

THE PRESS (EMERGENCY POWERS) ACT

[INDIA ACT XXIII, 1931] (9th October, 1931)

1. * * * *

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “book” includes every volume, part or divisions of a volume, pamphlet and leaflet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed;

(2) “document” includes also any painting, drawing or photograph or other visible representation;

(3) * * * *

(4) “Magistrate” means a District Magistrate

(5) “newspaper” means any periodical work containing public news or comments on public news;

(6) “news-sheet” means any document other than a newspaper containing public news or comments on public news or any matter described in sub-section (1) of section 4;

(7) “press” includes a printing-press and all machines, implements and plant and parts thereof and all materials used for multiplying documents;

(8) “printing-press” includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing;

(9) “unauthorised newspaper” means —

(a) any newspaper in respect of which there are not for the time being valid declarations under section 5 of the Press (Registration) Act, and

(b) any newspaper in respect of which security has been required under this Act, but has not been furnished as required;

(10) “unauthorised news-sheet” means any news-sheet other than a news-sheet published by a person authorized under section 15 to publish it ; and

(11) “undeclared press” means any press other than a press in respect of which there is for the time being a valid declaration under section 4 of the Press (Registration) Act.

CONTROL OF PRINTING-PRESSES AND NEWSPAPERS

3. (1) Any person keeping a printing-press who is required to make a declaration under section 4 of the Press (Registration) Act may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made security to such an amount, not being more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of the Union of Burma or the Government of India or Pakistan as the person making the deposit may choose:

Provided that if a deposit has been required under sub-section (3) from any previous keeper of the printing-press, the security which may be required under this sub-sections may amount to three thousand rupees.

(2) Where security required under sub-section (1) has been deposited in respect of any printing-press, and for a period of three months from the date of the declaration mentioned in sub-section (1) no order is made by the President of the Union under section 4 in respect of such press, the security shall, on application by the keeper of the press, be refunded.

(3) Whenever it appears to the President of the Union that any printing-press kept in any place in the Union of Burma, in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section (2), is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations of the nature described in section 4, sub-section (1), the President of the Union may, by notice in writing to the keeper of the press stating or describing such words, signs or visible representations, order the keeper to deposit with the Magistrate within whose jurisdictions the press is situated security to such an amount, not being less than five hundred or more than three thousand rupees, as the President of the Union may think fit to require, in money or the equivalent thereof in securities of the Government of the Union of Burma or the Government of India as the person making the deposit may choose.

(4) Such notice shall appoint date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

4. (1) Whenever it appears to the President of the Union that any printing-press in respect of which any security has been ordered to be deposited under section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which —

(a) incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognizable offence involving violence, or

(b) directly or indirectly express approval or admiration of any such offence, or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence,

or which tend, directly or indirectly,—

(c) to seduce any officer, soldier, sailor or airman in the military, naval or air forces or any police-officer from his allegiance or his duty, or

¹(d) to bring into hatred or contempt the Government established by law in the Union of Burma or the administration of justice in the Union of Burma or any class or section of persons resident in the Union of Burma or to excite disaffection towards the said Government, or

Foot Note: 1. Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

(e) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or

(f) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or

(g) to induce a public servant or in servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or

(h) to promote feelings of enmity or hatred between different classes of [persons resident in the Union of Burma]¹, or

(i) to prejudice the recruiting of persons to serve in any of the Burma forces, or its any police force, or to prejudice the training, discipline or administration of any such force, or

²(j) * * * *

the President of the Union may, by notice in writing to the keeper of such printing-press, stating or describing the words, signs or visible representations which in his opinions are of the nature described above,—

(i) where security has been deposited, declare such security, or any portion thereof, to be forfeited to [the State]¹, or

(ii) where security has not been deposited, declare the press to be forfeited to [the State]¹,

and may also declare all copies of such newspaper, book or other document wherever found in the Union of Burma to be forfeited to [the State]¹.

Explanation 1.— No expression of approval or admiration made in a historical or literary work shall be deemed to be of the nature described in this sub-section unless it has the tendency described in clause (a).

Explanation 2.— Comments expressing disapprobation of the measures of the Government or Administration with view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (d) * * *² of this sub-section.

Explanation 3.— Comments expressing disapprobation of the administrative or other action of the Government or Administrations without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (d) * * *² of this sub-sections.

Explanation 4.— Words pointing out, without malicious intentions and with an honest view to their removal, matters which are producing or have a tendency to produce feelings of enmity or hatred between different classes of [persons resident of in the Union of Burma]¹ shall not be deemed to be words of the nature described in clause (h) of this sub-section.

* * * *³

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1) declaring a security, or any portion thereof, to be forfeited, the declarations made in respect of such press under section 4 of the Press (Registration) Act shall be deemed to be annulled.

Foot Note: 1. Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

2. Deleted *ibid*.

3. Explanation 5 was deleted *ibid*.

5. (1) Where the security given in respect of any press, or any portion thereof, has been declared forfeited under section 4 or section 6, every person making a fresh declarations in respect of such press under section 4 of the Press (Registrations) Act shall deposit with the Magistrate before whom such declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of the Union of Burma or the Government of India or Pakistan as the person making the deposit may choose.

(2) Where a portion only of the security given in respect of such press has been declared forfeited

under section 4 or section 6, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (1).

6. (1) If, after security has been deposited under sections 5, the printing-press is again used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which, in the opinion of the President of the Union may, are of the nature described in section 4, sub-section (1), the President of the Union may, by notice in writing to the keeper of such printing-press stating or describing such words, signs or visible representations, declare —

(a) the further security so deposited, or any portions thereof, and

(b) all copies of such newspaper, book or other document wherever found in the Union of Burma,

to be forfeited to [to the State]¹.

(2) After the expiry of ten days from the issue of a notice under sub-section (1), the declaration made in respect of such press under section 4 of the Press (Registration) Act shall be deemed to be annulled.

7. (1) Any publisher of a newspaper who is required to make a declaration under section 5 of the Press (Registration) Act may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made security to such an amount, not being more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of the Union of Burma or the Government of India or Pakistan as the person making the deposit may choose:

Provided that if a deposit has been required under sub-sections (3) from any previous publisher of the newspaper, the security which may be required under this sub-section may amount to three thousand rupees.

(2) Where security required under sub-section (1) has been deposited in respect of any newspaper, and for a period of three months from the date of the declaration mentioned in sub-sections (1) no order is made by the President of the Union under section 8 in respect of such newspaper, the security shall, on applications by the publisher of the newspaper, be refunded.

(3) Whenever it appears to the President of the Union that a newspaper punished in the Union of Burma, in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section (2), contains any words, signs or visible representations of the nature described in section 4, sub-section (1), the President of the Union may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, require the publisher to deposit with the Magistrate within whose jurisdictions the newspaper is published security to such an amount, not being less than five hundred or more than three thousand rupees, as the President of the Union may think fit to require, in money or the equivalent thereof in securities of the Union of Burma or the Government of India or Pakistan as the person making the deposit may choose.

Foot Note: 1. Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

(4) Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

8. (1) If any newspaper in respect of which any security has been ordered to be deposited under section 7 contains any words, signs or visible representations which, in the opinions of the President of the Union, are of the nature described in sections 4, sub-sections (1), the President of the Union may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible

representations,—

(a) where the security has been deposited, declare such security, or any portion thereof, to be forfeited to [the State]¹, or

(b) where the security has not been deposited, annul the declarations made by the publisher of such newspaper under section 5 of the Press (Registrations) Act,

and may also declare all copies of such newspaper wherever found in the Union of Burma to be forfeited to [the State]¹.

(2) After the expiry of ten days from the date of the issue of a notice under sub-sections (1) declaring a security, or any portion thereof, to be forfeited, the declarations made by the publisher of such newspaper under section 5 of the Press (Registration) Act shall be deemed to be annulled.

9. (1) Where the security given in respect of any newspaper, or any portions thereof, is declared forfeited under section 8 or sections 10, any person making a fresh declaration under section 5 of the Press (Registration) Act as publisher of such newspaper, or any other newspaper which is the same in substance as the said newspaper, shall deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of the Union of Burma or the Government of India or Pakistan as the person making the deposit may choose.

(2) Where a portion only of the security given in respect of such newspaper has been declared forfeited under sections 8 or section 10, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-sections (1).

10. (1) If, after security has been deposited under sections 9, the newspaper again contains any words, signs or visible representations which, in the opinion of the President of the Union, are of the nature described in section 4, sub-section (1), the President of the Union may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, declare

(a) the further security so deposited, or any portion thereof, and

(b) all copies of such newspaper wherever found in the Union of Burma, to be forfeited to [the State]¹.

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made by the publisher of such newspaper under section 5 of the Press (Registration) Act shall be deemed to be annulled and no further declarations in respect of such newspaper shall be made save with the permission of the President of the Union.

Foot Note: 1. Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

11. (1) Whoever keeps in his possessions a press which is used for the printing of books or papers without making a deposit under sections 3 or section 5, as required by the President of the Union or the Magistrate, as the case may be, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 4 of the Press (Registrations) Act.

(2) Whoever publishes any newspaper without making a deposit under section 7 or section 9, as required by the President of the Union or the Magistrate, as the case may be, or publishes such newspaper knowing that such security has not been deposited, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by

sections 5 of the Press (Registration) Act.

12. (1) Where a deposit is required from the keeper of a printing-press under section 3, such press shall not be used for the printing or publishing of any newspaper, book or other document after the expiry of the time allowed to make the deposit until the deposit has been made, and where deposit is required from the keeper of a printing-press under sections 5, such press shall not be so used until the deposit has been made.

(2) Where any printing-press is used in contravention of sub-section (1), the President of the Union may, by notice in writing to the keeper thereof, declare the press to be forfeited to [the State]¹.

(3) Where a deposit is required from the publisher of a newspaper under section 7 and the deposit is not made within the time allowed, the declarations made by the publisher under section 5 of the Press (Registration) Act shall be deemed to be annulled.

13. Where any person has deposited any security under this Act and ceases to keep the press in respect of which such security was deposited, or, being a publisher, makes a declaration under section 8 of the Press (Registration) Act, he may apply to the Magistrate within whose jurisdiction such press is situate for the returns of the said security; and thereupon such security shall, upon proof to the satisfaction of the Magistrate and subject to the provisions hereinbefore contained, be returned to such person.

14. Where any printing-press is, or any copies of any newspaper, book or other document are, declared forfeited to [the State]¹ under section 4, section 6, section 8, section 10 or section 12, the President of the Union may direct a Magistrate to issue a warrant empowering any police-officer, not below the rank of sub-inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises —

(i) where any such property may be or may be reasonably suspected to be, or

(ii) where any copy of such newspaper, book or other document is kept for sale, distribution, publication or public exhibitions or is reasonably suspected to be so kept.

Foot Note: 1. Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

UNAUTHORIZED NEWS-SHEETS AND NEWSPAPERS

15. (1) The Magistrate may, by order in writing and subject to such conditions as he may think fit to impose, authorise any person by name to publish a news-sheet, or to publish news-sheets from time to time.

(2) A copy of an order under sub-sections (1) shall be furnished to the persons thereby authorised.

(3) The Magistrate may at any time revoke an order made by him under sub-sections (1).

16. (1) Any police-officer, or any other persons empowered in this behalf by the President of the Union, may seize any unauthorised news-sheet or unauthorised newspaper, wherever found.

(2) Any District Magistrate, Subdivisional Magistrate or Magistrate of the first class may by warrant authorise any police-officer not below the rank of sub-inspector to enter upon and search any place where any stock of unauthorised news-sheets or unauthorised newspapers may be or may be reasonably suspected to be, and such police-officer may seize any documents found in such place which, in his opinion, are unauthorised news-sheets or unauthorised newspapers.

(3) All documents seized under sub-section (1) shall be produced as soon as may be before a District

Magistrate, Subdivisional Magistrate or Magistrate of the first class, and all documents seized under sub-section (2) shall be produced as soon as may be before the Court of the Magistrate who issued the warrant.

(4) If, in the opinion of such Magistrate or Court, any of such documents are unauthorised news-sheets or unauthorised newspapers, the Magistrate or Court may cause them to be destroyed. If, in the opinion of such Magistrate or Court, any of such documents are not unauthorised news-sheets or unauthorised newspapers, such Magistrate or Court shall dispose of them in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure.

17. (1) Where a District Magistrate or Subdivisional Magistrate has reason to believe that an unauthorised news-sheet or unauthorised newspaper is being produced from an undeclared press within the limits of his jurisdictions, he may by warrant authorise any police-officer not below the rank of sub-inspector to enter upon and search any place wherein such undeclared press may be or may be reasonably suspected to be, and if, in the opinion of such police-officer, any press found in such place is an undeclared press and is used to produce an unauthorised news-sheet or unauthorised newspaper, he may seize such press and any documents found in the place which in his opinion are unauthorised news-sheets or unauthorised newspapers.

(2) The police-officer shall make a report of the search to the Court which issued the warrant and shall produce before such Court, as soon as may be, all property seized:

Provided that where any press which has been seized cannot be readily removed, the police-officer may produce before the Court only such parts thereof as he may think fit.

(3) If such Court, after such inquiry as it may deem requisite, is of opinion that a press seized under this section is an undeclared press which is used to produce an unauthorised news-sheet or unauthorised newspaper, it may, by order in writing, declare the press to be forfeited to [the State]¹. If, after such inquiry, the Court is not of such opinion, it shall dispose of the press in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure.

(4) The Court shall deal with documents produced before it under this section in the manner provided in sub-section (4) of section 16.

Foot Note: 1. Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

18. (1) Whoever makes, sells, distributes, publishes or publicly exhibits or keeps for sale, distributions or publication, any unauthorised news-sheet or newspaper shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, any offence punishable under sub-section (1), and any abetment of any such offence, shall be cognizable.

SPECIAL PROVISIONS RELATING TO THE SEIZURE OF CERTAIN DOCUMENTS

19. Where any newspaper, book or other document wherever made appears to the President of the Union to contain any words, signs or visible representations of the nature described in section 4, sub-section (1), the President of the Union may, by notification in the Gazette, stating the grounds of his opinion, declare every copy of the issue of the newspaper, and every copy of such book or other document to be forfeited to [the State]¹, and thereupon any police-officer may seize the same wherever found in the Union of Burma, and any Magistrate may by warrant authorise any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

20. The Chief Customs-officer or other officer authorised by the President of the Union in this behalf may detain any package brought, whether by land, sea or air, into the Union of Burma which he suspects to contain any newspapers, books or other documents of the nature described in section 4, sub-sections (1), and shall forthwith forward copies of any newspapers, books or other documents found therein to such officer as the President of the Union may appoint in this behalf, to be disposed of in such manner as the President of the Union may direct.

21. No unauthorised news-sheet or unauthorised newspaper shall be transmitted by post.

22. Any officer in charge of a post-office or authorised by the [Director-General of Posts and Telegraphs]* in this behalf may detain any article other than a letter or parcel in course of transmission by post which he suspects to contain —

(a) any newspaper, book or other document containing words, signs or visible representations of the nature described in section 4, sub-section (1), or

(b) any unauthorised news-sheet or unauthorised newspaper,

and shall deliver all such articles to such officer as the President of the Union may appoint in this behalf, to be disposed of in such manner as the President of the Union may direct.

Foot Note: 1. Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

* Now the Director of Posts, see Act XXV, 1950.

POWERS OF HIGH COURT

23. (1) The keeper of a printing-press who has been ordered to deposit security under sub-section (3) of section 3, or the publisher of a newspaper who has been ordered to deposit security under sub-section (3) of section 7, or any person having an interest in any property in respect of which an order of forfeiture has been made under section 4, section 6, section 8, section 10 or section 19 may, within two months from the date of such order, apply to the High Court to set aside such order, and the High Court shall decide if the newspaper, book or other document in respect of which the order was made did or did not contain any words, signs or visible representations of the nature described in section 4, sub-section (1).

(2) The keeper of a printing-press in respect of which an order of forfeiture has been made under sub-section (2) of section 12 on the ground that it has been used in contravention of sub-sections (1) of that section may apply to the High Court to set aside the order on the ground that the press was not so used.

24. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges.

25. (1) If it appears to the Special Bench on an application under sub-section (1) of section 23 that the words, signs or visible representations contained in the newspaper, book or other document in respect of which the order in question was made were not of the nature described in section 4, sub-section (1), the Special Bench shall set aside the order.

(2) If it appears to the Special Bench on an application under sub-section (2) of section 23 that the printing-press was not used in contravention of sub-section (1) of section 12, it shall set aside the order of forfeiture.

(3) Where there is a difference of opinions among the Judges forming the Special Bench, the decisions shall be in accordance with the opinion of the majority of those Judges.

(4) Where there is no such majority which concurs in setting aside the order in question, the order shall

stand.

26. On the hearing of an application under sub-section (1) of section 23 with reference to any newspaper, any copy of such newspaper may be given its evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the order was made.

27. The High Court shall frame rules¹ to regulate the procedure in the case of such applications, the amount of the costs thereof, and the execution of orders passed thereon, and until such rules are framed the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

SUPPLEMENTAL

28. Every notice under this Act shall be sent to a Magistrate, who shall cause it to be served in the manner provided for the service of summonses under the Code of Criminal Procedure:

Provided that, if service in such manner cannot by the exercise of due diligence be effected, the serving officer shall, where the notice is directed to the keeper of a press, affix a copy thereof to some conspicuous part of the place where the press is situate, as described in the keeper's declaration under section 4 of the Press (Registrations) Act, and where the notice is directed to the publisher of newspaper, to some conspicuous part of the premises where the publication of such newspaper is conducted, as given in the publisher's declaration under section 5 of the said Act and thereupon the notice shall be deemed to have been duly served.

29. Every warrant issued under this Act shall, so far as it relates to a search, be executed in the manner provided for the execution of search-warrants under the Code of Criminal Procedure.

Foot Note: 1. For such rules, see High Court Notification No. 4 (Genl.), dated 14th 1940 as amended by Notification No. 8 (Genl.), dated 26th April, 1950, at p. 487 of the High Court Rules and Orders, Third Edition,

30. Every declarations of forfeiture purporting to be made under this Act shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding purporting to be taken under this Act shall be called in question by any Court, except the High Court on applications under section 23, and no civil or criminal proceeding, except as provided by this Act, shall be instituted against any person for anything done or in good faith intended to be done under this Act.

31. Nothing herein contained shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against that Act.

¹32. (1) Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document, copies whereof have been declared to be forfeited to [the State]² under any law for the time being in force, shall be punished with imprisonment for a term which may extend to six months, or with fine or with both.

(2) No Court shall take cognizance of an offence punishable under this section unless the President of the Union has certified that the passage published, circulated or repeated contains, in the opinions of the President of the Union, seditious or other matter of the nature referred to in sub-section (1) of section 99A of the Code of Criminal Procedure, or sub-section (1) of section 4 of the Press (Emergency Powers) Act.

Foot Note: 1. This section was originally section 5 of India Act XXIII of 1932. The Burma Laws (Adaptation of Laws) Act, 1940 (Burma Act XXVII of 1940) directed that section 5 of that Act should be inserted herein as section 31 (32 ?).

2. Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

