

# THE LEGAL PRACTITIONERS ACT.

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## CONTENTS.

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### CHAPTER I.

#### PRELIMINARY.

#### *Sections.*

- |      |   |   |   |   |
|------|---|---|---|---|
| 1-2. | *   | * | * | * |
| 3.   | Interpretation clause.                              |   |   |   |
| 4.   | Women not to be disqualified by reason only of sex. |   |   |   |
| 5.   | *   | * | * | * |
- 

<sup>1</sup> See the High Court Rules and Orders.

<sup>2</sup> Deleted by Act IX, 1951.

## CHAPTER III.

## OF PLEADERS.

*Sections.*

6. Power to make rules as to qualifications, etc., of pleaders.  
Publication of rules.
7. Certificates to pleaders.
8. Pleadors on enrolment may practise in Courts and revenue-offices.
9. \* \* \* \*
10. No person to practise as pleader unless qualified.
11. \* \* \* \*
12. Suspension and dismissal of pleaders convicted of criminal offence.
13. Suspension and dismissal of pleaders guilty of unprofessional conduct.
14. Procedure when charge of unprofessional conduct is brought in  
subordinate Court or revenue-office.  
Suspension pending investigation.
15. Power to call for record in case of acquittal under section 14.
16. \* \* \* \*

## CHAPTER IV.

17—24. \* \* \* \*

## CHAPTER V.

## OF CERTIFICATES.

25. Fee for certificates.
26. Dismissed practitioners to surrender certificates.

## CHAPTER VI.

## OF THE REMUNERATION OF PLEADERS.

27. High Court and Financial Commissioner to fix fees in civil and revenue proceedings.
- 28—31. \* \* \* \*

## CHAPTER VII.

## PENALTIES.

32. On persons illegally practising as pleaders.
33. On suspended or dismissed pleader, etc., failing to deliver certificate.
34. On suspended or dismissed pleader practising during suspension or  
after dismissal.
35. Revision of fines.
36. Power to frame and publish lists of touts.

CHAPTER VIII.

MISCELLANEOUS.

Sections-

37. President to appoint examiners.
38. Exemption of advocates from provisions of Act.
39. \* \* \* \*
40. Pleaders not to be suspended or dismissed without being heard.
41. Definitions of "act" and "plead".
42. Agreement for engagement of legal practitioner.
43. Right of legal practitioner to sue for fees.
44. Liability of legal practitioner to be sued.

FIRST SCHEDULE.

\* \* \* \*

SECOND SCHEDULE.

VALUE OF STAMPS FOR CERTIFICATES.

THE LEGAL PRACTITIONERS ACT.

[INDIA ACT XVIII, 1879.] (1st January, 1880.)<sup>1</sup>

CHAPTER I.

PRELIMINARY.

1-2. \* \* \* \*

3. In this Act, unless there be something repugnant in the subject or context,— Interpretation clause

"Judge" means the presiding judicial officer in every civil and criminal Court, by whatever title he is designated ;

"subordinate Court" means every Court subordinate to the High Court ;

"revenue-office" includes all Courts (other than civil Courts) trying suits under any Act for the time being in force relating to landholders and their tenants or agents ;

"legal practitioner" means an advocate of the High Court or a pleader ;

"tout" means a person—

(a) who procures, in consideration of any remuneration moving from any legal practitioner, the employment of the legal

<sup>1</sup> Sections 1 and 2 of the Legal Practitioners Act, 1879 (India Act XVIII, 1879), came into force on the 1st January, 1880. By a notification issued under section 1, section 3 and Chapters II, III, V to VIII and the Second Schedule to the Act were extended to Lower Burma with effect from the 16th April, 1900 ; see *Burma Gazette*, 1900, Part I, page 320.

practitioner in any legal business ; or who proposes to any legal practitioner or to any person interested in any legal business to procure, in consideration of any remuneration moving from either of them, the employment of the legal practitioner in such business ; or

- (b) who for the purposes of such procurement frequents the precincts of civil or criminal Courts or of revenue-offices, or railway stations, landing stages, lodging places or other places of public resort.

Women not to be disqualified by reason only of sex.

4. Notwithstanding anything contained in any enactment in force in the Union of Burma or any rule or order thereunder, no woman shall, by reason only of her sex, be disqualified from being admitted or enrolled as legal practitioner or from practising as such.

5. \* \* \* \*

### CHAPTER III.

#### OF PLEADERS.

Power to make rules as to qualifications, etc., of pleaders.

6. The High Court may, from time to time, make rules consistent with this Act as to the following matters (namely) :—

- (a) the qualifications, admission and certificates of proper persons to be pleaders of the subordinate Courts, and of the revenue-offices situate within the local limits of its appellate jurisdiction ;
- (b) \* \* \* \*
- (c) the fees to be paid for the examination and admission of such persons ; and
- (d) suspension and dismissal of such pleaders.

Publication of rules.

All such rules shall be published in the Gazette, and shall thereupon have the force of law.

Certificates to pleaders.

7. On the admission, under section 6, of any person as a pleader, the High Court shall cause a certificate, signed by such officer as the Court, from time to time, appoints in this behalf, to be issued to such person, authorizing him to practise up to the end of the current year in the Courts and the revenue-offices specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall, subject to any rules consistent with this Act which may, from time to time, be made by the High Court in this behalf, be entitled to have his certificate renewed by the Judge of the District Court within the local limits of whose jurisdiction he then ordinarily practises, or by such officer as the High Court, from time to time, appoints in this behalf.

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<sup>1</sup> Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

On every such renewal, the certificate then in possession of such pleader shall be cancelled and retained by such Judge or officer.

Every certificate so renewed shall be signed by such Judge or officer, and shall continue in force up to the end of the current year.

Every Judge or officer so renewing a certificate shall notify such renewal to the High Court.

8. Every pleader holding a certificate issued under section 7 may apply to be enrolled in any Court or revenue-office mentioned therein ; and, subject to such rules consistent with this Act as the High Court or the Financial Commissioner may, from time to time, make in this behalf, the presiding Judge or officer shall enrol him accordingly : and thereupon he may appear, plead and act in such Court or office and in any Court or revenue-office subordinate thereto.

Pleaders on enrolment may practise in Courts and revenue-offices.

9. \* \* \*

10. Except as provided by this Act or any other enactment for the time being in force, no person shall practise as a pleader in any Court unless he holds a certificate issued under section 7 and has been enrolled in such Court or in some Court to which it is subordinate.

No person to practise as pleader unless qualified.

11. \* \* \*

12. The High Court may suspend or dismiss any pleader holding a certificate issued under section 7 who is convicted of any criminal offence implying a defect of character which unfits him to be a pleader.

Suspension and dismissal of pleaders convicted of criminal offence.

13. The High Court may also, after such inquiry as it thinks fit, suspend or dismiss any pleader holding a certificate as aforesaid—

Suspension and dismissal of pleader guilty of unprofessional conduct.

- (a) who takes instructions in any case except from the party on whose behalf he is retained, or some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure, or some servant, relative or friend authorized by the party to give such instructions, or
- (b) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or
- (c) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other pleader, or
- (d) who directly or indirectly procures or attempts to procure the employment of himself as such pleader through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or

- (e) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or
- (f) for any other reasonable cause.

Procedure when charge of unprofessional conduct is brought in subordinate Court or revenue-office.

**14.** If any such pleader practising in any subordinate Court or in any revenue-office is charged in such Court or office with taking instructions except as aforesaid, or with any such misconduct as aforesaid, the presiding officer shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the pleader at least fifteen days before the day so appointed.

On such day, or on any subsequent day to which the enquiry may be adjourned, the presiding officer shall receive and record all evidence properly produced in support of the charge, or by the pleader, and shall proceed to adjudicate on the charge.

If such officer finds the charge established and considers that the pleader should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court; and the High Court may acquit, suspend or dismiss the pleader.

Suspension pending investigation.

Any District Judge, or with his sanction any Judge subordinate to him, any District Magistrate, or with his sanction any Magistrate subordinate to him, and any authority not inferior to a Collector, or with the Collector's sanction any revenue-officer subordinate to him, may, pending the investigation and the orders of the High Court, suspend from practice any pleader charged before him or it under this section.

Every report made to the High Court under this section shall—

- (a) when made by any civil Judge subordinate to the District Judge, be made through such Judge;
- (b) when made by a Magistrate subordinate to the District Magistrate, be made through the District Magistrate and the Sessions Judge;
- (c) when made by the District Magistrate, be made through the Sessions Judge;
- (d) when made by any revenue-officer subordinate to the Financial Commissioner, be made through such revenue-authorities as the Financial Commissioner may, from time to time, direct.

Every such report shall be accompanied by the opinion of each Judge, Magistrate or revenue-authority through whom or which it is made.

Power to call for record in case of acquittal under section 14.

**15.** The High Court, in any case in which a pleader has been acquitted under section 14 otherwise than by an order of the High Court, may call for the record and pass such order thereon as it thinks fit.

**16.**

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## CHAPTER IV.

17.—24. \* \* \* \*

## CHAPTER V.

### OF CERTIFICATES.

25. Every certificate, whether original or renewed, issued under this Act shall be written upon stamped paper of the value prescribed therefor in the Second Schedule hereto annexed and of such description as the President of the Union may, from time to time, prescribe :

Fee for certificates.

Provided that a certificate issued on or after the first day of July in any year may be written on stamped paper of half the value so prescribed.

26. When any pleader is suspended or dismissed under this Act, he shall forthwith deliver up his certificate to the Court or officer at the head of the office before or in which he was practising at the time he was so suspended or dismissed, or to any Court or officer to which the High Court or the Financial Commissioner (as the case may be) orders him to deliver the same.

Dismissed practitioners to surrender certificates.

## CHAPTER VI.

### OF THE REMUNERATION OF PLEADERS.

27. The High Court, and the Financial Commissioner as respects revenue-offices, shall fix and regulate the fees payable by a party in respect of the fees of his adversary's legal practitioner.

High Court and Financial Commissioner to fix fees in civil and revenue proceedings.

Tables of the fees so fixed shall be published in the Gazette.

28—31. \* \* \* \*

## CHAPTER VII.

### PENALTIES.

32. Any person who practises in any Court in contravention of the provisions of section 10 shall be liable, by order of such Court, to a fine not exceeding ten times the amount of the stamp required by this Act for a certificate authorizing him so to practise in such Court and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

On persons illegally practising as pleaders.

He shall also be incapable of maintaining any suit for, or enforcing any lien with respect to any fee or reward for, or with respect to, anything done or any disbursement made by him as pleader, whilst he has been contravening the provisions of the said section.

On suspended  
or dismissed  
pleader,  
etc., failing  
to deliver  
certificate.

33. Any pleader failing to deliver up his certificate as required by section 26 shall be liable, by order of the Court, authority or officer to which or to whom, or according to whose orders, the delivery should be made, to a fine not exceeding two hundred rupees, and in default of payment to imprisonment in the civil jail for a term which may extend to three months.

On suspended  
or dismissed  
pleader  
practising  
during  
suspension  
or after  
dismissal.

34. Any pleader who, under the provisions of this Act, has been suspended or dismissed and who, during such suspension or after such dismissal, practises as a pleader in any Court or revenue-office, shall be liable, by order of such Court or the officer at the head of such office, to a fine not exceeding five hundred rupees, and in default of payment to imprisonment in the civil jail for a term which may extend to six months.

Revision of  
fines.

35. Every order under section 32, 33 or 34 shall be subject to revision by the High Court where the order has been passed by a subordinate Court, and by the Financial Commissioner where the order has been passed by an officer subordinate to him.

Power to  
frame and  
publish lists  
of touts.

36. (1) The High Court and every District Judge, Sessions Judge and District Magistrate, every revenue-officer not being below the rank of a Collector of a district, (each as regards their or his own Court and the Courts, if any, subordinate thereto), may frame and publish lists of persons proved to their or his satisfaction, or to the satisfaction of any subordinate Court as provided in sub-section (2A), by evidence of general repute or otherwise, habitually to act as touts, and may, from time to time, alter and amend such lists.

*Explanation.*—The passing of a resolution, declaring any person to be or not to be a tout, by a majority of the members present at a meeting, specially convened for the purpose, of an association of persons entitled to practise as legal practitioners in any Court or revenue-office, shall be evidence of the general repute of such person for the purposes of this sub-section.

(2) No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion.

(2A) Any authority empowered under sub-section (1) to frame and publish a list of touts may send to any Court subordinate to such authority the names of any persons alleged or suspected to be touts, and order that Court to hold an inquiry in regard to such persons; and the subordinate Court shall thereupon hold an inquiry into the conduct of such persons and, after giving each such person an opportunity of showing cause as provided in sub-section (2), shall report to the authority which has ordered the inquiry the name of each such person who has been proved to the satisfaction of the subordinate Court to be a tout; and that authority may include the name of any such person in the list of touts framed and published by that authority.

Provided that such authority shall hear any such person who before his name has been so included appears before it and desires to be heard.



(3) A copy of every such list shall be kept hung up in every Court to which the same relates.

(4) The Court or Judge may, by general or special order, exclude from the precincts of the Court any person whose name is included in any such list.

(5) Every person whose name is included in any such list shall be deemed to be proclaimed as a tout within the meaning of section 13, clause (e).

(6) Any person who acts as a tout whilst his name is included in any such list shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

## CHAPTER VIII.

### MISCELLANEOUS.

37. To facilitate the ascertainment of the qualifications mentioned in section 6, the President of the Union shall, from time to time, appoint persons to be examiners for the purposes aforesaid, and may, from time to time, make regulations for conducting such examinations.

President to  
appoint  
examiners.

38. Except as provided by [sections 36, 41, 42, 43 and 44],<sup>1</sup> nothing in this Act applies to persons enrolled as advocates of the High Court under the Bar Council Act.

Exemption of  
advocates  
from  
provisions of  
Act.

39. \* \* \* \*

40. Notwithstanding anything hereinbefore contained, no pleader shall be suspended or dismissed under this Act unless he has been allowed an opportunity of defending himself before the authority suspending or dismissing him.

Pleaders  
not to be  
suspended  
or dismissed  
without  
being heard.

<sup>2</sup> 41. A legal practitioner shall not be deemed to "act" if he only pleads, or to "agree to act" if he agrees only to plead.

Definitions of  
"act" and  
"plead."

<sup>2</sup> 42. Any legal practitioner who acts or agrees to act for any person may by private agreement settle with such person the terms of his engagement and the fee to be paid for his professional services.

Agreement  
for engage-  
ment of  
legal practi-  
tioner.

<sup>2</sup> 43. Any such legal practitioner shall be entitled to institute and maintain legal proceedings for the recovery of any fee due to him under the agreement, or, if no such fee has been settled, a fee computed in accordance with the law for the time being in force in regard to the computation of the costs to be awarded to a party in respect of the fee of his legal practitioner.

Right of  
legal prac-  
titioner to  
sue for fees.

<sup>1</sup> The words and figures within brackets were substituted by Act II, 1945.

<sup>2</sup> The Burma Laws (Adaptation) Act, 1940 (Burma Act XXVII, 1940), directed that the Legal Practitioners (Fees) Act, 1926 (India Act XXI, 1926), shall be inserted as sections 41, 42, 43 and 44 of this Act.

Sections 41 to 44 apply to advocates of the High Court also; see the definition of "legal practitioner" in section 2 (a) of the Legal Practitioners (Fees) Act, 1926 (India Act XXI of 1926).

Liability of  
legal prac-  
titioner to  
be sued.

<sup>1</sup> 44. No legal practitioner who has acted or agreed to act shall, by reason only of being a legal practitioner, be exempt from liability to be sued in respect of any loss or injury due to any negligence in the conduct of his professional duties.

#### FIRST SCHEDULE.

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#### SECOND SCHEDULE.

##### VALUE OF STAMPS FOR CERTIFICATES.

(See section 25.)

For a certificate authorizing the holder to practise as a pleader--

- (a) in the High Court and any subordinate Court—rupees fifty :
- (b) in the Court of Small Causes at Rangoon <sup>2</sup>—rupees twenty-five :
- (c) in all other subordinate Courts—rupees twenty-five :
- (d) in the Courts of Subordinate Judges, Assistant Commissioners and Extra Assistant Commissioners, <sup>3</sup> in Courts of Small Causes outside Rangoon, and in all criminal Courts subordinate to the High Court—rupees fifteen :
- (e) in any civil or criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

<sup>1</sup> The Burma Laws (Adaptation) Act, 1940 (Burma Act XXVII, 1940), directed that the Legal Practitioners (Fees) Act, 1926 (India Act XXI, 1926), shall be inserted as sections 41, 42, 43 and 44 of this Act.

Sections 41 to 44 apply to advocates of the High Court also ; see the definition of " legal practitioner " in section 2 (a) of the Legal Practitioners (Fees) Act, 1926 (India Act XXI of 1926).

<sup>2</sup> Now the Rangoon City Civil Court.

<sup>3</sup> Now Officers of the Burma Civil Service (Senior Branch).