



Australian Government
Refugee Review Tribunal

Country Advice

Myanmar

Myanmar – MMR36874 – Myanmar
Criminal Law – Residents Registration Act
1949 – National Registration Cards –
Summonses
17 June 2010

1. Can a copy of the Criminal Act of Myanmar (in English) be found online?

A Myanmar Criminal Act was not found. The two Myanmar Criminal Law texts listed on the Online Burma Library website are the Code of Criminal Procedure and the Penal Code.¹ An English translation of these Codes, found on the Burma Lawyers Council website, is included in this advice.²

2. What is the Registration of the Residents of the Union of Myanmar Act 6(2) and 6(3) 1949?

The text of the Registration of the Residents of the Union of Myanmar Act was not found in a search of the available information. A description of the Residents Registration Act was also not found within the time available.

Reference to being charged under Section 6 of the 1949 Residents Registration Act was found in a 2007 Niigata University journal article. The article appears to have been written originally in Japanese and is badly translated, but does give a list of punishment for crimes involving national ID cards. According to this, those who forge, alter, transfer, etc, the national ID card in a fraudulent manner shall be punished under Section 6 of the Registration of Residents Act, 1949, as well as sections of the Penal Code.³

Reports were found of activists being charged for possessing a fake Burmese ID card. A 10 February 2010 article in *The Irrawaddy* reports on the case of Nyi Nyi Aung who “was sentenced under Article 468 of the Penal Code for possessing a fake Burmese ID card and Article 24/1 of the Foreign Exchange Regulation Act for illegal possession of a foreign currency.”⁴

3. Is there any information on what the process of changing a Foreigners Registration Card to a National Registration Card would be?

¹ ‘Law and Constitution’ (undated), Online Burma/Myanmar Library <http://www.burmalibrary.org/show.php?cat=404> - Accessed 17 June 2010 - Attachment 1.

² *Code of Criminal Procedure [Myanmar]*, 1898, Burma Lawyers Council website http://www.blc-burma.org/html/Criminal%20Procedure%20Code/cpc_index.html - Accessed 17 June 2010 - Attachment 2; Government of Burma 1861, *Myanmar Penal Code*, 1 May, Burma Lawyers Council website <http://www.blc-burma.org/html/Myanmar%20Penal%20Code/mpc.html> - Accessed 17 June 2010 - Attachment 3.

³ Aung, T. 2007, ‘An Introduction to Citizenship Card under Myanmar Citizenship Law’, *Journal of the Study of Modern Society and Culture*, vol. 38, March, p. 285 http://dspace.lib.niigata-u.ac.jp:8080/dspace/bitstream/10191/6399/1/01_0053.pdf - Accessed 17 June 2010 - Attachment 4.

⁴ Naing, S. 2010, ‘Burmese-American Activist Gets Three Years in Prison’, *The Irrawaddy*, 10 February http://irrawaddy.org/article.php?art_id=17776 - Accessed 17 June 2010 - Attachment 5.

Information was not found on the process of changing a Foreigners Registration Card (FRC) to a National Registration Card (NRC). Information was found to indicate that NRCs can be obtained through bribery. An opinion in *The Burma Digest* laments the bribery involved in obtaining permits and official documents. In relation to obtaining national ID cards, the editorial states:

[T]o get an ID card (called national registration card), people have to pay bribes to authorities. Sometimes, poor people in ethnic minority areas are not issued national ID cards, probably because they cannot bribe or probably due to racial discrimination by Burmese authorities, and they become people without country although they are naturally entitled to be citizens of Burma. But on the other hand, illegal Chinese business men who just recently migrated from China can easily buy Burmese national ID cards from corrupt officials.⁵

The 2007 Niigata University journal article gives the procedures for a citizen to apply for a Myanmar National ID card.⁶

The 1982 Citizenship Law is attached for reference.⁷

4. Please provide any information on whether it is likely that a person who was out of the country would be issued a summons to appear in court?

Information indicates a lack of coordination and cooperation, and a lack of adequate record-keeping in Burma. October 2005 DFAT advice to DIMIA details the lack of cooperation and coordination between security agencies and the difficulties in maintaining accurate records. DFAT explains that it is quite possible for someone convicted of low-level offences to slip under the radar in leaving the country. Although discussing the possible situation of a detention escapee, the information is relevant here. DFAT states:

It is possible that an individual detained by authorities could be issued with a passport via a broker while in prison. In particular, an individual held by authorities for low-level offences (or questioning) would probably still be in the possession of his/her National Registration Card (which is mandatory for obtaining a passport) and could well have avoided being placed on any internal alert list. Obtaining a passport while in detention will, however, increase the fees required to secure a broker's services, particularly if the passport is required urgently.

A.3. The Burmese regime does have an internal alert system for detention escapees, but we understand it is of poor quality. Frequent poor levels of cooperation between security agencies, manual filing systems and difficulties cross-referencing and updating the various names held by most Burmese citizens makes it difficult for authorities to maintain adequate records. It is quite possible therefore that escapees, particularly low-profile ones, would not be recorded effectively on the alert system.

A.4. It is quite possible for an escapee to depart the country, particularly if the individual has a low-profile with Burmese authorities. Bribery would almost certainly play a role in facilitating the process, although this is standard practice for

⁵ 'Editorial: State Patronized Dirty Corruption' 2006, *Burma Digest*, 23 April <http://burmadigest.info/2006/04/23/editorial-state-patronized-dirty-corruptions/> - Accessed 17 June 2010 - Attachment 7.

⁶ Aung, T. 2007, 'An Introduction to Citizenship Card under Myanmar Citizenship Law', *Journal of the Study of Modern Society and Culture*, vol. 38, March, pp. 280-281 http://dspace.lib.niigata-u.ac.jp:8080/dspace/bitstream/10191/6399/1/01_0053.pdf - Accessed 17 June 2010 - Attachment 4.

⁷ *Burma Citizenship Law* [Myanmar], 15 October 1982, UNHCR Refworld website <http://www.unhcr.org/refworld/docid/3ae6b4f71b.html> - Accessed 17 June 2010 - Attachment 6.

obtaining passports in Burma regardless of whether one is in trouble with authorities or not.⁸

Attachments

1. 'Law and Constitution' (undated), Online Burma/Myanmar Library <http://www.burmalibrary.org/show.php?cat=404> - Accessed 17 June 2010.
2. *Code of Criminal Procedure [Myanmar]*, 1898, Burma Lawyers Council website http://www.blc-burma.org/html/Criminal%20Procedure%20Code/cpc_index.html - Accessed 17 June 2010.
3. Government of Burma 1861, *Myanmar Penal Code*, 1 May, Burma Lawyers Council website <http://www.blc-burma.org/html/Myanmar%20Penal%20Code/mpc.html> - Accessed 17 June 2010.
4. Aung, T. 2007, 'An Introduction to Citizenship Card under Myanmar Citizenship Law', *Journal of the Study of Modern Society and Culture*, vol. 38, March http://dspace.lib.niigata-u.ac.jp:8080/dspace/bitstream/10191/6399/1/01_0053.pdf - Accessed 17 June 2010.
5. Naing, S. 2010, 'Burmese-American Activist Gets Three Years in Prison', *The Irrawaddy*, 10 February http://irrawaddy.org/article.php?art_id=17776 - Accessed 17 June 2010.
6. *Burma Citizenship Law* [Myanmar], 15 October 1982, UNHCR Refworld website <http://www.unhcr.org/refworld/docid/3ae6b4f71b.html> - Accessed 17 June 2010.
7. 'Editorial: State Patronized Dirty Corruption' 2006, *Burma Digest*, 23 April <http://burmadigest.info/2006/04/23/editorial-state-patronized-dirty-corruptions/> - Accessed 17 June 2010.
8. DIMIA Country Information Service 2005, Country Information Report No. 05/60 – Burmese Passport and Departure Procedures, (sourced from DFAT advice 12 October 2005), 14 October. (CISNET Burma CX137106)

⁸ DIMIA Country Information Service 2005, Country Information Report No. 05/60 – Burmese Passport and Departure Procedures, (sourced from DFAT advice 12 October 2005), 14 October – Attachment 8.