

THE PUBLIC ORDER (PRESERVATION) ACT, 1947.

[BURMA ACT NO. XVI OF 1947.]

[3rd April 1947.]

WHEREAS it is expedient to make provisions for preserving peace and order in certain areas ;

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 ;

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 Public Order (Preservation) Act, 1947.

(2) It shall come into force at once, and shall remain in force until such date as the Governor may by notification declare it to be no longer in force.

(3) It shall extend to such areas as the Governor may from time to time, by notification, specify, and the Governor may, in such notification, exclude the operation of any provisions of this Act from such areas.

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

“the Code” means the Code of Criminal Procedure.

3. Notwithstanding anything contained in the Code or in any other law for the time being in force in any area to which this Act extends—

(a) any member of the Armed Forces serving in Burma who is authorized, by name or designation, by the Governor in this behalf may exercise the powers conferred upon Police Officers by the provisions of Chapter V of the Code as amended ;

(b) the operation of the provisions of sub-section (3) of section 46 of the Code shall be suspended ;

(c) section 61 of the Code shall have effect as if the expression “seventy-two hours” had been substituted for the expression “twenty-four hours” appearing therein ;

(d) sub-section (1) of section 260 of the Code shall have effect as if the following proviso had been added thereto, namely,—

“ Provided that the Governor may by notification empower any Magistrate to try such case or cases or class of cases whatsoever as may be specified in the notification and that nothing contained in sub-section (2) of section 262 of the said Code shall apply to any case tried by virtue of such notification.”

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4. (1) Notwithstanding anything contained in any law for the time being in force, the Deputy Commissioner and any officer who is authorized, by name or designation, by the Governor in this behalf may take hostages from or may impose fines in money or goods, or may confiscate or destroy the property or any part of the property of, the inhabitants of any village-tract, or may destroy by burning or by any other means any village or any part thereof, if after enquiry he finds that any substantial number of the inhabitants of such village-tract or village have—

- (a) taken part in or conspired to create a disturbance of the public tranquillity or attempted to create or abetted the creation of such disturbance or collected men, arms or ammunition or otherwise prepared to create a disturbance of the public tranquillity ;
- (b) taken part in or abetted the commission of or conspired to commit robbery or dacoity with arms.

(2) The Deputy Commissioner or such officer, as the case may be, may order the whole or any part of the fine imposed under sub-section (1) to be given as compensation to any person to whom damage or injury has been caused directly or indirectly by the act or acts in respect of which the fine is imposed.

5. (1) Any police officer not below the rank of a Sub-Inspector or any other officer of Government, empowered in this behalf by general or special order by the Governor, may arrest without warrant any person whom he reasonably suspects of having acted, of acting, or of being about to act—

- (a) in any manner calculated to disturb, or to assist a disturbance of the public tranquillity ;
- (b) in a manner prejudicial—
 - (i) to the safety of any place or area or of any industry, machinery or building in any such place or area ;
 - (ii) to the output or effective control of any such industry or machinery.

(2) Any officer who makes an arrest in pursuance of sub-section (1) shall forthwith report the fact of such arrest to the Governor, and pending the receipt of the orders of the Governor he may by an order in writing commit any person so arrested to such custody as the Governor may by general or special order specify ;

Provided—

- (i) that no person shall be detained in custody under this sub-section for a period exceeding fifteen days without the order of the Governor ;
- (ii) that no person shall be detained in custody under this sub-section for a period exceeding two months.

(3) If any person arrested under clause (b) of sub-section (1) is prepared to furnish security, the officer who has arrested him may, instead of committing him to custody, release him on his executing a bond with or without sureties undertaking that he will not, pending the receipt of the orders of the Governor, enter, reside or remain in the areas in respect of which he became liable to arrest.

(4) On receipt of any report made under the provisions of sub-section (2) the Governor may, in addition to making such orders subject to the second proviso to sub-section (2) as may appear to be necessary for the temporary custody of any person arrested under this section, make, in exercise of any powers conferred upon the Governor by any law for the time being in force, such final order as to his detention, release, residence or any other matter concerning him as may appear to the Governor in the circumstances of the case to be reasonable or necessary.

(5) When security has been taken in pursuance of the provisions of sub-section (3), the bond shall be deemed to be a bond taken under the Code by the District Magistrate having jurisdiction in the area in respect of which the said security has been taken and the provisions of section 514 of the said Code shall apply accordingly.

6. (1) The Governor may, by order, direct that, subject to any specified exemption no person present within any specified area shall, between such hours as may be specified, be out of doors except under the authority of a written permit granted by a specified authority or person.

(2) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(3) No Court shall take cognizance of an alleged offence under this section except on a report in writing of the facts constituting such offence made by a public servant.

7. The Governor may by order direct that any power which is conferred upon him by section 5, (2) (3) and (4)⁵ and section 6 shall, subject to such conditions as may be specified therein, be exercised by such officer or authority as he may specify.

8. Any authority or person acting in pursuance of this Act shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the purpose of ensuring the public order and safety.

9. (1) No order made in exercise of any power conferred by or under this Act shall be called into question in any Court.

(2) Where an order purports to have been made and signed by any officer or authority in exercise of any power conferred by or under this Act, a Court shall within the meaning of the Evidence Act, presume that such order was made by that officer or authority until the contrary be proved.

10. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act

(2) Save as otherwise expressly provided under this Act no suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything done or intended to be done in pursuance of this Act.

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