

Introduction to the Instructions and Application Form

Under the licensing framework established by the Telecommunications Law and Licensing Rules, a person must obtain a Network Facilities Service (Individual) License (referred to as the NFS(I) License) prior to engaging in the activities permitted under the applicable License.

Under the Licensing Rules, the Application process to obtain an NFS(I) License is more stringent than the Registration process for the Application Service and Network Facilities Service (Class) Licenses. This is due to the fact that NFS(I) License authorizes Licensees to engage in activities that generally require more significant investments and expertise, as well as permit access to scarce resources and provide international telecommunications services.

This document provides the background and instructions on submitting an Application Form, followed by the Application Form to be submitted to the Posts and Telecommunications Department (“Department”). The Instructions on the Application Form provide an overview of the NFS(I) License; guidelines for submitting the Application Form; an overview of the criteria by which Applications will be evaluated; and a checklist of documents to be submitted with the Application. All relevant portions of the Application Form must be completed in full and submitted according to the provisions detailed below.

Instructions on the Application Form for Network Facilities Service (Individual) License

Overview of the Telecommunications Service Licenses

The following provides a brief overview of the Network Facilities Service (Individual) Licenses. Please refer to the Licensing Rules for a full description of the licensing categories and the general license application procedures.

Network Facilities Service (Individual) License authorizes the Licensee to:

- construct, maintain and operate network facilities;
- lease all or part of the Licensee's network facilities and capacity to an NS Licensee or Application Service (AS) Licensee; and
- Provide any type of public or private telecommunications services, whether on an international or national level, to the public and/or to another licensee holding a valid NS License or AS License.

The activities authorized by the NFS(I) License include, but are not limited to, the construction, maintenance and operation of and the provision of telecommunications services over:

- terrestrial fixed line transmission facilities;
- terrestrial radio transmission facilities;
- mobile base station facilities;
- submarine cable facilities;
- international gateway services facilities;
- satellite earth station facilities;
- other satellite facilities located in the Republic of the Union of Myanmar providing capabilities for the transmission of telecommunications services;
- Any Telecommunications Services authorized by the NS, AS and NFS(C) Licenses.

Guidelines for Submitting the Application Form for a Network Facilities Service (Individual) License

The Applicant must submit to the Department a cover letter, plus one original and three (3) copies of the completed Network Facilities Service (Individual) (NFS(I)) License Application Form below in an envelope marked “Network Facilities Service (Individual) License Application” to:

ATTN: Director General

Posts and Telecommunications Department

Ministry of Transport and Communications of the Republic of the Union of Myanmar

Building No.2, Nay Pyi Taw, Myanmar

Unless exempted according to the Licensing Rules:

- An NFS(I) Applicant must include with the Application an Application Fee of MMK 10,000,000 or (Myanmar Kyat equivalent with foreign Currency) in the form of a certified check or bank draft.

The Applicant must provide proof that it is a company with a current registration in the Republic of the Union of Myanmar under the Myanmar Companies Act and must ensure that the original Application Form is signed by an authorized representative of the Applicant.

An Applicant may request confidential treatment for information in its Application Form that it believes is commercially sensitive or proprietary. Any requests for confidential treatment should be clearly indicated in the cover letter to the Application Form. It is at the Department’s sole discretion to grant confidential treatment to any or all information for which confidential treatment is requested.

Overview of the Evaluation Process for NFS(I) License and Application

Pursuant to Section 10(i) of the Licensing Rules, the Department will issue NFS(I) Licenses on a non-exclusive basis. Therefore, the Department's evaluation process for NFS(I) License Application is intended to ensure that an Applicant satisfies the criteria set forth below and can demonstrate that it possesses adequate financial and technical capabilities to engage in the proposed Licensed activities. The Department will not reject an Application unless there are objectively justifiable reasons for doing so. Refer to the Licensing Rules for further details on the Application process and timing of decisions.

An Applicant is encouraged to provide as much detailed information as possible on the Application. In the event that the Department requests further information to process an Application, the Applicant should submit this information promptly. An Applicant's failure to respond within thirty (30) days to a written request for more information from the Department may result in rejection of the Application, unless the Applicant submits written reasons for the delay and the Department determines it is for good cause.

Within sixty (60) days of receiving an Application form for an NFS(I) License deemed to be complete and accurate, the Department and Ministry shall review the application and notify the Applicant of their decision. If the review of a complete and accurate Application is expected to exceed sixty (60) days, the Department shall provide written notice to the Applicant explaining the reason(s) for the delay.

If the Department has requested additional information from the Applicant, the Department shall have sixty (60) days from receiving the additional information to complete its review of the Application. If the review of a complete and accurate Application is expected to exceed sixty (60) days, the Department shall provide written notice to the Applicant explaining the reason(s) for the delay.

Upon receipt of a License, the Applicant shall (i) pay the initial fee (unless exempted) and (ii) sign the License and submit it to the Department within sixty (60) days. If the Applicant fails to comply with either of these two requirements, the Department may cancel the License unless the Applicant submits written reasons for the delay in signing the License and the Department determines it is for good cause. If the Department cancels a License due to the Applicant's failure to sign the License as required, the Applicant will need to re-submit the Application and pay another Application Fee. Applicants that are exempted from paying the initial Application Fee will be required to pay the Application Fee with any re-submission of the Application.

Checklist of Documents to be attached to the Application

- Cover letter on the Applicant's letterhead. Any requests for confidential treatment should be clearly indicated in the cover letter.
- Complete and accurate Application Form signed by a Director of the Applicant, including the following Attachments for all Applicants:
 - Attachment 1: Additional Responses
 - Attachment 2. Company Registration Certificate & Company Extract
 - Attachment 3. Memorandum and Articles of Association
 - Attachment 4. Technical Plan
 - Attachment 5. Certificate of Paid-Up Capital
- The following Attachments must be submitted by Applicants for the NFS(I) License only:
 - Attachment 6. Business Plan
 - Attachment 7. Financing Plan
 - Attachment 8. Audited Accounts

- Unless exempted by the Licensing Rules, an Application Fee of MMK 10,000,000 in the form of a certified check or bank draft for NFS(I) License Applicants.