

THE DEFENCE OF BURMA (REPEALING) ACT, 1947.

[BURMA ACT No. IV of 1947.]

(11th January 1947)

WHEREAS it is expedient to repeal the Defence of Burma Act, 1940, and to withdraw the Rules thereunder ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

26 Geo. 5.
c. 3.

Now, THEREFORE in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Defence of Burma (Repealing) Act, 1947.

(2) It shall come into force at once.

2. Subject to the provisions hereinafter contained, the Defence of Burma Act, 1940, hereinafter called the said Act, is hereby repealed.

3. Notwithstanding anything contained in section 2, all provisions of the said Act specified in column 1 of the First Schedule to this Act, and subject to the modifications set out therein against them in column 2 thereof, shall continue and be deemed to be in force as if this Act had not been enacted, until the Governor shall, by notification, declare the aforesaid provisions of the said Act to be no longer in force or until the date, whichever is earlier, on which the Defence of Burma Act, 1940, would ordinarily, but for the provisions of section 2 hereof, have ceased to be in force under the provisions of sub-section (4) of section 1 of the said Act.

4. Notwithstanding anything contained in this Act, the repeal of the said Act shall not affect or render invalid any Rules made under the said Act or any Orders made under the said Act or Rules before the commencement of this Act, in so far as they were made under the provisions of the said Act or Rules specified in the Schedules, except that the said Rules shall continue to be in force subject to the modifications set out against them in column 2 of the Second Schedule.

5. Nothing contained in this Act shall be deemed to derogate from the Governor's powers, which he possessed before this Act came into force, to cancel or amend any Rules specified in the Second Schedule, or any Orders made under the provisions of the said Act or Rules specified in the said Schedules, or from making any new rules or orders under the aforesaid provisions of the said Act or Rules, so long as the provisions of the Defence of Burma Act, 1940, specified in the First Schedule continue to be in force.

6. (1) Notwithstanding anything contained in this Act, a Deputy Commissioner may continue and is empowered to retain in custody any person who has been detained under Rule 26 of the Defence of Burma Rules pending the orders of the Governor, if he is satisfied that such person is a dangerous criminal, as if the said Rule 26 had not lapsed and is still in force in so far as dangerous criminals are concerned :

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Provided that the Deputy Commissioner shall submit to the Governor a report containing the reasons for the further detention of the person concerned, together with relevant documents, within seven days from the date on which this Act comes into force.

(2) The Governor may, on his own motion or on receipt of the report from the Deputy Commissioner concerned, order further detention of the person concerned for a period not exceeding three months from the date on which this Act comes into force, or direct the release of such person unconditionally or subject to such conditions as he may deem fit.

(3) For the purposes of this section, the expression "dangerous criminal" means any person who habitually commits or attempts to commit non-bailable offences punishable under the Penal Code or who habitually aids, instigates or abets the commission of any non-bailable offences.

7. Notwithstanding anything contained in section 5 of the Burma General Clauses Act, no criminal proceeding whatsoever shall be instituted in, continued or heard by any Court or Tribunal for or in respect of any act or thing done before the commencement of this Act for which the offenders could have been prosecuted or punished under any of the provisions of the Defence of Burma Act, 1940, or Rules made thereunder, which had been omitted from the Schedules to this Act; and any punishment or penalty incurred before the commencement of this Act under or by virtue of any provisions of the Defence of Burma Act, 1940, or Rules made thereunder, which had been omitted from the Schedules to this Act shall, where such sentence or penalty remains unexpired, cease to have effect, and the offenders concerned shall be set free :

Provided that nothing contained in this section shall be deemed to affect any fine already paid under the provisions of the Defence of Burma Act or Rules made thereunder.

SCHEDULES.

FIRST SCHEDULE.

The Defence of Burma Act, 1940.

Sections. 1	Modifications. 2
Section 1	.....
Section 2	<p>(1) In sub-section (1),— <i>Omit</i> the expressions "the defence of British Burma" and "the maintenance of public order or the efficient prosecution of war", and</p> <p>(2) in sub-section (2).— (a) <i>Omit</i> the expression "and preventing the prosecution of any purpose likely to prejudice the operations of His Majesty's forces or the forces of His Majesty's allies" in item (i), (b) <i>Omit</i> the expression "or to prejudice the successful conduct of war," in item (iv), (c) <i>Omit</i> the expression "in connection with the conduct of war or" in item (xx), and</p>

The Defence of Burma Act, 1940—concl'd.

Sections. 1	Modifications. 2
Section 2—concl'd. ...	<p>(d) <i>Omit</i> the expression "to the defence of British Burma or to the efficient prosecution of war," in item (xxxv),</p> <p>(e) <i>Delete</i> items (ii), (iii), (v), (vi), (viii), (x), (xi), (xviii), (xix), (xxv), (xxvii), (xxviii), (xxix), (xxx), (xxxi), (xxxiii), (xxxiv) and (a) and (b) of item (iv).</p> <p>(f) <i>Substitute</i> the expression "for public safety and maintenance of supplies and services essential to the life of the community" for the expression "for the defence of British Burma" in item (ix); and</p> <p>(3) in sub-section (3), <i>omit</i> the expression "or the defence of British Burma" in item (vii).²</p>
Section 3 ...	.....
Section 13 ...	.....
Section 14 ...	<i>Omit</i> the expression "and the defence of British Burma"
Section 15 ...	.....
Section 16 ...	.....
Section 17 ...	.....
Section 18 ...	.....

SECOND SCHEDULE.

The Defence of Burma Rules.

Rules. 1	Modifications. 2
Rules 1, 2, 3, 4, 5, 6, 7 and 8	.....
Rule 8A ...	<i>Substitute</i> the expression "three years" for "seven years".
Rule 9 ...	<i>Omit</i> the expression "the defence of British Burma" and the expression "the maintenance of public order, the efficient prosecution of war" in sub-rule (1) (c).
Rule 10 ...	(1) <i>Omit</i> the expression "or for defence against, or protection from, an enemy" in sub-rule (1) (b), and (2) <i>Omit</i> the expression "or to the defence of British Burma" in sub-rule (3), wherever it occurs.
Rules 11 and 12 ...	.....
Rule 28 ...	<i>Omit</i> sub-rule (2).
Rule 35 ...	.....
Rule 35A ...	In sub-rule (2), <i>substitute</i> the expression "with imprisonment for a term which may extend to seven years or with fine, or with both," for the expression "with death or with transportation for life or with imprisonment for a term which may extend to ten years or with whipping either in lieu of or in addition to such transportation or imprisonment."

The Defence of Burma Rules—concl'd.

Rules. 1	Modifications. 2
Rule 76	In sub-rule (1), <i>add</i> a second proviso thereto as follows— “ Provided also that no requisition under this rule shall be made for the purposes of any private gain, benefit or advantage.”
Rule 76A	.....
Rule 77	<i>Substitute</i> the expression “ for securing the public safety or for maintaining supplies and services essential to the life of the community ” for the expression “ for the successful prosecution of the war and the defence of British Burma ”.
Rule 78	In sub-rules (2) and (3), <i>omit</i> the expressions “ the defence of British Burma ” and “ the maintenance of public order or the efficient prosecution of war ”.
Rule 79	In sub-rule (1), <i>omit</i> the expressions “ the defence of British Burma ” and “ the maintenance of public order or the efficient prosecution of war ”.
Rule 80	.....
Rule 81	(1) In sub-rule (2), <i>omit</i> the expression “ for securing the defence of Burma or the efficient prosecution of the war, or ”, and (2) In sub-rule (3), <i>omit</i> the expression “ in the interests of the defence of British Burma or the efficient prosecution of the war, or ”,
Rule 82	.....
Rule 83	In sub-rule (1), <i>omit</i> the expressions “ the defence of British Burma ” and “ the maintenance of public order or the efficient prosecution of war ”.
Rules 83A, 84 and 84A.	.....
Rule 84B	In sub-rule (1) (b), <i>omit</i> the expression “ for securing the defence of British Burma or the efficient prosecution of the war, or ”.
Rule 84C	.....
Rule 85	In sub-rule (1), <i>omit</i> the expressions “ the defence of British Burma ” and “ or the efficient prosecution of war, or ”.
Rule 85A	.....
Rule 87	.....
Rule 89	(1) <i>Insert</i> the expression “ (other than a vehicle ordinarily used for agricultural purposes) ” between the words “ vehicle ” and “ used ” in sub-rule (1) (a), (2) <i>Insert</i> the expression “ (other than cattle ordinarily used for agricultural purposes) ” between the words “ animal ” and “ used ” in sub-rule (1) (b), (3) <i>Insert</i> “ mechanically propelled ” between the words “ means ” and “ transport ” in sub-rule (1) (c), and (4) <i>Omit</i> the expressions “ the defence of British Burma ” and “ the maintenance of public order or the efficient prosecution of the war ” in sub-rule (2) (i).
Rules 89A, 90, 90A, 90B, 91, 92, 92A and 92B.	.....
Rule 92C	In sub-rule (1), <i>omit</i> the expression “ for securing the defence of British Burma or the efficient prosecution of war ”.
Rules 92D, 93, 94, 95, 96, 97, 98, 99, 100, 100A, 101, 101A, 102, 103, 104, 105, 106, 107, 107A, 108, 109, 110, 111, 112, 113, 113A, 114, 114A, 115, 115A, 117 and 117A.	.....

The Defence of Burma Rules—concl'd.

Rules. 1	Modifications. 2
Rule 118 ...	(1) <i>Omit</i> sub-rule (1), and (2) In sub-rule (3), <i>substitute</i> the expression "sub-rule (2)" for the expression "sub-rules (1) and (2)".
Rule 119 ...	
Rule 120 ...	(1) In clause (b), <i>omit</i> the expression "or otherwise discharging any lawful functions in connection with the defence of British Burma and the efficient prosecution of the war", and (2) <i>Omit</i> the expression "transportation for life or with" towards the end of this rule.
Rules 121 and 122 ...	
Rule 124 ...	In sub-rule (1), <i>omit</i> the expression "or an offence prejudicial to the efficient prosecution of war, to the defence of British Burma or to the public safety".
Rule 126 ...	In clause (b) of sub-rule (1), <i>omit</i> the expression "to the efficient prosecution of war, to the defence of British Burma or".
Rule 127 ...	In clause (c), <i>omit</i> the expressions "the defence of British Burma" and "the efficient prosecution of war".
Rule 128 ...	<i>Omit</i> the figures "27, 49, 51, 52, 53, 57".
Rule 130 ...	
Rule 132 ...	