



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

## Spectrum Rules

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December 23, 2013



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## PART I. PRELIMINARY

### 1. Citation

These Rules may be cited as the “Spectrum Rules of the Republic of the Union of Myanmar, 2013.”

### 2. Objective

To ensure a simplified, liberalized, transparent, and non-discriminatory spectrum management framework that promotes efficient use of the spectrum resource and encourages innovation in order to facilitate the rapid deployment of Telecommunications Services to the people of Myanmar.

### 3. Scope

These Rules provide for the management and use of radio frequencies and Radio Apparatus, and contains the rights and obligations of organizations and individuals involved in the management and use of radio frequencies in the Republic of the Union of Myanmar. These Rules govern the process to authorize the use of Frequency Spectrum by eligible licensees. The provisions hereunder are complementary to and should be read in conjunction with the provisions found in the other Rules.

### 4. Application

- a) These Rules apply to Radio Apparatus operating:
  - i. within the territorial limits of the Republic of the Union of Myanmar;
  - ii. on any ship registered in Myanmar; and
  - iii. on any aircraft registered in Myanmar.
- b) With the exception of the prohibitions against interference found in Section 36, these regulations do not apply to:
  - i. ships and aircraft not registered in Myanmar, or
  - ii. equipment transiting Myanmar or ordinarily used outside the territorial limits (e.g., mobile phones of tourists).

### 5. Interpretation

Headings and titles used in these Rules are for reference only and shall not affect its interpretation or construction. The plural and singular forms of words shall have the same meaning. 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.

- a) “Affiliate” means an entity that complies with the following test: An entity is an Affiliate of another entity if:
  - i. the first entity has a Controlling Interest in the second entity;
  - ii. the second entity has a Controlling Interest in the first entity; or
  - iii. a third entity has a Controlling Interest in both the first and second entity.
- b) “Applicable Regulatory Framework” means the regulations, rules, notifications, orders, directives, instructions, procedures and codes of practice specified by the Ministry or Department.



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- c) "Application" means the form and procedure for obtaining a Radio Spectrum License.
- d) "Assigned Frequencies" means the frequencies the Department has authorized the Licensee to use.
- e) "Associated Operating License" means the license to offer Telecommunications Services granted by the Ministry to the Licensee.
- f) "Change of Control" means a transaction by which a Person obtains a Controlling Interest in the Licensee.
- g) "Condition" means the obligations specified to which the grant of License is subject.
- h) "Controlling Interest" means an Ownership Interest:
  - i. whether directly or indirectly, of more than fifty (50) percent of the voting stock, membership interest, general partnership interest or assets in another entity; or
  - ii. that provides the Person with the right to do any or all of the following:
    - 1) appoint more than fifty (50) percent of the board of directors or management committee of another entity or receive more than fifty (50) percent of the profits of an entity;
    - 2) appoint, promote, demote, and dismiss senior executives who control the day-to-day activities of another entity;
    - 3) make critical investment, administrative or management decisions of another entity;
    - 4) play a decisive role in management decisions of another entity;
    - 5) manage the day-to-day operations of another entity; or
    - 6) make decisions or otherwise engage in practices or activities that determine or significantly influence the nature or types of services provided by another entity, the terms on which those services are offered or the prices charges for such services.
- i) "Co-Primary Basis" means the nature of a right granted to the holder of a License to use specified frequencies, subject to the condition that the Licensee shall coordinate with Other Licensees also licensed on a Co-Primary Basis to limit Harmful Interference of additional Radio Apparatus and services operating in the relevant frequency bands, and facilitate the introduction of additional Radio Apparatus and services in the relevant frequency band. Other Licensees licensed on a Co-Primary Basis shall refrain from causing Harmful interference to, and may not require protection from, the Radio Apparatus and services of Other Licensees licensed on a Co-Primary Basis that were previously authorized and are operating in the same frequency bands. All Other Licensees on a Co-Primary Basis authorized to use the frequencies specified in their respective spectrum licenses are entitled to protection from:
  - i. Harmful Interference caused by any other licensee that may be authorized to use the same Radio Spectrum on a Secondary Basis, and
  - ii. claims of Harmful Interference from holders of secondary licenses with respect to their frequencies.



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- j) "Convention" means the treaties of the International Telecommunication Union, to which the Republic of the Union of Myanmar is a party, including any modifications.
- k) "Days" means calendar days.
- l) "Department" means the Postal and Telecommunications Department under the Ministry of Communications and Information Technology.
- m) "Effective Date" means the date on which these Rules become legally effective.
- n) "End User" means a Person, other than an Other Licensee, to whom a Licensee provides a Telecommunications Service.
- o) "Expiry Date" means the date on which the then-current term of a Licence ends, unless previously surrendered or terminated.
- p) "Harmful Interference" means an emission, radiation, induction, conduction or other electromagnetic effect that endangers the functioning of a radionavigation service or other safety services or that seriously degrades, obstructs or repeatedly interrupts any Radiocommunication Service operating in accordance with applicable regulations or administrative determinations and the Convention.
- q) "License" means Radio Spectrum license.
- r) "Licensee" means the recipient of a License granted by the Department under these Rules.
- s) "Ministry" means the Ministry of Communications and Information Technology of the Union Government.
- t) "National Frequency Assignment Register" means a register containing a list of Radio Spectrum assignments, including the name of the Licensee, the frequencies assigned, the uses for which they are authorized and any other relevant information.
- u) "National Table of Frequency Allocations" means the plan, adopted by the Ministry pursuant to which the Department may assign spectrum. It is annexed to these Rules as Annex A: National Table of Frequency Allocations.
- v) "Other Licensee" means another Licensee that holds any License granted by the Department for the provision of Radiocommunications Services, or the use of Radio Spectrum, or is otherwise authorized to provide such service, or use such Radio Spectrum, in the Republic of the Union of Myanmar.
- w) "Ownership Interest" means a legal or beneficial interest in a percentage of shares, profit or assets of an entity.
- x) "Person" means any governmental body, legal entity or individual.
- y) "Primary Basis" means the nature of a right granted to the holder of a Radio Spectrum License, pursuant to which the Licensee is the only Person authorized to use the specified frequencies on a Primary Basis, and that is also entitled to protection from:



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- i. Harmful Interference caused by any Other Licensee who may be authorized to use the same spectrum on a Secondary Basis or any user of Radio Spectrum that is authorized for unlicensed use; and
  - ii. claims of Harmful Interference by any such Licensee or unlicensed user.
- z) "Primary Legislation" means the Constitution of the Republic of the Union of Myanmar and any statutes enacted by the Union Parliament and signed by the Union President.
- aa) "Radio Amateur Certificate" means the document that is given to a Person upon demonstrating competency in the operation and use of Radio Apparatus used for non-commercial, personal use.
- bb) "Radio Apparatus" means any equipment, machinery or device used for the transmission of radio signals utilizing Radio Spectrum.
- cc) "Radiocommunication Services" means a service involving the transmission, emission and/or reception of radio waves for specific telecommunication purposes.
- dd) "Radio Regulations" means the Radio Regulations of the ITU.
- ee) "Radio Spectrum" means a radio frequency or frequencies of naturally propagated electromagnetic waves that are used for the transmission and reception of electronic communications signals.
- ff) "Radio Station" means facilities for the transmission of radio signals.
- gg) "Relevant Revenue" means the portion of the revenue that the Licensee receives from the provision of Telecommunications Services to End Users and to Other Licensees pursuant to its Associated Operating Licence minus payments that the Licensee makes to Other Licensees for interconnection, access or wholesale services that the Licensee uses to provide those services.
- hh) "Renewal Fee" means a fee that the Licensee must pay in order to have a license renewed for an additional period.
- ii) "Secondary Basis" means the nature of a right granted to a holder of a Radio Spectrum License that is authorized to use specified frequencies subject to the condition that such Licensee does not cause any Harmful Interference to, or claim protection from any Harmful Interference caused by, other licensees who have been granted the right to use the same frequency bands on a Primary Basis or Co-Primary Basis.
- jj) "Spectrum License Fee" means the fee paid by the Licensee as a condition for the grant of a license.
- kk) "Spectrum Management Fee" means the recurring fee, imposed by the Department, to cover the cost of maintaining the spectrum allocation system and monitoring spectrum usage, and to ensure that spectrum is used efficiently.
- ll) "Spectrum Sharing" means the sharing of the same portion of the Radio Spectrum, or the pooling of different portions of the Radio Spectrum, by two or more Licensees to provide Telecommunications Services.
- mm) "Spectrum Sharing Agreement" means an agreement pursuant to which two or more Licensees agree, subject to the approval of the Department, to engage in Spectrum Sharing.



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- nn) "Spectrum Wholesale Access" means the making available of a specific portion of the Radio Spectrum to an Other Licensee, under defined Conditions, for the purpose of providing Telecommunications Services.
- oo) "Spectrum Wholesale Access Agreement" means an agreement pursuant to which one Licensee agrees, subject to the approval of the Department, to provide Spectrum Wholesale Access to an Other Licensee.
- pp) "Sub-license" means any segregation or partition of the radio frequency usage rights granted herein and shall include any arrangement by the Licensee to share radio frequency rights with one or more third parties, including any Affiliate.
- qq) "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.

## PART II. SPECTRUM MANAGEMENT

### 6. General Principles

- a) Harmonization. National spectrum allocations are to be harmonized, to the greatest extent possible, with both regional and the international (ITU) allocation.
- b) Ensure Adequate Spectrum. The Ministry will ensure that adequate spectrum will be made available to foster competition and the introduction of new Telecommunication Services. Periodic reviews will be performed to determine spectrum needs and the potential availability of additional spectrum bands for future use.
- c) Promote Innovation. The Ministry will conduct periodic reviews to determine whether spectrum should be reallocated to foster the introduction of new Telecommunication Services.

### 7. National Table of Frequency Allocations

- a) The Ministry shall create and update, at least every five (5) years, a comprehensive and publicly available National Table of Frequency Allocations for the Republic of the Union of Myanmar.
- b) The Table will show:
  - i. the ITU allocations for each spectrum band;
  - ii. what frequencies have been allocated in Myanmar for use by which Radiocommunication Services; and
  - iii. which frequency bands are available for use by devices that are exempt from licensing.
- c) The National Table of Frequency Allocations is found in Annex A of these Rules, and is an integral part of them.
- d) Changes to the National Table of Frequency Allocations, including adding new allocations to a particular spectrum band, deleting allocations for a particular spectrum band or changes in the status (Primary or Secondary) of a Radiocommunication Service:
  - i. Shall be consistent with the General Principles of Section 6.





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- ii. Shall be made, to the extent practicable, to keep the National Table of Frequency Allocations consistent with the most recent version of the international Table of Frequency Allocations contained in Article 5 of the Radio Regulations.
- iii. May be proposed by the Ministry at any time based on a finding of national need.
- iv. May be proposed by interested parties at any time.
- v. Shall be considered after providing the public with reasonable notice and an opportunity to comment through a public consultation process, regardless of whether the proposed change originated according to provision ii. or iii. above.
- vi. Shall be made effective through a decision from the Ministry, a copy of which will be available on the Ministry's website.

#### **8. Unlicensed/License-exempt Spectrum**

- a) The following bands, which are identified by the ITU (Section 5.150 of Volume 1 of the Radio Rules) for use by industrial, scientific and medical equipment, may be used by Radio Apparatus without the need for obtaining a License under Part IV of these Rules:
  - 13 553-13 567 kHz (centre frequency 13 560 kHz),
  - 26 957-27 283 kHz (centre frequency 27 120 kHz),
  - 40.66-40.70 MHz (centre frequency 40.68 MHz),
  - 2400-2500 MHz (centre frequency 2 450 MHz),
  - 5725-5875 MHz (centre frequency 5 800 MHz), and
  - 24-24.25 GHz (centre frequency 24.125 GHz)
- b) The Ministry may identify additional frequency bands that can be used by Radio Apparatus that are exempt from licensing.
- c) Per Section 30 of the Computer Science Development Law, services provided using Radio Apparatus authorized by this Section do not need an Associated Operating License unless the services are being provided to End Users in return for monetary remuneration.
- d) The provisions of Section 35 apply to the Radio Apparatus authorized under this Section.
- e) To ensure that License-exempt Radio Apparatus does not cause interference:
  - i. License-exempt Radio Apparatus may not cause Harmful Interference to any individually-licensed Radiocommunication Service and must accept interference from those services as well as from other License-exempt Radio Apparatus.
  - ii. Additional regulations may be issued from time to time by the Department or Ministry to address power levels, operating characteristics and limitations, out-of-band emission criteria, and other technical details.

#### **9. National Frequency Assignment Register**



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- a) The Department shall develop and maintain an accurate and up-to-date list, to be called the National Frequency Assignment Register, of all Persons holding authorizations pursuant to Part III of this Regulation.
- b) The Register will contain, at a minimum, the Licensee's name and contact information; specific frequencies and/or frequency bands the Licensee is authorized to use; the Radiocommunication Services the Licensee is authorized to provide; the geographic area the Licensee is authorized to serve and the duration of the License.

## **PART III. GENERAL CONDITIONS FOR SPECTRUM USE AUTHORIZATIONS**

This Part specifies the general conditions and requirements applicable to all Persons authorized to use the Radio Spectrum in the Union of the Republic of Myanmar. Additional terms and conditions for specific types of Radiocommunication Services are provided in Part IV.

### **10. License Required**

- a) The transmission of radio frequencies is prohibited except in accordance with one of the following:
  - i. a valid License for a Radiocommunication Service specified in Part IV; or
  - ii. authorized Radio Apparatus operating in License-exempt spectrum as specified in Section 8.
- b) A Person shall not possess, establish, install or use any Radio Apparatus that requires licensing under this Regulation in any place or on board any local vessel, aircraft or vehicle operated in Myanmar, unless that Person has a valid License or Radio Apparatus authorization granted by the Department.

### **11. License Mechanisms**

- a) The procedure for authorizing the right to use Radio Spectrum, the conditions for participation in the authorization of spectrum rights and the charges payable for spectrum rights are identified for each Radiocommunication Service below, and, without limiting the methods which may be used, may include any one or a combination of the following methods:
  - i. by auction;
  - ii. by tender; or
  - iii. by fixed price.

If necessary (e.g., in cases of competing demands for spectrum or for Radiocommunication Services not listed below), the Department shall determine the appropriate mechanism for assigning Licenses after providing the public with reasonable notice and an opportunity to comment through a public consultation process.

- b) The procedures for authorization by auction may include, but are not limited to:
  - i. auction format or mechanism;
  - ii. advertising of auctions;



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- iii. entry fees for prospective bidders;
  - iv. reserve prices (if any);
  - v. deposits (if any) payable by successful bidders; and
  - vi. methods of payment for Licenses.
- c) The procedures for authorization by tender may include, but are not limited to:
- i. type of tender;
  - ii. advertising of tender;
  - iii. entry fees for prospective tenderers;
  - iv. reserve prices (if any);
  - v. deposits (if any) payable by successful bidders;
  - vi. methods of payment for Licenses.
- d) The procedures for authorization by fixed price may include, but are not limited to:
- i. the way in which prices are to be determined;
  - ii. advertising of proposed authorizations;
  - iii. methods of payment for Licenses.

## 12. Eligibility

- a) For authorizations subject to tender or auction, the Department will issue pre-qualification requirements from which the Department will select suitable companies that are required to demonstrate through monetary or non-monetary resources that each is a viable candidate to be considered by the Department for a License.
- b) For authorizations subject to a fixed price process, the Department shall publish guidelines that specify the Persons eligible for each type of Radiocommunication Service and eligibility criteria for the authorization of Licenses from time to time.

## 13. General Terms and Conditions

An authorization to use spectrum granted by the Department shall be subject to such terms and conditions as the Department considers appropriate. The following terms and conditions will apply to authorizations for such services. They include, but are not limited to:

- a) Consistent with National Table of Frequency Allocations. All authorizations to use frequencies or a frequency band shall be consistent with the National Table of Frequency Allocations.
- b) No ownership interest. A License does not grant the Licensee any ownership rights in the authorized frequencies, and no such rights shall be created or implied by virtue of the Licensee's use of its authorized frequencies.
- c) Non-discrimination. The Department shall subject all Licensees to the same general terms and conditions, provided that the general terms and conditions are determined after providing the public with reasonable notice and an opportunity to comment through a public consultation



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process and are based on well-defined metrics for determining the conditions under which License terms or applicable provisions of these Rules may differ. The Department will not place a Condition that unduly burdens a specific Licensee's right to use its licensed Radio Spectrum.

- d) Technology neutrality. The Department will not specify, or require the approval of, the types of technologies Licensees use or the specific services they offer.
- e) Adherence to technical standards. Licensees shall comply with all the requirements specified in Part IV of these Rules.
- f) Relation to other Licenses. A Person shall not be granted a License unless such Licensee holds an Associated Operating License that remains in effect.
- g) Service area. A License will specify the geographic area in which the authorized frequencies may be used. Such areas may be national, regional or local in scope, depending on the particular service and other terms of the License and Associated Operating License.
- h) Distress and safety communications. Licensees shall comply with the relevant portions of Annex B: Distress and Safety Communications Frequencies.

#### 14. License Renewal

- a) A Licensee may request renewal of a License by submitting a written request to the Department. Any request for renewal shall be made no earlier than twenty-four (24) months before, and no later than twelve (12) months before:
  - i. the fifteenth anniversary of the Effective Date; or
  - ii. if the License has been renewed previously, before the Expiry Date.
- b) Upon receiving a request for renewal pursuant to provision a) in this Section, unless the Department and the Licensee agree otherwise, the Department will renew the License, on the same or substantially similar terms, for no less than ten (10) years, if the Licensee has substantially complied with:
  - i. all applicable Primary Legislation;
  - ii. the Applicable Regulatory Framework; and
  - iii. the Conditions contained in its License.
- c) Where the Department refuses to grant an Application to renew a License, the Department shall provide written notice to the Licensee. Such notice shall:
  - i. state the reasons for such refusal;
  - ii. provide the Licensee a reasonable opportunity to remedy any defect identified by the Department and resubmit the Application to renew; and
  - iii. be provided to the Licensee within sixty (60) days of receiving the Application to renew.
- d) The Licensee shall pay the Renewal Fee according to the relevant authorization category in Part IV, and the Department shall determine the methodology upon receiving the request if the License or Rules do not provide otherwise.
- e) The duration of the renewed License shall not exceed that of the Associated Operating License.



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## 15. Spectrum Fees

Licensees may be subject to the following fees. The specific fees to be assessed are set according to the services described in Part IV of these Rules. They are contained in Annex C, and may be modified from time to time.

- a) Initial License Fee. Licensees shall pay a one-time Spectrum License Fee .
  - i. Initial fees for Licenses awarded according to a fixed price shall be the same for all Licensees and shall be due upon Application.
  - ii. Fees for Licenses awarded according to a tender shall generally be equivalent, unless the Department determines, after providing the public with reasonable notice and an opportunity to comment through a public consultation process, that different fees should apply. These will be due according to a schedule to be determined by the Department and included as a Condition in each License.
  - iii. Initial fees for Licenses awarded by auction will be those submitted by the winning bidder(s), and will be due according to a schedule to be determined by the Department and included as a Condition in each License.
  - iv. Initial License Fees may be subject to payment in full upon the grant of the License, or an installment payment plan, as determined by the Department.
- b) Spectrum Management Fee. Licensees shall pay an annually recurring Spectrum Management Fee.
  - i. The calculation of this fee will depend on the specific type of Radiocommunication Service provided and may vary between services. See Part IV of these Rules.
  - ii. The Licensee will pay the Spectrum Management Fee, in arrears, on a yearly basis. Specifically, unless the Department directs otherwise, the Licensee shall pay the above-specified fees by 31 March, based on spectrum usage during the preceding calendar year.
  - iii. The Department, following an audit, may direct the Licensee to pay any additional Spectrum Management Fee owed or refund any excess Spectrum Management Fee paid.
- c) Renewal Fees. If the Department renews a License pursuant to Section 14, on or before the date on which the renewal becomes effective, the Licensee shall pay a Renewal Fee as specified in the terms and conditions of the License, per the relevant authorization category in Part IV.
- d) Other Fees. The Licensee shall pay any other reasonable fees that the Department may establish, after providing the public with reasonable notice and an opportunity to comment through a public consultation process, pursuant to the Telecommunications Law and the Applicable Regulatory Framework, for the operation of Radio Apparatus. Any such fees shall be reasonable and proportionate.



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## 16. Coverage Obligations

- a) If deemed necessary, after providing the public with reasonable notice and an opportunity to comment through a public consultation on any new spectrum authorization, minimum coverage obligations may be established as part of the terms and conditions of a License.
- b) Coverage obligations may be defined as a percentage of population and/or area of geographic coverage in which service must be available by a set deadline or schedule.
- c) Similarly authorized Licensees shall generally have the same or comparable coverage obligations.

## 17. Transferor Assignment of a License

- a) Prior to transferring the Controlling Interest of operations or assigning any right, interest, entitlement or obligation that would result in a change of the Controlling Interest under its relevant License to another Person, a Licensee must apply in writing to the Department and obtain prior written approval unless the transfer is a pro forma transaction, subject to the Competition Rules.
- b) The Department shall not unreasonably withhold approval of a transfer or assignment, nor shall the Department unreasonably delay its decision. Timeframes for the Department to transfer a License are subject to the periods of review set forth in the Competition Rules.
- c) Transfer or assignment of a License is subject to Department review pursuant to the Competition Rules.

## 18. Modifications of Licenses

The Department may modify a License:

- a) at the request, or with the consent, of the Licensee;
- b) if the Department, pursuant to applicable legislation, rules, regulations, notifications and other applicable decisions issued by the Ministry or Department, and after providing the Licensee with written notice and a reasonable opportunity for comment, concludes that doing so is in the public interest;
- c) if the Department, after providing the Licensee with written notice and a reasonable opportunity for comment, concludes that a specific modification is necessary to bring the terms of the License into conformity with international treaty obligations or regulations, any applicable legislation, rules, regulations, notifications and other applicable decisions issued by the Department or Ministry, as they may be amended from time to time; or
- d) if the Department, after providing the Licensee with written notice and a reasonable opportunity for comment, concludes that a specific modification is necessary to conform to the terms and conditions of the Associated Operating License, including any modifications thereto;
- e) if the Department, following an administrative action pursuant to Section 20, and provided that any modification of the License is a proportionate remedy to prevent any future non-compliance, determines that the Licensee has failed to comply with:



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- i. any applicable legislation, rules, regulations, notifications and other applicable decisions issued by the Department or Ministry; or
- ii. any Condition contained in the License.

## 19. Compliance

The Licensee shall comply with all of the following obligations but, in the event of an irreconcilable conflict between or among them, shall comply in the order of precedence specified below.

- a) The Licensee shall comply with all applicable Primary Legislation, including:
  - i. any international agreements relating to Telecommunications to which the Republic of the Union of Myanmar is a party;
  - ii. the Telecommunications Law; and
  - iii. any other applicable legislation in effect in the Republic of the Union of Myanmar to which the Licensee is subject.
- b) The Licensee shall comply with the Applicable Regulatory Framework, including:
  - i. any rules and regulations issued by the Ministry or Department with the approval of the Union Government pursuant to Section 88a of the Telecommunications Law;
  - ii. any notifications, orders, directives, instructions and procedures issued by the Ministry or Department pursuant to Section 88b of the Telecommunication Law; and
  - iii. any codes of practice issued by the Department pursuant to Section 83 of the Telecommunications Law.
- c) The Licensee shall comply with the terms of its Associated Operating License.
- d) The Licensee shall comply with the specific terms and conditions contained in its License.
- e) The Licensee shall comply with the terms of any other License granted to it by the Department.
- f) Record-keeping requirements.

The Licensee shall maintain, and keep up-to-date, records of their operations and equipment as determined by the Department from time to time, including but not limited to:

- i. the equipment specifications of all Radio Stations and other Radio Apparatus operating under its License;
- ii. the coverage area of the Licensee's Telecommunications Network and of each Radio Station;
- iii. the effective radiated power of any Radio Station and its location and height;
- iv. the measures taken to ensure that each Radio Station is not a source of harmful radiation to the public, and the Licensee's employees and contractors per Section 39;
- v. any information necessary for the Department to develop and keep updated the National Table of Frequency Allocations and National Frequency Assignment Register;
- vi. the emission designation of each Radio Station; and



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- vii. the types of services provided to the Licensee's End Users using the Assigned Frequencies.
- g) Provision of Information to the Department.
- The Licensee, upon receiving a written request from the Department pursuant to Section 40 of the Telecommunications Law and the Applicable Regulatory Framework, shall within the period specified by the Department:
- i. provide the Department with any information, data, document, papers or other information required by the Department concerning the Licensee's actual or proposed use of the Assigned Frequencies and other Radio Spectrum resources;
  - ii. provide the Department with copies of records kept pursuant to Section 19 f); and
  - iii. make any officer or employee available for examination by the Department.
- h) The Licensee shall cooperate fully with the Department in identifying whether and to what extent the Assigned Frequencies are being used efficiently and whether the Licensee has a reasonable need for all or a portion of the Assigned Frequencies. If the Department believes that frequencies are being used inefficiently pursuant to rule 36 a), or if the Department believes the Licensee does not have a need for all its Assigned Frequencies, the Department may initiate an action under Section 20 to reclaim those frequencies.
- i) The Licensee may submit a request, pursuant to the standards and procedures specified in the Applicable Regulatory Framework, for confidential treatment of information submitted. The Department shall give due regard to the confidentiality of commercially sensitive information submitted by the Licensee, and shall notify the Licensee, and provide a reasonable opportunity for comment, in any case in which the Department proposes to disclose information for which the Licensee has requested confidential treatment.
- j) Right of Inspection.
- The Licensee, upon receiving a written request from the Department pursuant to the Section 40 of the Telecommunications Law and the Applicable Regulatory Framework, and subject to reasonable advance notice, shall
- i. permit the Department, or any Person designated by the Department, to enter upon the Licensee's premises to conduct an inspection, examination, investigation or audit of the Licensee to the extent reasonably required by the Department to discharge its functions under the Telecommunications Law.
  - ii. provide any assistance reasonably requested by the Department or by its designee;
  - iii. except in emergency or other exigent circumstances, be provided reasonable advanced notice of any inspection by the Department, which will take reasonable measures to avoid causing injury or damage to Persons or property.

## 20. Enforcement

- a) The Department may initiate an administrative action to enforce these Rules, pursuant to Section 57 of the Telecommunications Law and the Applicable Regulatory Framework, if it has





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probable cause to believe that the Licensee may have contravened any term or Condition contained in its License or an obligation set forth under the Applicable Regulatory Framework.

- b) Before taking any action, the Department will 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. a reasonable opportunity to respond to the Department's allegation, either by correcting the alleged violation or by providing evidence to refute the allegation.
- c) If, after providing notice and a reasonable opportunity to rectify the alleged violation and/or provide evidence to refute the allegation, the Department concludes that a contravention has occurred, the Department may take one or more of the following actions, with any action to be reasonable and proportionate to the contravention:
- i. issue a warning to the Licensee;
  - ii. 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;
  - iii. require the Licensee to pay a monetary penalty of up to five (5) percent of its Relevant Revenue during the preceding calendar year, provided that any monetary penalty shall be reasonable and proportionate to the extent of the Licensee's non-compliance;
  - iv. reclaim all or a portion of the Licensee's Assigned Frequencies; or
  - v. suspend or terminate the License
- if it concludes that imposition of any of the remedies listed in i-iv above would not adequately remedy the Licensee's contravention and deter future non-compliance; but
  - not until the Licensee has had an opportunity to seek review by the Appeal Tribunal pursuant to Chapter 17 of the Telecommunications Law and, if review is sought, until the Appeal Tribunal renders a final decision.
- d) In any case in which the Department decides that it should take action, it will send a written notification to the Licensee that will:
- i. describe the Department's factual conclusions;
  - ii. describe the Department's legal conclusions; and
  - iii. specify the action that the Department has decided to take.
- e) If the Licensee is dissatisfied with any administrative decision made by the Department pursuant to provision d) of this Section, the Licensee may appeal according to the procedures found in Section 22.
- f) In extraordinary circumstances, and notwithstanding provisions a)-f) above, when Harmful Interference is preventing another Licensee from operating on its assigned channels in accordance with its License, the Department may direct the Licensee that is causing the interference to either reduce its power or shut down its operations until a permanent solution is found.



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## 21. Penalties for Non-payment of Fees

Pursuant to the Telecommunications Law and the Applicable Regulatory Framework,

- a) in any case in which, following an enforcement proceeding conducted in accordance with Section 20, the Department determines that the Licensee, without a reasonable justification, has failed to pay any fee (or make any other payment) due to the Department within thirty (30) days of the date on which the payment is due, the Department may direct that (in addition to paying the principal amount due) the Licensee shall pay to the Department interest, retroactive to the date on which the payment was due, at a rate to be specified by the Department based on the then-prevailing commercial lending rate in the Republic of the Union of Myanmar.
- b) in any case in which the Department has probable cause to believe that the Licensee willfully or repeatedly failed to pay any fee (or make other payment) due to the Regulator within thirty (30) days of the date on which the payment is due, the Department may initiate an action pursuant to Section 20 of these Rules..

## 22. Right to appeal

In the event that a Licensee disputes any decision issued by the Ministry or Department of these Rules, the 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 and Part I of the Myanmar Code of Civil Procedure;
- 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.

## 23. Codes of practice, notifications, orders, directives, instructions and procedures

Subject to Sections 15 and 83 of the Telecommunications Law, the Ministry and Department are authorized to issue any code of practice, notification, order, directive, instruction or procedure to implement these rules or provide guidance relating to the licensing of Telecommunications Services or Telecommunications Equipment 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 a Licensee, the Ministry or Department shall provide the public with reasonable notice and an opportunity to comment through a public consultation process.



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- 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 IV. SPECTRUM USE AUTHORIZATIONS

All Licensees holding Licenses under this part are also subject to all relevant provisions of Part III.

### 24. Application for Spectrum Use Authorization

- a) Within sixty (60) days of receiving an Application form for any Radio Spectrum License, the Department shall complete its review of the Application.
- b) If the Application is not complete, or if the Department has reason to believe that the information provided in the Application is not 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 to correct any issues identified by the Department and resubmit it.
- c) The deadline for Department review of an amended Application is sixty (60) days.
- d) If the review of an initial or amended 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.
- e) If no further information is required, 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 fee the applicant must pay (the initial License fee; see rule 15 a)).
  - ii. If an Application is denied, the Department shall provide the reasons for such denial in writing and the applicant may reapply.

### 25. Public Land Mobile Spectrum License

- a) The Department may authorize Persons to transmit, receive, or transmit and receive Information and/or Content by means of Radio Apparatus for the purpose of providing land mobile Telecommunications Services to the public.
- b) The Department shall license Persons for public land mobile spectrum only according to the National Table of Frequency Allocations, taking into consideration the frequencies identified for International Mobile Telecommunications by the ITU.
- c) The specific assignment plans for the provision of public mobile Telecommunications Services in various bands is shown in Annex D: Public Land Mobile.
- d) License Conditions and Requirements
  - i. An Associated Operating License is required.
  - ii. Licenses granted under this part include both the right to use approved frequencies and to operate the End User Radio Apparatus that uses those frequencies.



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- iii. A License granted under this Section authorizes the Licensee to deploy an unlimited number of base stations and End User terminals; no individual authorization of such Radio Apparatus is required.
- iv. Network and End User Radio Apparatus does not require approval by the Department prior to the commencement of operations, but may be subject to certification requirements, per Section36.
- v. Geographical coverage limits may be applied, as determined by the Department, in view of the proposed service.
- vi. Radio Apparatus used as part of providing the authorized service shall comply with any technical standards or requirements identified by the Department or Ministry, in accordance with Section35.
- vii. Other technical conditions (e.g., power limits for Network Facilities and End User devices) may be specified from time to time in order to minimize interference.

e) Obligations of Licensee

All holders of a public land mobile spectrum Licenses shall:

- i. only use the radio frequencies or radio frequency bands approved by the Department;
  - ii. ensure that Network Facilities and End User Radio Apparatus operates in compliance with any technical specifications set by the Department or Ministry and contained either in Section35 of these Rules or as indicated in the License itself;
  - iii. register all towers and antenna structures, but no prior approval for such facilities is required. It is noted that permits may be required from other local Government agencies for tower construction; and
  - iv. keep adequate records to allow any instances of interference to be resolved.
- f) Duration. Licenses for Public Land Mobile Spectrum are valid and effective from the Effective Date and shall remain in effect until the earlier of:
- i. a term of up to fifteen (15) years determined by the Ministry from the Effective Date;
  - ii. any date on which the License is revoked pursuant to Section20;
  - iii. any date on which the Licensee surrenders the License in accordance with provisiong) of this section; or
  - iv. any date on which the Licensee's Associated Operating License is revoked or surrendered.

g) Surrender of the License

The Licensee may surrender its License only according to the following conditions:

- i. prior written approval of the Department is required.
- ii. a written request to surrender the License must be submitted to the Department no less than 180 days in advance of the date on which the Licensee proposes to surrender its License, unless the Department allows a shorter period.



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Upon approval of the surrender by the Department, the Licensee shall make reasonable efforts as the Department may require to transition affected End Users to alternative providers of Telecommunications Services.

h) Fees

Fees associated with the Public Land Mobile Spectrum License are found in AnnexC.

**26. Maritime Station License**

a) The Department may authorize Persons to transmit, receive, or transmit and receive Information and/or Content by means of Radio Apparatus for the purpose of providing telecommunications services to and from ships, including ship-to-ship, ship-to-shore and shore-to-ship.

b) The Department shall authorize Persons to use frequencies for maritime services only according to the National Table of Frequency Allocations.

c) Licenses will generally be granted on a first-come, first-served basis.

d) Application.

The provisions of this Section apply to ships registered in the Republic of the Union of Myanmar, but not to ships registered in a foreign country.

e) Certificate of Competency.

i. No Person shall operate the Radio Apparatus of a maritime station unless they hold a Certificate of Competency granted by the Ministry in accordance with the Convention and other international agreements.

ii. The Ministry will issue a Certificate of Competency in maritime radiocommunications to a Person upon their having successfully passed a test demonstrating that he or she is qualified to hold the Certificate of Competency under these Rules.

iii. Pursuant to Section 84b of the Telecommunications Law, the Department will administer the required test(s) required under provision ii above.

f) License Conditions and Requirements

i. No Associated Operating License is required.

ii. Licenses granted under this part include both the right to use approved frequencies and to operate the End User and network Radio Apparatus that uses those frequencies.

iii. A License granted under this Section permits the Licensee to operate all forms of maritime communication onboard a single vessel, with the exception of communications to and from a satellite; no individual authorization of Radiocommunication Services or Radio Apparatus used to provide those services is required. Satellite communications on board a ship shall be licensed according to Section 27.

iv. Network and End User Radio Apparatus may be subject to certification requirements, per Section 35.



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- v. Radio Apparatus used as part of providing the authorized service shall comply with any technical standards or requirements identified by the Department or Ministry, in accordance with Section 35.
  - vi. Other technical conditions (e.g., power limits for Network Facilities and End User devices) may be specified from time to time in order to minimize interference to other services and Licensees.
- g) Obligations of Licensee

All holders of a Maritime Station License shall:

- i. only use the radio frequencies or radio frequency bands approved by the Department, and in accordance with the frequencies and channeling arrangements found in Annex E: Frequencies and Channeling Arrangements for Maritime Mobile Service;
  - ii. ensure that Network Facilities and End User Radio Apparatus operates in compliance with any technical specifications set by the Department or Ministry in accordance with Section 35 of these Rules or as indicated in the authorization itself;
  - iii. ensure that only Persons holding a Certificate of Competency operate Radio Apparatus authorized under a maritime station License.
  - iv. register all land-based towers and antenna structures, but no prior approval for such facilities is required. It is noted that permits may be required from other local Government agencies for tower construction.
  - v. abide by the provisions of the Radio Rules and any other international rules and regulations applicable to Radio Apparatus on board a ship to which the Republic of the Union of Myanmar is a party (e.g., the International Maritime Organization); and
  - vi. keep adequate records to allow any instances of interference to be resolved.
- h) Duration of the authorization.

The initial duration of the authorization will be five (5) years, with renewals allowed per Section 14.

- i) Fees.

Fees associated with the Maritime Station License are found in Annex C.

## **27. Aircraft Station License**

- a) The Department may authorize Persons to transmit, receive, or transmit and receive Information and/or Content by means of Radio Apparatus for the purpose of providing communications services to and from aircraft.
- b) The Department shall authorize Persons to use frequencies for aeronautical services only according to the National Table of Frequency Allocations.
- c) Licenses will generally be granted on a first-come, first-served basis.
- d) Application.



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The provisions of this Section apply to aircraft registered in the Republic of the Union of Myanmar, but not to aircraft registered in a foreign country.

e) Aircraft Radio Operator Certificate.

- i. No Person shall operate the Radio Apparatus of an aircraft station unless they hold an Aircraft Radio Operator Certificate granted by the Ministry in accordance with the Convention and applicable international agreements.
- ii. Persons desiring to obtain an Aircraft Radio Operator Certificate shall apply to the Ministry of Aviation, and complete the required training it offers.
- iii. After completing the training specified by provision ii above, Persons desiring to obtain an Aircraft Radio Operator Certificate shall take a test administered by the Department pursuant to Section 84B of the Telecommunications Law.
- iv. The Ministry of Communications and Information Technology will issue an Aircraft Radio Operator Certificate to a Person upon their having successfully passed the test specified in provision iii above, and in conformance with Annex 1 of the Convention on International Civil Aviation.

f) License Conditions and Requirements

- i. No Associated Operating License is required.
- ii. Licenses granted under this part include both the right to use approved frequencies and to operate the End User and network Radio Apparatus that uses those frequencies.
- iii. An authorization granted under this Section permits the Licensee to operate all forms of aeronautical communication onboard a single aircraft, with the exception of communications to and from a satellite; no individual authorization of Radiocommunication Services or Radio Apparatus used to provide those services is required. Satellite communications on board a ship shall be licensed according to Section 27.
- iv. Network and End User Radio Apparatus may be subject to certification requirements, per Section 35.
- v. Radio apparatus used as part of providing the authorized service shall comply with any technical standards or requirements identified by the Department or Ministry, in accordance with Section 35.
- vi. Other technical conditions (e.g., power limits for Network Facilities and End User devices) may be specified from time to time in order to minimize interference to other services and Licensees.

g) Obligations of Licensee

All holders of an Aircraft Station License shall:

- i. only use the radio frequencies or radio frequency bands approved by the Department and in accordance with the frequency specifications found in Annex F: [Aeronautical Mobile Frequencies];



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- ii. ensure that Network Facilities and End User Radio Apparatus operates in compliance with any technical specifications set by the Department or Ministry in accordance with Section 35 of these Rules or as indicated in the authorization or license itself;
  - iii. register all towers and antenna structures, but no prior approval for such facilities is required. It is noted that permits may be required from other local Government agencies for tower construction;
  - iv. abide by the provisions of the Radio Rules and any other international rules and regulations applicable to Radio Apparatus on board an aircraft to which the Republic of the Union of Myanmar is a party (e.g., the International Civil Aviation Organization); and
  - v. keep adequate records to allow any instances of interference to be resolved.
- h) Duration of the authorization.

The initial duration of the authorization will be five (5) years, with renewals allowed per Section 14.

- j) Fees.

Fees associated with the Aircraft Station License are found in Annex C.

## 28. Satellite Spectrum License

- a) The Department may authorize Persons to transmit, receive, or transmit and receive Information and/or Content using a satellite for the purpose of providing Telecommunications Services to themselves or for sale to End Users.
- b) The Department shall authorize Persons to use frequencies for satellite services only according to the National Table of Frequency Allocations.
- c) Licenses will generally be granted on a first-come, first-served basis. If necessary, an auction or tender process may be used.
- d) Application

Satellite Spectrum Licenses that may be granted include (but are not limited to) those for:

- i. Very Small Aperture Terminals (VSAT);
- ii. Satellite News Gathering (SNG);
- iii. Satellite Radio Apparatus installed on ships and aircraft;
- iv. Earth Stations transmitting to satellites;
- v. Mobile Satellite Service (e.g., portable satellite communication terminals); and
- vi. Satellite broadcasting (one-way) services, including Direct-to-Home (DTH).

Such authorizations may include handheld, portable, transportable (vehicle mounted and re-locatable) and fixed Radio Apparatus.

- e) International Satellite Operators





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- i. Operators of satellites launched and licensed pursuant to the regulations of another country may provide services to End Users in Myanmar and/or may provide capacity to satellite service providers offering services to End Users (both businesses and individuals).
  - ii. A Satellite Spectrum License will be issued to authorize the use of specific frequencies and Radio Apparatus.
  - iii. Such operators must also obtain the appropriate Associated Operating License as set forth in the Licensing Rules if Telecommunications Services are provided to End Users.
  - iv. If an international satellite operator directly, or through an Affiliate, sells or otherwise distributes Radio Apparatus to End Users, it must obtain the technical standard approval of the Department as required by Section 27 of the Telecommunications Law.
- f) Receive-only systems and services
- i. Radio Apparatus that is only capable of receiving transmissions from a satellite (no transmit capability) does not require an individual Satellite Spectrum License, but may need a Telecommunications Equipment License, per Section 13 of the Telecommunications Law.
  - ii. Persons desiring to provide satellite broadcasting or one-way services (e.g., Direct-to-Home video programming or data broadcasting) must obtain a Satellite Spectrum License.
  - iii. Persons desiring to provide satellite broadcasting services may be required to obtain a separate broadcasting service License from the Ministry of Information.
    1. A Person must hold an authorization from the Ministry of Information prior to applying for a satellite broadcasting spectrum License.
    2. No satellite broadcasting spectrum License will be authorized if a Person has not been authorized by the Ministry of Information to provide broadcasting services.
    3. A request for a satellite broadcasting spectrum License will be acted upon within thirty (30) days of confirmation that a Person has been authorized by the Ministry of Information to provide broadcasting services.
  - iv. Any Person, including Affiliates, providing Telecommunications Services through the use of receive-only apparatus sold or otherwise distributed to End Users must obtain the appropriate Associated Operating License and must obtain the technical standard approval of the Department as required by Section 27 of the Telecommunications Law.
  - v. The provisions of f) and g) below apply, as applicable.
- g) Myanmar Satellite Operators  
[RESERVED-to be developed in the future]
- h) License Conditions and Requirements
- i. Satellite Spectrum Licenses granted under this part include both the right to use approved frequencies and End User Radio Apparatus that uses those frequencies.



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- ii. Frequencies for use of satellite services are identified in the National Table of Frequency Allocations; other frequencies will not be assigned for satellite use.
  - iii. In bands that are shared with the Fixed Service, a sharing analysis may be required as part of the Application process to avoid interference. The Ministry notes that the Department initially will not conduct these studies itself, but will provide all relevant information and assistance so that the applicant can complete the necessary studies. The Ministry anticipates that responsibility for conducting the studies will be given completely to the Department within two (2) years.
  - iv. For Telecommunications Services that are provided to End Users, an Associated Operating License is required. Any service that provides interconnecting service to a Telecommunications Network licensed in Myanmar requires an Associated Operating License. No Associated Operating License is required if services are solely for internal, private use only within members of a company and its Affiliates.
  - v. Network and End User Radio Apparatus may be subject to certification requirements, per Section 35.
  - vi. Radio apparatus used as part of providing the authorized service shall comply with any technical standards or requirements identified by the Department or Ministry, in accordance with Section 35.
  - vii. Depending on the type of system, a license granted under this Section may authorize the Licensee to deploy an unlimited number of End User Radio Apparatus (e.g., VSAT terminals); no individual authorization of such apparatus is required.
  - viii. Earth station authorizations may be subject to further regulations to be determined as needed.
  - ix. Other technical conditions (e.g., power limits for Network Facilities and End User devices) may be specified from time to time in order to minimize interference to other services and Licensees.
- i) Obligations of Licensee
- All holders of a Satellite Spectrum License shall:
- i. obtain the prior approval of the Department for access to any space segment and shall comply with the relevant rules, regulations and procedures imposed by the satellite operator for station access, booking and fees;
  - ii. only use the radio frequencies or radio frequency bands approved by the Department for its use;
  - iii. comply with the relevant:
    1. provisions of the Convention and all regulations and recommendations annexed thereto or made thereunder as are applicable to the Republic of the Union of Myanmar and the relevant ITU-R recommendations; and



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2. applicable resolutions, recommendations or other directives issued by international organizations (e.g., International Maritime Organization) for the operation of satellite Radio Apparatus onboard ships or aircraft.
  - iv. ensure that Network Facilities and End User Radio Apparatus operates in compliance with any technical specifications set by the Department or Ministry in accordance with Section 35 of these Rules or as indicated in the authorization or License itself; and
  - v. keep adequate records (e.g., location of Radio Apparatus and transmitter power) to allow any instances of interference to be resolved.
- j) Duration of the authorization.
- The initial duration of the authorization will be five (5) years, with renewals allowed per Section 14.
- k) Fees.
- Fees associated with the Satellite Spectrum License are found in Annex C.

## 29. Private Network Spectrum License.

- a) The Department may authorize Persons to transmit, receive, or transmit and receive Information and/or Content by means of terrestrial Radio Apparatus for the purpose of providing two-way communications services to themselves (e.g., between a company's base station and the associated vehicular or hand-held portable units).
  - b) The Department shall authorize Persons to use frequencies for private network services only according to the National Table of Frequency Allocations.
  - c) Licenses will generally be granted on a first-come, first-served basis. If necessary, an auction or tender process may be used.
  - d) Application
- Licenses issued under this part shall be used solely for internal, private communications only within the members of a company and its Affiliates. Examples of such use include (but are not limited to): dispatch services, voice or data communication with company personnel or vehicles, machine-to-machine communications, including for the purposes of monitoring and control of company equipment. Licenses may be granted for single frequency systems (for communications between portable units with no associated base station) and two-frequency systems (for communications from a central base station to and from multiple portable units).
- e) License Conditions and Requirements
    - i. No Associated Operating License is required.
    - ii. Licenses granted under this part include both the right to use approved frequencies and to operate the End User and network Radio Apparatus that uses those frequencies.
    - iii. A license granted under this Section authorizes the Licensee to deploy an unlimited number of End User terminals; no individual authorization of such terminals is required.



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- iv. Network Facilities and End User Radio Apparatus does not require approval by the Department prior to the commencement of operations, but shall be subject to certification requirements, per Section 35.
  - v. Licenses may be National Geographical coverage limits may be applied, as determined by the Department in view of the proposed service.
  - vi. Radio apparatus used as part of providing the authorized service shall comply with any technical standards or requirements identified by the Department or Ministry, in accordance with Section 35.
  - vii. Other technical conditions (e.g., power limits for Network Facilities and End User devices) may be specified from time to time in order to minimize interference to other services and Licensees.
- f) Obligations of Licensee

All holders of a Private Network Spectrum License shall:

- i. only use the radio frequencies or radio frequency bands approved by the Department;
  - ii. ensure that Network Facilities and End User Radio Apparatus operates in compliance with any technical specifications set by the Ministry and contained either in Section 35 of these Rules or as indicated in the authorization or License itself;
  - iii. register all towers and antenna structures, but no prior approval for such facilities is required. It is noted that permits may be required from other local Government agencies for tower construction; and
  - iv. keep adequate records to allow any instances of interference to be resolved.
- g) Duration of the License.

The initial duration of the authorization will be fifteen (15) years, with renewals allowed per Section 14.

- h) Fees.

Fees associated with the Private Network Spectrum License are found in Annex C.

### 30. Fixed Spectrum Licenses

- a) The Department may authorize Persons to transmit, receive, or transmit and receive Information and/or Content by means of fixed Radio Apparatus for the purpose of providing communications services to itself or for sale to another Person.
- b) The Department shall authorize Persons to use frequencies for fixed services only according to the National Table of Frequency Allocations.
- c) Licenses will generally be granted on a first-come, first-served basis. If necessary, an auction or tender process may be used.
- d) Applicants may request:
  - i. Exclusive use of a channel or channels on a nationwide basis, but only in the 11, 13, 15, 18, 23 and 26 GHz bands; and/or



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- ii. Specific fixed links on a point-to-point or point-to-multipoint basis, subject to availability and the conditions in e) and f) of this Section.
- e) Application.
- Licenses that may be granted include (but are not limited to) those for:
- i. Fixed Radio Apparatus used for point-to-point or point-to-multipoint operation;
  - ii. Portable Radio Apparatus (e.g., for electronic newsgathering or other applications where the Radio Apparatus can be moved but which operates only when in a stationary location).
- f) License Conditions and Requirements.
- i. For services that are for sale to another Person, an Associated Operating License is required. Any service that provides interconnecting service to a Telecommunications Network licensed in Myanmar requires an Associated Operating License.
  - ii. No Associated Operating License is required if services are solely for internal, private use only within members of a company and its Affiliates.
  - iii. Licenses granted under this part include both the right to use approved frequencies and to operate the Radio Apparatus that uses those frequencies.
  - iv. Prior to operation, the applicant for a fixed spectrum authorization must complete an interference study to determine if its operations will interfere with prior-authorized Licensees in the fixed service. That study must be submitted along with the authorization Application. The Ministry notes that the Department initially will not conduct these studies itself, but will provide all relevant information and assistance so that the applicants can complete the necessary studies. The Ministry anticipates that responsibility for conducting the studies will be given completely to the Department within two (2) years.
  - v. Based on the required interference study, the Licensee may have to coordinate its operations with prior-authorized Licensees.
  - vi. Radio apparatus used as part of providing the authorized service shall comply with any technical standards or requirements identified by the Department or Ministry, in accordance with Section 35.
  - vii. Minimum path length requirements. The distance between end points of a fixed link must be equal to or more than the distances indicated in the following table for their respective bands.

Frequency Band	Minimum Path Length (kilometers)
4 GHz	10
5 GHz	10
6 GHz (lower: 5925-6425 MHz)	10
6 GHz (upper: 6425-7125 MHz)	10



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7 GHz	9.5
8 GHz	7.5
10 GHz	5
11 GHz	5
13 GHz	5
15 GHz	5
18 GHz	2
23 GHz	0

viii. To ensure the most efficient use of fixed service frequencies, the use of frequency diversity shall generally not be allowed. The use of space diversity, angle diversity, and polarization diversity are the preferred approaches to links with difficult conditions. If a License applicant wishes to employ a frequency diversity approach, it may request a waiver of this general rule on a link-specific basis. In such cases, the applicant will need to justify its request with a factual showing indicating why space diversity or hot standby will not provide an adequate level of service availability.

ix. Other technical conditions (e.g., power limits for Network Facilities and End User devices) may be specified from time to time in order to minimize interference to other services and Licensees.

g) Obligations of Licensee.

All holders of a Fixed Spectrum License shall:

- i. only use the radio frequencies or radio frequency bands approved by the Department;
- ii. register tower locations with the Department, but no prior approval for building such towers is required from the Department. It is noted that permits may be required from other local Government agencies for tower construction;
- iii. ensure that Network Facilities and End User Radio Apparatus operates in compliance with any technical specifications set by the Department or Ministry and contained either in Section 35 of these Rules or as indicated in the authorization or License itself; and
- iv. keep adequate records to allow any instances of interference to be resolved.

h) Duration of the License.

The initial duration of the authorization will be fifteen (15) years, with renewals allowed per Section 14.

i) Fees.

Fees associated with the Fixed Spectrum License are found in Annex C.



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### 31. Broadcasting Spectrum License

- a) The Department shall authorize Persons to use frequencies for radio and television broadcasting only according to the National Table of Frequency Allocations.
- b) Licenses granted under this part will generally be based on a first-come, first-served basis. If necessary, an auction or tender process may be used.
- c) Licenses granted under this part include both the right to use approved frequencies and to operate the Radio Apparatus that uses those frequencies.
- d) Applications for the right to use Radio Spectrum to transmit broadcasting services (radio and/or television) must demonstrate that the planned operation will not interfere with the operators of prior-authorized broadcasting Licensees.
- e) Persons desiring to provide broadcasting services using their own infrastructure may be required to obtain a separate broadcasting service License from the Ministry of Information.
  - i. A Person must hold an authorization from the Ministry of Information prior to applying for a broadcasting spectrum License.
  - ii. No broadcasting spectrum License will be authorized if a Person has not been authorized by the Ministry of Information to provide broadcasting services.
  - iii. A request for a broadcasting spectrum License will be acted upon within thirty (30) days of confirmation that a Person has been authorized by the Ministry of Information to provide broadcasting services.
- f) Persons desiring to transmit broadcasting services on behalf of or pursuant to an agreement with a licensed broadcasting service provider may apply for a Radio Spectrum license without obtaining a broadcasting service License from the Ministry of Information.
  - i. Licensees under this provision would only be licensed to provide the physical infrastructure and transmission capability necessary to deliver the broadcast content and services that would be provided to them pursuant to agreements with Persons licensed by the Ministry of Information to provide broadcast services.
  - ii. Licensees would be required to obtain the appropriate Associated Operating License.
- g) License Conditions and Requirements
  - i. Licenses granted under this part include both the right to use approved frequencies and to operate the Radio Apparatus that uses those frequencies. No separate spectrum or Radio Apparatus authorizations are required for receive-only End User devices such as televisions or radio receivers.
  - ii. Prior to operation, the applicant for a broadcasting spectrum authorization must complete an interference study to determine if its operations will interfere with prior-authorized Licensees in the broadcasting service. That study must be submitted along with the authorization Application.
  - iii. Based on the required interference study, the Licensee may have to coordinate its operations with prior-authorized Licensees.



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- iv. Radio apparatus used as part of providing the authorized service shall comply with any technical standards or requirements identified by the Department or Ministry, in accordance with Section 35.
- v. Other technical conditions may be specified from time to time in order to minimize interference to other services and Licensees.

h) Obligations of Licensee

All holders of a Broadcasting Spectrum License shall:

- i. use only the radio frequencies or radio frequency bands specified in Annex G: Broadcasting Frequencies and power levels authorized by the Department;
- ii. register tower locations with the Department, but no prior approval for building such towers is required from the Department. It is noted that permits may be required from other local Government agencies for tower construction;
- iii. ensure that broadcast transmitter Radio Apparatus operates in compliance with any technical specifications set by the Department or Ministry and contained either in Section 35 of these Rules or as indicated in the authorization or License itself;
- iv. coordinate their station operation as necessary to avoid interference with existing broadcasting spectrum Licensees; and
- v. keep adequate records to allow any instances of interference to be resolved.

i) Duration.

The initial duration of the authorization will be fifteen (15) years, with renewals allowed per Section 14.

j) Fees.

Fees associated with the Broadcasting Spectrum License are found in Annex C.

### 32. Amateur Spectrum Licenses

- a) The Department may authorize Persons interested in the operation of Radio Apparatus to use a radio frequency or frequencies solely for pleasure and not for monetary remuneration.
- b) The Department shall authorize Persons to use frequencies for such amateur use only according to the National Table of Frequency Allocations.
- c) Persons desiring to obtain an amateur spectrum License are required to first demonstrate their operational and technical qualifications by passing the test to obtain a Radio Amateur Certificate, which is to be developed based on Recommendation ITU-R M.1544, "Minimum qualifications of radio amateurs".
- d) After obtaining a Radio Amateur Certificate, a Person may apply for an Amateur Spectrum License.
- e) A separate Telecommunication Equipment License may be required for the Amateur Radio Apparatus.
- f) License Conditions and Requirements.





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- i. The Radio Apparatus shall only be operated at locations registered with the Department;
- ii. The Radio Apparatus shall in all cases be operated by the authorized Licensee only;
- iii. The Radio Apparatus used as part of providing the authorized service shall comply with any technical standards or requirements identified by the Department or Ministry, in accordance with Section 35 and with the latest ITU-R recommendations applicable to the amateur service.
- iv. The Radio Apparatus and associated towers, antennas, etc., shall be erected and used so as not to cause interference to other Radiocommunication Services;
- v. Messages transmitted according to an Amateur Spectrum License shall be in plain language and shall relate solely to the Licensee's experiments or personal affairs (not being business affairs), or to the personal affairs of the Person with whom the Licensee is communicating;
- vi. National and international communication is permitted only between amateur stations, and is limited to matters of a personal nature, or for the purpose of self-training, intercommunication and radio technology investigation, solely with a personal aim and without monetary remuneration. The passing of brief messages of a personal nature on behalf of other Persons is also permitted, provided no fees or other consideration is requested or accepted.
- vii. Other technical conditions (e.g., power limits) may be specified from time to time in order to minimize interference to other services and Licensees.

g) Obligations of Licensee

Allholders of a License under this Section shall:

- i. only use the radio frequencies or radio frequency bands approved by the Department;
- ii. only communicate with other authorized amateur spectrum License holders in Myanmar or appropriately licensed amateur authorization holders in other countries;
- iii. not make use of encryption devices or equipment in the operation or use of any station, nor can the content of the communication be encoded in such a way as to obscure its meaning;
- iv. not begin transmitting without listening in on the radio frequency to be used in order to ascertain that no interference is likely to be caused to any other station that may be transmitting;
- v. identify himself or herself by the transmission of the callsign assigned to him by the Department at the beginning and end of each transmission;
- vi. obtain the approval of all relevant authorities before erecting any mast or antenna to be used in connection with the operation of the station;
- vii. keep a running record of all transmission periods showing the date and time of each period of transmission and the radio frequency and type of emission employed;



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preserve the record of each entry made for twelve (12) months; and make such record available for inspection by the Department;

- viii. not transmit news, advertisements, communications of a business or non-experimental character, or messages for monetary remuneration; and
- ix. prepare for, and meet, communication needs in support of disaster relief in accordance with Article 25 of the Radio Regulations.

h) Duration.

- i. The initial duration of the authorization will be fifteen (15) years, with renewals allowed per Section14.
- ii. The Radio Amateur Certificate is issued in perpetuity; it does not need to be renewed.

i) Fees.

Fees associated with the Amateur Spectrum License are found in Annex C.

**33. Government Spectrum UseLicenses**

- a) Upon request from another government authority of the Union Government, the Department may authorize the use of frequencies to provide all forms of government services.
- b) The Department shall authorize government entities to use frequencies for such use only according to the National Table of Frequency Allocations.
- c) License Conditions and Requirements
  - i. The use of frequencies under this part is limited to operation by the authorized government entity of networks and/or Radio Apparatus solely for its internal purposes and the accomplishment of its mission; no provision of Telecommunication Services for remuneration is allowed. This provision shall not apply to MPT for the period of time before it obtains the required Spectrum License(s) as required by Section43 and the Associated Operating License(s).
  - ii. An authorization to provide government services does not require an Associated Operating License.
  - iii. Licenses granted under this part include both the right to use approved frequencies and to operate the Radio Apparatus that uses those frequencies.
  - iv. In any spectrum band that is shared with a non-government Licensee(s), the government Licensee may have to coordinate its operations with prior-authorized Licensees.
  - v. Radio apparatus used as part of providing the authorized service shall comply with any technical standards or requirements identified by the Department or Ministry, in accordance with Section35.

d) Obligations of Licensee

All Licensees holding a Government SpectrumLicense:



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- i. may use only the radio frequencies or radio frequency bands and power levels authorized by the Department;
- ii. must ensure that Radio Apparatus operates in compliance with any technical specifications set by the Department or Ministry and contained either in Section 35 of these Rules or as indicated in the authorization or License itself;
- iii. must take steps as necessary to avoid interference with existing spectrum licensees.
- iv. must keep adequate records to allow any instances of interference to be resolved.

e) Duration.

The initial duration of the authorization will be fifteen (15) years, with renewals allowed per Section 14.

f) Fees

At this time, no fees will be charged for authorizations granted under this Section.

#### 34. Other Radiocommunication Services

- a) Licenses for other Radiocommunication Services not addressed elsewhere in these Rules may be obtained by applying directly to the Department.
- b) – xx) Reserved—These Sections are reserved for services or other issues not covered elsewhere in these Rules.

#### 35. Special Temporary Licenses

- a) The Department may permit any Person to temporarily use any radio frequency or frequency band in respect of any network or station for the following purposes:
  - i. Testing of Radio Apparatus;
  - ii. Emergency response to natural disasters, etc.;
  - iii. Special Events, such as sporting events, etc.; and
  - iv. Other exigent circumstances as determined by the Department.
- b) Frequencies may not be authorized if they have already been assigned to another Licensee in the same geographic area or if Harmful Interference will be caused to an existing Licensee.
- c) Such temporary authorizations may be granted without a public consultation, but must be formally announced on the Department's website or through other appropriate means.
- d) Duration. A special temporary License may be granted for a period not exceeding one hundred fifty (150) days, and may be extended for one additional one hundred fifty (150) day period.
- e) Fees.

Fees associated with Special Temporary Licenses are found in Annex C.



## PART V. TECHNICAL STANDARDS

### 36. Compliance with Technical Standards

- a) Pursuant to the Telecommunications Law and the Applicable Regulatory Framework, Licensees shall comply with any technical standards applicable to Radio Apparatus that the Licensee uses, sells, leases or distributes, as determined by the Department after providing the public with reasonable notice and an opportunity to comment through a public consultation process.
- b) In any case in which the Department does not require the use of a particular technical standard, the Licensee may deploy Radio Apparatus if that Apparatus uses technologies that:
  - i. comply with technical standards adopted by a recognized international standard-setting body (such as, but not limited to, Institute of Electrical and Electronic Engineers and the European Telecommunications Standards Institute); or
  - ii. are routinely used by providers of Telecommunications Services in other countries; or
  - iii. have been used, for at least one calendar year, by any entity that holds a Controlling Interest in the Licensee, or by any entity in which that entity holds a Controlling Interest; or
  - iv. have been specifically approved by the Department.
- c) If a Licensee distributes Radio Apparatus to End Users as part of its licensed service, it shall comply with the requirements of Section 27 of the Telecommunications Law, which addresses the need for technical standards approval for Telecommunications Equipment.

### 37. Prohibition on Interference

- a) Licensees shall comply with existing and future international coordination requirements and procedures, as appropriate, including the relevant International Radio Rules issued by the ITU. The Licensee shall coordinate, when necessary, with other Radio Spectrum Licensees in the Republic of the Union Myanmar to avoid Harmful Interference.
- b) In the event of a disagreement between or among Licensees regarding the prevention or causation of Harmful Interference, the affected Licensees shall be responsible for resolving such disputes expeditiously and, if such efforts are unsuccessful, one or more of the Licensees involved may request the Department to resolve the dispute pursuant to Section 50 of the Telecommunications Law.
- c) Recognizing the provisions of Section 45 a), the Department is responsible for working with its counterparts in neighboring countries to minimize Harmful Interference in the border regions; Licensees shall cooperate with the Department to resolve cases of cross-border Harmful Interference.

### 38. Efficient Use of Spectrum

- a) Licensees shall assist the Ministry and Department in the coordination and management of Radio Spectrum and shall make efficient use of its Assigned Frequencies.



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- b) Licensees shall notify the Department promptly if the Licensee no longer requires the use of any or all of the Assigned Frequencies. The Department will then reclaim those frequencies and may reassign them to another Person or Licensee.

### **39. Compliance with Emissions Requirements**

Licensees shall comply with all relevant requirements and specifications found in Annex H: Specification of Emissions.

### **40. Radio Frequency Emissions Standards**

- a) Licensees shall take appropriate measures to limit human (worker and End User) exposure to radio frequency (non-ionizing radiation) emissions from Radio Apparatus by installing, managing and operating the Radio Apparatus in its network based on the technical standards, limits and procedures described by the International Commission on Non-Ionizing Radiation Protection (ICNIRP), "Guidelines for Limiting Exposure to Time-Varying Electric, Magnetic, and Electromagnetic Fields (up to 300 GHz), published in Health Physics 74 (4): 494-522; 1998 (and any subsequent updates).

## **PART VI. COMPETITION CONDITIONS**

The provisions of this Part are complementary to and should be read in conjunction with the Competition Rules and Interconnection and Access Rules.

### **41. Wholesale Access Agreements**

- a) A Licensee may enter into a Spectrum Wholesale Access Agreement with an Other Licensee pursuant to Section 33 of the Telecommunications Law and the Applicable Regulatory Framework, upon written request.
- b) If the Department, after providing notice and a reasonable opportunity for comment, issues a directive pursuant to Section 88(b) of the Telecommunications Law and the Applicable Regulatory Framework requiring a Licensee to provide Spectrum Wholesale Access, the Licensee shall seek to negotiate an agreement with any Other Licensee designated by the Department. In such case, the Licensee shall provide Spectrum Wholesale Access to Radio Spectrum assigned pursuant to its License on an equitable and non-discriminatory basis, which shall not be of a lower technical standard and quality than provided in the Licensee's own network.
- c) Any Spectrum Wholesale Access Agreement adopted pursuant to provision a) or b) above shall be submitted to the Department and pursuant to Section 88 (b) of the Telecommunications Law, shall not become effective until the Department has granted approval.
- d) The Department may reject, or require modification of, any Spectrum Wholesale Access Agreement that the Department concludes, following notice and a reasonable opportunity to comment, is unreasonably discriminatory or contrary to the interests of End Users.
- e) If the two Licensees are unable to reach agreement within ninety (90) days after being directed to enter into an agreement by the Department pursuant to provision b) above, the two Licensees shall refer the matter to dispute resolution pursuant to Section 50 of the Telecommunications Law and the Applicable Regulatory Framework.



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- f) If the two Licensees are unable to reach agreement within ninety (90) days after a Licensee has made a written request for Spectrum Wholesale Access pursuant to provision a) above, the Licensee that made the request may refer the dispute to the Department, pursuant to Section 50 of the Telecommunications Law and the Applicable Regulatory Framework.

#### **42. Spectrum Sharing**

- a) A Licensee may enter into agreements with Other Licensees, pursuant to Section 11(b) of the Telecommunications Law and the Applicable Regulatory Framework on terms and conditions that are fair, reasonable and transparent for the sharing of Radio Spectrum.
- b) Any Spectrum Sharing Agreement arrived at through negotiation shall be submitted to the Department and pursuant to Section 33 of the Telecommunications Law, shall not become effective until the Department has granted written approval.
- c) The Department may reject, or require modification of, any Spectrum Sharing Agreement that the Department concludes, following notice and a reasonable opportunity to comment, is unreasonably discriminatory, is likely to substantially lessen competition or is in any other way contrary to the interests of End Users.
- d) The Department shall approve, reject or specify required modifications within sixty (60) days of the date on which the Spectrum Sharing Agreement was submitted to the Department.
- e) If a Spectrum Sharing Agreement is rejected,
- i. the Department shall provide the reason for the rejection in writing to the parties to the agreement;
  - ii. the parties may amend the Spectrum Sharing Agreement and resubmit it to the Department for reconsideration; and
  - iii. the Department shall review the amended Agreement and forward it to the Ministry with its recommendation for further action.

## **PART VII. TRANSITION PROVISIONS**

#### **43. Applicability**

This Part applies to all users of frequencies or frequency bands as of the Effective Date of these Rules.

#### **44. Requirement to Obtain New License**

Persons, including MPT, that currently utilize Radio Spectrum, but that do not have an authorization to use frequencies or frequency bands are required to apply for a License from the Department within six (6) months from the Effective Date of these Rules.

#### **45. Existing Authorizations and Licenses**

Noting the provisions of Section 85 of the Telecommunications Law,

- a) All Persons holding authorizations or Licenses that were granted prior to the Telecommunications Law coming into effect shall register such authorizations or Licenses with



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the Department within twelve (12) months of the coming into effect of the Telecommunications Law.

- b) All Persons holding authorizations or Licenses that were granted after the Telecommunications Law came into effect but prior to the enactment of these Rules shall register such authorizations or Licenses with the Department within twelve (12) months of the enactment of these Rules.
- c) All authorizations or Licenses noted in provisions a) and b) above will continue to be valid until the current expiration date of the License or authorization.
- d) Upon the expiration of the Licenses or authorizations noted in provisions a) and b) above, Licensees may apply for a new license according to the provisions of these Rules.
- e) Persons failing to comply with the provisions of this Section shall be subject to the Enforcement provisions of Section 20.

## **PART VIII. CROSS-BORDER COORDINATION AND TREATIES**

### **46. Cross-border Coordination**

- a) The Ministry is responsible for representing the government of the Republic of the Union of Myanmar in all negotiations regarding spectrum use coordination between Myanmar and countries with which it shares a border, including:
  - i. the development of bilateral or multilateral agreements related to the use of spectrum in border areas, including spectrum planning and/or technical means to avoid cross-border Radio Spectrum interference; and
  - ii. informal or formal agreements to address cross-border Harmful Interference that may occur. It is noted that the Department has technical responsibilities to minimize cross-border Harmful Interference per Section 36 c).
- b) Prior to concluding any agreement pursuant to provision a) above, the Department shall inform affected Licensees and afford them a reasonable opportunity to comment on any parts of the agreement that might affect their operations.
- c) Any agreements entered into by the Ministry pursuant to provision a) above will be incorporated into these Rules and made publicly available.

### **47. Treaties**

- a) These Rules shall be read in conjunction with and as complementary to any relevant treaty in force.
- b) These Rules do not supersede any existing treaty or other relevant agreement between the Government of the Republic of the Union of Myanmar and any other country or countries. Existing treaties and agreements remain in force. In case of conflicts between these Rules and any treaty or agreement currently in force, the provisions of the treaty or agreement will prevail.