

CHIN SPECIAL DIVISION ACT, 1948.

[Act No. XLIX OF 1948.]

1. This Act may be called the Chin Special Division Act.
2. In this Act unless there is anything repugnant in the subject or context (1) the expression "Deputy Commissioner" includes any officer whom the President may invest with the powers of the Deputy Commissioner under this Act.
 - (2) "Subdivisional Officer" includes any officer whom the President may invest with the powers of a Subdivisional Officer under this Act.
 - (3) "Township Officer" includes any officer whom the President may invest with the powers of a Township Officer under this Act.
 - (4) "Chins" include (a) Lushais, (b) Kukis, (c) Nagas, (d) Burmans domiciled in the Chin Hills, and (e) Chins of the adjoining areas.
 - (5) "Clans" mean any subdivision or section of Chins and includes a group of clans.
 - (6) "Village" includes (a) a village community, (b) village lands and (c) a group of villages.
 - (7) "Headman" means a headman appointed under this Act.
 - (8) "Village Council" means a Village Council formed under this Act.
 - (9) "Circle Council" means a Circle Council formed under this Act.
 - (10) "Union" means the Union of Burma.
 - (11) "Constitution" means the Constitution of the Union of Burma.
 - (12) "Commissioner" means the Commissioner for the Chin Special Division.
3. This Act shall be in force in the Chin Hills Special Division and no enactment in force at the date of the coming into operation of the Constitution shall apply to the Chins unless otherwise enacted by the Parliament as applicable to the Chins in the Chin Hills Special Division.
4. The law applicable to persons other than Chins in the Chin Special Division shall be the law for the time being in force in the Union with such modifications as may hereinafter be stated.
 5. (1) The powers, duties and privileges conferred on the Minister by section 197 (3) of the Constitution shall be exercised by him so as to be consonant with the wishes of the Chin Affairs Council, but not so as to override the decisions of the Union Government.
 - (2) For the convenient discharge of business by the Minister and the Chin Affairs Council, the Minister may on the advice of the Council make rules for the conduct of business.
 - (3) The rules formed in the previous sub-section, shall form the rules of guidance for the conduct of business by the Minister and the Chin Affairs Council.
6. (1) The Deputy Commissioner shall appoint a village headman for such village or group of villages, after he has ascertained the wishes of the residents thereof by means of an election.

(2) The result of the election shall be binding on the Deputy Commissioner except that any person elected may be rejected by the Deputy Commissioner on any one of the following grounds :—

- (a) Being of bad character ;
- (b) Being residents outside the village or group of villages for which he is elected headman ;
- (c) Being physically or mentally disqualified from holding the office ;
- (d) Being a minor ;
- (e) Having attained the age of 55 unless the Deputy Commissioner considers that the candidate in spite of his age is mentally and physically still capable of holding the office ;
- (f) The candidate owing his election to the exercise of undue influence or intimidation ; or
- (g) The candidate being unable to furnish such security as has or may be prescribed by the Minister in this behalf.

7. (1) The village headman shall, unless he is removed earlier or resigns from his office, hold office for a period of five years from the date of his election and shall be eligible for re-election.

(2) The Deputy Commissioner may remove a headman for—

- (a) misconduct ;
- (b) criminal conviction involving moral turpitude
- (c) inefficiency ; or
- (d) maladministration.

(3) The Deputy Commissioner may on three months' notice in writing terminate the appointment of any headman who was appointed prior to the coming into force of this Act.

(4) An appeal shall lie to the Commissioner from an order passed by the Deputy Commissioner.

8. (1) The Deputy Commissioner may appoint after election by the residents of such village or group of villages as he may specify, a village council composed of such number of members as the Deputy Commissioner may fix.

(2) The members elected to the village council shall hold office for a period of five years and shall be eligible for re-election.

(3) The result of the election shall be binding on the Deputy Commissioner except that he may overrule the election of any of the candidates on any of the grounds (a) to (f) stated in section 6 (2).

(4) The headman for the village or group of villages from which the village council is appointed shall be the *ex-officio* chairman of that council.

(5) The Deputy Commissioner may remove from office any member of the village council who is guilty of—

- (a) having abused his powers ;
- (b) gross negligence in the performance of his duties ; or
- (c) an offence involving moral turpitude and has been convicted therefor by a competent criminal Court.

9. (1) With the prior approval of the Commissioner of the Chin Special Division, the Deputy Commissioner may specify the villages or groups of villages to form part of a Circle and for such Circle there shall be elected a Circle Council.

(2) The members of the Circle Council shall consist of three members elected from the representatives of the three members of each village council within the Circle and these members shall hold office for a period of five years and shall be eligible for re-election.

(3) The members deputed to elect the Circle Council shall elect the chairman from among the three members of the Circle Council whose powers, duties and privileges shall be as may be prescribed by rules made in this behalf by the MINISTER.

(4) The Deputy Commissioner may remove from office any member of the Circle Council on any of the grounds set forth in Section 8 (5).

10. The orders of the Deputy Commissioner overruling the election of a headman or of a member of the village council, or a member of the Circle Council or removing a headman or a member of a village council or a member of the Circle Council may be appealed against by the party aggrieved to the Commissioner within six months from the date of the order.

11. (1) Every headman shall within the local limits of his jurisdiction have general control according to local custom over the clan or village or both, declared subject to him.

(2) He shall collect or cause to be collected from persons subject to him revenue or other money due to the Government.

(3) He shall have power to arrest within the local limits of his jurisdiction, any person subject to him when he has reason to believe that such person has committed a cognizable offence.

(4) He shall be bound to keep the peace within the tract under his general control ; to comply with the lawful orders received from the Deputy Commissioner or the Subdivisional Officer or the Township Officer, and to furnish on the requisition of the Deputy Commissioner or the Subdivisional Officer or the Township Officer on receipt of payment at the rates to be fixed by the Deputy Commissioner, supplies of food or labour as required :

Provided that no requisition shall be made unless as a last resort and for public purposes and in consultation and with the approval of the Circle Council or the Village Council, as the case may be, concerned.

12. (1) A Village Council may try and enquire into any offence which is under the Code of Criminal Procedure compoundable with or without the leave of the Court or which under the customary law of the Chin Special Division may be compounded by payment of compensation if the complainant and the accused, being Chins, are resident within the village or group of villages comprised in the area from which the Village Council is appointed, and may punish with fine, in money or goods, any person found guilty of such offences.

(2) No conviction or sentence of the Village Council shall be called into question or be liable to be set aside for any irregularity in the exercise of its jurisdiction, unless there has been a substantial miscarriage of justice.

(3) Any person aggrieved with a decision of the Village Council in this connection may apply for retrial to the Circle Council or the Township Magistrate for the area concerned, and the decision of the Circle Council shall be subject to retrial by the Subdivisional Magistrate.

13. (1) A Village Council may try and may decide according to local custom any dispute of a civil nature between persons all of whom are living in the area from which the council is appointed, if the subject-matter of the dispute does not exceed in value a sum of Rs. 2,000.

(2) The Village Council in deciding disputes of a civil nature shall give to the parties an opportunity to be heard and to give such evidence in support of their case as may be necessary for the decision of the dispute.

(3) The decision of a village Council shall be in writing and shall state shortly the reasons therefor, and shall be subject to appeal to the Circle Council or the Township Judge, as the case may be, for the area concerned: and the Township Judge shall treat it as an original case and be guided by local custom in his decision thereof.

14. Where there is a Circle Council, the Circle Council may, subject to the limitations set out in sub-sections (2) and first part of (3) of section 13, try and decide according to local custom any dispute of a civil nature between persons all of whom are living within the Circle, if the subject matter of the dispute does not exceed a sum of Rs. 5,000.

15. The decision of the Circle Council may be revised by the Sub-divisional Judge of the area concerned who shall treat it as an original case and be guided by the local custom in his decision thereof.

16. (1) The Chin Special Division shall be divided into Sessions Divisions, Districts, Subdivisions and Townships for criminal, civil and revenue and general purposes as may be declared by notification and each Deputy Commissioner shall be the District Magistrate of the District.

(2) The Session Judge may take cognizance of any offence as the Court of original jurisdiction without the accused being committed to him by a Magistrate for trial and when so taking cognizance shall follow the procedure prescribed in the Code of Criminal Procedure for trial of warrant cases by Magistrates.

17. For the purposes of the Code of Civil Procedure the Commissioner, Chin Special Division, shall exercise the powers of a Sessions Judge in the Sessions Division where there is no Sessions Judge.

18. The President may by notification in the *Burma Gazette* invest any Subdivisional Officer with all or any of the powers of a Deputy Commissioner under this Act and define the local limits of his jurisdiction.

19. (1) The President may empower the Deputy Commissioner, the Subdivisional Officer and the Township Officer exercising jurisdiction within the Chin Special Division, to try any suit or other proceeding of a civil nature between parties any one of whom is a Chin, according to the procedure the President may by notification in the *Burma Gazette* prescribe.

(2) In the trial of any such suit or proceeding he may exercise all or any of the powers which he may exercise in a suit or proceeding in which none of the parties is a Chin.

(3) In deciding any suit or proceeding he shall have regard to local custom and to justice, equity and good conscience:

Provided that the decision shall be subject to local custom in cases involving questions of marriage, divorce and inheritance.

20. Subject to the relevant provisions of the Criminal Procedure Code and the Civil Procedure Code, the Deputy Commissioner or a Sessions Judge may withdraw any civil or criminal case pending before a Village Council or a Circle Council or a Township Officer or a Sub-divisional Officer and may either try it himself or refer it for trial to any other Magistrate or Judge or Circle or Village Council under his jurisdiction.

21. (1) Subject to the control of the Commissioner, Chin Special Division, the Deputy Commissioner may impose fines in money or goods on any person or persons if after enquiry he finds that such person or persons have—

- (a) colluded with or harboured any person who has committed or is accused of theft or robbery or dacoity or murder or treason ;
- (b) suppressed or combined to suppress evidence in any criminal case ;
- (c) failed or neglected to restore stolen property traced to him ;
- (d) done any act hostile or unfriendly to the Government ;
- (e) disobeyed the lawful orders of the Deputy Commissioner or Subdivisional Officer or Township Officer ;
- (f) taken part in or abetted an attack on traders or other travellers or the levy of or attempt to levy unauthorized dues or tolls ; or
- (g) engaged in fighting with any other clan or village.

(2) The Deputy Commissioner may order the whole or any part of the fine imposed under this section to be given as compensation to any person to whom damage or injury is being caused directly or indirectly by the act in respect of which the fine is imposed.

22. Every headman who abuses any of the powers conferred upon him by this Act or neglects to obey any reasonable order of the Deputy Commissioner shall be liable by order of the Deputy Commissioner to pay a fine not exceeding Rs. 15 or to be censured or to be suspended or removed from office.

23. No new village shall be formed without the consent of the Deputy Commissioner who may for reasons to be recorded in writing prohibit the formation thereof.

24. Whenever it seems to the Deputy Commissioner to be expedient on military or public or administrative grounds he may by order in writing direct the removal of any village to any other site and with the sanction of the Hon'ble Minister for Chin Affairs may award to the inhabitants thereof such compensation for any loss which may have been occasioned to them by such removal as in his opinion shall be just.

25. When any Chin is known or believed to have a feud or has occasioned any cause of quarrel likely to lead to bloodshed, dacoity or robbery, the Deputy Commissioner may require such person to reside at such place within the Chin Special Division as the Deputy Commissioner may deem desirable.

26. When the Deputy Commissioner is satisfied that the presence of any person (not being a public servant) is injurious to the peace or good administration of the Chin Special Division, he may for reasons to be recorded in writing order such person, if he is a non-Chin, to leave the Chin Special Division within a given time or if he is a Chin to reside at such place within the Chin Special Division as the Deputy Commissioner may determine.

27. Whoever contravenes the provisions of section 23 or disobeys an order under section 24 or an order under section 26, shall, on conviction by a Magistrate be punished with imprisonment for a term which may extend to one year or shall be liable to a fine which may extend to Rs. 1,000 or with both.

28. When the Deputy Commissioner is of opinion that it is necessary for the purpose of preventing culpable homicide (whether amounting to murder or not) or grievous injury or dacoity or robbery he may require any person to execute a bond for his good behaviour during such period not exceeding three years as the Deputy Commissioner may fix.

29. When a feud or other cause of quarrel likely to lead to bloodshed or violence exist or is, in the opinion of the Deputy Commissioner, likely to arise between two clans or families, the Deputy Commissioner may order all or any of the persons belonging to such clan, villages or of either of such clan, villages or families to execute a bond with or without sureties for their good behaviour during such period not exceeding three years as he may fix.

30. When a Subdivisional Officer duly authorized under section 18 passes an order under section 28 and 29 he shall at once submit the report of his proceedings to the Deputy Commissioner.

31. (1) The commission or attempted commission or abetment by the person who has executed a bond for his good behaviour under section 28 of any offence affecting the human body or against property shall be deemed to be a breach of such a bond.

(2) If, while a bond executed under section 29 is in force, the life of any person belonging to any clan, village or family concerned is unlawfully taken or by or with the abetment of any person or persons belonging to the other clan, village or family the Deputy Commissioner may declare the bonds of all or any of the persons belonging to such clan, village or family and their sureties (if any) to be forfeited.

32. If any person ordered to execute a bond for his good behaviour under section 28 or under section 29 does not give security required on or before the date on which the period for which the security is to be given begins, he shall be committed to prison or if he is already in prison be detained there until such period expires or within such period he gives the security to the officer who made the order requiring it or to the officer in charge of the jail in which he is detained, in which case he shall be forthwith discharged from prison. Imprisonment for failure to give security under section 28 or section 29 may be rigorous or simple as the officer requiring the security directs in each case.

33. When any person has suffered imprisonment for three years for failure to give security for his good behaviour under section 28 or 29 he shall be released and shall not again be required to give security unless a fresh order is passed in accordance with the provisions of this Act.

34. (1) The Deputy Commissioner may fix the number of firearms and the quantity and description of ammunition which may be possessed by any clan or village and may issue licences either to such clan or village collectively or to any of the persons belonging thereto, individually to possess the firearms and ammunition specified in the licence.

(2) All firearms for which licences have been issued shall be entered in a register and all muzzle loading guns shall be stamped.

(3) No gun barrel shall be manufactured but gun locks may be manufactured under a licence to be granted by the Deputy Commissioner.

(4) Any person who not being licensed or not belonging to any clan or village licensed in that behalf possesses any firearms or ammunitions or who exports from or imports into the Chin Special Division any firearm or ammunition or who manufactures gun barrel or old guns without a licence shall be punished on conviction by a Magistrate with imprisonment which may extend to seven years or with fine or with both.

(5) The Deputy Commissioner may by order in writing prohibit all or any of the persons belonging to any clan or village from carrying *dahs*, spears and bows and arrows or any of those weapons in any tract to be defined in the order if he is of opinion that such prohibition is necessary to the peace of such tract. Such order shall specify the length of time during which it shall remain in force.

(6) Whoever disobeys the prohibition under sub-section 5 shall, on conviction by a Magistrate, be punished with imprisonment which may extend to six months or with fine or with both.

35. No prosecution under the Forest Act or any rule thereunder shall be instituted against any Chin except with the sanction in writing of the Deputy Commissioner.

36. Whoever imports, cultivates, manufactures, possesses, sells or exports opium, ganja or cocaine in the Chin Special Division shall be punished on conviction by a Magistrate with imprisonment which may extend to three years or with fine or with both or with whipping only.

37. Whoever sells foreign fermented liquor to any person without the licence issued by the Collector shall be punished on conviction by a Magistrate with imprisonment which may extend to three months rigorous imprisonment or with fine or with both.

38. Whoever manufactures spirit in the Chin Special Division without licence issued by the Collector or possesses spirit manufactured either in the Chin Special Division or without, in contravention of the rules prescribed in this behalf, shall be punished on conviction by a Magistrate with rigorous imprisonment which may extend to six months or with fine or with both, or on conviction by a Village Council or a Circle Council with fine in money or in kind not exceeding in value rupees fifty.

39. Subject to any general or special rules or orders which the President of the Union may issue or may have issued in this behalf, the Minister may impose in the whole or any part of the Chin Special Division, a house-tax not exceeding Rs. 4 per house per annum.

40. An order for the payment of any fine or tax or for the delivery of any property or for the performance of any act may be enforced—

(i) by the seizure or attachment and sale of any property except those which are not liable to such attachment or sale under the Civil Procedure Code ; or

(ii) with simple imprisonment for a term not exceeding one year by order of the Deputy Commissioner or Subdivisional Officer.

41. (1) The Commissioner may revise any order passed under this Act except the order or judgment passed by an officer sitting as a criminal or civil court.

(2) The Deputy Commissioner may revise any order passed by a Subdivisional Officer in exercise of the powers conferred upon him by section 18 of the Act.

42. (1) In the application to the Chin Special Division of the enactments for the time being in force in the Union of Burma, the powers exercisable by the President thereunder may, without prejudice to the exercise thereof by the President and so as not to conflict therewith, be exercisable by the Minister.

(2) For the purposes of the Chin Special Division the powers of the Financial Commissioner and of the Excise Commissioner shall be exercised by the Commissioner of the Chin Special Division.

43. The President may make rules consistent with this Act, especially the following :—

(a) To regulate the procedure to be observed by officers acting under this Act ;

(b) To prescribe the use of such forms, the submission of such reports and statements and the maintenance of such records and registers as he may think necessary ; and

(c) Generally to carry into effect the purposes of this Act.