

MYANMAR

Myanmar begins enforcement of new Copyright Law and implementing rules

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Myanmar enacted its new **Copyright Law** on May 24 2019, to replace the old Copyright Act of 1914. To implement the Copyright Law, the Ministry of Commerce (MOC) issued the Copyright Rules under Notification No. 70/2023 dated October 23 2023, establishing procedures for the registration of copyright and related rights.

The new Copyright Law and the Copyright Rules finally came into force on October 31 2023, in accordance with State Administration Council Notification No. 218/2023. Subsequently, the MOC issued Notification No. 73/2023 on November 20 2023, specifying the official forms for copyright and related rights matters to be filed with Myanmar's Intellectual Property Department (IPD).

An announcement specifying the government fees under the Copyright Law is still awaited. Once these fees are announced and the IPD opens voluntary registration, the new regime for copyright and related rights in Myanmar is finally expected to be fully functional.

Overview of the new Copyright Law

The new Copyright Law gives copyright protection for eligible literary and artistic works and for the related rights of performers, phonogram producers, and broadcasting organisations. The law also enables the use of technological protection measures to protect copyright in literary or artistic works or related rights. The unauthorised

removal or alteration of digital rights management information is also strictly prohibited.

The law supports voluntary registration of copyright in literary and artistic works and related rights with the IPD. In addition, although Myanmar is not yet a contracting party to the **Berne Convention for the Protection of Literary and Artistic Works** (under which, countries extend the same copyright protection to nationals and foreigners, regardless of publication in the country), the new Copyright Law extends copyright protection to foreign works created by non-citizens and non-residents if they are first published in Myanmar or published in Myanmar within 30 days of first publication elsewhere.

The Copyright Law grants the following copyright protection terms for the economic rights of works:

- Literary and artistic works – life of the author plus 50 years;
- Works of applied art – 25 years from the creation of the work by the author; and
- Audiovisual works and films – 50 years from publication with the consent of the author.

Holders of economic rights are also granted the following protection terms:

- Performers – 50 years from the year of the performance or fixation in any medium;
- Phonogram producers – 50 years from the year of publication (or first fixation, if unpublished) of the phonogram; and
- Broadcasting organisations – 20 years from the year of the broadcast.

Authors' and performers' moral rights, on the other hand, are protected in perpetuity.

Existing unexpired copyrights under the old Copyright Act of 1914 will continue to be valid, with the same term of copyright granted under the new Copyright Law.

Copyright owners can transfer all or part of their economic rights. Likewise, related rights owners can transfer their economic rights with the consent of all concerned parties entitled to any related rights. Transfers of rights to registered literary and artistic works or related rights can be recorded with the IPD.

Registration applications

After the announcement of official fees for copyright-related matters and further announcements, authors or owners of copyrights or related rights can voluntarily file applications to register these rights with the IPD electronically, in person (for example, via a local representative), or by post.

Applicants who are not incorporated or resident in Myanmar must appoint a local representative via the required form, which must be notarised by a notary public of the country where the applicant is incorporated or resides. Applications for voluntary registration of copyright and related rights can be in the Myanmar or English language.

Enforcement of copyrights or related rights

Disputes related to copyrights or related rights can be settled amicably, through arbitration, or through court proceedings under the new Copyright Law. Offences under the Copyright Law include:

- The unauthorised reproduction, transmission, or distribution of copyrighted works;
- The possession of infringing goods for commercial purposes; and
- The importation of infringing items into Myanmar.

The Supreme Court of the Union is empowered to establish intellectual property courts, and through a series of notifications (Nos. 961–965/2023) has granted jurisdiction to existing courts to try intellectual property-related cases (including those on copyrights or related

rights). Holders of copyrights or related rights can file both miscellaneous civil cases for provisional measures and criminal or civil cases with intellectual property courts.

Border control measures (i.e., by Customs) for copyrights and related rights are also available under the Copyright Law.

Outlook for copyright protection in Myanmar

The full implementation of copyright protection under the new Copyright Law in Myanmar has progressed significantly. It is encouraging to see these remarkable developments after the initial passage of the law over four years ago, and copyright holders can look forward to a further announcement regarding the official fees, which will fully pave the way for copyright recordation with the IPD.