THE TRANSFER OF IMMOVEABLE PROPERTY (RESTRICTION) ACT.[2]

[BURMA ACT LXXXVI, 1947.] (30th December, 1947.)

WHEREAS it is expedient to restrict the transfer of immoveable property to foreigners ;

It is hereby enacted as follows :—

Short title.

1. This Act may be cited as the Transfer of Immoveable Property (Restriction) Act, 1947.

Definitions.

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

[3] (*a*) " foreigner " means any person who is not a citizen of the Union and includes any company or association or body of individuals whether incorporated in the Union of Burma or not whose central management and control are not vested in the hands of the citizens of the Union or whose major interests or shares are not held by the citizens of the Union ;

(*b*) " immoveable property " shall have the meanings assigned to it in the Registration Act ;

(*c*) " lease ", " sale ", " gift " and " mortgage " shall have the meanings assigned to them in the Transfer of Property Act.

Prohibition of transfer of immoveable property to foreigners.

[3] **3.** Notwithstanding anything contained in any other law for the time being in force, no person shall transfer any immoveable property by way of sale, gift, mortgage, or otherwise, or grant a lease for a term exceeding one year of any immoveable property, in favour of a foreigner or any person on his behalf, and no foreigner shall acquire any immoveable property by way of purchase, gift, mortgage or otherwise or accept any lease of immoveable property for a term exceeding one year :

Provided that this section shall not apply to any transfer or lease of immoveable property to a foreign Government for the use of its diplomatic

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[1] Inserted by Act XVI, 1948.

[2] Published in Judicial Department Notification No. 542, dated 30th December 1947.—*Burma Gazette*, 1948 Part I, page 30.

[3] Substituted by Act XVII, 1952

mission accredited to the President of the Union of Burma if the Minister for Foreign Affairs certifies that such transfer or lease should be exempted from the provisions of this Act :

Provided further that any transaction, whereby an estate consisting of immoveable property held jointly either by co-owners or co-heirs is divided and each one or more of such co-owners or co-heirs is or are allotted his or their shares to be held thereafter in severalty or where immoveable property devolves on the death of the holder to his heir or heirs shall not be deemed to be a transfer of immoveable property for the purposes of this Act.

Power of exemption.

4. Notwithstanding the provisions of section 3, the President of the Union may exempt from the operation of this Act the transfer of any immoveable property or of a lease of immoveable property for a term exceeding one year * * * *.

Penalty for illegal transactions.

[1] 5. (*1*) Whoever contravenes the provisions of section 3 shall be punishable—

(*a*) in the case of a lease, with a fine not exceeding twice the rent agreed upon for the entire period of the lease ;

(*b*) in the case of any other transfer, with a fine not exceeding twice the market value of such property.

(*2*) In addition to the penalty imposed under sub-section (*1*) the immoveable property or any portion thereof in respect of which the transfer or lease is made contrary to the provisions of section 3 shall be liable to confiscation in the manner provided in section 6.

[1] 6. Upon conviction in a prosecution under sub-section (*1*) of section 5 the President of the Union—

(i) may, by an order in writing, declare that the transfer or lease of the immoveable property or any portion thereof contrary to the provisions of section 3 shall be void ;

(ii) may, in addition to the declaration under clause (i), order in writing that the immoveable property or any portion thereof in respect of which a transfer or lease is made contrary to the provisions of section 3 shall be confiscated and upon such declaration being made the immoveable property or any portion thereof which forms the subject-matter of the said transfer or lease shall vest in the State.

Sanction for prosecution and Trial Court.

[2] 7. No Court shall take cognizance of an offence under sub-section (*1*) of section 5 except upon complaint in writing made by, or with the sanction of the President of the Union, and no Court inferior to that of a Sessions Judge or of a Magistrate of the first class specially empowered under section 30 of the Code of Criminal Procedure shall try such offence.

Power to make rules.

[2] 8. (*1*) The President of the Union may, by notification, make rules for the purpose of carrying out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the authority by whom possession is to be taken on behalf of the State of the immoveable property ordered to be confiscated under section 6 ;

(*b*) the procedure for taking possession of such immoveable property ;

(*c*) for such other matters as are incidental to the effective taking possession of such immoveable property.

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[1] Substituted by Act XVII. 1952.

[2] Inserted by *ibid.*