

Update from on the ground: Changes to the Electronic Transactions Law and the impact on financial institutions operating in Myanmar

15 March 2021

The amended Electronic Transactions Law (**ETL**) is one of several legislative changes that have emanated from the recent military takeover in Myanmar. These changes affect banks, insurers, providers of payments infrastructure and participants in the financial sector in Myanmar more generally. This bulletin summarises the new legislation and sets out the specific impacts on business.

Issue	Description	Impact on Business
Background to ETL	<ul style="list-style-type: none"> The ETL was first enacted in 2004 and amended in 2014 to facilitate the development of emerging communications technologies in Myanmar by enabling the verification of digital records and other data to improve the security of eCommerce and online transactions. 	N/A
Amendment of ETL	<ul style="list-style-type: none"> The ETL (State Peace and Development Council Law No 5/2004) was amended by the military regime on 15 February 2021 to introduce a basic data protection regime (with broad carve outs for access and management of personal data by government authorities) and to prohibit the sharing of various types of information online (subject to criminal sanctions). Under the draft Cyber Security bill (Draft CSL) (introduced on 1 February 2021 but yet to be adopted), the administration stated its intention to repeal the ETL in its entirety and replace it with a regime permitting the entering into agreements using electronic technology and setting out a framework for sending and receiving electronic notices. However, given the subsequent adoption of the amendments to the ETL, it is not clear whether the regime remains intent to repealing the ETL in this manner. 	While the Draft CSL has not been adopted, the amended ETL represents the current law in Myanmar. Therefore it is important that businesses operating in Myanmar understand the current implications of the amendments.

Issue	Description	Impact on Business
Proposed data protection regime	<ul style="list-style-type: none"> – Certain data protection elements proposed in the Draft CSL have been incorporated into the amended ETL. These provisions are brief, vague and not comparable to regimes for data protection in other modern jurisdictions. Provisions of particular concern are set out below. 	Businesses receiving personal data as part of their operations should carefully consider their ability to comply with requirements under the amended ETL.
(a) Consent to disclosure of personal data	<ul style="list-style-type: none"> – Persons responsible for managing personal data are only permitted to use, disclose, modify, copy, or destroy such personal data in accordance with law and the consents obtained; however, the process and details of the applicable consent process have not been fully defined. 	Businesses receiving and disclosing personal data as part of their operations should carefully consider their ability to comply with requirements under the amended ETL. However, due to the lack of detail regarding the applicable consent process, ensuring compliance may be problematic.
(b) Government access to personal data	<ul style="list-style-type: none"> – The amendments provide exceptions to the protections on the management of personal data, including in the case of “detecting, investigating, organising of information, verifying the information conducted in accordance with management power on cyber security and cybercrime matters relating to stability, tranquillity, national security of the state.” “Stability”, “tranquillity”, and “national security” are not defined in the legislation, but, if interpreted broadly, would effectively permit the government to obtain the personal data of any individual in Myanmar whenever it considers it necessary to do so. 	Businesses receiving personal data as part of their operations should note the possible right of the military regime to obtain that personal data.
(c) Prohibitions on online posting and consequences of breach	<ul style="list-style-type: none"> – The amended ETL imposes custodial sentences and/or fines for specific breaches of the data protection regime, including for management of personal data other than in accordance with the law or disclosure of personal data without consent. – The amended ETL also significantly restricts the right to share information online by proscribing the following activities: “Whoever, at the cyber space, creates false or fake news with the intention to cause public panic, mistrust or contempt, or to destroy the unity of any association, on conviction shall be punished with imprisonment for a term which may extend from a minimum of one year to a maximum of three years or with a fine not exceeding five million Kyats or with both.” The ETL does not define “false news,” “fake news,” “public panic,” “mistrust,” “contempt” or “destroy unity” which leaves room for wide interpretation and use. 	Given that the consequences of breaching the ETL can be considered excessive and include custodial sentences, businesses are well advised to ensure they are aware of the application of the ETL and are compliant. However, due to the brevity and ambiguity in the application of the data protection regime established by the amendments, ensuring compliance may be problematic.
Replacement regime for entry into agreements electronically under Draft CSL	<ul style="list-style-type: none"> – If, as originally proposed, the ETL is in fact repealed and replaced with the simple regime for entering into agreements electronically, the Draft CSL does not provide any clarity on the use and operation of e-signatures and digital signatures, or the validity of agreements entered into electronically under the previous ETL. 	Businesses should consider the impact of this amendment on their current use of e-signatures and digital signatures, and assess potential risk of having historical agreements entered into electronically under the previous ETL re-executed.

Key contacts

Our Myanmar focus group can provide you with bespoke advice according to your business sector and business needs. Please contact one of the following key contacts or your usual Allen & Overy contact.



Simon Makinson
Head of Myanmar Practice
Tel +852 29747283
simon.makinson@allenoverly.com



Michael Reede
Partner – Sydney
Tel +612 9373 7731
michael.reede@allenoverly.com



James Mythen
Partner – ASEAN, Singapore
Tel +65 6671 6077
james.mythen@allenoverly.com



Chris Burkett
Counsel – Bangkok
Tel +66 2263 7607
chris.burkett@allenoverly.com



Stephen Jaggs
Managing Partner – Thailand
Tel +66 2263 7606
stephen.jaggs@allenoverly.com



Sarah Wilson
Partner – Bangkok
Tel +66 2263 7620
sarah.wilson@allenoverly.com

Allen & Overy means Allen & Overy LLP and/or its affiliated undertakings. Allen & Overy LLP is a limited liability partnership registered in England and Wales with registered number OC306763. Allen & Overy LLP is authorised and regulated by the Solicitors Regulation Authority of England and Wales. The term partner is used to refer to a member of Allen & Overy LLP or an employee or consultant with equivalent standing and qualifications or an individual with equivalent status in one of Allen & Overy LLP's affiliated undertakings. A list of the members of Allen & Overy LLP and of the non-members who are designated as partners is open to inspection at our registered office at One Bishops Square, London, E1 6AD.

© Allen & Overy LLP 2025. This document is for general guidance only and does not constitute definitive advice.

