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Newsletter

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Implementation of the Registration of Instrument Rules

On 10 September 2019, the Ministry of Agriculture, Livestock and Irrigation published Notification No.299/2019, setting out the Registration of Instrument Rules (the “**Rules**”), which provide the detailed regulations required to implement the 2018 Registration of Instruments Law (the “**Law**”). The Law, which was passed in 2018 and replaced the former Registration Act 1908, requires certain documents, including agreements for the lease of immovable property for more than one year, to be registered with the Registration Office. Such documents will not be valid unless such registered in accordance with the Law.

However, no rules had been published specifying how instruments could be registered under the Law. As a result, it was necessary to confirm the procedure for each instrument on a case-by-case basis. The Rules importantly provide that:

- (1) Clarification of application documents for registration

The Rules prescribe the form of application, Form 1, which can be executed and used to submit a duly stamped instrument to the Registration Office together with the required supporting documents. In the case of the registration of instruments relating to immovable property which are the most typically registered documents, under the Rules, the official map and land history of the property will also need to be submitted with the application for registration. However, more generally, it is still necessary to confirm what supplementary documents need to be submitted with an application for registration.

- (2) Inspection and copying of registered documents by a third party

While the Law permits registered instruments to be inspected and copied by a third party, this was extremely difficult in practice. The Rules provide more detailed regulation in respect of this issue. In particular, the Rules provide with respect to instruments for the transfer (including lease) of immovable property, that not only the instrument itself but also the official map and land history may be inspected and copied.

- (3) Clarification of the fines for late registration

Instruments required to be registered under the Law must be registered in principle within one

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hundred and twenty (120) days of being made (or of being brought into Myanmar, in the case of instruments made outside of Myanmar). The Law does not specify the penalty if this time limit is not met. The Rules however set out the penalty, which is described in the table below:

| Length of delay | Amount of Penalty |
|------------------------|--------------------------------------|
| Less than 30 days | Two times the cost of registration |
| 31 to 60 days | Three times the cost of registration |
| 61 to 90 days | Six times the cost of registration |
| 91 to 120 days | Ten times the registration fee |

Please note that no amount of fine is specified where the delay in registering an instrument under the Law is more than one hundred and twenty (120) days. In many cases, instruments relating to immovable property have not been registered under the Law, and late registration is therefore an important issue. The failure to specify a fine for registration after one hundred and twenty (120) days may mean that registration is not possible after this time. This is an issue which requires further clarification.

The Rules clarify the procedures for registering instruments under the Law, which to date has been subject to the discretion of the Registration Office. This is important because to date, the registration of instruments has not been carried out in accordance with the Law. The implementation of the Rules may require a stricter application of the Law by the Registration Office in the future. There are still some unclear aspects of the registration requirements however, such as which specific documents need to be submitted, and close attention should be paid to developments in this area.

This publication is intended to highlight an overview of key issues for ease of understanding, and not for the provision of legal advice. If you have any questions about this publication, please contact your regular contact person(s) at Mori Hamada & Matsumoto or Chandler MHM Limited, or any of the Key Contacts listed in the far-right column.