter XII of the Telecommunications Law, the Department shall have the authority to inspect the facilities and documents of any Licensee, subject to a reasonable notice period prior to inspection.

43. Enforcement

Pursuant to Chapter 16 of the Telecommunications Law and Applicable Regulatory Framework, the Department may initiate administrative action against a Licensee if it has probable cause to believe that the Licensee may have contravened any obligation or condition contained in the Telecommunications Law, Applicable Regulatory Framework or the License.

- a) Prior to taking any administrative action, the Department shall provide the Licensee with:
 - i. Written notice that will contain a reasonable explanation regarding the factual and legal basis on which the Department has probable cause to believe that the Licensee has committed a contravention and
 - ii. Reasonable opportunity to respond to the Department's allegation.
- b) Any allegation that the Licensee has committed a contravention will be decided in an impartial manner pursuant to the Applicable Regulatory Framework, based on the administrative record.

44. Notice of contravention

In any case in which the Department concludes that it should take administrative action, it shall send a written notification to the Licensee, which will:

- a) Describe the Department's factual conclusions;
- b) Describe the Department's legal conclusions; and
- c) Specify the enforcement action that the Department has decided to take.



45. Offenses and penalties

Subject to Chapter XVI and Chapter XVIII of the Telecommunications Law, if after providing notice and a reasonable opportunity to comment, the Department concludes that a contravention has occurred, the Department may take one or more of the following enforcement actions:

- a) Issue a warning to the Licensee;
- b) Issue a directive to the Licensee to take, or refrain from taking, an action necessary to remedy the contravention and/or prevent any future contravention;
- c) Require the Licensee to pay a monetary penalty of up to five (5) percent of its Relevant Revenue;
- d) Suspend or terminate the License pursuant to Section 25 of these Rules.

46. Right to appeal

In the event that a Licensee disputes any decision issued by the Ministry or Department of the Licensing Rules, the aggrieved Licensee may:

- a) Request reconsideration within thirty (30) days of the issuance of the decision;
- b) Appeal the decision to the Ministry within thirty (30) days of the issuance of the decision if the matter involves:
 - i. An administrative action under Section 57 of the Telecommunications Law or
 - ii. A dispute relating to telecommunications technology pursuant to Section 52 of the Telecommunications Law;
- c) Appeal to a judiciary court within thirty (30) days of the issuance of the decision if the matter involves a dispute not relating to telecommunications technology pursuant to Section 52 of the Telecommunications Law;
- d) Appeal to the Appeal Tribunal within forty-five (45) days of the issuance of the decision if dissatisfied with the Ministry's decision regarding dispute resolution; or
- e) Take any other action authorized by law.

PART VIII. TRANSITION PROVISIONS

47. Transition framework for existing Licenses and operations

- b) An existing Licensee is any Person that holds or has been selected to hold a Telecommunications Service License as of the date of promulgation of the Telecommunications Law.
- c) Transition provisions for existing Licenses administered by the Radio Department of the Department are addressed in the Spectrum Rules.



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- d) Existing licensees shall be subject to annual regulatory, renewal and other fees as determined by the Ministry, but will not be subject to the application/registration fee or initial License fee.
- e) An existing Licensee shall apply for the relevant License under these Licensing Rules within ninety (90) days of the Department publishing the relevant License. An existing Licensee that does not meet this deadline may be subject to the application and/or initial License fee.
- f) A Person who, prior to the effective date of these Licensing Rules, has been engaging in an activity that under the Telecommunications Law and these Licensing Rules is considered a Telecommunications Service requiring a License must apply for the relevant License within ninety (90) days of the Department publishing the relevant License in order to legally continue operations.
- g) The Public Access Centre (PAC) license shall become subject to the AS License.
- h) The Wide Area Network (WAN) license shall become subject to:
 - i. The NFS(I) License in where the WAN license holder has established and operates the Network Facilities over which the Telecommunications Service is offered to End Users or Other Licensees, regardless of whether the Telecommunications Service interconnects with another network.
 - ii. The NFS(C) License where the WAN license holder has established and operates the Network Facilities, but the Telecommunications Service is used only for the Licensee's own internal/intra-organizational communications.
 - iii. The AS License in instances where the WAN license holder leases capacity from an Other Licensee to provide Telecommunications Services to End Users or Other Licensees.
- i) Myanmar Posts and Telecommunications (MPT), Yatanarpon Teleport (YTP) and the two operators selected via a tender process by the Ministry in June 2013 to offer Telecommunications Services in Myanmar shall each immediately be issued an NFS(I) License upon the date that Department publishes the NFS(I) License. No Application process is required for these entities.

48. Timeframe for transition

Pursuant to Section 85 of the Telecommunications Law, Licenses addressed in Section 47 of these Licensing Rules that are not yet expired shall be deemed as the relevant Licenses under the Telecommunications Law and these Licensing Rules until the expiry of the License. Subject to a Notification published by the Department, all existing licensees must transition to the Licensing Framework described in these Licensing Rules within twelve (12) months of the Department issuing such Notification.

49. Notification Orders

Where an existing License is subject to a law other than the Telecommunications Law, a Notification Order shall be issued within ninety (90) days of the effective date of these Licensing Rules that specifies the transitional provisions and repeals any prior Notification Order, as needed to bring the existing Licenses in line with the provisions of these Licensing Rules.



SCHEDULE A. LICENSING FEES

Licensing Fees for Telecommunications Service Licenses

| | NFS(I) License | NFS(C) License | NS License | AS License |
|---|-------------------------|---------------------------|-------------------------|---------------------------|
| Application/Registration Fee* | MMK 10,000,000 | MMK 2,500,000 | MMK 5,000,000 | MMK 2,500,000 |
| Initial Fee* | MMK 50,000,000 | MMK 12,500,000 | MMK 25,000,000 | MMK 10,000,000 |
| Annual Regulatory Fee | 2% of relevant revenues | 0.5% of relevant revenues | 1% of relevant revenues | 0.5% of relevant revenues |
| Fee to Provide Additional Services | MMK 5,000,000 | MMK 1,250,000 | MMK 2,500,000 | MMK 1,250,000 |
| Renewal Fee | MMK 50,000,000 | MMK 12,500,000 | MMK 25,000,000 | MMK 10,000,000 |

* Pursuant to Section 47 of the Licensing Rules, entities holding a license issued by the Department prior to the enactment of the Licensing Rules are exempted from paying the Application/Registration Fees and Initial Fees for the license transitioning to the new Licensing Framework.

Licensing Fees for Telecommunications Equipment License

| | Telecom Equipment |
|------------------------------|-------------------|
| Application Fee | MMK 5,000 |
| Initial Fee | None |
| Annual Regulatory Fee | None |
| Renewal Fee | None |



SCHEDULE B. LIST OF TELECOMMUNICATIONS EQUIPMENT SUBJECT TO THE TELECOMMUNICATIONS EQUIPMENT LICENSE

Pursuant to Chapter IV of the Telecommunications Law and Section 37 of these Licensing Rules, the following Telecommunications Equipment requires a Telecommunications Equipment License in order to possess and use such equipment.

- Satellite equipment (e.g., satellite telephones);
- Radar equipment and devices; and
- HF radio equipment.