



ပြည်ထောင်စုမြန်မာနိုင်ငံ

ဥပဒေ

အတွဲ ၁၀

# THE BURMA CODE

## VOLUME X

ပြည်ထောင်စုမြန်မာနိုင်ငံအစိုးရအမိန့်အရ ပုံနှိပ်ဖြန့်ချိသည်။

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## နိဒါန်း

ဤဥပဒေအတွဲ ၁၀ ကိုပြုပြင်ရာ၌ အထက်ထုတ်ဝေပြီး အတွဲများ၏ နည်းစံနှစ်အတိုင်း နိမိတ်ထားသည့်ပြင်၊ အပိုင်း ၁၅ မှ ၂၁ ထိပါရှိပါသည်။

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(၁၉၅၈ ခု၊ ဩဂုတ်လ ၈ ရက်။)



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### LAND TENURES.

မြေယာပိုင်ခွင့်စံနစ်ဆိုင်ရာ။

#### THE WASTE LANDS CLAIMS ACT.

[INDIA ACT XXIII, 1863.] (10th March, 1863.)

<sup>1</sup>[This Act does not extend to Upper Burma.]

1. When any claim shall be preferred to any waste land proposed to be sold, or otherwise dealt with, on account of Government, or when any objection shall be taken to the sale or other disposition of such land, the Collector of the district in which such land is situate shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objections.

Provision of enquiry in claims to land, or objections to sale of same

2. The Collector shall call upon the claimant or objector to produce any evidence, or documents, upon which he may rely in proof of his claim or objection ; and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection of the claim or objection ; and if the land is proposed to be sold, for the sale of the same subject to any condition or reservation which to such Collector shall appear to be proper.

Procedure in such cases.

If the land is ordered to be sold subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale.

Notification of conditions.

3. Pending an enquiry into any claim or objection under the last preceding section, the Collector shall postpone the sale or other disposition of the land ;

Postponement of sale pending enquiry, to allow claimant to contest rejection of claim.

and, if he shall order that such claim or objection be rejected, he shall further postpone the sale or other disposition of the land to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided.

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<sup>1</sup> This note was inserted by the Burma Laws (Adaptation) Act, 1940 (Burma Act XXVII, 1940), in order to state the law existing at the time of its enactment.

Sale to be stopped if claim appear to be established, but may afterwards be proceeded with.

4. If the Collector shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land ;

but such sale or other disposition of the land may afterwards be proceeded with if, on an order issued to try the claim or objection, as provided in section 6 of this Act, the claimant or objector shall fail to establish the same.

Delivery to claimant of copy of order of rejection or of sale.

5. If the Collector shall order that the claim or objection be rejected, or that the land be sold subject to any condition or reservation, or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector ;

Order when final.

and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the Collector, for any special reason to be recorded, shall see fit to grant, give notice in writing to such Collector that he intends to contest such order, the order shall be final.

Report to superior authority.

If the claimant or objector shall, within the time allowed, give such notice, the Collector shall immediately make a report to the superior revenue authority to which he is immediately subordinate and shall forward with such report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of the claim or objection ;

Decision of superior authority.

and such authority, on the receipt of such report, and after calling for any further information which it may consider necessary, may confirm, modify or reverse the order of the Collector.

Certification to Court.

If the authority as aforesaid confirm the order of the Collector or modify such order in such manner as to leave any part of such order in force adverse to the claimant or objector, the Collector shall certify such order to the Court constituted as hereinafter provided ;

Notice to claimant.

and such Court shall forthwith give notice to the claimant or objector ;

Decision when final.

and if such claimant or objector shall not institute a suit in such Court to establish his claim or objection, the order of the authority aforesaid shall be final.

Power to order suit to try claim admitted by Collector.

6. The President of the Union may, within twelve months after the date on which the claim of any claimant of waste land, or the objection of any objector, as aforesaid, shall have been admitted under this Act by the Collector, direct a suit to be brought to try the claim or objection of the claimant or objector in a Court constituted as hereinafter provided.

Special Court for trying claims.

7. For the investigation and trial of claims under this Act, the President of the Union shall constitute, in every district in which there may be any waste lands capable of being sold, or otherwise dealt with, on account of Government, a Court consisting of an uneven number of persons, not less than three, of whom the District Judge shall be one.

Any one or more of the members of which such Court shall consist shall have power to make all such orders in the case as may be necessary prior to the hearing of the suit.

Power of members.

8. Whenever any Court is constituted under this Act, notice thereof shall be given by a written proclamation, copies of which shall be affixed in the several Courts, and in the offices of the several Collectors and Magistrates of the district ;

Notice of constitution of Special Courts.

and from the date of the issue of such proclamation no other Court shall be competent to entertain any claim or objection belonging to the class of claims or objections for the trial and determination of which such Court is constituted.

Claims not cognizable in other Courts.

9. The Courts constituted under this Act shall be held at such place or places, within the limits of their respective jurisdictions, as shall be considered most convenient.

Special Courts where held.

10. In every suit instituted under section 5 of this Act the claimant of the waste land, or objector to the sale or other disposition of such land, shall appear as plaintiff ; and the Collector shall appear as defendant on the part of Government.

Plaintiff and defendant in suit under section 5.

Either party may appear by pleader or by agent.

Appearance.

In any suit ordered to be instituted under section 6 of this Act, the Government, by any officer to be appointed for the purpose, shall appear as plaintiff ; and the claimant or objector as aforesaid shall appear as defendant.

Plaintiff and defendant in suits under section 6.

11. In suits instituted under this Act, except as hereinafter provided, the proceedings shall be regulated, so far as they can be, by the Code of Civil Procedure.

Regulation of proceedings.

12. The Court shall fix a day for the appearance of the parties, and for the hearing of the suit, of which due notice shall be given to the parties or their agents ; and on the day so fixed, the parties or their agents shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements.

Procedure before hearing.

If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit ; and the Court shall issue a subpoena requiring such witness to attend the Court on that day.

Procuring attendance of witnesses.

It shall be competent to the Court to require the personal attendance of the claimant of the waste land, or objector, as aforesaid, on the day fixed for the hearing, or at any subsequent stage of the suit.

Power to require attendance of claimant.

13. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the claimant of the waste land, or the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties ;

Procedure on hearing.

and upon such examination, and after inspecting the documents of the parties, and making any further enquiry that may appear necessary, shall proceed to pass such order in the case as it may consider just and proper.

No appeal or revision.

14. No appeal shall lie from any decision or order passed under this Act nor shall any such decision or order be open to revision.

Reference of question of law, etc., to High Court.

15. If, on the trial of any suit under this Act, any question of law or of usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court shall entertain reasonable doubts, the Court may, either of its own motion, or on the application of any of the parties to the suit, draw up a statement of the case and submit it, with its own opinion, for the opinion of the High Court :

When reference obligatory.

Provided that it shall be the duty of every Court held under this Act to make such reference to the High Court if, in any suit under this Act, any question shall arise involving any principle of general importance or the rights of a class.

Court may proceed notwithstanding reference;

16. The Court may proceed in the case notwithstanding a reference to the High Court ; and may pass an order contingent upon the opinion of the High Court on the point referred ;

but not make final order.

but no final order for the sale or other disposition of the land in question in the suit, or for the admission or rejection of any claim or objection which shall be before the Court in such suit, shall be passed until the receipt of the order of the said High Court.

Records of cases where to be deposited.

17. The record of cases disposed of by Courts constituted under this Act shall be deposited amongst the records of the principal civil Court of original jurisdiction in the district in which the property in dispute is situate.

Limitation as to claims to land sold or dealt with.

18. No claim to any land, or to compensation or damages in respect of any land, sold or otherwise dealt with on account of Government as waste land, shall be received after the expiration of three years from the date on which such land shall have been delivered by the Government to the purchaser, or otherwise dealt with.

Provision for such claims if preferred within time.

If within three years after any lands have been delivered by the Government to the purchaser, or otherwise dealt with, any claimant or objector shall prefer a claim to the land so delivered, or otherwise dealt with, or an objection to such sale, or to compensation or damages in respect thereof, in the Court constituted under this Act for the district in which the land is situate ; and shall show good and sufficient reason for not having preferred his claim or objection to the Collector within the period limited under section 1 of this Act ; such Court shall file the claim or objection, making the claimant or objector plaintiff, and the Collector of the district the defendant in the suit ;

and the foregoing provisions of this Act shall be applicable to the trial and determination of the suit.

The report of the officer employed to give delivery, or to take possession, on the part of Government, of the land sold or otherwise dealt with, shall be

conclusive evidence as to the date on which such delivery was made, or possession was taken.

**19.** In any case in which the land has been sold, if the Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in dispute; but shall order him to receive from the Government, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit.

If claim established, possession not to be given, but compensation.

**20.** If the land shall have been sold, subject to any condition or reservation, or shall not have been sold, but shall have been otherwise dealt with on account of the Government, and the Court shall be of opinion that the claim to such land, or the objection of an objector, is established, the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall be awarded in that behalf under the Land Acquisition Act,

When land sold not absolutely, or not sold but otherwise dealt with

and thereupon the President of the Union shall proceed under the said Act to obtain an award of the value of such interest.

**21.** An award under any of the provisions of the two last preceding sections shall be in full satisfaction of the claim of the claimant or objector; and shall bar any future claim on his part in respect to the land in suit resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of Government.

Award under two last sections to be in full satisfaction.

**22.** Nothing in this Act shall be held to prevent the President of the Union from awarding to any claimant of waste land sold on account of Government, on proof to the satisfaction of the President of the Union of the claim of such claimant (notwithstanding that he may not have preferred his claim to the Collector or to the proper Court constituted under this Act, within the period prescribed by this Act), such amount as compensation for the said land, within the limit as to amount mentioned in section 19 of this Act if the land have been sold not subject to any condition or reservation, as to the President of the Union may seem proper.

President not barred from awarding compensation though claim be not preferred in time.

**23.** If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of Government, and any claim to such land, or objection to the sale or other disposition of the land, shall be proved to the satisfaction of the President of the Union, although not preferred to the Collector, or to the Court constituted under this Act, within the period prescribed by this Act, the President of the Union may award to such claimant or objector such amount as to the President of the Union may appear to be the value of the interest of such claimant or objector in such land.

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# THE BOUNDARIES ACT.

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## THE BOUNDARIES ACT.

[INDIA ACT V, 1880.] (20th February, 1880.)

## CHAPTER I.

## PRELIMINARY.

1. \* \* \* \*

## 1A. In this Act,—

“survey-mark ” means any pillar, pipe, post or other mark erected or placed above or below the surface by or by order of any officer appointed by the President of the Union to make a survey of any land on or within the boundaries of such land for the purpose of indicating survey points or lines.

Definition of “survey-mark.”

2. The President of the Union may from time to time appoint persons, by name or by virtue of their office, to be Demarcation-officers and Boundary-officers and may suspend or remove any person so appointed.

Power to appoint Demarcation and Boundary-officers; functions of such officers.

Every person so appointed shall, subject to the control of the President of the Union and of any superior officer appointed by him in this behalf, exercise and perform, within such local limits as the President of the Union may from time to time direct, the powers conferred, and the duties imposed, by this Act or the rules made hereunder on such officers respectively.

Orders  
passed to be  
based on  
occupation.

2A. The enquiries made, the boundaries demarcated, and the orders passed by any Demarcation-officer or Boundary-officer appointed under this Act shall be based upon the actual possession of land without reference to the claim of any person to a right to possess such land :

Provided that, if in the course of an enquiry the Demarcation-officer is unable to satisfy himself which party is in possession, he shall refer the case for the orders of the Boundary-officer before marking out the boundaries of the land. If, on the report of the Demarcation-officer or in the course of an enquiry made by himself, the Boundary-officer is unable to satisfy himself as to which party is in possession, or if it is shown that possession has been obtained by wrongful dispossession of the lawful occupants of the land within a period of three months previous to the commencement of the enquiry, the Boundary-officer—

- (a) in the first case, shall ascertain by summary enquiry who is the person best entitled to the land and shall put such person in possession ;
- (b) in the second case, shall put the person so dispossessed in possession ; and shall then fix the boundary accordingly.

## CHAPTER II.

### DEMARCATION OF BOUNDARIES.

#### *A.—Proceedings of Demarcation-officer.*

Power to  
direct demar-  
cation of  
boundaries.

3. The President of the Union may, whenever he thinks fit, by a notification in the Gazette direct that the boundaries of any land shall be demarcated by a Demarcation-officer.

Power to  
enter on land  
to effect  
demarcation.

4. On the publication of any such notification, a Demarcation-officer appointed by the President of the Union in this behalf may enter upon the land specified therein, and make all enquiries and do all other things necessary for demarcating the boundaries of the said land.

Publication  
of general  
notice.

5. The Demarcation-officer shall cause to be published a general notice addressed to all persons owning, occupying or otherwise interested in the said land and the land marching therewith, and to all persons employed on or connected with the management of such land, calling upon them to attend either personally or by agent before him, at such places and at such times as may be stated in such notice, for the purpose of pointing out the boundaries and of rendering such aid as may be necessary in setting up or repairing the boundary-marks, and of affording such other assistance and information as may be needed for the purposes of the demarcation.

The persons to whom such notice is addressed shall not be legally bound to attend.

6. The Demarcation-officer may also cause a special notice to be served on any of the persons mentioned in section 5 requiring such person to attend, personally or by agent, before him on or before a specified date, at such places and for such of the purposes aforesaid as may be stated in such notice ; and every person upon whom such special notice may be served shall be legally bound to attend as required by the notice, and so far as he may be able, to do any of the things mentioned therein.

Power to issue special notice to procure attendance.

7. The Demarcation-officer may cause a special notice to be served on any owner or occupier of the said land requiring such owner or occupier to clear any boundary or other line which it may be necessary to clear for the purposes of the demarcation of such land, by cutting down and removing any trees, jungle, fences or standing crops, or to provide labour by furnishing flag-holders, or otherwise to assist in the demarcation of such land ; and, if it is necessary to employ hired labour for these or other similar objects incidental to the demarcation, the Demarcation-officer may assess and recover from such owner or occupier the cost of such labour.

Clearing of boundary-lines.

8. If any demand for compensation is made in respect of the clearance of any line in accordance with the requisition under section 7, the Demarcation-officer shall determine and record the value of any trees, jungle, fences or standing crops which may have been cut down or removed, and shall pay or tender to the owners thereof the amount of compensation which, in his opinion, should be allowed therefor.

Compensation for injury done by clearance.

Any dispute arising concerning the sufficiency of the amount so paid or tendered shall be determined by the Deputy Commissioner upon application made to him for that purpose by either of the disputing parties.

9. The Demarcation-officer may issue a special notice calling upon any person who he has reason to believe can give any information respecting the boundaries of the land, or in whose possession or power any document relating to such boundaries is alleged to be, to attend before him and give such information or produce such document, on a date and at a place to be mentioned in the notice.

Power to summon person to give information or produce document.

Every person on whom any such notice is served shall be legally bound to attend and to give such information or to produce such document as required by the notice.

10. The Demarcation-officer shall, after making such enquiry as he thinks fit, mark out the boundaries of the land, and may cause boundary-marks, of such materials, in such number, and in such manner, as he thinks fit, to be erected by the owners or occupiers of the land, or may erect such marks and charge the cost of such erection to such owners or occupiers, and shall forward a report of his proceedings to the Boundary-officer :

Demarcation-officer to mark out boundaries, and submit report to Boundary-officer.

Provided that, at any time before forwarding his report to the Boundary-officer, the Demarcation-officer may, for any sufficient reason to be stated in such report, alter any boundary marked out by him.

When Demarcation-officer may alter demarcation

*B.—Proceedings of Boundary-officers*

General  
notice to  
persons  
affected.

**11.** The Boundary-officer shall, on receipt of the report of the Demarcation-officer, cause a general notice to be published, informing all persons concerned that such report is open to inspection, and requiring any person who may have any objections to make thereto to submit a written statement of such objections within one month from the date of the publication of such notice.

Special  
notice to  
persons  
likely to  
object.

Whenever the Boundary-officer has reason to believe that any person interested is likely to object to any boundary as laid down in such report, he shall cause a special notice to be served on such person requiring him to submit within the said period of one month, a written statement of his objection.

Statements  
of objections.

No person shall be entitled as of right to submit any statement of objection after the expiration of the said period of one month ; but it shall be in the discretion of the Boundary-officer to admit any such statement after the expiration of such period and before the order next hereinafter mentioned has been made.

Order of  
Boundary-  
officer.

**12.** When the said period of one month has expired and the objections (if any) made within it or subsequently admitted by the Boundary-officer have been enquired into by him, and any further enquiry which he may deem necessary has been made by him, the Boundary-officer shall pass such order as he thinks fit, confirming or modifying the boundaries as determined by the Demarcation-officer.

If any objection seems to him not to be well-founded, the Boundary-officer may direct that all expenses of the enquiry which have arisen from such objection shall be recovered from the person who made the same.

Objections  
subsequently  
made how  
dealt with.

**13.** When any person, within sixty days from the date of the order passed under section 12, makes any objection to the correctness of the demarcation proceedings, the Boundary-officer may, in his discretion, either refuse to enquire into such objection, or may require the person making the same to deposit, within a reasonable time, the estimated cost of any further enquiry which it may be necessary to make in respect thereof.

Boundary-  
officer to  
make further  
inquiry.

**14.** If the costs of such further enquiry are deposited, the Boundary-officer shall, after making such inquiry, pass an order rejecting such objection or admitting the same and amending the order passed under section 12.

If, on such enquiry, the objection seems to the Boundary-officer not to be well-founded, he may pass such order as he thinks fit in respect of the recovery, from the person making the objection, of any sum expended on the enquiry in excess of the sum deposited, and of any necessary expenses incurred by any other person on account of such inquiry.

No person making an objection under section 13 shall, unless the Boundary-officer specially so directs, recover any portion of the amount deposited by him under section 13.

**15** For the purposes of any enquiry under this Act, the Boundary-officer shall, in addition to the powers conferred specially by this Act, have all the powers of a Demarcation-officer and also power to summon and enforce the attendance of witnesses and compel the production of documents, so far as may be, by the same means and in the same manner as is provided in the case of a civil Court by the Code of Civil Procedure.

Power to enforce attendance of witnesses, etc.

**16.** The Boundary-officer, whenever he thinks fit, may, with the consent of the parties concerned, refer to arbitration any dispute as to a boundary. The procedure laid down in [ the Arbitration Act, 1944.]<sup>1</sup> shall apply (so far as may be) to such references.

Power to refer dispute to arbitration.

**17.** The order passed by the Boundary-officer under section 12, or, when such order is amended under section 14, such amended order shall, unless and until it be reversed or modified in manner hereinafter provided, be conclusive as to the fact of actual possession but shall not decide the claim of any person to a right to possess land.

Effect of orders of Boundary-officer.

#### *C—Appeals from Orders of Boundary-officer.*

**18.** An appeal shall lie to the Commissioner of the division from every order passed by a Boundary-officer under section 12, section 13 or section 14, and the order of the Commissioner shall be final and conclusive as to the fact of actual possession but shall not decide the claim of any person to a right to possess land.

Orders appealable to Commissioner. Effect of Commissioner's order.

**19.** \* \* \* \*

**20.** (1) The period of limitation of an appeal under section 18 shall be sixty days.

Limitation of appeals.

(2) In computing such period of sixty days and in all respects not herein specified the limitation of such a period shall be governed by the provisions of the Limitation Act.

**21.** The Commissioner shall in hearing and determining appeals under section 18 have as nearly as may be the powers of an appellate Court under the Code of Civil Procedure.

Commissioner's power in appeals.

#### *B.—Boundary-Marks.*

**22.** Whenever an order determining a boundary has become final, the Boundary-officer shall, unless permanent boundary-marks of a suitable description have already been erected along such boundary, cause to be erected permanent boundary-marks, of such materials, in such number, and in such manner, as he may consider sufficient to distinguish such boundary.

When permanent boundary-marks are to be erected.

An order determining a boundary becomes final for the purposes of this section when it is not open to appeal.

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

Apportionment of expense of erection of marks.

23. All expenses incurred by the Boundary-officer in erecting such boundary-marks for any land shall be apportioned amongst the owners or occupiers of such land, in such proportions as the Boundary-officer may think fit.

Notice to owners to pay share of expense.

24. When the expenses have been apportioned among such owners or occupiers, the Boundary-officer shall cause a notice to be served on each of them, specifying the amount payable by him in respect of such expenses, and requiring him to pay such amount to the Boundary-officer within one month from the service of such notice.

Power to place marks under charge of owners and occupiers.

25. The boundary-officer may further cause a notice to be served on any owner or occupier, placing under his charge any boundary-marks erected on the boundary of his land, whether by order of such officer or otherwise.

Duty to preserve boundary-marks.  
Duty to give notice of any injury occurring to them.

Every owner or occupier shall preserve such boundary-marks as may be placed under his charge under this section, and shall give immediate notice to the nearest Magistrate or the officer in charge of the nearest police-station if any such marks are injured, destroyed or removed, or require repairs.

Power to re-erect and repair boundary-marks.

26. Whenever a Magistrate of the first or second class becomes aware that any mark erected under this Act within the local limits of his jurisdiction has been injured, destroyed or removed, or requires repairs, such Magistrate may cause such mark to be re-erected, restored or repaired, and may recover any expenses incurred in respect of such re-erection, restoration or repair from the owner or occupier who is bound under section 25 to preserve such mark.

27. \* \* \* \*

### CHAPTER III.

#### MISCELLANEOUS.

Survey-officer.

28. When any officer is appointed by the Government to make a survey of any land, the Financial Commissioner, subject to the control of the President of the Union, may invest such officer, for the purposes of such survey, with all or any of the powers conferred on Demarcation-officers by sections 4 to 9 (both inclusive), and also with power to cause any boundary or survey or other marks to be erected or placed by the owners or occupiers of any land, or to erect or place such marks and to charge the cost of such erection or placing to such owners or occupiers.

All the provisions of sections 23 to 26 (both inclusive) shall apply to such marks and the officer invested with such powers shall have all the powers of a Boundary-officer under the said sections.

**28A.** It shall be the duty of every village-headman and *thugyi* and of every owner or occupier of land,—

Duties of village officers and of owners and occupiers of lands.

- (a) so far as he lawfully can, to prevent the destruction, injury or alteration of any boundary or survey-mark within the local limits of his jurisdiction or on or within the land owned or occupied by him, as the case may be ;
- (b) whenever he becomes aware that any such boundary or survey-mark has been destroyed, injured or altered, to report immediately to the officer in charge of the nearest police-station or to the nearest Magistrate such destruction, injury or alteration.

**29.** If any owner or occupier of any land, or any other person, being ordered in accordance with the provisions herein contained to perform any act, fails to perform such act within a reasonable time, the officer who gave the order may, after giving notice to such owner, occupier or other person of his intention so to do, cause the act to be performed ; and the expenses incurred in such performance shall be payable by such owner, occupier or other person.

Power to perform order under Act at expense of person disobeying it.

**30.** Whoever—

- (a) knowingly fails to discharge any duty imposed on him by this Act or any rule made thereunder, or
- (b) being legally bound to comply with any lawful order under this Act or with the requisition contained in any special notice served upon him under this Act, refuses or neglects to comply therewith,

Penalty for failure to discharge duty imposed or for refusing or neglecting to comply with order or notice under Act.

shall be punished with fine which may extend to fifty rupees.

**31.** Every amount due under the provisions of this Act may be recovered as if the same were an arrear of land-revenue.

Recovery of amounts due under Act.

**32.** The Financial Commissioner, subject to the control of the President of the Union, may from time to time make rules consistent with this Act—

Power to make subsidiary rules.

- (a) for the collection and record of any information in respect of any land ;
- (b) prescribing and limiting the powers and duties of officers conducting proceedings under this Act ;
- (c) regulating the delegation by such officers to subordinate officers of the powers and duties conferred and imposed on them respectively by this Act or the rules made thereunder ;
- (d) for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Act ;
- (e) for the publication, issue and service of all notices, whether general or special, to be published, issued or served under this Act, and
- (f) for carrying out generally the purposes of this Act.

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

Mode of publication.

# THE LOWER BURMA TOWN AND VILLAGE LANDS ACT.

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THE SCHEDULE.

SCHEDULED TOWNS.

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**THE LOWER BURMA TOWN AND VILLAGE LANDS ACT.**

[ BURMA ACT IV, 1898.] (9th September, 1899.)

CHAPTER I.

PRELIMINARY.

Extent.

1. This Act extends to Lower Burma and the Thayetmyo District of Upper Burma.

Land to which Act applies.

2. The provisions of this Act shall apply only to land in towns and villages.

Lands excepted from operation of Chapters II and IV.

3. (1) Nothing in Chapter II shall apply to the following lands, namely :—

- (a) the soil of any river, canal, tank, drain, embankment, public road or natural water-course ;
- (b) land included in any cantonment ;
- (c) land occupied on the 9th September, 1899,<sup>1</sup> for the purposes of any monastery, pagoda or other sacred building, and continuing to be used for the purposes of such monastery, pagoda or building ;
- (d) land included in any fisheries as defined in the Fisheries Act.

(2) When the boundaries of any land exempt under this section from the operation of Chapter II need definition, and no other mode of defining them is provided by law, they shall be defined by the Revenue Officer.

(3) If before they are defined any question arises as to whether any land is included within them, such question shall be decided by the Revenue Officer.

(4) Nothing in Chapter IV shall apply to land included in any cantonment.

Definitions.

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

- (1) " State land " means all land of which no absolute and revenue-free grant has been made, recognised or continued by or on behalf of the \* \* Government ;

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<sup>1</sup> Date of commencement of this Act.

- (2) "land at the disposal of Government" means--
- (a) land in respect of which no person has acquired a land-holder's right ;
  - (b) land in respect of which no person holds any right created by grant or lease made by or on behalf of the \* \* Government ;
- (3) "town" means an area declared by the President of the Union by notification to be a town for the purposes of this Act; or constituted a municipality or town for the purposes of the Municipal Act or of the Towns Act ;
- (4) "scheduled town" means a town specified in the Schedule ;
- (5) "village" means an area appropriated to dwelling-places not included in the limits of a town ;
- (6) "Revenue Officer" means any person whom the President of the Union may appoint by name or as holding an office to do anything to be done by a Revenue Officer under this Act, or under any rule made thereunder ;
- (7) "licence" means a licence in writing to use and occupy State land granted by a Revenue Officer authorized to grant the same ;
- (8) "possession" means the occupation of land by any person or by his servant, agent, guardian, trustee, mortgagee, tenant or licensee ;
- (9) "continuous possession" includes occupation of land by another person through whom or in whose right the present occupier has immediately succeeded in occupation, or by the servant, agent, guardian, trustee, mortgagee, tenant or licensee of any such person ; and
- (10) "landholder's right" means a permanent heritable and transferable right of use and occupancy in land in the landholder's possession, subject only—
- (a) to the payment of all such revenue, taxes, cesses, rates and other impositions as may from time to time be imposed on such land under any law for the time being in force ;
  - (b) to the reservation in favour of Government of all mines and mineral products and of all buried treasure, with all the powers conferred by Chapter VIA.

5. When the boundaries of any town or village need definition for the purposes of this Act, the President of the Union may by notification define the same.

Power of President to define boundaries of towns and villages.

## CHAPTER II.

### OF RIGHTS IN LAND.

6. Subject to the provisions of section 3, this Chapter shall apply to all lands in all towns and villages.

Application of Chapter.

Rights  
which may  
be acquired  
over land.

7. No right of any description as against the Government shall be deemed to have been, or shall hereafter be, acquired by any person over any land in any town or village except the following, namely :—

- (a) rights created by grant or lease made by or on behalf of the \* Government ;
- (b) rights acquired as against the \* \* Government under the Limitation Act ;
- (c) rights originating and acquired in any of the modes specified in the next following section, or in section 9 or section 10 ;
- (d) rights legally derived from any right mentioned in clauses (a), (b) and (c) of this section.

Mode of  
acquisition  
of land-  
holder's  
rights.

8. Except in land in any scheduled town, and in land which the President of the Union may, by notification, specially exempt from the operation of this section, a landholder's right shall be acquired by every person who, otherwise than under a grant or lease made by the \* \* Government,—

- (a) has had continuous possession of land for twelve years immediately preceding the 9th September, 1899; <sup>1</sup>
- (b) having had continuous possession of any land for less than twelve years immediately preceding the 9th September, 1899, <sup>1</sup> shall have continuous possession thereof for twelve years computed from the date of original entry into possession ;
- (c) shall, after the 9th September, 1899, <sup>1</sup> have continuous possession under a licence of any land at the disposal of Government, and pay all land-revenue and other public demands (if any) in respect thereof for twelve years.

Mode of  
acquisition  
of land-  
holder's  
rights  
in Akyab,  
Bassein and  
Prome.

9. In the towns of Akyab, Bassein and Prome every person who from the following dates, namely—

- (a) in the case of Akyab, the first day of April, 1852 ;
- (b) in the case of Bassein, the first day of January, 1876 ;
- (c) in the case of Prome, the first day of January, 1870 ;

has been in continuous possession of any land otherwise than under a grant or lease of the same from the \* \* Government up to the 9th September, 1899, <sup>1</sup> shall be deemed to have acquired a landholder's right in respect of such land.

Saving of  
rights of per-  
sons possess-  
ing lands  
included  
within ex-  
tended limits  
of town or  
village.

10. (1) The extension of the limits of any town or village shall not affect the rights which a person in possession of land included within the extended limits may have acquired prior to such extension under any law for the time being in force.

(2) If, under the law applicable to any such land before such extension, the person in possession of the land at the time when the extension was made

<sup>1</sup> Date of commencement of this Act.

could by continuous possession for a period of twelve years have acquired a right thereto equivalent to a landholder's right under this Act, any such person or his successor in continuous possession shall, after such period of twelve years' continuous possession computed from the date of original entry into possession, be deemed to have acquired a landholder's right under this Act in respect of such land.

### CHAPTER III.

#### GENERAL PROVISIONS IN REGARD TO A LANDHOLDER'S RIGHT.

11. A landholder's right in respect of any land shall cease if the landholder abandons possession of the land for two years continuously.

Loss of landholder's right by abandonment of possession.

12. Any person who is in possession of any land, and asserts that he has acquired a landholder's right in respect of the same, may apply to the Revenue Officer to record in a roll to be kept for this purpose a declaration of the fact of his having acquired such right.

Application of person in possession of land for record of declaration that he has landholder's right.

13. On receipt of any such application, the Revenue Officer shall cause public notice thereof to be given in such manner and for such period as the President of the Union may by rule prescribe, and, if after inquiry he is satisfied that the applicant has acquired such right, he shall record a declaration to that effect in the said roll and shall furnish the applicant, if he requires it, with a certified copy of such declaration.

Procedure of Revenue Officer on receipt of such application.

14. (1) If, within five years from the date on which a declaration has been recorded under the last foregoing section, the Revenue Officer is satisfied that it is erroneous, he may cancel it :

Cancellation of such declaration and record.

Provided that no declaration shall be cancelled until notice of the Revenue Officer's proposal to cancel it has been published in such manner and for such period as the President of the Union may by rule prescribe, and until all persons claiming an interest in the land shall have had an opportunity of showing cause against the proposal.

(2) While any such declaration remains on the roll uncanceled, no fresh declaration inconsistent therewith shall be recorded in the roll.

15. (1) Whenever a question arises in any proceeding before a civil Court as to whether any person has acquired a landholder's right in respect of any land, and it appears that a declaration of the fact of such acquisition has been made and recorded by the Revenue Officer not less than five years before the commencement of such proceeding and is still uncanceled, the Court shall decide in accordance with such declaration.

Duty of civil Court when questions arise as to original acquisition or loss of landholder's right.

(2) Whenever any such question arises in any such proceeding and it appears that no such declaration has been so made, or that, if made, it was made less than five years before the commencement of such proceeding, or that it has been cancelled, and whenever any question arises as to whether a

landholder's right, having been acquired, has been subsequently lost, the Court shall refer such question to the Revenue Officer, and shall give judgment in accordance with his decision thereon :

Provided that, where an appeal from the decision of the Revenue Officer on any question so referred lies to a Revenue Officer of a higher grade, the Court shall, on such conditions as to the furnishing of security or otherwise as it thinks fit, defer its judgment so as to allow time for preferring an appeal, and, in the event of a decision being given in appeal different from that given by the Revenue Officer to whom the question was originally referred, shall give judgment in accordance with the decision given in appeal.

#### CHAPTER IV.

##### DISPOSAL OF LAND.

Modes of disposal of land at disposal of Government.

16. Land at the disposal of Government may be disposed of—

- (a) by grant or lease, conferring such interests therein and on such conditions as the President of the Union may by rule prescribe ;
- (b) by licence of the Revenue Officer.

Power of President to make rules for disposal of such land.

17. (1) The President of the Union may make rules for the disposal of land at the disposal of Government.

(2) Such rules may provide, amongst other matters, for the following :—

- (a) the amount or kind of interest to be created in such land by grants or leases and the conditions (if any) subject to which such interest may be conferred ;
- (b) the mode in which, and the Revenue Officers by whom, such grants or leases may be given ;
- (c) the Revenue Officers by whom, the manner in which, and the conditions subject to which licences to use and occupy land may be given ;
- (d) the rates of revenue to be levied or rent to be reserved in respect of land disposed of by grant or lease or occupied under licence, as the case may be ; and
- (e) the cases in which such land may be disposed of revenue-free.

#### CHAPTER V.

##### EVICION FROM, AND UNAUTHORIZED POSSESSION AND USE OF, STATE LAND.

Liability of possessors of State land to eviction in certain cases.

18. (1) Every person who—

- (a) at the commencement of this Act is in possession of State land in respect whereof he has not then acquired a landholder's right, or
- (b) after the commencement of this Act enters into possession of such land under a licence from the Revenue Officer,

shall, until he acquires a landholder's right in respect of such land, be liable to be evicted therefrom after three months' notice from the Revenue Officer to quit the same :

Provided that every person so evicted shall be entitled to receive from Government such compensation as the Revenue Officer may determine for the expense of removing and re-erecting elsewhere the buildings (if any) on the land, and for any loss or injury to any crop, garden produce and productive trees planted or grown by him or by previous occupants of the land.

(2) Nothing in this section shall apply to any person holding State land under a grant or lease made by or on behalf of the \* \* Government.

**19.** Any person who after the 9th September, 1899,<sup>1</sup>—

Penalties for unauthorized possession of land.

- (a) enters into possession of any land at the disposal of Government except under a grant or lease from the Government, or under a licence from the Revenue Officer, or
- (b) remains in possession of such land after any such grant, lease or licence has been cancelled, or has expired, or has otherwise become void and possession has been demanded on behalf of Government,

shall be liable—

- (i) to be summarily evicted therefrom ;
- (ii) to pay five times the amount of revenue or rent assessable or payable in respect of the land during the period of his unauthorized occupation ; and
- (iii) to pay such fine as the Revenue Officer may determine as a further penalty for such unauthorized occupation or possession.

**20.** When the Revenue Officer is satisfied that any State land of which a grant or lease has been made, or in respect of which a licence has been given, limited to any specific purpose, has been, or is being used without the permission of the Revenue Officer for any other purpose, the person in possession of the land shall be liable—

Penalties for using land for unauthorized purpose.

- (1) to pay such revenue or rent, or enhanced rate of revenue or rent, in respect of the land as the Revenue Officer shall determine from the time when the land was first used for such other purpose ;
- (2) to pay such fine as the Revenue Officer may determine as a further penalty for the unauthorized use of the land ;
- (3) to have the grant, lease or licence of or for the land cancelled by the Revenue Officer and to be evicted therefrom :

Provided that no final order under this section shall be made until the person in possession of the land has had an opportunity of showing cause against the imposition of any penalty, and that no order shall be enforced until it has been confirmed by the Commissioner of the division.

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<sup>1</sup> Date of commencement of this Act.

Procedure  
for evicting  
person liable  
to eviction  
under Act.

21. (1) When any person is liable under this Act to be evicted from State land, the Revenue Officer may issue an order requiring him and any other person (if any) occupying the land to quit the same, and to remove therefrom all property other than Government property within a specified time.

A copy of such order shall be posted up in some conspicuous position on the land or upon a building thereon.

(2) If after the time specified in the order any person remains upon or in occupation of the land, the Revenue Officer may, by warrant under his hand, cause such person to be arrested and may commit him to imprisonment in the civil jail for such period, not exceeding thirty days, as the Revenue Officer may consider necessary for the purpose of preventing resistance or obstruction to his order.

(3) If any property other than Government property remains on the land after the time specified in the order, the Revenue Officer may cause the same to be removed and sold for the purpose of defraying the cost of its removal, custody and sale; and thereupon the surplus proceeds of the sale (if any) shall be paid to the owner of the property.

(4) Nothing shall be deemed to be Government property within the meaning of this section merely by reason of its having been put into or affixed to the soil.

## CHAPTER VI.

### ASSESSMENT OF LAND REVENUE.

Land liable  
to land-  
revenue  
assessment.

22. All State land shall be liable to be assessed to land-revenue, except—

- (a) land which on the 9th September, 1899,<sup>1</sup> belongs to the site of any monastery, pagoda or other sacred building, and which continues to be used for the purpose of such monastery, pagoda or sacred building;
- (b) land exempt from assessment under the express terms of any grant or lease made or to be made by or on behalf of the \* \* \* Government, so long as the conditions (if any) subject to which the grant or lease has been or shall be made are fulfilled;
- (c) plots of land in villages not exceeding one-fourth of an acre each in extent and occupied by or appertaining to buildings;
- (d) plots of land in towns not exceeding one-fourth of an acre each in extent and occupied by or appertaining to buildings which are assessed to one of the taxes specified in section 62,<sup>2</sup> sub-section (1), division (A), clause (a), clause (b), clause (c) or clause (d) of the Municipal Act, or on which a house-cess is levied under section 6 of the District Cesses Act.

<sup>1</sup> Date of commencement of this Act.

<sup>2</sup> Substituted by Act II, 1945.



23. The Revenue Officer shall assess and levy land-revenue upon all lands liable to payment thereof according to such rates and in such manner as the Financial Commissioner, with the previous sanction of the President of the Union, may prescribe.

Assessment and levy of land-revenue by Revenue Officer.

## CHAPTER VIA.

### REGULATION OF THE EXTRACTION OF MINERALS AND LEVY OF ROYALTIES THEREON.

23A. (1) In the case of any land wherein the right to minerals is reserved to or otherwise belongs to Government, the Government shall have all powers necessary for the proper enjoyment of its right thereto, and may dispose of any such right and powers to any persons in such manner as to it may seem fit.

Extraction of minerals and levy of royalties thereon.

<sup>1</sup>(2) Whenever the rights of any owner or occupier of any land are infringed by the occupation or disturbance of the surface of the said land, either by the Government in the exercise of the rights and powers referred to in sub-section (1), or by any person to whom the Government may have disposed of such rights and powers in regard to the said land, the Government shall pay, or cause to be paid, to such owner or occupier compensation for the infringement.

The compensation shall be determined, as nearly as may be, in accordance with the provisions of the Land Acquisition Act.

(3) The President of the Union may, from time to time, make rules—

- (a) for regulating or prohibiting the mining, quarrying or digging for or the excavating or collecting of minerals on land wherein the right to minerals is reserved to or otherwise belongs to Government ;
- (b) for the disposal by way of lease, licence or otherwise of such right of the Government, and fixing the conditions subject to which and the mode in which such dispositions may be made ;
- (c) for the levy and collection of royalties and fees in respect of minerals mined, quarried, excavated or collected on any such land ; and
- <sup>1</sup>(d) for prohibiting or regulating and controlling the possession, purchase, sale, transport and export of minerals, for the issue of licences in furtherance of such regulation and control, and for the levy and collection of fees in respect of such licences.

## CHAPTER VII.

### RECOVERY OF SUMS DUE TO GOVERNMENT.

24. All sums of money now due and payable, or which shall hereafter become due and payable, to Government in respect of any land, whether for land-revenue, rent or otherwise, and all fines imposed by a Revenue Officer

Recovery of money due to Government under Act.

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<sup>1</sup> Substituted by Act VIII, 1947.

under this Act, shall be recoverable as if they were arrears of land-revenue under the Land and Revenue Act.

Priority of  
sums due to  
Government.

**25.** Every sum due to Government in respect of any land shall be a charge upon the land and shall have priority over every other charge thereon created by mortgage, decree, attachment or otherwise.

Personal  
liability for  
sums due to  
Government.

**26.** Any sum due to Government in respect of any land shall be due jointly and severally from, and shall be payable by, all persons in possession of the land at the time the sum is demanded and all persons in possession of the land during the period for which the sum is payable.

## CHAPTER VIII.

### RECORD OF POSSESSION.

Application  
of Chapter.

**27.** This Chapter shall apply only to scheduled towns and to such other towns as the President of the Union may, by notification, direct.

Roll of town  
lands to be  
kept.

**28.** There shall be kept by the Revenue Officer, for every town to which this Chapter applies, a roll of town lands, in which shall be entered the names of the persons for the time being in possession of all lands within the town, together with such particulars as the President of the Union may, by rule, prescribe.

Duty of  
registering  
officer on  
registration  
of document  
relating to  
title to land  
in towns.

**29.** Whenever any document affecting the title or right to possession of any land in any such town as aforesaid shall be registered under the Registration Act, the officer registering the same shall send to the Revenue Officer a true copy of the entries in the indexes, kept under the said Act, relating to such document.

Duty of  
parties to un-  
registered  
document  
transferring  
title to land  
in towns.

**30.** Whenever the title or right to possession of any land in any such town as aforesaid shall be transferred otherwise than by a registered document, the transferor and transferee shall give notice to the Revenue Officer of the change in possession within thirty days from the date on which the transferee enters into possession.

Duty of  
persons  
acquiring  
possession of  
land other-  
wise than by  
transfer.

**31.** Whenever any person acquires possession of land in any such town as aforesaid otherwise than by transfer or assignment from the person previously in possession of such land, he shall, within thirty days from the date on which he enters into possession, give notice to the Revenue Officer of the change in possession and of the right under which he claims possession.

Power of  
Revenue  
Officer to  
hold inquiry

**32.** The Revenue Officer may, in any case before altering the roll of town lands, make a summary inquiry into the circumstances of any alleged transfer, devolution of title, or acquisition of possession of any land, and may

refuse to enter the name of any person on the roll as being in possession of any land until he shall have been declared by the decree of a competent civil Court to be entitled to possession thereof.

in certain cases before altering roll.

33. Whoever, being bound by section 30 or section 31 to give notice to the Revenue Officer of a change in possession, shall fail to give such notice within the time prescribed therefor, shall be liable to such fine, not exceeding one hundred rupees, as the Revenue Officer may impose.

Penalty for failure to give notice as required by section 30 or 31.

34. The Revenue Officer may at any time hold a summary inquiry in order to ascertain who is in fact in possession of any land, and may enter in the roll of town lands the name of the person whom he finds to be in possession.

Power of Revenue Officer to hold inquiry at any time.

35. An entry in the roll of town lands of the name of any person as being in possession of any land shall be presumptive evidence that such person was, or is, in possession of the land, as the case may be.

Presumptive evidence of possession arising from entry in roll.

36. (1) The person whose name is for the time being entered in the roll of town lands as being in possession of any land shall be liable to pay all revenue, taxes, rent and other Government demands in respect of such land, whether he is in fact in possession of such land or not.

Liability of persons entered in roll to pay Government demands.

(2) Nothing in this section shall be taken to exempt from liability any other person who under this Act or under any other enactment for the time being in force may be liable to pay any such revenue, taxes, rent or other demand.

37. Nothing in this Chapter shall apply to land held from the Government on a lease from month to month or under a tenancy determinable at will.

Exemption of certain lands.

## CHAPTER IX.

### MISCELLANEOUS.

38. (1) A Revenue Officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue Officer. Such summons shall be issued and served in accordance with the provisions of the Code of Civil Procedure regarding the service of summonses.

Power to summon witnesses, etc.

(2) Every person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or legal practitioner.

(3) In addition to the powers conferred by this section, the President of the Union may invest any Revenue Officer with any power exercised by a civil

Court in the trial of suits for the purpose of all or any particular cases or classes of cases coming before such Revenue Officer.

Witnesses,  
etc., bound  
to speak the  
truth.

**38A.** Every person attending in obedience to a summons issued by a Revenue Officer, and every applicant or other person appearing before a Revenue Officer, shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue Officer may require.

Appeals.

**39.** An appeal shall lie from the orders and decisions of Revenue Officers in respect of matters dealt with under this Act in such cases, to such officers, and subject to such limitations as to time and such other conditions, as the President of the Union may, by rule, determine.

Financial  
Commissioner's  
powers of  
revision.

**40.** Notwithstanding that no appeal may lie to him, the Financial Commissioner may call for and revise the proceedings of any Revenue Officer in any case dealt with under this Act, and may pass such orders thereon, consistent with the provisions of this Act, as he may think fit.

Bar to juris-  
diction of  
civil Courts.

**41.** No civil Court shall have jurisdiction to determine any matter which under this Act, is to be determined by the Revenue Officer.

Power of  
Financial  
Commissioner to  
make rules  
concerning  
forms.

**42.** The Financial Commissioner may, subject to the control of the President of the Union, make rules prescribing the forms of all rolls, registers, notices and other documents to be used under this Act.

Power of  
President  
to make  
general rules.

**43.** In addition to the rules concerning matters in respect of which the President of the Union is by section 17 expressly empowered to make rules, the President of the Union may make rules to prescribe—

- (a) the manner in which, and the period for which, notice of receipt of an application under section 12 shall be given by the Revenue Officer under section 13 ;
- (b) the manner in which, and the period for which, notice of the Revenue Officer's proposal to cancel a declaration under section 14 shall be published ;
- (c) the particulars to be entered in the roll of town lands to be kept under section 28 ;
- (d) the cases in which, the officers to whom, and the limitations and conditions subject to which, appeals shall lie from orders and decisions of Revenue Officers ;
- (e) the person or persons by whom, and the manner in which, anything required by this Act to be done and not therein specially provided for shall be done ; and
- (f) generally, to carry out the provisions and objects of this Act.

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<sup>1</sup> Substituted by Act II, 1945.

43A. The President of the Union may, in making any rule under this Act, attach to the breach of it, in addition to any other consequences that may ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment, or two hundred rupees fine, or both.

Penalty for  
breach of  
rules.

44. The power to make rules conferred on the President of the Union by section 17, section 28, and section 43, clauses (c), (d), (e) and (f), shall be subject to the condition of the rules being made after previous publication and the rules so made shall not take effect until after they have been published in the Gazette.

Publication  
of rules.

45. No civil suit shall lie against any Revenue Officer in respect of anything done or purporting to have been done by him in good faith under the provisions of this Act.

Bar of suits  
against  
Revenue  
Officers.

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### THE SCHEDULE.

[See section 4, clause (4).]

#### SCHEDULED TOWNS.

|           |          |
|-----------|----------|
| Rangoon.  | Akyab.   |
| Moulmein. | Bassein. |
| Prome.    |          |

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### THE GOVERNMENT MANAGEMENT OF PRIVATE ESTATES ACT.

[INDIA ACT X, 1892.] (25th October, 1892.)

Whereas it is expedient to provide for the levy of a rate on private estates under the management of the Government to cover the cost of all Government establishments in so far as they are employed in the supervision and management of such estates, other than establishments specially entertained for any particular estate or group of estates, and to meet all contingent expenditure incurred by the Government in connection with such supervision and management; It is hereby enacted as follows :—

1. \* \* \* \*

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

Definitions

- (1) "immoveable property" includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops or grass;

- (2) "gross income" includes all receipts of every kind in produce or cash, except money borrowed, recoveries of principal, and the proceeds of sale of immoveable property or of moveable property properly classed as capital ; and
- (3) "private estates under Government management" include—
- (a) \* \* \* \*
  - (b) encumbered estates under Government management ;
  - (c) estates attached for default of payment of Government revenue ;
  - (d) minors' estates placed under the guardianship of a revenue-officer of the Government by a civil Court ;
  - (e) estates managed by a Collector in pursuance of any order made under the Code of Civil Procedure ; and
  - (f) all other estates made over to or taken under the management of a revenue-officer of the Government as such under any law for the time being in force or in virtue of any agreement.

Power to  
levy rate.

3. It shall be lawful for the President of the Union---

- (1) to levy on all private estates under Government management a rate not exceeding five per cent. on the gross income, calculated, as nearly as may be possible, to cover—
  - (a) the cost of all Government establishments in so far as they may be employed in the supervision or management of such estates other than establishments specially entertained for the supervision or management of any particular estate or group of estates, and
  - (b) all contingent expenditure incurred in consequence of such supervision or management ;
- (2) from time to time to vary such rate : and
- (3) to reduce or remit such rate in any special case or cases as may be equitable :

Provided that, in deciding the amount of the rate to be levied under this Act on any particular estate or group of estates, the President of the Union shall consider the expenditure incurred on special establishments for such estate or estates.

Power to  
levy special  
charges.

4. In cases where an officer of the Government is employed to give legal advice or to audit accounts on behalf of any estate, the President of the Union, if he considers the services rendered to be of a special nature, may direct a special charge to be made against that estate on account of such services, irrespective of the rate leviable under the last foregoing section.

Saving as to  
special ex-  
penditure.

5. Nothing in this Act shall apply to the cost of establishments specially entertained or to expenditure of any description specially incurred in respect of any particular estate or estates.

6. \* \* \* \*

7. The President of the Union may make any rules and issue any orders which may be necessary for carrying this Act into effect, and which are consistent therewith. Power to make rules.

8. Where any Government establishment is employed in such supervision as aforesaid, the President of the Union shall be the sole judge of the cost attributable to such employment, and his decision thereon shall not be questioned in any Court of law or otherwise. Exemption from jurisdiction of Courts.

## THE LAND ALIENATION ACT.

[BURMA ACT XII. 1939.] (19th August, 1939.)

### PRELIMINARY.

1. (1) This Act may be called the Land Alienation Act, 1939. Short title, extent and commencement.
- (2) It shall come into force on such date<sup>1</sup> as the President of the Union may, by notification, specify in this behalf.
2. (1) Nothing in this Act shall apply to transfers of land— Saving in respect of certain transfers.
  - (a) under the Land Acquisition Act ;
  - (b) by or to Government ;
  - (c) by or to co-operative societies engaged in the provision of agricultural credit or the marketing of agricultural produce ;
  - (d) by or to credit institutions controlled or organised by Government and prescribed as such ;
  - (e) made in good faith for a religious, charitable or public purpose ;
  - (f) resulting from inheritance ;
  - (g) made between joint owners of the land ;
  - (h) made in execution of an order or decree of a civil Court passed before the commencement of this Act ;
  - (i) by the mortgagor of the land to the mortgagee in cases where the mortgage was entered into and registered under the Registration Act before the commencement of this Act.

(2) Nothing in this Act shall apply to the mortgage of land by a vendee to a vendor as security for payment of the price or part of the price of the land or to the subsequent retransfer of the land by the vendee to the vendor in satisfaction of the mortgage-debt : Provided that the mortgage was entered into at the time of the sale and that both the deed of sale and the deed of mortgage were registered under the Registration Act within one month of their execution.

<sup>1</sup> This Act was brought into force with effect from the 19th August, 1939 ; see Notification No. 47, *Burma Gazette* Part I, dated the 18th August, 1939.

(3) Nothing in this Act shall apply to a transfer of land made with the permission of the Collector by an agriculturist to a non-agriculturist for the purpose of erecting thereon buildings required for trade or industry :

Provided that the Collector may declare any transfer under clause (e) of sub-section (1) or sub-section (3) null and void if it is proved to his satisfaction that the land is used for any purpose other than that for which it was transferred.

Definitions.

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

(1) “ agriculturist ” means a person—

(a) who is engaged or has habitually been engaged in the cultivation of land with his own hands as his principal means of subsistence ; or

(b) who satisfies both the following conditions, namely—

(i) that he superintends personally and throughout the working periods of the year the actual cultivation of land, and

(ii) that he derives the major part of his income either from such superintendence or from the cultivation of land with his own hands or jointly from such superintendence and such cultivation.

*Explanation* (1).—An agriculturist who, with the intention of changing his status as such in order to enable him to sell land to a non-agriculturist, temporarily ceases to be an agriculturist or is prevented from being an agriculturist by age or bodily infirmity or by necessary absence in the military service of the Government, does not thereby cease to be an agriculturist for the purposes of this Act.

*Explanation* (2).—The wife or the minor son or the minor daughter of an agriculturist shall be deemed to be an agriculturist for the purposes of this Act ;

(2) “ land ” means land which is not in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture and includes—

(a) the sites of buildings and other structures on such agricultural land ;

(b) rights to rents or profits of an estate or holding ;

(c) rights of a usufructuary mortgagor or mortgagee ;

(d) any right to water enjoyed by the owner or occupier of land as such ; and

(e) any right of occupation under any law in force ;

(3) “ non-agriculturist ” means a person who is not an agriculturist ;

(4) “ permanent alienation ” includes sales, exchanges and gifts ;

(5) “ prescribed ” means prescribed by this Act or by rules made under this Act ;



(6) "Revenue Officer" means any person whom the President of the Union may appoint to do anything required by this Act to be done by a Revenue Officer: provided that, except in the case of a *Myoök*<sup>1</sup> in charge of a subdivision, and except for special reasons to be recorded in writing, no person who is lower in rank than an Extra Assistant Commissioner<sup>2</sup> or Superintendent of Land Records shall be appointed a Revenue Officer under this Act.

#### PERMANENT ALIENATION OF LAND.

4. (1) Notwithstanding the provisions of any other law, no permanent alienation of land shall be made by or on behalf of an agriculturist to a non-agriculturist.

Prohibition and modification of permanent alienation.

(2) If the Collector is satisfied that any land has been alienated in contravention of sub-section (1) he shall pass an order converting the alienation into a usufructuary mortgage on such terms and for such period not exceeding 15 years as he shall decide, and shall direct the parties to pay a fine not exceeding one-third of the value of the land as fixed in the deed by which the land was alienated. Both parties to the alienation shall be jointly and severally liable for the payment of such fine:

Provided that, if it is proved to the satisfaction of the Collector that the alienation was due to a *bona fide* mistake on the part of one party as to the status of himself or of the other party, he may declare that the alienation shall have no effect and may also place the alienor in possession of the land on repayment by him to the alienee of the purchase money within thirty days from the date of publication of the declaration or of service thereof on the alienor. In default of such repayment, the alienation shall take effect as a usufructuary mortgage under clause (a) of sub-section (1) of section 5 for such term not exceeding 15 years and on such conditions as the Collector may prescribe.

#### TEMPORARY ALIENATIONS OF LAND.

5. (1) If an agriculturist mortgages his land and the mortgagee is not an agriculturist, the mortgage shall be made in one of the following forms:—

Forms of mortgage permitted in certain cases.

(a) in the form of a usufructuary mortgage by which the mortgagor delivers possession of the land to the mortgagee and authorizes him to retain such possession and to receive the rents and profits of the land in lieu of interest and towards payment of the principal, on condition that after the expiry of the term agreed on, or (if no term is agreed on, or if the term agreed on exceed fifteen years) after the expiry of fifteen years, the land shall be re-delivered to the mortgagor; or

(b) in the form of a mortgage without possession, subject to the condition that, if the mortgagor fails to pay principal and interest according to his contract, the mortgagee may apply to the civil

<sup>1</sup> Now an officer of the Burma Civil Service (Junior Branch).

<sup>2</sup> Now an officer of the Burma Civil Service (Senior Branch).

Court to place him in possession for such term not exceeding fifteen years as the Court may consider to be equitable, the mortgage to be treated as a usufructuary mortgage for the term of the mortgagee's possession and for such mortgage-debt as may be due to the mortgagee : provided that the interest shall be simple interest at such rate and for such period as the Court may think reasonable ; or

- (c) in any other form not inconsistent with the provisions of this Act which the President of the Union may prescribe generally or for particular areas : provided that the period of possession allowed to the mortgagee shall not exceed fifteen years.

(2) The Court, if it allows the application of a mortgagee under clause (b) of sub-section (1), shall have power to eject the mortgagor, and as against the mortgagor to place the mortgagee in possession.

Provisions  
applying to  
permitted  
mortgages.

6. In the case of mortgages made under section 5—

- (1) no interest shall accrue during the period for which the mortgagee is in possession of the land or in receipt of rent ;
- (2) at the end of such period of possession the mortgage-debt shall be deemed to be extinguished ;
- (3) the mortgagor may redeem his land at any time during the currency of the mortgage on payment of the mortgage-debt, or in the case of a mortgage under sub-section (1) of section 5 of such proportion of the mortgage-debt as the civil Court may determine ;
- (4) any covenant of personal liability to repay the mortgage-debt in a usufructuary mortgage shall be null and void, notwithstanding the provisions of any law to the contrary ; and
- (5) if a mortgagor proves to the satisfaction of the Court that he has paid the mortgage-debt or such proportion thereof as the Court has determined, or deposits with the Court the amount of such mortgage-debt or of such proportion thereof as the Court has determined, the redemption of the land shall be deemed to have taken place, a certificate to that effect shall be given by the Court to the mortgagor on request, and the Court shall have power to eject the mortgagee or any person whom he may have put in possession and as against them to place the mortgagor in possession.

Conditions in  
permitted  
mortgages.

7. (1) In a mortgage made under section 5, the following conditions may be added by agreement between the parties :—

- (a) a condition fixing the time of the agricultural year at which a mortgagor redeeming his land may resume possession thereof ;

- (b) conditions limiting the right of a mortgagor or mortgagee in possession to cut, sell or mortgage trees or to do any act affecting the permanent value of the land ; and
- (c) any condition which the President of the Union may prescribe either generally or for particular areas.

(2) In mortgages made under section 5, any condition not permitted by or under this Act shall be null and void.

8. If an agriculturist makes a mortgage of his land in any manner or form not permitted by or under this Act, the Collector shall have authority to direct the parties to revise or alter the terms of the mortgage in accordance with the requirements of the Act. In default of agreement between the parties, the Collector shall have authority to revise or alter the terms of the mortgage so as to bring it into accord with such form of mortgage as is permitted by or under this Act and as the mortgagee appears to him to be equitably entitled to claim.

Power to revise mortgage made in form not permitted.

9. Any agriculturist may grant a lease of his land for any term not exceeding 10 years, and any lease made by an agriculturist for a longer term than 10 years shall be deemed to be a lease for a period of 10 years.

Limit to period of lease by an agriculturist.

10. If a mortgagee or lessee, holding possession under a mortgage made under section 5 or under a lease made under section 9, remains in possession after the expiry of the term for which he is entitled to hold under his mortgage or lease, the Collector may, of his own motion or on the application of the person entitled to possession, eject such mortgagee or lessee and place in possession the person so entitled.

Power of Collector to eject mortgagees, lessees or farmers.

#### PROVISIONS RELATING TO MINIMUM AREAS.

11. The President of the Union may divide agricultural land into suitable classes and localities and prescribe in respect of each class of land in each locality the minimum area which he considers necessary for the maintenance in reasonable comfort of a family of reasonable size working the land as proprietors.

Prescription of minimum areas.

12. Where an agriculturist owns solely or jointly with others land not exceeding such minimum area as may have been prescribed under section 11, the whole of such land shall be exempt from attachment by any civil Court or Revenue Officer unless that attachment is on account of a sum due to Government and recoverable as an arrear of land-revenue, or to a co-operative society of which he is a member.

Protection against attachment of minimum area.

13. Where an agriculturist owns solely or jointly with others land exceeding such minimum area as may have been prescribed under section 11, the prescribed minimum area shall be exempted from attachment by order of a civil Court or Revenue Officer unless the attachment is on account of a sum

Protection against attachment of land with in minimum area.

due to Government and recoverable as an arrear of land-revenue, or to a co-operative society of which he is a member.

#### GENERAL PROVISIONS.

Alienations of or charges on produce of land held by agriculturists limited to one year.

**14.** No agreement whereby an agriculturist purports to alienate or charge the produce of his land, or any part of or share in such produce, for more than one year shall take effect for more than one year from the date of the agreement.

Execution sale of land belonging to agriculturists forbidden.

**15.** No land belonging to an agriculturist shall be sold to a non-agriculturist in execution of any decree or order of any civil Court or Revenue Officer.

Certain restrictions to leases or mortgages made in execution of decree or order of civil Court or Revenue Officer.

**16.** Notwithstanding anything contained in any other enactment for the time being in force, no land belonging to an agriculturist shall be decreed or ordered by any civil Court or Revenue Officer to be leased for a period exceeding 10 years or mortgaged except in one of the forms permitted by section 5.

Jurisdiction of civil Courts forbidden.

**17.** A civil Court shall not have jurisdiction in any matter which the President of the Union or a Revenue Officer is expressly empowered by this Act to dispose of.

Civil Court to send copy of certain decrees or orders to Collector.

**18. (1)** Notwithstanding anything contained in the Code of Civil Procedure or any other Act for the time being in force, every civil Court which passes a decree or order involving a permanent alienation or a mortgage or a lease of his land by an agriculturist to a non-agriculturist shall send to the Collector a copy of such decree or order.

Action to be taken by Collector when decree or order is passed contrary to the Act.

**(2) (a)** When it appears to the Collector that any civil Court has passed a decree or order contrary to any of the provisions of this Act, the Collector may apply for the revision of such decree or order to the Court to which an appeal would ordinarily lie, or, in any other case to the High Court.

**(b)** Such application shall be made within three months of the date upon which the Collector is informed of such decree or order.

**(c)** If the Court finds that such decree or order is contrary to any of the provisions of this Act, it shall alter it so as to make it consistent with this Act.

**(3)** When any appellate Court other than the High Court passes an order rejecting such application, the Collector may, within three months after the date upon which he is informed of such order, apply to the High Court for revision thereof.

**(4)** Every civil Court which passes an order on any application made under this section shall within seven days send a copy thereof to the Collector.

(5) No Court-fee shall be leviable on such applications and the provisions of the Code of Civil Procedure as regards appeals shall apply, so far as may be, to the procedure of the Court on receipt of such application :

Provided that no appearance by or on behalf of the Collector shall be necessary for the disposal of the application.

19. The powers conferred by this Act upon a Collector may be exercised by a Revenue Officer, not below the rank of Subdivisional Officer, authorized by the President of the Union in this behalf.

Exercise of powers of Collector.

20. The President of the Union may, by notification in the Gazette, exempt any district or part of a district or any person or class of persons from the operation of this Act or of any of the provisions thereof.

Power of President to exclude local areas or persons.

21. (1) The President of the Union may, by notification in the Gazette, require or permit the registration of agriculturists in any area specified in the notification.

Registration of agriculturists.

(2) The fact that a person is so registered shall be conclusive proof that he was an agriculturist at the date of the registration.

22. (1) The President of the Union may make rules for carrying into effect the purposes of this Act.

Rule making power.

(2) In particular, and without prejudice to the generality of the foregoing power, the President of the Union may make rules—

- (a) prescribing the officers to whom applications may be made and the manner in which such applications shall be made and disposed of ;
- (b) prescribing the matters in which, and the officers by whom, powers of appeal or revision in respect of orders passed under this Act may be exercised, the procedure and the periods of limitation for such appeals and revisions ;
- (c) prescribing the credit institutions controlled or organized by Government ;
- (d) prescribing the form of mortgage for the purpose of the proviso to sub-section (2) of section 2 ;
- (e) prescribing additional forms in which mortgages may be made under section 5 ;
- (f) prescribing additional conditions which may be added by agreement in permitted mortgages under section 7 ;
- (g) prescribing the minimum areas under section 11 ;
- (h) prescribing the procedure for the registration of agriculturists under section 21 and the manner in which such registration shall be effected.

23. All rules under this Act shall be made after previous publication and be published in the Gazette.

Publication of rules.

# THE BURMA LAND PURCHASE ACT.

[BURMA ACT XIV, 1941.] (10th May, 1941.)

## CHAPTER I.

### PRELIMINARY.

Definitions. 1. In this Act, unless there is anything repugnant in the subject or context,—

- (1) “ agriculturist ” means a person—
  - (a) who is engaged or has habitually been engaged in the cultivation of land with his own hands as his principal means of subsistence ; or
  - (b) who satisfies both the following conditions, namely :—
    - (i) that he superintends personally and throughout the working periods of the year the actual cultivation of land ; and
    - (ii) that he derives the major part of his income either from such superintendence or from the cultivation of land with his own hands or jointly from such superintendence and such cultivation ;
- (2) “ Collector ” means the Collector of the district in which land to be purchased is situate and includes any officer specially appointed by the President of the Union to perform the functions of a Collector under this Act ;
- (3) “ compensation ” includes the price of land that is purchased under this Act ;
- (4) “ land ” means land which—
  - (a) is not owned by an agriculturist ; and
  - (b) is not occupied as the site of any building in a town or village ; and
  - (c) is occupied or is let for agricultural purposes or for purposes subservient to agriculture ;
 and includes—
  - (i) sites of buildings and other structures on agricultural land ;
  - (ii) rights to rents or profits of any agricultural land ;
  - (iii) rights of a mortgagor, mortgagee, lessor, lessee, grantor or grantee ;
  - (iv) any right to water enjoyed by the owner or occupier of land as such ; and
  - (v) any right of occupation under any law in force ;
- (5) “ Land Commissioner ” means any officer not below the rank of a substantive Deputy Commissioner whom the President of the Union may appoint to do anything required by this Act to be done by such officer ;

- (6) the expression "person interested" includes all persons claiming an interest in the land or in the compensation to be paid on account of the purchase of the land under this Act; and a person shall be deemed to be interested if he is interested in any of the rights mentioned in sub-section (4);
- (7) "prescribed" means prescribed by this Act or by rules made thereunder.

## CHAPTER II.

### PURCHASE.

#### *Preliminary Investigation.*

2. (1) Whenever the President of the Union considers it necessary for the Government to purchase land in any locality for the public purpose of allotment in small holdings to agriculturists, a notification to that effect shall be published in the Gazette and in such newspapers \* \* \* \* as may be prescribed, and the Collector shall cause public notice of the substance of such notification to be given at prominent public places in the said locality. The notification shall contain such particulars as are sufficient to identify the land, its situation, boundaries, approximate area and the names of its owners or occupiers.

Publication of preliminary notification and powers of officers thereupon.

(2) Thereupon it shall be lawful for the Land Commissioner, or an officer authorized by him and his servants and workmen,—

- to enter upon and survey any land in such locality;
- to set out the boundaries of the land proposed to be purchased;
- to mark such boundaries by placing marks and cutting trenches and, where otherwise the survey cannot be completed and the boundaries and line marked, to cut down and clear away any part of any standing crop, tree, fence or jungle; and
- to do all other acts necessary to ascertain the extent, nature and circumstances of the land required:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so:

Provided further that at the time of such entry the officer shall pay or tender payment for all damage to be done as aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered he shall refer the dispute for decision to the Collector and the Collector's decision shall be final.

Payment for damage.

#### *Objections.*

3. (1) Any person interested in any land which has been notified under sub-section (1) of section 2 may, within sixty days after the issue of the notification, object to the purchase of the land or of any portion thereof.

Hearing of objections.

(2) Every objection under sub-section (1) shall be made in writing to the Collector and the Collector shall forward it to the Land Commissioner with his comments.

(3) The Land Commissioner shall—

(a) give the objector an opportunity of being heard either in person or by an agent ; and

(b) after hearing such objections and making such further enquiry, if any, as he thinks necessary, submit the case for the decision of the President of the Union together with the records of the proceedings held by him and a report containing his recommendations on the objections ; and

(c) communicate his recommendations to the objector in writing.

(4) The decision of the President of the Union on the objections shall be final.

#### *Declaration.*

Declaration that land is required for allotment.

4. (1) When the President of the Union is satisfied, after considering the report made under sub-section (3) of section 3, that any particular land is needed for allotment under this Act, a declaration shall be made to that effect under the signature of a Secretary to Government or of some officer duly authorized by him.

(2) The declaration shall be published in the Gazette, and shall state the district or other territorial division in which the land is situate, its approximate area and such other particulars as may be prescribed, and, where a plan has been made of the land, the place where the plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for the purposes of this Act.

Purchase after declaration.

5. When any land has been declared to be needed under the foregoing section, the Land Commissioner shall proceed to purchase and take possession of the same in the manner hereinafter appearing.

#### *Enquiry into Value and Claims and Award by the Land Commissioner.*

Notice to persons interested.

6. (1) The Land Commissioner shall cause public notice to be given at prominent places on or near the land to be purchased, stating that Government intends to purchase the land.

Such notice shall state the particulars of the land and shall require all persons interested to appear personally or by an agent before the Collector or the Land Commissioner, at a time and place and on a date therein mentioned (such date not being earlier than thirty days after the date of publication of the notice), and to state in writing the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests and their objections (if any) to the measurements and other particulars of the land.



(2) The Land Commissioner shall also cause notice to the same effect to be served on the occupier (if any) of such land and on all such persons known or believed to be interested therein or to be entitled to act for persons so interested as reside, or have agents authorized to receive service on their behalf, within the district in which the land is situate.

(3) In case any person so interested resides elsewhere and has no such agent, the notice shall be sent to him by registered post addressed to him at his last known residence, address or place of business.

(4) On expiry of the date mentioned in sub-section (1) the Collector shall forward to the Land Commissioner such claims as have been filed with him pursuant to the notice under the said sub-section.

7. (1) The Land Commissioner may require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than thirty days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

Power to require and enforce the making of statements as to names and interests.

(2) Every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Penal Code.

8. On a date to be fixed, of which notice shall be given to persons interested, or on any other day to which the enquiry may be adjourned, the Land Commissioner shall proceed to enquire into the respective claims of the persons interested and into the objections (if any) regarding the measurements and other particulars of the land and into the amount of compensation to be awarded. He shall then make an award under his hand of—

Enquiry and award.

(a) the true area of the land,

(b) the compensation which in his opinion should be paid for the land, and

(c) the apportionment of the said compensation among the persons interested.

9. (1) In determining the amount of compensation to be awarded for land purchased under this Act, the Land Commissioner shall take into consideration—

Determination of compensation.

(a) the market value of the land at the date of the publication of the notification under sub-section (1) of section 2,

(b) the damage sustained by the person interested by reason of the taking of any standing crop or tree which may be on the land at the time of the Land Commissioner's taking possession thereof,

- (c) the damage (if any) sustained by the person interested at the time of the Land Commissioner's taking possession of the land by reason of severing such land from his other land, and
- (d) if in consequence of the Land Commissioner's taking possession of the land the person interested is compelled to move any building from the land, the reasonable expenses incidental to such removal.

(2) In determining the market value the Land Commissioner shall take into consideration the following factors, namely—

- (i) fertility ;
- (ii) situation ;
- (iii) tenure ;
- (iv) the annual nett income derived from the land ; and
- (v) such other factors as may be prescribed ;

but he shall not take into consideration—

- (a) any sale of land in which he believes, for reasons to be recorded by him in writing, the price was fixed with the intention of providing evidence to support a claim for compensation under this Act, and
- (b) any improvement on the land which was commenced, made or effected without the sanction of the Collector after the issue of the notification under sub-section (1) of section 2.

Award of  
Land Com-  
missioner to  
be final.

**10. (1)** Such award shall, except as hereinafter provided, be final and conclusive evidence, as between the Land Commissioner and the persons interested, of the true area and value of the land and the apportionment of the compensation among the persons interested.

(2) The Land Commissioner shall give immediate notice of his award to such of the persons interested as are affected by the award and are not present personally or by their agents when the award is made.

Power to  
summon and  
enforce  
attendance of  
witnesses and  
production of  
documents.

**11.** For the purpose of enquiries under this Act, the Land Commissioner shall have power to summon and enforce the attendance of witnesses and persons interested, to receive and record evidence and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a civil Court under the Code of Civil Procedure.

#### *Payment, Deposit and Apportionment of Compensation.*

Payment or  
deposit of  
compensa-  
tion.

**12. (1)** On making an award under section 8, the Land Commissioner shall tender payment of the money awarded by him as compensation to the persons who according to the award are entitled thereto.

(2) Any person to whom payment of money has been tendered under sub-section (1) may—

- (i) receive the money in full satisfaction of all his claims, in which case he shall not be entitled to appeal under section 16, or

- (ii) receive the money under protest as to its sufficiency, or
- (iii) refuse to receive the money.

(3) If a person refuses under clause (iii) of sub-section (2) to receive the money, the Land Commissioner shall deposit it in the Treasury to await the result of any appeal which may be filed under section 16.

(4) Nothing herein contained shall affect the liability of any person who receives money under this section to pay the whole or any part of it to any other person lawfully entitled thereto.

13. (1) When there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Apportionment of compensation.

(2) If there be any dispute as to the title to the land or as to the apportionment of the compensation, the Land Commissioner shall refer the parties to a civil Court and shall deposit in the Court the amount of the compensation awarded to the persons interested.

### *Taking Possession.*

14. When the Land Commissioner has made an award under section 8, he may take possession of the land, which shall thereupon vest absolutely in the Government free from all encumbrances :

Taking possession.

Provided that he shall not take possession of the land until the period of time allowed for an appeal under section 16 has expired or, if an appeal has been filed, until such appeal has been decided :

Provided also that he shall not take possession of the land without the sanction of the President of the Union and without giving the person interested such notice as may be reasonably sufficient to enable him to remove any building, structure or standing crop without undue inconvenience.

## CHAPTER III.

### APPEAL AND PENALTIES.

15. Except as provided in sub-section (2) of section 13 and in section 16, no civil Court shall have jurisdiction in any matter the determination of which is expressly entrusted to an officer by or under this Act.

Bar to jurisdiction of civil Courts.

16. (1) The Government, or any person interested who is dissatisfied with an award made by a Land Commissioner under this Act, may appeal to the High Court : provided that there shall be no right of appeal in regard to the questions mentioned in sub-section (2) of section 13.

Appeal to High Court.

(2) Such an appeal shall be filed in the High Court within forty-five days from the date of the award appealed against, or, if the person interested is served with a notice under sub-section (2) of section 10, then within forty-five days of the service of such notice. Save as aforesaid, the provisions of the Limitation Act shall apply *mutatis mutandis* to such an appeal.

(3) Such an appeal shall be heard and determined by a Bench of at least three Judges of the High Court, in accordance with the provisions of Order XLI of the Code of Civil Procedure, as if it were an appeal from a decree passed by a District Court.

(4) The decision of the High Court shall be final.

**Penalties.**

**17.** Whoever wilfully obstructs any person in doing any of the acts authorized by section 2, or wilfully fills up, destroys, damages or displaces any trench or mark made under sub-section (2) of section 2, shall be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

**Penalty for obstructing possession of land.**

**18.** Whoever wilfully opposes the Land Commissioner in taking possession of land which has been purchased under this Act or refuses to surrender the same to him shall be liable to imprisonment for a term not exceeding six months, or to fine not exceeding five hundred rupees, or to both.

## CHAPTER IV.

### MISCELLANEOUS.

**Withdrawal from purchase.**

**19. (1)** The Government shall be at liberty to withdraw from the purchase of any land of which possession has not been taken.

(2) When the Government has decided to withdraw from the purchase of the whole or part of the land notified under sub-section (1) of section 2, the Land Commissioner shall communicate the fact in writing to all persons interested and a notification shall be issued cancelling or modifying the notification issued under sub-section (1) of section 2.

(3) Whenever the Government withdraws from any such purchase, the Land Commissioner shall determine the amount of compensation due for any damage suffered by any person interested in consequence of the action taken for its purchase, including all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land, and shall pay such amount to the person so interested.

(4) The provisions of section 9 shall apply, so far as may be, to the determination of the compensation payable under this section.

(5) If any person interested has received a sum of money under clause (ii) of sub-section (2) of section 12 in respect of the same land, he shall, within 30 days of the receipt by him of the communication referred to in sub-section (2), refund the said sum of money to Government, failing which it shall be recoverable from him as an arrear of land-revenue.

**Power to make rules.**

**20. (1)** The President of the Union shall have power to make rules for carrying into effect the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the President of the Union may make rules—

- (a) prescribing the method of selecting land for notification under section 2 ;
- (b) prescribing the method of enquiry into the value, tenure, and measurements of land and rights therein ;
- (c) prescribing the manner in which claims of persons interested shall be presented and the procedure according to which such claims shall be investigated ;
- (d) prescribing the factors to be taken into consideration under clause (v) of sub-section (2) of section 9 ;
- (e) prescribing the procedure for the payment and apportionment of compensation ;
- (f) prescribing the method of taking possession of land ;
- (g) prescribing the manner in which the Land Commissioner shall record evidence in enquiries under section 8, and the form of his award ; and
- (h) prescribing the method of, and the terms and conditions for, distribution of land.

21. All rules shall be made after previous publication and shall, when made, be laid before both Chambers of the Union Parliament at least ten days before the end of a session. If both Chambers of the Union Parliament agree in the same or the following session in making any modification in any rule, or agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or shall be rescinded, as the case may be.

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## THE TENANCY ACT, 1946.

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## THE TENANCY ACT, 1946.\*

[BURMA ACT XXI, 1946.] (2nd July, 1946.)

Whereas it is expedient to provide for the regulation in certain respects of agricultural tenancies ;

\* \* \* \* \*

It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

Title and  
extent of  
operation.

1. (1) This Act may be called the Tenancy Act, 1946.
- (2) The provisions of sections 1 and 72 shall be applicable to the whole of the Union of Burma, and the remaining provisions of this Act shall extend to such areas as the President of the Union may, from time to time, by notification, appoint.<sup>1</sup>

Exemptions  
from opera-  
tion of Act.

2. Nothing in this Act shall apply to—

- (a) any person who cultivates land or lands exceeding in the whole fifty acres in area ; or

\* Published in *Burma Gazette*, 1946, Part I, page 390.

<sup>1</sup> The provisions of sections 1 and 72 came into force in the whole of Burma on 2nd July 1946.

The remaining provisions of this Act came into force on 8th March 1947 in the following areas : (a) whole of the Pegu, Irrawaddy and Arakan Divisions, (b) Amherst, Thaton, Tavoy and Mergui Districts in the Tenasserim Division, (c) Pyinmana Subdivision in the Ya nethin District, Mandalay Division—*vide Burma Gazette*, 1947, Part I, page 162.



- (b) any person who holds land directly under the Government ; or
- (c) any credit institution created, controlled or guaranteed by Government, the principal business of which is the granting of loans to agriculturists :

Provided that the President of the Union may, by notification, declare that in any locality, to be specified in the notification, or in respect of land on which any crop, to be so specified, is grown, some other specified figure shall be substituted for the figure fifty in clause (a).

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

- (1) “ agriculturist ” means a person—
  - (a) who is engaged in the cultivation of land with his own hands as his principal means of subsistence ; or
  - (b) who satisfies the following conditions, namely—
    - (i) that he superintends personally and throughout the working periods of the year the actual cultivation of land, and
    - (ii) that he derives the major part of his income either from such superintendence or from the cultivation of land with his own hands or jointly from such superintendence and such cultivation ;
- (2) “ charge ” means a charge created by section 15 ;
- (3) “ improvement ” means a work, made after the coming into force of this Act and suitable to the tenancy, by which the productivity of the land is increased, and includes—
  - (a) the construction of works for drainage and for protection against floods ;
  - (b) the construction of works for the storage and supply of water for agricultural purposes ;
  - (c) the reclaiming, enclosing, levelling and terracing of land for agricultural purposes ;
  - (d) the renewal or reconstruction of any of the foregoing works, or such alterations therein or additions thereto as are not of the nature of mere repairs ;

but does not include manuring or such clearances, embankments, levellings, enclosures or water-channels as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit accruing to the land from the ordinary operations of husbandry ;
- (4) “ labourer ” means a person employed for wages in the cultivation of land ;
- (5) “ land ” means land which is occupied or has been leased for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings and other structures on such

land, but does not include land which is within a town or village and is occupied as the site of any building ;

- (6) "landlord" means any person under whom a tenant holds land and to whom or on account of whom such tenant is liable to pay rent in respect of the said land, and who is not himself liable to pay rent to or on account of any person in respect of the said land ;
- (7) "lease" includes a counterpart, an undertaking to cultivate or occupy, and an agreement to lease ;
- (8) "normal gross outturn" of a tenancy means the gross produce to be expected from the tenancy when cultivated with due diligence under normal conditions ;
- (9) "prescribed" means prescribed by rules made under this Act ;
- (10) "rent" means any fixed payment in money, kind or service payable by a tenant on account of the use or occupation of the land held by him to or on account of the landlord ;
- (11) "Rent Settlement Officer" means any person, not lower in rank than a Deputy Commissioner, whom the President of the Union may appoint for any specified district or districts to exercise and perform the powers, duties and functions of a Rent Settlement Officer under this Act ;
- (12) "Revenue Officer" means any person whom the President of the Union may appoint to exercise and perform, within such local limits as are specified in the order of appointment, the powers, duties and functions of a Revenue Officer under this Act ;

Provided that, except in the case of a Myoök<sup>1</sup> in charge of a Subdivision and except for special reasons to be recorded in writing, no person who is lower in rank than an Extra Assistant Commissioner<sup>2</sup> or a Superintendent of Land Records shall be appointed a Revenue Officer ;

- (13) "sub-tenancy" means the holding of a sub-tenant under a single sub-lease ;
- (14) "sub-tenant" means a person who holds land under a tenant and is liable to pay rent for the said land to the said tenant, but does not include an agent or labourer employed by a tenant ;
- (15) "tenancy" means the holding of a tenant under a single lease ;
- (16) "tenancy year" means the twelve months beginning with the Burmese New Year day, or from such other date as the President of the Union may, by notification, appoint for leases of any particular kind of land ;
- (17) "tenant" means a person who holds land under a landlord and is liable to pay rent for the said land to or on account of the said landlord, but does not include a sub-tenant, or a mortgagee, or an agent or labourer employed by a landlord ;

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<sup>1</sup> Now an officer of the Burma Civil Service (Junior Branch).

<sup>2</sup> Now an officer of the Burma Civil Service (Senior Branch)

- (18) "wages" means the amount in money or kind which an employer is legally bound to pay to a labourer for work done in the cultivation of land ;
- (19) "fraudulently" or "dishonestly" shall have the same meaning as in the Penal Code.

## CHAPTER II.

### DETERMINATION OF RENT.

4. The tenant of a tenancy for which the standard rent has been fixed shall not be liable to pay a rent in excess of such standard rent on account of the tenancy.

Standard rent alone payable for tenancy.

5. (1) The President of the Union shall, by notification, fix upper and lower limits, expressed by way of percentages of the normal gross outturn within which the standard rent of a tenancy shall be fixed, and the standard rent shall be determined within such limits by a Revenue Officer, acting under the provisions of section 8, in his discretion but subject always to any directions which may be issued in this behalf by the President of the Union.

Determination of standard rent.

(2) The percentages fixed under sub-section (1) may vary for different localities or for different crops, or for different classes of land.

6. In fixing the percentages of the normal gross outturn under section 5, the following factors shall be taken into consideration, namely :—

Facts to be considered before issuing notification under section 5.

- (a) the average cost of cultivation (including the reasonable remuneration of such necessary labour in cultivation as is performed by the tenant or any member of his family living with him) of the crop or crops usually grown on land in the area in which and of the kind to which the notification will be applicable ;
- (b) the cost of collecting the rent according to local usage or custom in respect of such land and in such area ;
- (c) the rents which have been previously paid for such land and within such area ;
- (d) the incidence of land revenue on such land and within such area ; and
- (e) the certainty or uncertainty of crops on such land and within such area :

Provided that the President of the Union shall not be bound to hold, or to direct the holding of, any enquiry for the purpose of determining any of the above factors.

7. (1) A landlord or a tenant may, on or before such date as may be prescribed, apply to the Revenue Officer within whose jurisdiction the tenancy is situated for the determination of the standard rent of the tenancy.

Application for determination of standard rent.

(2) The application shall be in such form and shall contain such particulars as may be prescribed.

Determina-  
tion of  
standard  
rent.

8. (1) On receipt of any such application the Revenue Officer shall fix a date for the hearing of the application, and shall give due notice thereof to the applicant and, if the applicant is the tenant, to the landlord, or, if the applicant is the landlord, to the tenant.

(2) On the date fixed, or on any subsequent date to which the enquiry may be adjourned, the Revenue Officer shall, with the assistance of three *thamadis* selected from among the agriculturists of the locality in which the tenancy is situated, proceed to determine the normal gross outturn of the tenancy.

(3) One *thamadi* shall be appointed by the Revenue Officer, one by the landlord, and one by the tenant :

Provided that, if either the landlord or the tenant fails to appoint his *thamadi* on or before the date fixed for hearing, the appointment shall be made by the Revenue Officer.

(4) The enquiry for the determination of the normal gross outturn shall be held in the village-tract in which the tenancy is situated. The Revenue Officer shall hear the landlord and the tenant (if they appear) and also all such witnesses as they may respectively produce. He may also make such other enquiries or conduct such experiments as he may deem necessary.

(5) If either the landlord or the tenant fails to attend on the date fixed for the enquiry, or on any subsequent date to which it may be adjourned, after having been duly served with notice or informed of the said date, or if both the landlord and the tenant so fail to attend, the Revenue Officer may proceed to determine the normal gross outturn in their absence.

(6) When the normal gross outturn of the tenancy has been determined as aforesaid, the Revenue Officer shall determine the standard rent thereof in accordance with the provisions of sub-section (1) of section 5.

(7) The order of the Revenue Officer determining the standard rent shall state the place at which payment of the rent shall be made and whether it shall be paid in money or in produce, and if in produce the standard of weight or measure to be used in the measurement thereof ; and in deciding the above-mentioned matters the Revenue Officer shall conform to the existing practice of the tenancy.

Liberty of  
applicant to  
withdraw.

9. At any time before the order determining the standard rent is passed the applicant may withdraw his application, whereupon the Revenue Officer shall close the case.

Duration of  
order  
determining  
standard  
rent.

10. An order determining the standard rent of a tenancy shall operate from the commencement of the tenancy year next following the date of the filing of application, and shall be valid for a period of three years.

**11. (1)** Notwithstanding anything contained in section 4, the rent payable by a tenant may—

Modification of rent due to improvement or deterioration in tenancy.

- (i) on the application of the landlord, be enhanced by the Revenue Officer within whose jurisdiction the tenancy is situated, after due enquiry in the manner provided in section 8, on the ground that an improvement in the tenancy has been effected by, or at the expense of, the landlord since the rent was agreed upon or was determined as the standard rent under this Act ;
- (ii) on the application of the tenant, be reduced by the Revenue Officer, after due enquiry in the manner provided in section 8, on the ground that a deterioration has taken place in the tenancy as the result of an act or omission on the part of the landlord or of some person on his behalf, since the rent was agreed upon or was determined as the standard rent under this Act ;
- (iii) on the application of either the tenant or the landlord, be enhanced or reduced by the Revenue Officer, after due enquiry in the manner provided in section 8, on the ground that the rates of land-revenue payable in respect of the tenancy have been varied or that the normal gross outturn has changed substantially from natural causes.

(2) Such enhancement or reduction shall be determined with due regard to the increase or decrease of the normal gross outturn of the tenancy resulting from such improvement or deterioration, or with regard to the alteration in the amount of land-revenue payable, as the case may be.

(3) The rent as determined by the Revenue Officer under this section shall constitute the standard rent of the tenancy and shall be valid for a period of three years.

(4) On the application of the tenant, and without any alteration of the standard rent of the tenancy, the rent payable by the tenant for the current tenancy year may be reduced by the Revenue Officer on the ground that the landlord has for that year obtained a remission of land-revenue.

**12.** Where the standard rent of a tenancy has been fixed under section 11, the Revenue Officer may at any time, on the application of the landlord or the tenant, modify such standard rent by reducing or enhancing it to such extent as he may deem just, on the ground that the effect of the improvement or deterioration on the productivity of the tenancy has ceased or diminished, or that the rates of land-revenue payable in respect of the tenancy have been again varied, or that the effect of the natural causes on the normal gross outturn of the tenancy has ceased or diminished, as the case may be, since such standard rent was fixed.

Modification of standard rent when effect of improvement or deterioration in tenancy has ceased.

Powers and  
duties of  
Rent  
Settlement  
Officers.

13. (1) A Rent Settlement Officer may call for the proceedings of any Revenue Officer in which the standard rent of a tenancy within his jurisdiction has been determined under the provisions of this Chapter, and any proceedings in which the order of the Revenue Officer determining the standard rent of such tenancy has been varied on appeal or in revision.

(2) The Rent Settlement Officer may thereupon hold such enquiry as he thinks fit into the fairness of the standard rent as determined in respect of such tenancy, and on completion of such enquiry shall report to the President of the Union on the fairness of the standard rent so determined, or, on completion of all such enquiries, on the fairness of the standard rents generally within his jurisdiction. On receipt of such report, and after such further enquiry (if any) as he may deem necessary, the President of the Union may pass such order as he thinks fit, cancelling or modifying the order or orders relating to the standard rents of any tenancy or tenancies or class of tenancies within the jurisdiction of the Rent Settlement Officer.

Power  
of President  
to pass  
general  
order as  
respects  
standard  
rents.

14. Notwithstanding anything contained in this Chapter, the President of the Union may, at any time, for exceptional reasons, pass such order as he may deem necessary with reference to any standard rent determined under this Chapter.

### CHAPTER III.

#### CHARGES OF LANDLORDS, LABOURERS AND OWNERS OF CATTLE.

Charges on  
produce.

15. (1) The unpaid rent payable for the current tenancy year in respect of a tenancy and the unpaid wages of necessary labourers employed by the tenant in the same year shall rank equally and shall be a first charge on the produce thereof for that year.

(2) The unpaid advances granted by the landlord to the tenant to meet the expenses of cultivation in respect of the current tenancy year, the unpaid interest thereon and the unpaid hire of cattle for the same year shall rank equally and shall be a second charge on the produce thereof for that year :

Provided that the advances and the interest so charged shall be limited to such sum per acre and such rate not exceeding one per cent. per month, respectively, as may be prescribed generally or for any particular area.

Extent and  
duration  
of charge.

16. The produce of the tenancy, until it is removed from the tenancy after thrashing, winnowing and the like operations customary before removal, shall continue to be subject to the charges specified in section 15 and, until such charges have been satisfied or have lapsed under the provisions of this Chapter, no other claim on the produce shall be enforced, whether by attachment or sale in execution of a decree of a civil Court or otherwise :

Provided that, if an order or orders of attachment or sale is or are issued against such produce by a Court or Courts, the surplus of the produce, if any, remaining after such charges have been satisfied shall be deposited in the Court from which the order of attachment or sale was issued, or, if more than

one such order were issued by different Courts, in the superior of such Courts, or, in the case where the attaching Courts are of the same grade, in the Court which first attached the produce.

17. When the produce of the tenancy is insufficient to satisfy the first charge in full it shall be divisible among the persons entitled to the charge in proportion to the amounts respectively due to each of them.

Division when produce is insufficient to satisfy first charge.

18. When the produce of the tenancy is sufficient to satisfy the first charge, but is insufficient to satisfy the second charge in full, the balance remaining after the first charge has been satisfied shall be payable to the landlord and to the owner of hired cattle in proportion to the amounts respectively due to each of them.

Division when produce sufficient to satisfy first charge but not the second.

19. (1) If any person, who has a charge on the produce under section 15, fears that the produce of the tenancy may be removed therefrom before his charge is satisfied, he may apply in writing to the headman of the village-tract in which the tenancy is situated to attach the produce or the standing crops of the tenancy.

Attachment of produce when charge-holder fears his charge will be defeated.

(2) In the absence of the headman, the application may be made to a member of the Village Committee, or, if no Village Committee has been constituted for such village-tract, to a ten-house-gaung or ywagaung.

20. (1) The person to whom the application is made shall forthwith issue a warrant in the prescribed form attaching the produce or the crops, and shall appoint some proper person nominated by the applicant to take care thereof during the pendency of the attachment. Such warrant shall not be executed if the produce has been already removed from the tenancy.

Procedure on application for attachment.

(2) The person appointed under sub-section (1) to take care of the produce or the crops shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.

21. (1) A person applying for attachment under section 19 shall, at the time of making his application, pay to the headman or other person to whom the application is made such sum as may be prescribed for the benefit of the person appointed under sub-section (1) of section 20 to take care of the produce or crops during the pendency of the attachment, and such sum, or such part thereof as is due to him, shall, on the conclusion of the attachment, be paid to such person as his remuneration, any balance remaining over being refunded to the applicant.

Remuneration of person appointed to take care of attached produce.

(2) Any sum so paid shall form part of the costs in any suit filed by the applicant against the tenant for the recovery of wages, rent, loans, interest or hire due in respect of the same tenancy year.

22. (1) Standing crops which have been attached under section 20 may, notwithstanding the attachment, be reaped by the tenant, and gathered, thrashed, winnowed or stored in such place as is in common use by him for

Standing crops may be gathered despite attachment.

such purposes, under the supervision of the person appointed under sub-section (1) of section 20 to take care of the attached crops.

(2) If the tenant neglects at the proper time to reap, gather, thrash, winnow or store any crops which have been attached under section 20, the applicant for attachment may reap, gather, thrash, winnow or store such crops, or may cause such crops to be reaped, gathered, thrashed, winnowed or stored, in such place as may be convenient under the supervision of the person appointed under sub-section (1) of section 20. Any reasonable expenses incurred by the applicant under this sub-section shall be recoverable by him as an addition to his charge.

Procedure if headman refuses to issue warrant.

23. If a person having a charge under section 15 appears before the Judge of the civil Court of lowest grade having jurisdiction in a suit filed by such person against the tenant for the recovery of the amount of such charge, and states on oath that the headman or other village authority mentioned in section 19 has refused to issue a warrant of attachment under section 20 on his written application, the Judge, on being satisfied that such person has a charge on the produce of the tenancy, shall himself take action under section 20.

Mode of execution of warrant of attachment.

24. An attachment under section 20 shall be made by affixing the warrant—

- (i) when the attachment includes growing crops, on the land on which such crops are being grown ;
- (ii) when such produce has been cut or gathered, on the place where the produce is.

Duration of attachment.

25. (1) A warrant of attachment issued under section 20 or section 23 shall not remain in force for a period exceeding twenty-one days from the date of its execution unless before the end of that period a competent civil Court orders that it shall continue to be in force.

(2) If during the period of twenty-one days mentioned in sub-section (1) a person having a charge under section 15 files a suit in a civil Court having jurisdiction for the recovery of the amount of his charge, such Court may, either with or without notice to the tenant, direct that the attachment shall remain in force for such period as the Court may deem necessary.

Saving of *wunsa* and seed grain from attachment.

26. Notwithstanding anything contained in this Chapter, the tenant shall have an absolute right to remove from the tenancy, whether before or after attachment, (i) produce for the support of himself and his family not exceeding such quantity as may be prescribed, and (ii) seed grain in such quantity as, according to rules made in this behalf, is sufficient for the cultivation of the tenancy.

Sale of attached produce by agreement and transfer

27. Nothing in this Chapter shall prevent the tenant, with the consent of all the persons having charges under section 15, from selling the produce of the tenancy and depositing the proceeds of the sale in such place or in the custody of such person as they may mutually agree upon, and



such proceeds of the sale shall be subject to the same charges as those to which the produce was subject. If the produce was attached under section 20 or section 23 before the sale, such attachment shall be equally effective against the proceeds of the sale.

of attachment thereto.

28. If, at any time during the pendency of an attachment under this Chapter, the person who applied for the attachment informs the authority which issued the warrant of attachment or, if the attachment has been continued, the Court which continued the attachment, by a written petition, that he desires the attachment to be removed, the authority or Court shall forthwith remove the attachment.

Removal of attachment on application.

29. For the purposes of this Chapter, notwithstanding anything contained in clause (15) of section 3, the thrashing floor or other place where produce is taken and kept for thrashing, winnowing, treading out of grain or other similar process, shall be deemed to be a part of tenancy.

Tenancy to include thrashing floor for purposes of this Chapter.

## CHAPTER IV.

### IMPROVEMENT.

30. A landlord may at any time make improvements to his land notwithstanding that the land is in the occupation of a tenant.

Right of landlord to make improvements to land.

31. Where a tenant makes an improvement to the tenancy during his occupation thereof, he shall, on vacating the tenancy, be entitled to compensation for such improvement from the landlord :

Compensation for improvement by a tenant.

Provided that no compensation shall be payable by the landlord unless the improvement was made with his written permission.

32. (1) No suit for any compensation payable under section 31 shall be instituted in any civil Court, but all claims for compensation shall, on the application in writing of the tenant making the claim, be decided by the Revenue Officer within whose jurisdiction the tenancy is situated.

Revenue Officer to decide disputes as to compensation.

(2) On receipt of an application under sub-section (1), the Revenue Officer shall decide the amount of compensation, if any, payable to the tenant after inspecting the alleged improvement and holding a local enquiry with the aid of three *thamadis* in accordance with the procedure provided by section 8.

(3) If any sum recoverable by the landlord as a charge under Chapter III is in arrear, such arrear shall be set off against any compensation awarded to the tenant under section 31.

Matters to be taken into consideration, in estimating compensation.

33. In estimating the amount of compensation payable under section 31, the Revenue Officer shall have regard to the following matters, namely :—

- (a) the amount by which the produce of the tenancy or the value of that produce has been increased by the improvement ;
- (b) the nature of the improvement and the probable duration of the effects thereof ;
- (c) the labour, materials and money expended in making the improvement ;
- (d) any remission or reduction of rent or other advantage given by the landlord to the tenant in consideration of the improvement ; and
- (e) the length of time during which the tenant has received the benefit of the improvement.

Limitation for claims for compensation.

34. No claim for compensation under this Chapter shall be entertained by a Revenue Officer unless made within sixty days of the date on which the tenant ceased to be entitled to have his lease renewed for the succeeding tenancy year.

## CHAPTER V.

### RESTRICTIONS ON THE DISPOSAL OF TENANCIES.

Right of tenant who has treated his landlord fairly to renewal of tenancy.

35. A tenant who has treated his landlord fairly shall, subject to the provisions of this Chapter and provided that he is willing to pay the standard rent of the tenancy, be entitled to have his lease renewed for the succeeding tenancy year :

Provided that, where a tenant proposes to plant a crop which takes more than one year to mature, or which is harvested for two or more years in succession without replanting, the lease of the tenant may be renewed for such period exceeding one year as will ensure that the tenant will obtain the full produce of his crop, on condition that the tenant pays for each year the standard rent of the tenancy.

*Explanation.*—For the purposes of this section, where no standard rent has been determined under Chapter II, the standard rent of the tenancy shall be deemed to be the rent, as agreed between the landlord and the tenant, for the previous tenancy year.

Termination of tenancy by landlord.

36. (1) Notwithstanding anything contained in the Transfer of Property Act, a landlord may serve on his tenant a notice in writing of his intention to terminate the tenancy on the following grounds, and on no other grounds namely :—

- (i) that the tenant has treated the landlord unfairly ; or
- (ii) that the tenant is unwilling to pay the standard rent of the tenancy ; or
- (iii) that the landlord, being an agriculturist, intends to work the land himself ; or
- (iv) that the landlord, not being an agriculturist, intends to work the land himself as his principal means of subsistence ; or

- (v) that the landlord intends to assign the tenancy to a son, daughter, son-in-law, or grandchild who is an agriculturist and who will work the land himself or herself ; or
- (vi) that the landlord intends to let the land lie fallow so as to permit the soil to recover from exhaustion and that the land has not lain fallow or been adequately manured during the preceding six years ; or
- (vii) that the landlord intends to use the land for industrial, residential, religious or public purposes, or for the construction of roads, bridges, embankments, drainage, fishery or irrigation works, or for the provision of a supply of water for human beings or cattle :

Provided that no such notice shall be valid unless it is duly served on the tenant—

- (a) if the notice is under clause (i) or clause (ii), not less than fifteen days before the beginning of the new tenancy year, and
- (b) if the notice is under clause (iii), clause (iv), clause (v), clause (vi) or clause (vii), not less than three calendar months before the beginning of the new tenancy year.

(2) A notice under sub-section (1) by a landlord to his tenant shall be served on the tenant in the manner provided by the second clause of section 106 of the Transfer of Property Act.

37. A tenant who has been served by his landlord with a notice under section 36 may apply to the Revenue Officer within whose jurisdiction the tenancy is situated for an order granting to him a lease of the tenancy for the ensuing year. Save as provided by the proviso to section 39, such application shall not be entertained unless it is made before the beginning of the new tenancy year.

Application to Revenue Officer by tenant under notice of termination of tenancy.

38. (1) On receipt of an application under section 37, the Revenue Officer shall fix a time and place for hearing the application and shall give notice thereof to the landlord and to the applicant.

Procedure on application under section 37.

(2) If, after due service of notice, the landlord fails to appear at the time and place appointed, the Revenue Officer shall, on the applicant giving an undertaking in writing to pay the standard rent of the tenancy, grant the application.

(3) If, after due service of notice, the applicant fails to appear at the time and place appointed, the Revenue Officer shall dismiss the application.

(4) If both the landlord and the applicant appear at the time appointed, and the landlord shows that he has given valid notice under section 36 of his intention to terminate the tenancy, the Revenue Officer, if satisfied that the reason or reasons given in the notice for terminating the tenancy is or are true and genuine, shall reject the application. If he is not so satisfied, he shall, on the applicant giving an undertaking in writing to pay the standard rent of the tenancy, grant the application.

Renewal of application by tenant where landlord's purpose has not been effected.

39. (1) Where a Revenue Officer rejects an application under the provisions of sub-section (4) of section 38, the applicant shall be entitled to renew his application if he proves that the purpose for which his tenancy was terminated has for any reason not been effected or that the purpose has become frustrated within three years of the termination of his lease.

(2) A renewed application under sub-section (1) shall ordinarily be in respect of the tenancy year following that in which it is made, but may, in special circumstances at the discretion of the Revenue Officer and at the request of the applicant, be deemed to be in respect of the tenancy year during which the application is made.

(3) Where a Revenue Officer has rejected an application for the reason given in clause (vi) under section 36, the applicant may apply subsequently for a fresh lease of the tenancy for the year following that in which the land has lain or was intended to lie fallow.

Tenant failing to execute lease before tenancy year shall be deemed to have vacated tenancy.

40. A tenant who before the beginning of the new tenancy year has not executed a lease for that year in respect of his tenancy shall be deemed to have vacated the tenancy unless prior to that date he has applied under section 37 to the Revenue Officer for an order granting him a lease :

Provided, however, that a tenant may apply to the Revenue Officer not later than the fifteenth day after the beginning of the new tenancy year for an order under section 41 granting him a lease of his tenancy for the ensuing year if his failure to execute the lease before the beginning of the tenancy year was due to evasion on the part of the landlord or the landlord's agent or to a refusal on the part of either of them to execute such a lease.

Application for renewal of lease by tenant under proviso to section 40.

41. An application for an order under the proviso to section 40 shall be made to the Revenue Officer within whose jurisdiction the tenancy is situated, and the provisions of sub-sections (1), (2) and (3) of section 38 shall be applicable thereto. If the Revenue Officer, after such enquiry as he may deem necessary, is satisfied that the tenant's failure to obtain a lease before the beginning of the tenancy year was not due to evasion on the part of the landlord or his agent or the refusal of either of them to grant the lease, he shall reject the application. If, however, he finds that the tenant's failure was due to such evasion or refusal and if he is satisfied, after such enquiry as he may deem necessary, that the tenant has treated his landlord fairly and has paid the standard rent of the tenancy or the agreed rent, he shall, on the applicant giving an undertaking in writing to pay the standard rent of the tenancy, grant a lease to the applicant, and it shall not be necessary for him to enquire into the reasons for such evasion or refusal :

Provided that if the landlord proves that he has duly served on the tenant a valid notice under section 36, the Revenue Officer shall proceed to decide the dispute in accordance with the provisions of sub-section (4) of section 38.

42. Every order passed under this Chapter granting a lease of a tenancy to an applicant therefor shall be deemed to be and shall have the same force as a lease of the tenancy for the tenancy year granted by the landlord to a tenant.

Effect of order under this Chapter.

43. Where a tenant absents himself from the tenancy or fails to cultivate it during the period and in the manner customary for the cultivation of that class of land, the landlord may apply to the Revenue Officer within whose jurisdiction the tenancy is situated for an order terminating the lease, and the Revenue Officer shall, if he is satisfied after due enquiry that the tenant has so absented himself or has so failed to cultivate, pass an order terminating the lease.

Termination of lease where tenant abandons the tenancy.

44. No tenant who is in occupation of a tenancy by virtue of a lease or an order under this Chapter shall, without the consent in writing of his landlord, transfer or sublet his interest in the land or any part thereof to any other person. Any such transfer or sub-lease shall be deemed to be an abandonment of the tenancy within the meaning of section 43 :

Abandonment of tenancy by unauthorized transfer.

Provided that when such consent has been given it shall not be withdrawn save by notice in writing stating the reasons for such withdrawal, and the reasons shall be such as are mentioned in sections 35 and 36.

45. (1) Every order passed by a Revenue Officer under this Chapter shall specify the date on or before which it must be obeyed.

Enforcement of orders by Revenue Officers.

(2) A Revenue Officer may give effect to any order passed either by himself or by any appellate or revisional authority by ejecting anyone in occupation of the land, and may for this purpose use such force as may be necessary.

46. For the purposes of this Chapter, the President of the Union shall prescribe those acts and omissions on the part of a tenant which shall be deemed to be unfair treatment by the tenant of his landlord.

Meaning of "unfair treatment" under this Chapter.

## CHAPTER VI.

### RIGHTS OF EJECTED TENANTS.

47. (1) The following provisions shall apply in the case of every tenant who is ejected from a tenancy of which he was in lawful occupation, namely—

Right of ejected tenant in respect of crops and land prepared for sowing.

- (a) if the tenant has, before the date of his ejectment, sown or planted a crop on any land comprised in the tenancy, he shall be entitled, at the option of the landlord, either to remain in occupation of such land on payment of the standard rent for the tenancy, or such proportionate part of the standard rent as is applicable to the land occupied, or, where no standard rent has been fixed, the rent, or such proportionate part of the rent as is applicable to

- the land occupied, as agreed upon in the latest lease between him and the landlord, for the purpose of tending and gathering in the crops, or to receive from the landlord the value of the labour and materials and the money expended by him in preparing such land and sowing, planting and tending such crops ;
- (b) if a tenant who has, before the date of his ejectment, planted a crop which may reasonably be expected to yield more than one harvest is ejected at any time after the first harvest but before the last harvest which is reasonably expected to be obtained from such planting, the expenditure of labour, materials and money in preparing the land and in sowing, planting and tending the crop shall be deemed to have been incurred in respect of all the crops reasonably expected to be obtained from such planting, and the compensation to be paid by the landlord shall bear the same proportion to the cost of cultivation as the value of the harvests expected thereafter to be obtained bears to the total value of the harvests obtained and expected to be obtained ;
- (c) if a tenant has, before the date of his ejectment, prepared any land comprised in the tenancy for sowing or planting, but has not sown or planted any crops thereon, he shall be entitled to receive from the landlord the value of the labour and the materials and the money expended by him in preparing such land :

Provided that—

- (i) nothing in this sub-section shall enable a tenant to remain in occupation of any land if he has been ejected therefrom by reason of another person establishing thereto a title superior to that of his ; and
- (ii) no compensation shall be payable under this sub-section if the tenant had cultivated or prepared the land contrary to any local usage or practice.

(2) Any sum recoverable by the landlord from the tenant under the provisions of this Act at the time of ejectment of the tenant may be set off against any sum payable under the provisions of sub-section (1).

Determina-  
tion of  
amount of  
compensa-  
tion and  
recovery  
thereof.

48. (1) A Revenue Officer ejecting a tenant in pursuance of an order passed under this Act shall determine the amount of compensation payable under section 47 and shall, on application by the ejected tenant, recover it from the landlord.

(2) Where an appellate or revisional authority reinstates in his tenancy a tenant who has been ejected, such authority may, by the order passed on appeal or in revision, direct that the tenant so reinstated shall pay to the person, if any, who is evicted by the appellate or revisional decision, such compensation as ought to be paid on account of any advantage which will accrue to the tenant reinstated by its order by reason of any expenditure in the cultivation of the tenancy which the person evicted had incurred prior to

his eviction, the provisions of section 47 being applicable as if the reinstated tenant were the landlord and the person evicted were the tenant.

## CHAPTER VII.

### SUB-TENANTS.

49. Subject to the following modifications, the provisions of this Act shall apply to sub-tenants and sub-leases in the same manner and to the same extent as they apply to tenants and leases :—

Application  
of Act to  
sub-tenants.

- (a) in Chapters III and V the word “landlord” shall mean the tenant under the lease ;
- (b) Chapter IV shall apply as between the landlord and the sub-tenant to the exclusion of the tenant ;
- (c) save as provided by clause (b), both the landlord and the tenant shall be necessary parties to proceedings relating to a sub-lease ;
- (d) withdrawal of consent under the proviso to section 44 shall be equivalent to the issue of a notice under the provisions of section 36 ;
- (e) transfer by a sub-tenant of his interest in the tenancy or any part thereof shall be deemed to be an abandonment by him of the tenancy.

## CHAPTER VIII,

### APPEAL, REVISION AND REFERENCE.

50. Except as expressly provided by this Act, an order passed by a Revenue Officer shall be final, and shall not be subject to appeal to or revision by any Court or authority.

No appeal  
except as  
provided in  
this Act.

51. (1) Any person aggrieved by any order passed by a Revenue Officer may appeal against the order to the Deputy Commissioner to whom the Revenue Officer is subordinate.

Appeal to  
Deputy  
Commis-  
sioner from  
orders of  
Revenue  
Officers.

*Explanation.*—A Revenue Officer shall be subordinate to the Deputy Commissioner of the district which includes the local limits of the jurisdiction of the Revenue Officer.

(2) The period of limitation for an appeal under this section shall be thirty days from the date on which the order appealed against was communicated to the appellant.

52. (1) On the presentation of an appeal under section 51, the Deputy Commissioner shall fix a date for hearing, of which notice shall be given to all parties appearing to be interested, and shall call for the record of the proceedings of the Revenue Officer.

Procedure at  
hearing of  
appeal.

(2) On the date so fixed, or on any subsequent date to which the hearing may be adjourned, the Deputy Commissioner shall peruse the record, hear all such parties as may appear, and make, or cause to be made by the Revenue

Officer, such further enquiry (if any) as he may deem necessary, and may then either—

- (a) confirm the order of the Revenue Officer and dismiss the appeal, or
- (b) reverse the order, or
- (c) modify the order in such manner as he may deem fit, or
- (d) set aside the order and direct a fresh enquiry before the same or any other Revenue Officer subordinate to him, and may make any consequential or incidental order that may appear to be necessary.

Power of  
Financial  
Commissioner to  
reverse  
orders.

53. The Financial Commissioner may, either on his own motion or on the application of any person interested made within ninety days of the order sought to be revised, call for the record of any proceedings under this Act and may pass such order thereon as he thinks fit :

Provided that he shall not make an order reversing or modifying any order of a Revenue Officer or Deputy Commissioner without giving the parties affected thereby an opportunity of being heard.

Reference by  
Financial  
Commissioner to  
High Court.

54. (1) Where, in any case coming before him under section 53, any question of law arises on which he entertains a doubt, the Financial Commissioner may draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement, with his own opinion on the point, for the decision of the High Court, and the High Court shall give its decision on the point so referred.

(2) The High Court shall send to the Financial Commissioner a copy of its decision under the seal of the Court and the signature of the Registrar, and the Financial Commissioner shall dispose of the case in conformity with such decision.

## CHAPTER IX.

### OFFENCES.

Penalty for  
fraudulently  
or dishonestly  
causing  
attachment  
of produce.

55. Whoever, fraudulently or dishonestly,—

- (a) causes produce or crops to be attached under section 20 by representing that he has a charge thereon,
- <sup>1</sup> (b) \* \* \* \*

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

<sup>1</sup> 56. \* \* \* \*

Penalty for  
improper  
termination  
of tenancy by  
landlord.

57. Any landlord, who, having obtained the termination of a tenancy on any of the grounds mentioned in clauses (iii), (iv), (v), (vi) or (vii) of section 36, fails, except for causes beyond his control, within twelve months of such termination to carry his alleged intention or intentions into effect, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

<sup>1</sup> Deleted by Act V, 1951.



**58.** Whenever a Magistrate convicts a person of an offence punishable under section 55, section 56 or section 57, and sentences him to pay a fine, the Magistrate may direct that the whole or any part of the fine, if realized, shall be paid as compensation to any person for any loss or injury caused to such person by the offence.

Court may direct fine to be paid to aggrieved party as compensation.

**59.** An offence punishable under either section 55 or section 57 shall be compoundable by the aggrieved party.

Offences under sections 55 and 57 compoundable.

**60.** No Court inferior to that of a Magistrate of the first class shall try any offence punishable under this Chapter, and no Magistrate shall take cognizance of any such offence except upon the complaint of a Revenue Officer or the aggrieved party.

Cognizance of offences.

## CHAPTER X.

### MISCELLANEOUS.

**61.** Any notice or order issued under this Act by any authority for service on any person shall be served in the manner provided by the Code of Civil Procedure for the service of summons.

Service of notices, etc.

**62.** The provisions of sections 10, 11 and 12 of the Money Lenders Act, 1945, shall apply to loans made by a landlord to his tenant and to advances of wages paid by a cultivator to his labourers, as if the landlord or the cultivator, as the case may be, were a money-lender under the said Act.

Restriction on interest.

**1 62A.** Notwithstanding anything contained in any other law, where any cultivator sells or agrees to sell outright his interest in the standing crops on any land which he cultivates in satisfaction of any loan or debt incurred by him, the purchaser shall not be entitled to the produce so sold which is in excess of the amount which the purchaser can lawfully claim at the date of such sale under the Money Lenders Act or any other law for the time being in force, and notwithstanding any such sale the seller shall be deemed to be the owner of that portion of the produce which is in excess of the sum lawfully payable by the seller in respect of such loan or debt.

Restriction on right of purchaser, of cultivator's interest in standing crops for loan or debt.

**63.** The costs of any enquiry or other proceeding under this Act shall be at the discretion of the authority holding the enquiry or proceeding, which may direct by whom, and to whom, and to what amount costs shall be paid, or out of what fund they shall be payable.

Costs.

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<sup>1</sup> Inserted by Act VII, 1948.

Recovery of sums awarded under this Act as arrears of land-revenue.

**64.** Any sum payable or recoverable under any order passed by any authority under this Act may be recovered as if it were an arrear of land-revenue.

Representation of party.

**65. (1)** Any act required or permitted to be done and any appearance required to be made by any person under this Act may be done or made by his agent duly authorized in that behalf.

**(2)** In any enquiry, appeal, revision or reference under this Act, a party may be represented by a legal practitioner.

Bar to jurisdiction of civil Courts.

**66.** No civil Court shall exercise jurisdiction in respect of any matter the adjudication of which is entrusted to a Revenue Officer by this Act.

Power to require statements on oath.

**67.** A Revenue Officer or a Rent Settlement Officer holding any enquiry under this Act may require any statement made before him to be made on oath or affirmation.

Exclusion of operation of section 91, Evidence Act, in certain matters.

**68.** Notwithstanding anything contained in section 91 of the Evidence Act, where a person has entered into an agreement in writing in respect of or as a labourer on certain land, he shall not thereby be prevented from proving by oral evidence or otherwise, that he is in fact the tenant of that land.

Condition in lease that sale of produce shall be to landlord void.

**69.** Any provision in a lease that the tenant shall sell his produce only to the landlord or other specified person shall be void.

Contracting out of Act prohibited.

**70.** Any provision in any contract whereby a tenant or a labourer agrees that he shall not be entitled to any right to which he would otherwise be entitled under this Act shall be void.

Power to make rules.

**71. (1)** The President of the Union may make rules <sup>1</sup> to carry out the purposes of this Act.

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

- (a)** the date on or before which an application for the determination of standard rent shall be made under section 7 ;
- (b)** the form of warrant of attachment under section 20 ;
- (c)** the remuneration payable to persons appointed under section 20 to take care of attached produce ;
- (d)** the quantity of produce which a tenant may retain under clause **(i)** of section 26, and the quantity of seed grain sufficient for cultivation under clause **(ii)** of section 26 ;

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<sup>1</sup> For such rules, see *Burma Gazette*, 1947, Part I, page 162.

(e) the acts or omissions on the part of a tenant which shall constitute unfair treatment by the tenant of his landlord for the purposes of Chapter V.

(3) All rules made under this section shall be subject to the condition of previous publication.

172. \* \* \* \*

## ၁၉၅၀ ပြည့်နှစ်၊ သီးစားခံနှုန်း အက်ဥပဒေ။ \*

[၁၉၅၀ ပြည့်နှစ်၊ အက်ဥပဒေ အမှတ် ၄၂။] (၁၉၅၀ ပြည့်နှစ်၊ အောက်တိုဘာလ ၁၆ ရက်။)

အောက်ဝါအတိုင်း အက်ဥပဒေအဖြစ် ပြဋ္ဌာန်းလိုက်သည်။

၁။ ။ ဤအက်ဥပဒေသည်၊ နိုင်ငံတော်သမ္မတကအခါအားလျော်စွာ အမိန့်ကြော်ငြာစာ ဖြင့်သတ်မှတ်သည့်အရပ်ဒေသများနှင့် သက်ဆိုင်ရမည်။<sup>၁</sup>

၂။ ။ ၁၉၄၆ ခုနှစ်၊ သီးစားအက်ဥပဒေတွင်ဖြစ်စေ၊ သဘောတူစာချုပ်တွင်ဖြစ်စေ၊ မည်သို့ပင်ပါရှိစေကာမူ၊ မည်သည့်သီးစားနှစ်အတွက်မဆို—

- (က) စပါးစိုက်ပျိုးသည့် လယ်မြေ၏သီးစားခံနှုန်းသည်၊ ထိုမြေအတွက် ထိုသီးစားနှစ်တွင် ထမ်းဆောင်ရသော မြေခွန်တော်နှင့်အညီအမျှဖြစ်ရမည်။
- (ခ) ငြုတ်၊ ကြက်သွန်၊ ဆေး၊ သို့တည်းမဟုတ်ကြံစိုက်ပျိုးသည့်မြေ၏သီးစားခံနှုန်းကို၊ ထိုမြေအတွက် ထိုသီးစားနှစ်တွင် ထမ်းဆောင်ရသောမြေခွန်တော်၏ သုံးဆထား၍၊ သို့တည်းမဟုတ်အထူးသီးနှံနှုန်းဖြင့် မြေခွန်တော်ကိုစည်းကြပ်ထားသောနှုန်းရှိပါက၊ ထိုအထူးသီးနှံနှုန်း၏ သုံးဆထား၍ တွက်ချက်ရမည်။
- (ဂ) ငြုတ်၊ ကြက်သွန်၊ ဆေး၊ သို့တည်းမဟုတ်ကြံစိုက်ပျိုးသောမြေမှအပ၊ ကျန်ရှိသော ယာ၊ သို့တည်းမဟုတ် ကိုင်းစိုက်ပျိုးသည့်မြေ၏ သီးစားခံနှုန်းကို၊ ထိုယာ၊ သို့တည်းမဟုတ် ကိုင်းစိုက်ပျိုးသည့်မြေအတွက် ထိုသီးစားနှစ်တွင် ထမ်းဆောင်ရသောမြေခွန်တော်၏နှစ်ဆထား၍ တွက်ချက်ရမည်။

ခြွင်းချက်။ ။ သို့ရာတွင် အနည်းဆုံး သုံးနှစ်တဆက်တည်း လယ်ယာထွန်ယက်လုပ်ကိုင်ခြင်းမရှိခဲ့သောလယ်ယာမြေတွင်၊ ပဌမအကြိမ် စပါး၊ သို့တည်းမဟုတ် အခြား ကောက်ပဲသီးနှံ ပြန်လည်စိုက်ပျိုးလျှင်၊ ယင်းသို့စိုက်ပျိုးသည့်သီးစားနှစ်အတွက် ထိုမြေ၏သီးစားခံနှုန်းမှာ ထိုမြေအတွက် ထိုသီးစားနှစ်တွင် ထမ်းဆောင်ရသော မြေခွန်တော်ငွေထက် မပိုစေရ။

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

\* မြန်မာနိုင်ငံပြန်တမ်း၊ ၁၉၅၀ ပြည့်နှစ်၊ အပိုင်း ၁၊ စာမျက်နှာ ၆၄၇ တွင် ထုတ်ပြန်ကျေညာသည်။

<sup>၁</sup> ဤအက်ဥပဒေသည်၊ ၁၉၅၀ ပြည့်နှစ်၊ အောက်တိုဘာလ ၁၆ ရက်နေ့မှစ၍ ရှမ်းပြည်နယ်၊ ကချင်ပြည်နယ်၊ ကရင်ပြည်နယ်၊ ချင်းဒေသတိုင်းများကို ချန်လှပ်၍၊ မြည်ထောင်စုမြန်မာနိုင်ငံအတွင်းရှိအခြားဒေသများနှင့် သက်ဆိုင်ရမည်ဟု သတ်မှတ်သည်။ ။ မြန်မာနိုင်ငံပြန်တမ်း၊ ၁၉၅၁ ခု၊ အပိုင်း ၁၊ စာမျက်နှာ ၁၆၀ တွင်ကြည့်။

<sup>၂</sup> ၁၉၅၄ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၆၀ အရ အစားထည့်သွင်းသည်။

၃။ ။သီးစားခံကို ငွေဖြင့်ဖြစ်စေ၊ ကောက်ပဲသီးနှံဖြင့်ဖြစ်စေ ပေးနိုင်ခွင့်ရှိစေရမည်။

၄။ ။၁၉၄၇ ခုနှစ်၊ သီးစားခံစံနှုန်းအက်ဥပဒေ(၁၉၄၇ ခုနှစ်၊ မြန်မာနိုင်ငံအက်ဥပဒေအမှတ် ၇၀)ကို၊ ဤအက်ဥပဒေဖြင့် ရုပ်သိမ်းလိုက်သည်။

**၁၉၅၃ ခုနှစ်၊ သီးစားချထားရေး အက်ဥပဒေ။**

[၁၉၅၃ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၁၇။] (၁၉၅၃ ခုနှစ်၊ မတ်လ ၂၄ ရက်။)

အောက်ပါအတိုင်း အက်ဥပဒေအဖြစ် ပြဋ္ဌာန်းလိုက်သည်။

၁။ ။(၁) ဤအက်ဥပဒေကို ၁၉၅၃ ခုနှစ်၊ သီးစားချထားရေး အက်ဥပဒေဟုခေါ်ရမည်။

(၂) ဤအက်ဥပဒေသည် နိုင်ငံတော်သမ္မတက အမိန့်ကြော်ငြာစာဖြင့် သတ်မှတ်သည့် နေ့ရက်တွင် ပြည်ထောင်စု မြန်မာနိုင်ငံအတွင်း သတ်မှတ်သည့် အရပ်ဒေသ၌ စတင်အာဏာတည်ရမည်။<sup>၁</sup>

၂။ ။ဤအက်ဥပဒေတွင် အကြောင်းအရာနှင့်ဖြစ်စေ၊ ရှေ့နောက်စကားတို့၏အဓိပ္ပါယ်နှင့်ဖြစ်စေ မဆန့်ကျင်လျှင်—

(၁) “လယ်ယာမြေ” ဆိုသည်မှာ လယ်၊ ယာ၊ ကိုင်း၊ ကျွန်း၊ ဥယျာဉ်စိုက်ပျိုးမှု၊ သို့တည်းမဟုတ် လယ်၊ ယာ၊ ကိုင်း၊ ကျွန်း၊ ဥယျာဉ် စိုက်ပျိုးခြင်းဖြင့် အသက်မွေးမှု ကိစ္စများအတွက်ဖြစ်စေ၊ ယင်းသို့စိုက်ပျိုးခြင်းဖြင့် အသက်မွေးမှု ကိစ္စများ၏အထောက်အပံ့ဖြစ်သော အမှုကိစ္စများအတွက် ဖြစ်စေ၊ လက်ရှိထားသည့် သို့တည်းမဟုတ် သာမန်အားဖြင့် အသုံးပြုသည့် သို့တည်းမဟုတ် အငှားချထားသည့်မြေ၊ သို့တည်းမဟုတ် ကျွန်းနှင့် မြေနုကျွန်းပေါ်များပါဝင်သော အစိုးရကစီမံခန့်ခွဲပိုင်ခွင့်ရှိသောမြေကို ဆိုလိုသည့်ပြင်၊ ထိုစကားရပ်တွင် ထိုမြေပေါ်ရှိလူနေအိမ်များနှင့် အခြားအဆောက်အအုံများ တည်ရာမြေများလည်းပါဝင်သည်။ သို့ရာတွင် မြို့အတွင်း၌၊ သို့တည်းမဟုတ် ရွာအတွင်း၌ရှိသော အဆောက်အအုံ တခုခုတည်ရာမြေ မပါဝင်ချေ။

(၂) “သီးစား” ဆိုသည်မှာ မြေကိုလက်ရှိထားပြီးလျှင် ထိုမြေအတွက် သီးစားခပေးရန်တာဝန်ရှိသောသူကို၊ သို့တည်းမဟုတ် အဖွဲ့ကိုဆိုလိုသည်။

(၃) “အငှားချထားမှုစာချုပ်” ဆိုသည် စကားရပ်တွင်၊ ထိုစာချုပ်၏မူရင်းစွဲစိုက်ပျိုးလုပ်ကိုင်ရန်၊ သို့တည်းမဟုတ် လက်ရှိထားရန် တာဝန်ခံချက်နှင့် အငှားချထားရန် သဘောတူချက်ပါဝင်သည်။

၃။ ။၁၉၄၆ ခုနှစ်၊ သီးစားအက်ဥပဒေတွင်မည်သို့ပင်ပါရှိစေကာမူ၊ သို့တည်းမဟုတ် မည်သို့ပင်သဘောတူစာချုပ်ချုပ်ဆိုထားစေကာမူ နိုင်ငံတော်သမ္မတက မြန်မာနိုင်ငံတော် စီးပွားရေး

<sup>၁</sup> ၁၉၅၃ ခုနှစ်၊ လယ်ယာမြေနိုင်ငံပိုင်ပြုလုပ်ရေးအက်ဥပဒေပုဒ်မ ၅၁ အရ၊ ဤအက်ဥပဒေအာဏာတည်ခြင်းမှ ရပ်စဲရမည်ဟု အမိန့်ကြော်ငြာစာထုတ်ပြန်ကျေညာသော အရပ်ဒေသများကိုချန်လှပ်၍၊ ပြည်ထောင်စုမြန်မာနိုင်ငံအတွင်း ကျန်အခြားအရပ်ဒေသများ၌၊ ၁၉၅၃ ခု၊ မတ်လ ၂၄ ရက်နေ့တွင် ဤအက်ဥပဒေစတင်အာဏာတည်သည်။ ။မြန်မာနိုင်ငံပြန်တမ်း၊ ၁၉၅၄ ခု၊ အပိုင်း ၁၊ စာမျက်နှာ ၁၆၆ တွင်ကြည့်။

ပြန်လည်ထူထောင်မှုအတွက်အလွန်အရေးကြီးသောလယ်ယာစိုက်ပျိုးမှုတည်မြဲစေရန်၊ သို့တည်းမဟုတ် တိုးတက်စေရန်အတွက် လိုအပ်သည်ဟု၊ သို့တည်းမဟုတ် သင့်သည်ဟု မိမိထင်မြင်သမျှ အောက်ပါ ကိစ္စများအလို့ငှါ အမိန့်ဖြင့်ပြဋ္ဌာန်းနိုင်သည်။

- (၁) လယ်ယာမြေလက်ရှိထားသည့်လူတစ်ဦးဦးက၊ သို့တည်းမဟုတ် လူတမျိုးတစားက သီးစားတဦးဦးအား၊ သို့တည်းမဟုတ် သီးစားတမျိုးတစားအား ယင်း သို့သောမြေအငှါးချထားမှုကိုစည်းမျဉ်းသတ်မှတ်ရန်၊ သို့တည်းမဟုတ် ကြီးကြပ်ရန်၊ သို့တည်းမဟုတ် ထိုမြေတွင် စိုက်ပျိုးလုပ်ကိုင်ရမည့် ကောက်ပဲသီးနှံ အမျိုးအစားကို သတ်မှတ်ရန်၊ သို့တည်းမဟုတ်
- (၂) လူတဦးဦးပိုင်၊ သို့တည်းမဟုတ်လူတမျိုးတစားပိုင်လယ်ယာမြေများကို အငှါးချထားရန်၊ ယင်းသို့အငှါးချထားရာ၌ထိုမြေကို နိုင်ငံတော်သမတကအငှါးချထားသည့် သီးစားတဦးဦးသည်ထိုလူအား၊ သို့မဟုတ် ထိုလူအမျိုးအစားအား အခါအားလျော်စွာ အစိုးရသတ်မှတ်သည့် စံသီးစားခကိုပေးရန်၊ သို့တည်းမဟုတ်
- (၃) အယူခံအာဏာပိုင်၊ သို့တည်းမဟုတ်ပြင်ဆင်ခွင့်ရှိသောအာဏာပိုင်၊ သို့တည်းမဟုတ် အခြားအခွင့်အာဏာရ အာဏာပိုင် ချမှတ်သည့် အမိန့်တရပ်ရပ်ကြောင့်လူတဦးတယောက် နစ်နာဆုံးရှုံးမှုမဖြစ်စေရန်အလို့ငှါ၊ လုံလောက်သောအာမခံ၊ လျော်ကြေးစသည်တို့ကို \* \* \* ဆင့်ဆိုတောင်းယူခြင်းကိစ္စ။

ခြွင်းချက်။ ။ သို့ရာတွင် ဤအက်ဥပဒေပြဋ္ဌာန်းချက်များသည် အောက်ပါလယ်ယာမြေနှင့်၊ သို့တည်းမဟုတ် မြေများနှင့်သက်ဆိုင်ခြင်း မရှိစေရ။

- ၁ (က) အဓိကအသက်မွေးဝမ်းကျောင်းအဖြစ်ဖြင့်ကိုယ်ထိလက်ရောက်လယ်ယာစိုက်ပျိုးလုပ်ကိုင်သူပိုင်သည်လည်းဖြစ်၍၊ ကိုယ်တိုင်လည်းလက်ရှိစိုက်ပျိုးလုပ်ကိုင်လျက်ရှိသောဧရိယာဧကငါးဆယ်ထက်မပိုသည့် လယ်ယာမြေ။
- (ခ) နိုင်ငံတော်သမတက အခါအားလျော်စွာသတ်မှတ်သည့် စည်းကမ်းချက်များဖြင့်၊ ဤအက်ဥပဒေ အကျုံးဝင်ခြင်းမှ ကင်းလွတ်ခွင့်ပေးသောလယ်ယာမြေ။

၄။ ။ နိုင်ငံတော်သမတသည်၊ ဤအက်ဥပဒေဖြင့် မိမိအားအပ်နှင်းထားသည့်အာဏာတရပ်ရပ်ကို သုံးစွဲစေရန် လူတဦးဦးအား၊ သို့တည်းမဟုတ်အာဏာပိုင်တစုံတရာအားအမိန့်ဖြင့်လွှဲအပ်နိုင်သည်။

၅။ ။ (၁) နိုင်ငံတော်သမတသည်၊ ဤအက်ဥပဒေပါကိစ္စများကို ဆောင်ရွက်ရန်အတွက်မိမိသင့်သည်ထင်မြင်သည့် နည်းဥပဒေများ<sup>၁</sup> ကိုပြုနိုင်သည်။

(၂) ဤပုဒ်မအရပြုသည့် နည်းဥပဒေများအားလုံးကို ပြန်တမ်းတွင်ထုတ်ပြန်ကျေညာရမည်။ ထိုသို့ထုတ်ပြန်ကျေညာသောအခါ၊ ထိုနည်းဥပဒေများသည်ဤအက်ဥပဒေအတွင်းပြဋ္ဌာန်းဘိသကဲ့သို့ အကျိုးသက်ရောက်စေရမည်။

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<sup>၁</sup> ၁၅၄၉ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၄ အရ ပယ်ဖျက်သည်။  
<sup>၂</sup> ၁၉၅၃ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၄၈ အရ အစားထည့်သွင်းသည်။  
<sup>၃</sup> ၁၉၅၃ ခုနှစ်၊ သီးစားချွေးရေနည်းဥပဒေများကို၊ မြန်မာနိုင်ငံပြန်တမ်း၊ ၁၉၅၃ ခု၊ အပိုင်း ၁၊ စာမျက်နှာ ၅၃၂ တွင် ထုတ်ပြန်ကျေညာသည်။

၆။ ။မည်သူမဆို ပုဒ်မ ၄ အရ၊ နိုင်ငံတော်သမတက အာဏာလွှဲအပ်ထားသည့်လူတဦးဦးက၊ သို့တည်းမဟုတ် အာဏာပိုင်တစ်စုံတရာက ချထားသောမြေကိုလုံလောက်သောအကြောင်းမရှိဘဲ စိုက်ပျိုးလုပ်ကိုင်ရန်ပျက်ကွက်လျှင်၊ သို့တည်းမဟုတ် အခြားတဦးသို့ တဆင့်ချထားလျှင် ထိုသူကို ငွေဒဏ်ဖြစ်စေ၊ သုံးနှစ်ထိ ထောင်ဒဏ်ဖြစ်စေ၊ ဒဏ်နှစ်ရပ်လုံးဖြစ်စေ စီရင်ရမည်။

၇။ ။မည်သူမဆို ပုဒ်မ ၄ အရ၊ နိုင်ငံတော်သမတကအာဏာလွှဲအပ်ထားသည့်လူတဦးဦးအား၊ သို့တည်းမဟုတ် အာဏာပိုင်တစ်စုံတရာအား၊ ဤအက်ဥပဒေပါပြဋ္ဌာန်းချက်များကို၊ သို့တည်းမဟုတ် ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများပါပြဋ္ဌာန်းချက်များကိုဆောင်ရွက်ခြင်းမှ တားဆီးကန့်ကွက်နှောင့်ယှက်လျှင်သော်၎င်း၊ ဤအက်ဥပဒေက ပေးအပ်သည့် အခွင့်အာဏာအရဖြစ်စေ၊ ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများအရဖြစ်စေ၊ ထုတ်ဆင့်သောအမိန့်တရပ်ရပ်ကို ကျူးလွန်လျှင်သော်၎င်း ထိုသူကို ငွေဒဏ်ဖြစ်စေ၊ ခြောက်နှစ်ထိ ထောင်ဒဏ်ဖြစ်စေ၊ ဒဏ်နှစ်ရပ်လုံးဖြစ်စေ စီရင်ရမည်။

၈။ ။ဤအက်ဥပဒေပြဋ္ဌာန်းချက်များကိုဖြစ်စေ၊ ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများပါ ပြဋ္ဌာန်းချက်များကိုဖြစ်စေဆောင်ရွက်ရာ၌၊ ပုဒ်မ ၄ အရ၊ နိုင်ငံတော်သမတကအာဏာလွှဲအပ်ထားသည့်လူတဦးဦးက၊ သို့တည်းမဟုတ် အာဏာပိုင်တစ်စုံတရာကပြုသည့်အပြုအမူတစ်ခုခုနှင့် စပ်လျဉ်း၍ဖြစ်စေ၊ ချမှတ်သည့်အမိန့်တစ်ခုခုနှင့်စပ်လျဉ်း၍ဖြစ်စေ၊ ချမှတ်သည့်လျှော်ကြေးငွေနှင့် စပ်လျဉ်း၍ဖြစ်စေ မည်သည့်တရားမရုံးမှမျှ၊ သို့တည်းမဟုတ် အခွန်တော်ရုံးမှမျှ စီရင်ပိုင်ခွင့်မရှိစေရ။

၉။ ။ဤအက်ဥပဒေပြဋ္ဌာန်းချက်များနှင့်အညီ၊ သို့တည်းမဟုတ် ဤအက်ဥပဒေအရပြုသည့်နည်းဥပဒေများနှင့်အညီ၊ သို့တည်းမဟုတ် ဤအက်ဥပဒေကဖြစ်စေ၊ ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများကဖြစ်စေ ပေးအပ်သည့်အခွင့်အာဏာအရ၊ ထုတ်ဆင့်သောအမိန့်နှင့်အညီပြုသည့်၊ သို့တည်းမဟုတ်ပြုသည့်သဘော သက်ရောက်သော အပြုအမူတစ်ခုခုနှင့် စပ်လျဉ်း၍၊ လူတဦးဦးကိုဖြစ်စေ၊ အာဏာပိုင်တစ်စုံတရာကိုဖြစ်စေ၊ တံရားမမှုသော်၎င်း၊ ရာဇဝတ်မှုသော်၎င်း၊ အခြားတရားမူခင်းသော်၎င်း မစွဲဆိုရ။

၁၀။ ။၁၉၄၈ ခုနှစ်၊ သီးစားချထားရေး အက်ဥပဒေ(၁၉၄၈ခုနှစ်၊ မြန်မာနိုင်ငံ အက်ဥပဒေအမှတ် ၄) ကို၊ ဤအက်ဥပဒေဖြင့်ရုပ်သိမ်းသည်။

၁၉၅၃ ခုနှစ်၊ လယ်ယာမြေနိုင်ငံပိုင်မြို့လုပ်ရေး အက်ဥပဒေ။

မာတိကာ။

အခန်း ၁။

စကားချီး။

- ၁။ ။အမည်။
- ၂။ ။တည်ရာနယ်အဝှန်း။
- ၃။ ။အဓိပ္ပါယ် ရှင်းလင်းဖော်ပြချက်များ။

အခန်း ၂။

လယ်ယာမြေ လွှဲပြောင်းခြင်းကို တားမြစ်ခြင်းနှင့်သိမ်းယူခြင်း။

- ၄။ ။လွှဲပြောင်းခြင်းကို တားမြစ်ခြင်း။
- ၅။ ။သိမ်းယူခြင်း။

အခန်း ၃။

လယ်ယာမြေကို ကင်းလွတ်ခွင့်ပေးခြင်း။

- ၆။ ။ကင်းလွတ်ခွင့်ပေးခြင်း။

အခန်း ၄။

လယ်ယာမြေကို ဝေငှခြင်း။

- ၇။ ။ဝေငှခြင်း။
- ၈။ ။စည်းကမ်းချက်များ။

အခန်း ၅။

ကင်းလွတ်ခွင့်ပေးသည့် လယ်ယာမြေနှင့်ဝေငှသည့် လယ်ယာမြေအပေါ်တွင် ရရှိသည့် အခွင့်အရေးများ။

- ၉။ ။ကင်းလွတ်ခွင့်ပေးသည့် လယ်ယာမြေနှင့်စပ်လျဉ်းသည့် အခွင့်အရေးများ။
- ၁၀။ ။ဝေငှသည့်လယ်ယာမြေနှင့်စပ်လျဉ်းသည့် အခွင့်အရေးများ။

အခန်း ၆။

ကင်းလွတ်ခွင့်ပေးသည့် လယ်ယာမြေနှင့်ဝေငှသည့် လယ်ယာမြေနှင့်စပ်လျဉ်းသည့် စည်းကမ်းချက်များ။

- ၁၁။ ။ကင်းလွတ်ခွင့်ပေးသည့် လယ်ယာမြေနှင့်စပ်လျဉ်းသည့် စည်းကမ်းချက်များ။
- ၁၂။ ။ဝေငှသောလယ်ယာမြေနှင့်စပ်လျဉ်းသည့် စည်းကမ်းချက်များ။

အခန်း ၇။

တောင်သူလယ်သမားအဖွဲ့အစည်းများ။

- ၁၃။ ။တောင်သူလယ်သမားအဖွဲ့အစည်းများ။

အခန်း ၈။

မြေယာကော်မီတီများ။

- ၁၄။ ။ဗဟိုမြေယာကော်မီတီ။
- ၁၅။ ။ခရိုင်မြေယာကော်မီတီ။
- ၁၆။ ။ကျေးရွာ၊ သို့တည်းမဟုတ် ရပ်ကွက်မြေယာကော်မီတီ။

## အခန်း ၉။

ကောင်စီများ။

- ၁၇။ ။ ကောင်စီများ။  
 ၁၈။ ။ ပြည်ထောင်စုမြေယာနှင့် ကျေးလက်ကြီးပွားရေးကောင်စီ၏အာဏာများ။  
 ၁၉။ ။ တိုင်းမြေယာနှင့် ကျေးလက်ကြီးပွားရေးကောင်စီများ၏ အာဏာများ။  
 ၂၀။ ။ ခရိုင်မြေယာနှင့် ကျေးလက်ကြီးပွားရေးကောင်စီများ၏ အာဏာများ။  
 ၂၁။ ။ ကောင်စီများ၏နယ်ပယ်။

## အခန်း ၁၀။

အာဏာပိုင်များနှင့် အမှုဆောင်အဖွဲ့များကို ခန့်အပ်ဖွဲ့စည်းခြင်း။

- ၂၂။ ။ ခန့်အပ်ဖွဲ့စည်းခြင်း။

## အခန်း ၁၁။

ကော်မတီ၊ ကောင်စီ၊ အမှုဆောင်အဖွဲ့နှင့် အာဏာပိုင်တို့၏ အဆင့်အတန်းနှင့်အာဏာများ။

- ၂၃။ ။ တရားမရုံး၏ အချို့အာဏာများကို လွှဲအပ်ခြင်း။  
 ၂၄။ ။ လွှတ်ငြိမ်းခွင့်ပေးခြင်း။  
 ၂၅။ ။ ပြည်သူ့ဝန်ထမ်း။

## အခန်း ၁၂။

နုတ်ပယ်ခြင်းနှင့်ဖျက်သိမ်းခြင်း။

- ၂၆။ ။ အဖွဲ့ဝင်များအားနုတ်ပယ်ခြင်း။  
 ၂၇။ ။ ကော်မတီ၊ ကောင်စီနှင့်အမှုဆောင်အဖွဲ့များကို ခေတ္တရာဘူးမှ ချထားခြင်းနှင့် ဖျက်သိမ်းခြင်း။  
 ၂၈။ ။ အကူးအပြောင်း ကာလဆိုင်ရာလုပ်ငန်းအစီအစဉ်။

## အခန်း ၁၃။

စည်းကမ်းချက်များကို လိုက်နာရန်ပျက်ကွက်၍၊ ကင်းလွတ်ခွင့်ပြုပြီးသော လယ်ယာမြေနှင့် ဝေငှပြီးသောလယ်ယာမြေကို ပြန်လည်သိမ်းယူခြင်း။

- ၂၉။ ။ ပုဒ်မ ၁၁ ပါ စည်းကမ်းချက်များကို လိုက်နာရန်ပျက်ကွက်၍ ပြန်လည်သိမ်းယူခြင်း။  
 ၃၀။ ။ ပုဒ်မ ၁၁ ပါ အချို့စည်းကမ်းချက်များကို လိုက်နာရန် ထပ်တလဲလဲ ပျက်ကွက်၍ ပြန်လည်သိမ်းယူခြင်း။  
 ၃၁။ ။ ပုဒ်မ ၁၂ ပါ စည်းကမ်းချက်များကို လိုက်နာရန်ပျက်ကွက်၍ ပြန်လည်သိမ်းယူခြင်း။  
 ၃၂။ ။ ပုဒ်မ ၁၂ ပါ အချို့စည်းကမ်းချက်များကို လိုက်နာရန် ထပ်တလဲလဲ ပျက်ကွက်၍ ပြန်လည်သိမ်းယူခြင်း။  
 ၃၃။ ။ မပြေလည်သော အခွန်အတုတ်များကို တောင်းခံခြင်း။



အခန်း ၁၄။

အယူခံခြင်း၊ ပြန်လည်ဆင်ခြင်ခြင်းနှင့်ပြင်ဆင်ခြင်းများ။

- ၃၄။ ။အာဏာအပ်နှင်းခြင်း။
- ၃၅။ ။ပြင်ဆင်ခြင်း။

အခန်း ၁၅။

တရားမရှိနှင့် အခြားအာဏာပိုင်များ၏ စီရင်ပိုင်ခွင့်အာဏာကိုတားမြစ်ခြင်း။

- ၃၆။ ။တရားမရှိနှင့် စီရင်ပိုင်ခွင့်အာဏာကို တားမြစ်ခြင်း။
- ၃၇။ ။လယ်ယာမြေကို ရောင်းချခြင်းမှ ကာကွယ်ခြင်း။

အခန်း ၁၆။

လယ်ယာမြေကို အသုံးချခြင်း။

- ၃၈။ ။လယ်ယာမြေကို အသုံးချခြင်း။
- ၃၉။ ။လယ်ယာမြေကို သတ်မှတ်သည့်နည်းလမ်းအတိုင်း အသုံးချခြင်း။
- ၄၀။ ။အချို့မြေယာအမျိုးအစားများကို အသုံးချခြင်းနှင့် ဆက်လက်ထားရှိခြင်း။

အခန်း ၁၇။

လယ်ယာမြေကို အုပ်ချုပ်ခြင်း။

- ၄၁။ ။လယ်ယာမြေကို အုပ်ချုပ်ခြင်း။

အခန်း ၁၈။

လျော်ကြေး။

- ၄၂။ ။လျော်ကြေးပေးခြင်း။
- ၄၃။ ။အခြားနည်းဖြင့် သက်သာခွင့်ပေးခြင်း။
- ၄၄။ ။ဆယ်ဦးကော်မရှင်။
- ၄၅။ ။လျော်ကြေးအရာရှိများ။

အခန်း ၁၉။

ဖြစ်ဒဏ်များ။

- ၄၆။ ။လွှဲပြောင်းခြင်းအတွက်ဖြစ်ဒဏ်။
- ၄၇။ ။တားဆီးပိတ်ပင်သူတို့အတွက်ဖြစ်ဒဏ်။
- ၄၈။ ။အမိန့်ကိုလိုက်နာရန် ဖျက်ကွက်သူတို့အတွက်ဖြစ်ဒဏ်။
- ၄၉။ ။ငါးဦး၊ သို့မဟုတ် ငါးဦးထက်ပိုသောသူများက ကျူးလွန်သည့်အတွက် ဖြစ်ဒဏ်။

အခန်း ၂၀။

အရပ်ရပ်ဆိုင်ရာ ပြဋ္ဌာန်းချက်များ။

- ၅၀။ ။နည်းဥပဒေပြုခြင်း။  
 ၅၁။ ။အထူးပြဋ္ဌာန်းချက်။  
 ၅၂။ ။ပြဋ္ဌာန်းချက်များနှင့်မညီညွတ်၍ ပြန်လည်သိမ်းယူသောမြေ။  
 ၅၃။ ။ရုပ်သိမ်းခြင်းနှင့်မပြီးပြတ်သေးသော အမှုများ။  
 ၅၄။ ။သံလျင်မြို့နယ်တွင် ဆောင်ရွက်ချက်များကို ဖျက်သိမ်းခြင်း။

ဇယား ၁။

ဇယား ၂။

**၁၉၅၃ ခုနှစ်၊ လယ်ယာမြေနိုင်ငံပိုင် ပြုလုပ်ရေး အက်ဥပဒေ။\***

[၁၉၅၃ ခုနှစ်၊ အက်ဥပဒေ အမှတ် ၇၅။] (၁၉၅၃ ခု၊ အောက်တိုဘာလ ၂၆ ရက်။)

အောက်ပါအတိုင်း အက်ဥပဒေအဖြစ်ပြဋ္ဌာန်းလိုက်သည်။

အခန်း ၁။

စကားချီး။

- အမည်။ ၁။ ။ဤအက်ဥပဒေကို ၁၉၅၃ ခုနှစ်၊ လယ်ယာမြေနိုင်ငံပိုင်ပြုလုပ်ရေး အက်ဥပဒေဟုခေါ်ရမည်။
- တည်ရာနယ်အဝန်း။ ၂။ ။ဤအက်ဥပဒေသည်၊ ပြည်ထောင်စုမြန်မာနိုင်ငံတော် တဝှန်းလုံးနှင့် သက်ဆိုင်စေရမည်။
- အဓိပ္ပါယ် ရှင်းလင်းဖော်ပြချက်များ။ ၃။ ။ဤအက်ဥပဒေတွင် အကြောင်းအရာနှင့်ဖြစ်စေ၊ ရွှေ့နောက်စကားတို့၏ အဓိပ္ပါယ်နှင့် ဖြစ်စေ၊ မဆန့်ကျင်လျှင်—
- (က) “ အရွယ်ရောက်ပြီးသူ ” ဆိုသည်မှာ၊ အသက် ၁၈ နှစ်ပြည့်ပြီးသူကိုဆိုလိုသည်။
  - (ခ) “ လယ်ယာမြေ ” ဆိုသည်မှာ၊ နိုင်ငံတော်က အလိုရှိသည့်အတိုင်းသုံးစွဲနိုင်သည့် လယ်ယာလုပ်ကိုင်နိုင်သော မြေရိုင်းများနှင့် လယ်၊ ယာ၊ ကိုင်း၊ ကျွန်း၊ ဥယျာဉ် စိုက်ပျိုးမှု၊ သို့တည်းမဟုတ် လယ်၊ ယာ၊ ကိုင်း၊ ကျွန်းဖြင့် အသက်မွေးမှုကိစ္စများ အတွက်ဖြစ်စေ၊ ယင်းသို့စိုက်ပျိုးမှုနှင့်အသက်မွေးမှု၏ အထောက်အပံ့ဖြစ်သော အမှုကိစ္စများအတွက်ဖြစ်စေ၊ လက်ရှိထားသည့်၊ သို့တည်းမဟုတ် သာမန်လုပ်ကိုင်သည့်၊ သို့တည်းမဟုတ် အငှားချထားပြီး ဖြစ်သည့်မြေကို ဆိုလိုသည်ဖြစ်။

\* မြန်မာနိုင်ငံပြန်တမ်း ၁၉၅၃ ခု၊ အပိုင်း ၁၊ စာမျက်နှာ ၁၃၁၄ တွင် ထုတ်ပြန်ကျေညာသည်။

ထိုစကားရပ်တွင် ထိုမြေပေါ်ရှိ လူနေအိမ်များနှင့် အခြားအဆောက်အအုံများ တည်ရာမြေများလည်း ပါဝင်သည်။ သို့ရာတွင်မြို့ရွာအတွင်းတည်ရှိသော လူနေ အိမ်ရာအဖြစ် လက်ရှိထားသည့် မြေမပါဝင်ချေ။

(ဂ) “ တောင်သူလယ်သမား ” ဆိုသည်မှာ—

(ကက) လယ်ယာမြေကို မိမိ၏အဓိက အသက်မွေး ဝမ်းကျောင်း အဖြစ်ဖြင့်၊ မိမိလက်ဖြင့်လုပ်ကိုင်သူကို၊ သို့တည်းမဟုတ် မိမိလက်ဖြင့် အစဉ်တစိုက် လုပ် ကိုင်ခဲ့သူကို၊ သို့တည်းမဟုတ်

(ခခ) ဆိုင်ရာနှစ်တွင် လယ်ယာမြေကို မိမိ၏အဓိက အသက်မွေးဝမ်းကျောင်း အဖြစ်ဖြင့် လုပ်ငန်းလုပ်ကိုင်ချိန် တလျှောက်လုံး ကိုယ်တိုင်ကြီးကြပ် လုပ် ကိုင်သူကို ဆိုလိုသည်။

(ဃ) “ လယ်ယာမြေအငှားချထားခြင်း ”၊ သို့တည်းမဟုတ် “ လယ်ယာမြေသီးစား ချထားခြင်း ” ဆိုသည်မှာ၊ ထိုလယ်ယာမြေတွင် အကျိုး ခံစားခွင့်ကို အတည် အလင်းအချိန်ကာလ ကန့်သတ်၍ဖြစ်စေ၊ အချိန်ကာလကန့်သတ်ရာရောက်သည့် အချက် အလက်များနှင့်ဖြစ်စေ၊ ထာဝစဉ်ဖြစ်စေ၊ အဘိုးစားနားနှင့်သော် ၎င်း၊ အဘိုးစားနားမပါဘဲသော်၎င်း၊ လွှဲပြောင်းပေးခြင်းကိုဆိုလိုသည်။

(င) “ တောင်သူလယ်သမားအိမ်ထောင်သားစု ” ဆိုသည်မှာ၊ သွေးသားတော်စပ်၍ ဖြစ်စေ၊ အိမ်ထောင်မှုဖြင့်တော်စပ်၍ဖြစ်စေ၊ အတူတကွနေထိုင်လျက်၊ အိမ်ထောင် သားစုတွင် အကြီးအကဲဖြစ်သူ တောင်သူ လယ်သမားတဦး၏ ရှာဖွေရရှိသော ဝင်ငွေများအပေါ် မှီခိုစားသောက်နေထိုင်သည့် လူတစ်စုကိုဆိုလိုသည်။

ရှင်းလင်းချက်။ ။အတူနေသော်လည်း၊ စီးပွားတူမဟုတ်သော အိမ်ထောင်သားစုများကို၊ သီးခြားအိမ်ထောင်သားစုဟု မှတ်ယူရမည်။

(စ) “ အိမ်ထောင်သားစုအကြီးအကဲ ” ဆိုသည်မှာ၊ အိမ်ထောင်သား တစ်စု၏အကြီး အကဲဖြစ်၍၊ ထိုအိမ်ထောင်သားစုတွင် လုပ်ငန်းများကို၊ ခေါင်းဆောင်လုပ်ကိုင် သူကို ဆိုလိုသည်။

(ဆ) “ တလုံးတစည်းတည်းဖြစ်၍ ပစ္စည်းမခွဲဝေရသေးသော တောင်သူ လယ်သမား အိမ်ထောင်သားစု ” ဆိုသည်မှာ၊ ထိုအိမ်ထောင်သားစုတွင် ပါဝင်သူတဦး ဦး၏ အမည်ဖြင့်ထားရှိသော လယ်ယာမြေအားလုံးကို၊ ထိုအိမ်ထောင်သားစု တွင် ပါဝင်သူအားလုံးက ပူးတွဲပိုင်ဆိုင်၍ အကျိုးတူခံစားခွင့်ရှိသောတောင်သူ လယ်သမား အိမ်ထောင်သားစုကို ဆိုလိုသည်။

(ဇ) “ ပိုင်ဆိုင်သည် ” ဆိုသည်မှာ၊ ဤအက်ဥပဒေ စတင်အာဏာမတည်မီ ကာလ အတွက်ဖြစ်လျှင်၊ ၎င်းကာလတွင် တည်ဆဲဖြစ်သော တရားဥပဒေတခုအရ လယ်ယာမြေအပေါ်တွင် ပိုင်ဆိုင်ခွင့်ရရှိထားသူ တဦးတယောက်၏၊ သို့တည်း မဟုတ် ဘဏ်၏၊ သို့တည်းမဟုတ် ကုမ္ပဏီ၏၊ သို့တည်းမဟုတ် အဖွဲ့အစည်း၏၊ သို့တည်းမဟုတ် အစုစပ်၏၊ သို့တည်းမဟုတ် ပစ္စည်းမခွဲဝေရသေးသည့် တိရစ္ဆာန်၊ လူမျိုး အိမ်ထောင်သားစု၏၊ သို့တည်းမဟုတ် သာသနာရေးအဆောက်အအုံ၏ ပိုင်ဆိုင်ခြင်းကိုဖြစ်စေ၊ ဤအက်ဥပဒေ စတင်အာဏာ တည်ပြီးသည့်နောက် ကာလအတွက်ဖြစ်လျှင်၊ ဤအက်ဥပဒေအရလယ်ယာမြေအပေါ်တွင် ရရှိသည့် ပိုင်ဆိုင်ခြင်းကိုဖြစ်စေ ဆိုလိုသည်။

အထက်ပါပြဋ္ဌာန်းချက်၏ ယေဘုယျသဘောကို မထိခိုက်စေဘဲ၊ တည်ဆဲအခြားတရား ဥပဒေတွင် မည်သို့ပင်ပါရှိစေကာမူ လယ်ပြန်၊ ငွေပြန်၊ သို့တည်းမဟုတ် အင်္ဂလိပ်နည်းပေါင်နှံထားသည့် သို့တည်းမဟုတ် စည်းကမ်းချက်ထား၍ ရောင်းချခြင်းဖြင့်ပေါင်နှံထားသည့်လယ်ယာမြေကို အပေါင်ခံသူသည်၊ အဆိုပါလယ်ယာမြေကို ၁၉၄၀ ခုနှစ်၊ ဇန်နဝါရီလ ၄ ရက်နေ့မှစ၍၊ ကင်းလွတ်ခွင့်ပြုသည့်နေ့ရက်၊ သို့တည်းမဟုတ် ဝေငှသည့်နေ့ရက်အထိ အဆက်မပြတ်လက်ရှိထားခဲ့လျှင်၊ ထိုအပေါင်ခံသူသည် ထိုလယ်ယာမြေကို ပိုင်ဆိုင်သည်ဟုမှတ်ယူရမည်။

- (ဈ) “ သီးစား ” ဆိုသည်မှာ၊ လယ်ယာမြေကို လက်ရှိထား၍ အဆိုပါလယ်ယာမြေအတွက် သီးစားခပေးရန် တာဝန်ရှိသောသူကို၊ သို့တည်းမဟုတ် အဖွဲ့အစည်းကို ဆိုလိုသည်။
- (ည) “ အဆောက်အအုံဖြင့် တိုးတက်ကောင်းမွန်အောင် ပြုပြင်ခြင်း ” ဆိုသည်မှာ၊ လယ်ယာမြေကို လက်ရှိပိုင်ဆိုင်သူ၏၊ သို့တည်းမဟုတ် ထိုပိုင်ဆိုင်သူလက်ရှိမရမီ ထိုလယ်ယာမြေကို အခြားပိုင်ဆိုင်သူများ၏ စရိတ်ဖြင့်သော်၎င်း၊ လုပ်အားဖြင့်သော်၎င်း၊ ပြုပြင်ခြင်းကြောင့်၊ လယ်ယာမြေ၏တန်ဖိုးကို ထာဝစဉ်မြှင့်တင်စေသည့်ပြုပြင်ခြင်းကိုဆိုလိုသည်။ ထိုစကားရပ်တွင်၊ လယ်ယာလုပ်ကိုင်သူနေထိုင်ရန်၊ သို့တည်းမဟုတ် လယ်ယာလုပ်ငန်း၏အထောက်အပံ့ ဖြစ်စေသောအမှုကိစ္စအတွက် တည်ဆောက်ပြုလုပ်သားသော အဆောက်အအုံ၊ ရေထုတ် ရေသွင်းအတွက် လုပ်ဆောင်ထားမှုများ၊ ဆည်မြောင်းများ၊ ကန်များ၊ ရေဘွင်းများ၊ ရေကာတာများ၊ လမ်းများနှင့်အခြားသော ထာဝစဉ် တိုးတက်ကောင်းမွန်အောင် ပြုလုပ်သည့်လုပ်ဆောင်မှုများပါဝင်သည်။ သို့ရာတွင် ထွန်ယက် စိုက်ပျိုးရန်အတွက် မြေရှင်းခြင်း၊ ကန်သင်းပြုလုပ်ခြင်းနှင့်ထာဝစဉ်တည်မြဲသည့် တိုးတက်ကောင်းမွန်အောင် ပြုပြင်သောလုပ်ဆောင်ထားမှုများ မပါဝင်ချေ။
- (ဋ) “ အုပ်ထိန်းသူ ” ဆိုသည်မှာ၊ အချွယ်မချောက်သေးသူကိုသော်၎င်း၊ စိတ်ပေါ့သွပ်သူကိုသော်၎င်း၊ ထိုသူတို့ဦးစီးပစ္စည်းကို၊ သို့တည်းမဟုတ် ပစ္စည်းနှင့်တကွလူကိုသော်၎င်း၊ အုပ်ထိန်း စောင့်ရှောက်ရန်အတွက် သက်ဆိုင်ရာ စီရင်ပိုင်ခွင့်အာဏာရှိသည့် တရားရုံးက ခန့်အပ်သူကို ဆိုလိုသည်။
- (ဌ) “ တောင်သူ လယ်သမားအဖွဲ့အစည်း ” ဆိုသည်မှာ၊ ကျေးလက်စီးပွားရေးကို အားပေးချီးမြှင့်ရန်အလို့ငှါ၊ ဤအက်ဥပဒေအရ တည်ထောင်ဖွဲ့စည်းသော၊ တောင်သူလယ်သမား အဖွဲ့အစည်းကိုဆိုလိုသည်။
- (ဍ) “ တတိုးထွန် ” ဆိုသည်မှာ၊ ဤအက်ဥပဒေအရပြုသည့်နည်းဥပဒေဖြင့်၊ ပြဋ္ဌာန်းသော လယ်ယာမြေအကျယ်အဝန်းကိုဆိုလိုသည်။
- (ဎ) “ သာသနာဝန်ထမ်း ” ဆိုသည်မှာ၊ ဤအက်ဥပဒေအရပြုသည့်နည်းဥပဒေဖြင့် ပြဋ္ဌာန်းသော ပုဂ္ဂိုလ်ကိုဆိုလိုသည်။
- (ဏ) “ သာသနာရေးအဆောက်အအုံ ” ဆိုသည်မှာ၊ ဤအက်ဥပဒေအရ၊ ပြုသည့်နည်းဥပဒေဖြင့် ပြဋ္ဌာန်းသော အဆောက်အအုံကို ဆိုလိုသည်။
- (တ) “ မြေခွန်တော် ” ဆိုသည်မှာ—

(ကက) အထက်မြန်မာပြည်မြေနှင့် အခွန်တော်ဥပဒေ (The Upper Burma Land and Revenue Regulation) အတည်ဖြစ်သော ဒေသများတွင်၊

- (ကာ ကာ) အထက်မြန်မာပြည် မြေနှင့် အခွန်တော်ဥပဒေ (The Upper Burma Land and Revenue Regulation) နှင့် ဆည်မြောင်းအက်ဥပဒေ (The Canal Act) အရ၊ ကြေးတိုင်မြေမျိုးကြီး အတန်းအစားနှုန်း (Soil class rate) ပြဋ္ဌာန်းထားသောကွင်းရှိ လယ်ယာမြေဖြစ်လျှင်၊ ၁၉၄၇-၄၈ ခု မြေခွန်တော်နှစ် (1947-48 assessment season) အတွင်း တည်ဆဲဖြစ်သည့် ထိုပြဋ္ဌာန်းထားသော ကြေးတိုင်မြေမျိုးကြီး အတန်းအစားနှုန်းပြည့် (full soil class rate) ဖြင့် တွက်ချက်၍ ရသောခိုင်ကြေး (cess) မှတပါး၊ [ရေခွန်တော် အပါအဝင်ဖြစ်သည်]⁰ မြေခွန်တော်၊
- (ခါ ခါ) အထက်မြန်မာပြည် မြေနှင့်အခွန်တော် ဥပဒေ (The Upper Burma Land and Revenue Regulation) နှင့် ဆည်မြောင်းအက်ဥပဒေ (The Canal Act) အရ၊ တပြေးတည်း သတ်မှတ်သည့် ဧကနှုန်း (flat rate) ပြဋ္ဌာန်းထားသော ကွင်းရှိ လယ်ယာမြေဖြစ်လျှင်၊ ၁၉၄၇-၄၈ ခု၊ မြေခွန်တော်နှစ် (1947-48 assessment season) အတွင်း တည်ဆဲဖြစ်သည့် ထိုပြဋ္ဌာန်းထားသော တပြေးတည်းသတ်မှတ်သည့် ဧကနှုန်းပြည့်ဖြင့် တွက်ချက်၍ ရသော ခိုင်ကြေး (cess) မှတပါး၊ [ရေခွန်တော်အပါအဝင်ဖြစ်သည်]⁰ မြေခွန်တော်၊
- (ဂါ ဂါ) အပို (ကာ ကာ)၊ သို့တည်းမဟုတ် အပို (ခါ ခါ) တွင် သီးခြား ဖော်ပြသော ကြေးတိုင်မြေမျိုးကြီး အတန်းအစားနှုန်း၊ သို့တည်းမဟုတ် တပြေးတည်းသတ်မှတ်သော ဧကနှုန်းပြဋ္ဌာန်းထားသော်လည်း၊ ထိုနှုန်း ဖြင့် လျော်ကြေးတွက်၍ မဖြစ်နိုင်ဟု ခိုင်တော်သမတ ကလျာဆသော ကွင်းရှိ လယ်ယာမြေဖြစ်လျှင်၊ ၁၉၄၇-၄၈ ခုနှစ်မတိုင်မီ သို့လယ်ယာမြေအတွက် သာမန်အားဖြင့် နောက်ဆုံးစည်းကြပ်ခဲ့သည့် ခိုင်ကြေး (cess) မှတပါး၊ [ရေခွန်တော်အပါအဝင်ဖြစ်သည်]⁰ မြေခွန်တော်၊
- (ဃာ ဃာ) အထက် မြန်မာပြည် မြေနှင့် အခွန်တော်ဥပဒေ (The Upper Burma Land and Revenue Regulation) နှင့် ဆည်မြောင်းအက်ဥပဒေ (The Canal Act) အရ၊ ကွင်းအလိုက် ပုံသေနှုန်း (fixed demand) ပြဋ္ဌာန်းထားသောကွင်းရှိ လယ်ယာမြေဖြစ်လျှင်၊ ထိုကွင်းအလိုက် ပုံသေနှုန်းအရ၊ ၁၉၄၇-၄၈ ခုနှစ်မတိုင်မီ၊ ထိုလယ်ယာမြေအတွက် သာမန်အားဖြင့် နောက်ဆုံးစည်းကြပ်ခဲ့သည့် ခိုင်ကြေး (cess) မှတပါး၊ [ရေခွန်တော်အပါအဝင်ဖြစ်သည်]⁰ မြေခွန်တော်၊
- (ငါ ငါ) အပို (တာ ကာ)၊ (ခါ ခါ)၊ (ဂါ ဂါ)၊ သို့တည်းမဟုတ် အပို (ဃာ ဃာ) တွင် သီးခြားဖော်ပြသော ကွင်းများမှအပ၊ အခြားကွင်းရှိ လယ်ယာမြေဖြစ်လျှင်၊ ၁၉၄၇-၄၈ ခုနှစ်မတိုင်မီ၊ ထိုလယ်ယာမြေအတွက် သာမန်အားဖြင့် နောက်ဆုံးစည်းကြပ်ခဲ့သည့် ခိုင်ကြေး (cess) မှတပါး၊ [ရေခွန်တော်အပါအဝင်ဖြစ်သည်]⁰ မြေခွန်တော်၊
- (ခ ခ) မြေနှင့် အခွန်တော်အက်ဥပဒေ (The Land and Revenue Act) အတည်ဖြစ်သော ဒေသများတွင်၊

⁰ ၁၉၅၄ ခုနှစ်၊ အက်ဥပဒေ အမှတ် ၂၂ အရ ထည့်သွင်းသည်။

(ကာ ကာ) မြေနှင့် အခွန်တော် အက်ဥပဒေ (The Land and Revenue Act) အရ၊ ကြေးတိုင်မြေမျိုးကြီး အတန်းအစားနှုန်း (Soil class rate) ပြဋ္ဌာန်းထားသောကွင်းရှိ လယ်ယာမြေဖြစ်လျှင်၊ ၁၉၄၇-၄၈ ခု၊ မြေခွန်တော်နှစ် (1947-48 assessment season) အတွင်း တည်ဆဲဖြစ်သည့် ထိုပြဋ္ဌာန်းထားသော ကြေးတိုင်မြေမျိုးကြီး အတန်းအစားနှုန်းပြည့် (full soil class rate) ဖြင့် တွက်ချက်၍ ရသော ခိုင်ကြေး (cess) မှတပါး၊ [ရေခွန်တော် အပါအဝင်ဖြစ်သည်]° အခွန်တော်၊

(ခါ ခါ) မြေနှင့်အခွန်တော်အက်ဥပဒေ (The Land and Revenue Act) အရ၊ တပြေးတည်းသတ်မှတ်သည့် ဧကနှုန်း (flat rate) ပြဋ္ဌာန်းထားသောကွင်းရှိ လယ်ယာမြေဖြစ်လျှင်၊ ၁၉၄၇-၄၈ ခု၊ မြေခွန်တော်နှစ် (1947-48 assessment season) အတွင်း တည်ဆဲဖြစ်သည့် ထိုပြဋ္ဌာန်းထားသော တပြေးတည်းသတ်မှတ်သည့် ဧကနှုန်းပြည့်ဖြင့် တွက်ချက်၍ရသောခိုင်ကြေး (cess) မှတပါး၊ [ရေခွန်တော် အပါအဝင်ဖြစ်သည်]° မြေခွန်တော်၊

(ဂါ ဂါ) အပို (ကာ ကာ) တွင်၊ သို့တည်းမဟုတ် အပို (ခါ ခါ) တွင် သီးခြားဖော်ပြသော ကြေးတိုင်မြေမျိုးကြီး အတန်းအစားနှုန်း၊ သို့တည်းမဟုတ် တမြေးတည်းသတ်မှတ်သော ဧကနှုန်းပြဋ္ဌာန်းထားသော်လည်း၊ ထိုနှုန်းဖြင့် လျော်ကြေးတွက်၍ မဖြစ်နိုင်ဟု ခိုင်တော်သမတ ကယူဆသော ကွင်းရှိလယ်ယာမြေဖြစ်လျှင်၊ ၁၉၄၇-၄၈ ခုနှစ်မတိုင်မီ၊ ထိုလယ်ယာမြေအတွက် သာမန်အားဖြင့် နောက်ဆုံးစည်းကြပ်ခဲ့သည့် ခိုင်ကြေး (cess) မှတပါး၊ [ရေခွန်တော် အပါအဝင်ဖြစ်သည်]° မြေခွန်တော်၊

(ဃာ ဃာ) အပို (ကာ ကာ)၊ (ခါ ခါ)၊ သို့တည်းမဟုတ် အပို (ဂါ ဂါ) တွင် သီးခြားဖော်ပြသော ကွင်းများမှအပ အခြားကွင်းရှိ လယ်ယာမြေဖြစ်လျှင်၊ ၁၉၄၇-၄၈ ခုနှစ်မတိုင်မီ၊ ထိုလယ်ယာမြေအတွက် သာမန်အားဖြင့် နောက်ဆုံးစည်းကြပ်ခဲ့သည့်ခိုင်ကြေး (cess) မှတပါး၊ [ရေခွန်တော်အပါအဝင်ဖြစ်သည်]° မြေခွန်တော်၊

ကိုဆိုလိုသည်။

ရှင်းလင်းချက်။ ။ သာမန်အားဖြင့် နောက်ဆုံး စည်းကြပ်ခဲ့သည့် ခိုင်ကြေး (cess) မှတပါး၊ [ရေခွန်တော် အပါအဝင်ဖြစ်သည်]° မြေခွန်တော်ဆိုရာ၌၊ မြေလပ် အခွန်နှုန်း (fallow rate) နှင့် လျော့ပေါ့သည့် လယ်ဖျက်ခွန် (reduced rate) များမပါဝင်ချေ။

## အခန်း ၂။

### လယ်ယာမြေလွှဲပြောင်းခြင်းကိုတားမြစ်ခြင်းနှင့် သိမ်းယူခြင်း။

လွှဲပြောင်းခြင်း ၄။ ။ ဤအက်ဥပဒေ စတင် အာဏာတည်သည့်နေ့မှစ၍၊ ဤအက်ဥပဒေနှင့်၎င်း၊ ဤအက်ဥပဒေအရ ပြုသည့် နည်းဥပဒေများနှင့်၎င်း၊ မညီညွတ်လျှင်၊ လယ်ယာမြေကို ပေါင်နှံခြင်း၊ ရောင်းချခြင်း၊ အခြားနည်းဖြင့် လွှဲပြောင်းခြင်း၊ သို့တည်းမဟုတ် ခွဲစိတ်ခြင်းမပြုရ။

° ၁၉၅၄ ခုနှစ်၊ အက်ဥပဒေ အမှတ် ၂၂ အရ ထည့်သွင်းသည်။

ခြင်းချက်။ ။ သို့ရာတွင် ဤပုဒ်မပါ ပြဋ္ဌာန်းချက်များသည်၊ လယ်ယာမြေကို၊ ဤအက်ဥပဒေ အရ ပြန်လည်သိမ်းယူခြင်းမပြုမီ၊ သို့တည်းမဟုတ် ကင်းလွတ်ခွင့်မဝေးမီ၊ မြန်လည်ရွေးနုတ်ခြင်းနှင့် မသက်ဆိုင်စေရ။

၅။ ။ (၁) နိုင်ငံတော်သမ္မတ သည်၊ ဤအက်ဥပဒေ စတင် အာဏာတည်ပြီးသည့် သိမ်းယူခြင်း။ နောက်၌၊ ပုဒ်မ ၆ အရ ကင်းလွတ်ခွင့်ပြုသည့် ဇယား ၁ တွင် ဖော်ပြထားသော လယ်ယာမြေမှ တပါး၊ အခြားလယ်ယာမြေအားလုံးကို ပြန်လည်သိမ်းယူနိုင်သည်။

(၂) နိုင်ငံတော်သမ္မတသည်၊ ပုဒ်မခွဲ (၁) တွင် ရည်ညွှန်းဖော်ပြထားသည့်လယ်ယာမြေ ကို အမိန့်ကြော်ငြာစာဖြင့် ထိုအမိန့်ကြော်ငြာစာတွင် သီးခြားဖော်ပြသည့်ဒေသများတွင်သီးခြားသတ်မှတ်သည့်နေ့ရက်များ၌ သိမ်းယူသည်ဟု ကျေညာနိုင်သည်။

(၃) တည်ဆဲအခြားမည်သည့် တရားဥပဒေတွင်ဖြစ်စေ၊ သဘောတူစာချုပ်၊ ပဋိညာဉ်စာချုပ်၊ အပိုင်စာချုပ်၊ အငှားစာချုပ်၊ သို့တည်းမဟုတ် လိုင်စင်တွင်ဖြစ်စေ၊ မည်သို့ပင်ပါရှိစေကာမူ၊ နိုင်ငံတော်၏ အခွင့်အရေးများမှတစ်ပါး၊ ပုဒ်မခွဲ (၁) အရ၊ နိုင်ငံတော်က ပြန်လည် သိမ်းယူနိုင်သည့် လယ်ယာမြေအပေါ်၌၊ ထိုလယ်ယာမြေနှင့်စပ်လျဉ်း၍၊ ပုဒ်မခွဲ (၂) အရ ကျေညာခြင်း မပြုလုပ်မီ အခါက၊ သက်ရောက်သမျှသော အခြားအခွင့်အရေးအားလုံးသည်၊ ထိုလယ်ယာမြေကို နိုင်ငံတော် သမ္မတက ပြန်လည်သိမ်းယူသည့်အခါ၌၊ လုံးဝရပ်စဲသွားရမည်။ ထို့ပြင် ဤအက်ဥပဒေအရလယ်ယာ မြေကို ပြန်လည်သိမ်းယူပြီးသည့်နောက်တွင် အဆိုပါ လယ်ယာမြေအပေါ်တွင်၊ နိုင်ငံတော်၏ အခွင့်အရေးမှတစ်ပါး၊ အခြားမည်သည့်အခွင့်အရေးမျှ ပုဒ်မ ၁၀ တွင် အတည်အလင်း ပြဋ္ဌာန်းထားသည့် အတိုင်းမှတစ်ပါး၊ ပေါ်ပေါက်သက်ရောက်ခြင်း မရှိစေရ။

° \* \* \* \*

အခန်း ၃။

လယ်ယာမြေကို ကင်းလွတ်ခွင့်ပေးခြင်း။

၆။ ။ (၁) အောက်ပါ တောင်သူလယ်သမား အိမ်ထောင်သားစုအား၊ သို့တည်းမဟုတ် ကင်းလွတ်ခွင့် ပုဂ္ဂိုလ်အား၊ ၎င်းတို့ ပိုင်ဆိုင်သော ဇယား ၁၊ အပိုဒ် ၁၊ ၂၊ ၃၊ သို့တည်းမဟုတ် အပိုဒ် ၄ တွင် ပေးခြင်း။ သီးခြား ဖော်ပြထားသည့် လယ်ယာမြေ အမျိုးအစားနှင့် အတိုင်းအတာကို ပုဒ်မ ၅ အရ ပြန်လည် သိမ်းယူခြင်းမှ ကင်းလွတ်ခွင့်ပြုရမည်။

(က) အောက်ပါစည်းကမ်းချက်များနှင့် ညီညွတ်သော အိမ်ထောင်သားစု။

(ကက) ထိုအိမ်ထောင်သားစုသည်၊ တောင်သူလယ်သမား အိမ်ထောင်သားစု ဖြစ်ရမည်။

(ခခ) ထိုအိမ်ထောင်သားစုတွင် ပါဝင်သူတဦးသည်၊ ၁၉၄၈ ခုနှစ်၊ ဇန်နဝါရီလ ၄ ရက်နေ့မှစ၍၊ ထိုလယ်ယာမြေကို အဆက်မပြတ် ပိုင်ဆိုင်ရမည်။

(ဂဂ) ထိုအိမ်ထောင်သားစု၏ အကြီးအကဲတဦးသည်၊ သို့တည်းမဟုတ် တဦး ထက်ပိုသော အကြီးအကဲများသည်၊ ၁၉၄၈ ခုနှစ်၊ ဇန်နဝါရီလ ၄ ရက်နေ့ တွင် တောင်သူလယ်သမားအဖြစ်ရောက်ရှိပြီး ဖြစ်ရမည်။ ထို့ပြင်

(ဃဃ) ထိုအိမ်ထောင်သားစုတွင် ပါဝင်သူ အများသည်၊ ပြည်ထောင်စုနိုင်ငံ သားများဖြစ်ရမည်။

° ၁၉၅၄ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၂၂ အရ ခြွင်းချက်ကို ပယ်ဖျက်သည်။

ခြွင်းချက်။ ။သို့ရာတွင် အဆိုပါ တောင်သူလယ်သမား အိမ်ထောင်သားစုတွင် ပါဝင်သည့် အရွယ်ရောက်ပြီးသူတဦးသည်၊ ၁၉၄၀ ခုနှစ်၊ ဇန္နဝါရီလ ၄ ရက်နေ့၌ ထိုလယ်ယာမြေကို ပိုင်ဆိုင်ခဲ့သော ထိုအိမ်ထောင်သားစု၏ အကြီးအကဲထံမှ အမွေဆက်ခံလျှင်၊ ထိုသူသည်၊ အဆိုပါ လယ်ယာမြေကို၊ ၁၉၄၀ ခုနှစ်၊ ဇန္နဝါရီလ ၄ ရက်နေ့မှစ၍၊ အဆက်မပြတ်ပိုင်ဆိုင်သည်ဟု မှတ်ယူရမည်။

- (ခ) အောက်ပါ စည်းကမ်းချက်များနှင့် ညီညွတ်သည့် တလုံးတစည်းတည်းဖြစ်၍၊ ပစ္စည်းမခွဲဝေရသေးသော အိမ်ထောင်သားစု။
- (ကက) ထိုအိမ်ထောင်သားစုသည်၊ တောင်သူလယ်သမား အိမ်ထောင်သားစု ဖြစ်ရမည်။
- (ခခ) ထိုအိမ်ထောင်သားစုတွင် ပါဝင်သူ အကြီးအကဲ တဦးသည်၊ သို့တည်း ဟုတ်တဦးထက်ပိုသော အကြီးအကဲများသည်၊ ၁၉၄၀ ခုနှစ်၊ ဇန္နဝါရီလ ၄ ရက်နေ့မှစ၍၊ ထိုလယ်ယာမြေကို အဆက်မပြတ် ပိုင်ဆိုင်ရမည်။
- (ဂဂ) ထိုအိမ်ထောင်သားစု၏ အကြီးအကဲတဦးသည်၊ သို့တည်းမဟုတ် တဦး ထက်ပိုသော အကြီးအကဲများသည်၊ ၁၉၄၀ ခုနှစ်၊ ဇန္နဝါရီလ ၄ ရက်နေ့ တွင် တောင်သူလယ်သမားအဖြစ် ရောက်ရှိပြီးဖြစ်ရမည်။ ထို့ပြင်
- (ဃဃ) ထိုအိမ်ထောင်သားစုတွင် ပါဝင်သူအများသည်၊ ပြည်ထောင်စုနိုင်ငံသား များဖြစ်ရမည်။

ပဌမခြွင်းချက်။ ။သို့ရာတွင် လယ်ယာမြေကို သိမ်းယူခြင်းမှ သာမန်အားဖြင့် ရရှိသည့် ကင်းလွတ်ခွင့်ထက်ပိုမိုသော ကင်းလွတ်ခွင့်ကို ရရှိနိုင်ရန်အလို့ငှါ၊ အဆိုပါ အိမ်ထောင်သားစုတွင် ပါဝင်သော လယ်ယာမြေကိုလုပ်ကိုင်သည့် အရွယ်ရောက်ပြီးသူအနေအတွက်မှာ၊ လေးယောက်ထက် ပိုစေရမည့်ပြင်၊ ထိုအရွယ်ရောက်ပြီးသူတို့ကလည်း၊ အဆိုပါအိမ်ထောင်သားစုအကြီးအကဲပိုင်ဆိုင်သော လယ်ယာမြေကို လုပ်ကိုင်ရမည်။

ဒုတိယခြွင်းချက်။ ။သို့ရာတွင် အဆိုပါ တောင်သူလယ်သမား အိမ်ထောင်သားစုတွင် ပါဝင်သည့် အရွယ်ရောက်ပြီးသူ တဦးသည်၊ ၁၉၄၀ ခုနှစ်၊ ဇန္နဝါရီလ ၄ ရက်နေ့၌၊ ထိုလယ်ယာမြေကို ပိုင်ဆိုင်ခဲ့သော ထိုအိမ်ထောင်သားစု၏ အကြီးအကဲထံမှ အမွေဆက်ခံလျှင်၊ ထိုသူသည်၊ အဆိုပါ လယ်ယာမြေကို ၁၉၄၀ ခုနှစ်၊ ဇန္နဝါရီလ ၄ ရက်နေ့မှစ၍၊ အဆက်မပြတ်ပိုင်ဆိုင်သည်ဟု မှတ်ယူရမည်။

- (ဂ) အောက်ပါ စည်းကမ်းချက်များနှင့် ညီညွတ်သော အရွယ်ရောက်သေးသူ။
- (ကက) ထိုသူသည်၊ အဘသော်၎င်း၊ အမိသော်၎င်း၊ မဲ့သူဖြစ်ရမည်။
- (ခခ) ထိုသူသည်၊ အပိုဒ် (က) တွင် သီးခြားဖော်ပြထားသည့် တောင်သူလယ်သမား အိမ်ထောင်သားစုတွင် ပါဝင်သူဖြစ်ရမည်။
- (ဂဂ) ထိုသူသည်၊ အဆိုပါ လယ်ယာမြေကို ၁၉၄၀ ခုနှစ်၊ ဇန္နဝါရီလ ၄ ရက်နေ့၌ ပိုင်ဆိုင်ခဲ့သော အဆိုပါ အိမ်ထောင်သားစု၏ အကြီးအကဲထံမှ ၁၉၄၀ ခုနှစ်၊ ဇန္နဝါရီလ ၄ ရက်နေ့နောက်မှ အမွေဆက်ခံ၍ ထိုလယ်ယာမြေကို ရရှိသူဖြစ်ရမည်။



- (ဃဃ) ထိုသူသည်၊ အုပ်ထိန်းသူ၏ စောင့်ရှောက်ခြင်းမှ မကင်းသေးသူဖြစ်ရမည်။  
ထို့ပြင်
- (ငင) ထိုသူသည်၊ ပြည်ထောင်စုနိုင်ငံသားဖြစ်ရမည်။
- (ဃ) အောက်ပါ စည်းကမ်းချက်များနှင့် ညီညွတ်သော စိတ်ပေါ်သွင်သူ။
  - (ကက) ထိုသူသည်၊ အပိုဒ် (က) တွင် သီးခြားဖော်ပြထားသည့် တောင်သူ လယ်သမား အိမ်ထောင်သားစုတွင် ပါဝင်သူဖြစ်ရမည်။
  - (ခခ) ထိုသူသည်၊ အဆိုပါ လယ်ယာမြေကို ပိုင်ဆိုင်သူဖြစ်ရမည်။
  - (ဂဂ) ထိုသူသည်၊ အုပ်ထိန်းသူ၏ စောင့်ရှောက်ခြင်းမှ မကင်းသေးသူဖြစ်၍၊ စိတ်ပေါ်သွင်သူဟု အခွင့်အာဏာရတရားရုံး၏ အမိန့်ချမှတ်ခြင်းခံနေရသူ လည်း ဖြစ်ရမည်။ ထို့ပြင်
  - (ဃဃ) ထိုသူသည်၊ ပြည်ထောင်စုနိုင်ငံသားဖြစ်ရမည်။
- (င) အောက်ပါ စည်းကမ်းချက်များနှင့် ညီညွတ်သည့် အိမ်ထောင်သားစု၏ အကြီး အကဲပါဝင်သော တောင်သူလယ်သမား မဟုတ်သည့် အိမ်ထောင်သားစု။
  - (ကက) ထိုသူသည်၊ အဆိုပါ လယ်ယာမြေကို ၁၉၄၇ ခုနှစ်၊ ဇန္နဝါရီလ ၄ ရက် နေ့မှစ၍ အဆက်မပြတ်ပိုင်ဆိုင်ရမည်။ သို့တည်းမဟုတ် အဆိုပါ လယ်ယာ မြေကို ၁၉၄၇ ခုနှစ်၊ ဇန္နဝါရီလ ၄ ရက်နေ့၌ ပိုင်ဆိုင်ခဲ့သူထံမှ ၁၉၄၇ ခုနှစ်၊ ဇန္နဝါရီလ ၄ ရက်နေ့နောက်မှ အမွေဆက်ခံ၍ ထိုလယ်ယာမြေကို ရရှိသူဖြစ်ရမည်။
  - (ခခ) ထိုသူသည်၊ အဆိုပါ လယ်ယာမြေ တည်ရှိရာ ကျေးရွာနယ်မြေတွင်၊ သို့တည်းမဟုတ် ရပ်ကွက်တွင် အမြဲနေထိုင်ရမည်။
  - (ဂဂ) ထိုသူသည်၊ အဆိုပါ လယ်ယာမြေကို ပုဒ်မ ၃၊ အပိုဒ် (ဂ) တွင် ပြဋ္ဌာန်း ထားသည့်နည်းလမ်းအတိုင်း သတ်မှတ်ထားသည့် အချိန်ကာလအတွင်း လုပ်ကိုင်ပါမည်ဟု စာဖြင့်ရေးသား၍ ကတိပေးရမည်။ ထို့ပြင်
  - (ဃဃ) ထိုသူသည်၊ ပြည်ထောင်စုနိုင်ငံသားဖြစ်ရမည်။

\*\*\* ခြွင်းချက်။ ။ သို့ရာတွင် နိုင်ငံတော်သမ္မတက ဖြစ်စေ၊ ဤကိစ္စအသို့၎င်း နိုင်ငံ တော်သမ္မတက ခန့်အပ်သည့် အာဏာပိုင်များကဖြစ်စေ၊ အဆိုပါ လယ် ယာမြေတည်ရှိရာ ကျေးရွာနယ်မြေ၊ သို့တည်းမဟုတ် ရပ်ကွက်ပြင်ပ၌ ထိုအိမ်ထောင်သားစု၏အကြီးအကဲ အမြဲနေထိုင်ခြင်းသည်၊ အပိုဒ်ခွဲ (ဂဂ) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်ကို လိုက်နာရန် ပုဂံကွက် စေမည့် အကြောင်းမဟုတ်ဟုလူဆလျှင်၊ အပိုဒ်ခွဲ (ခခ) တွင် သီးခြားဖော် ပြထားသည့် စည်းကမ်းချက်ကို လျော့ပေါ့နိုင်သည်။

- <sup>၁</sup> (စ) အောက်ပါစည်းကမ်းချက်များနှင့် ညီညွတ်သော အိမ်ထောင်သားစု။
  - (ကက) ထိုအိမ်ထောင်သားစုသည်၊ တောင်သူ လယ်သမား အိမ်ထောင်သားစု ဖြစ်ရမည်။
  - (ခခ) ထိုအိမ်ထောင်သားစုတွင် ပါဝင်သူဘဦးသည်။ ၁၉၅၃ ခုနှစ်၊ ဇွန်လ ၂၂ ရက်နေ့မှစ၍၊ ထိုလယ်ယာမြေကို အဆက်မပြတ် ပိုင်ဆိုင်ရမည်။

<sup>၁</sup> ၁၉၅၄ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၂၂ အရ “ပဌမ” ဆိုသည့် စကားရပ်ကို ပယ်ဖျက်သည်။  
<sup>၂</sup> အဆိုပါ အက်ဥပဒေအရ ထည့်သွင်းသည်။

- (ဂဂ) ထိုအိမ်ထောင်သားစု၏ အကြီးအကဲတစ်ဦးသည်၊ သို့တည်းမဟုတ် တဦးထက်ပိုသော အကြီးအကဲများသည်၊ ၁၉၄၈ ခုနှစ်၊ ဇန်နဝါရီလ ၄ ရက်နေ့တွင် တောင်သူလယ်သမားအဖြစ်ရောက်ရှိပြီးဖြစ်ရမည်။ ထို့ပြင်
- (ဃဃ) ထိုအိမ်ထောင်သားစုတွင် ပါဝင်သူအများသည်၊ ပြည်ထောင်စုနိုင်ငံသားများဖြစ်ရမည်။

ခြွင်းချက်။ ။ သို့ရာတွင် အဆိုပါ တောင်သူလယ်သမား အိမ်ထောင်သားစုတွင် ပါဝင်သည့် အရွယ်ရောက်ပြီးသူတဦးသည်၊ ၁၉၅၃ ခုနှစ်၊ ဇွန်လ ၂၂ ရက်နေ့၌ ထိုလယ်ယာ မြေကို ပိုင်ဆိုင် ခဲ့သော ထိုအိမ်ထောင်သားစု၏ အကြီးအကဲထံမှ အမွေဆက်ခံလျှင်၊ ထိုသူသည်၊ အဆိုပါလယ်ယာမြေကို ၁၉၅၃ ခုနှစ်၊ ဇွန်လ ၂၂ ရက်နေ့မှစ၍၊ အဆက်မပြတ် ပိုင်ဆိုင်သည်ဟု မှတ်ယူရမည်။

ပုဒ်မခွဲ (၁) ၏ ပဌမခြွင်းချက်။ ။ သို့ရာတွင် ဇယား ၁၊ အပိုဒ် ၁၊ ၂၊ ၃ နှင့် ၄ တွင် သီးခြားဖော်ပြထားသည့် လယ်ယာမြေတမျိုးအတွက် ဤပုဒ်မခွဲအရ ကင်းလွတ်ခွင့်တောင်းဆိုလျှင်၊ ထိုသို့ကင်းလွတ်ခွင့်ရရှိရန် တောင်းဆိုသည့် လယ်ယာမြေအားလုံး၏ အတိုင်းအတာစုစုပေါင်းသည်၊ ထိုလယ်ယာမြေ အမျိုးအစားအတွက်၊ ဇယား ၁ တွင် သတ်မှတ်ထားသော အတိုင်းအတာထက် မပိုစေရ။

° [ပုဒ်မခွဲ (၁) ၏ ဒုတိယခြွင်းချက်] ။ ။ သို့ရာတွင် ဇယား ၁၊ အပိုဒ် ၁၊ ၂၊ ၃ နှင့် ၄ တွင် သီးခြားဖော်ပြထားသည့် တမျိုးထက်ပိုသော လယ်ယာမြေ အတွက် ဤပုဒ်မခွဲအရ၊ ကင်းလွတ်ခွင့်တောင်းဆိုလျှင်၊ ထိုသို့ ကင်းလွတ်ခွင့်ရရှိရန် တောင်းဆိုသည့် လယ်ယာမြေအားလုံး၏ အတိုင်းအတာ စုစုပေါင်းကို တွက်ချက်ရာ၌၊ ဇယား ၁ တွင် ပြဋ္ဌာန်း သတ်မှတ်ထားသည့် အတိုင်းအတာ အချိုးအစားနှင့်အညီ၊ ကင်းလွတ်ခွင့်တောင်းဆိုသော လယ်ယာမြေ အမျိုးအစားများကို တမျိုးတစားတည်း ဖြစ်အောင် ပြောင်းလဲတွက်ချက်ရမည်။ ထိုသို့တွက်ချက်၍ရသော လယ်ယာမြေ တမျိုးတစား၏ အတိုင်းအတာ စုစုပေါင်းသည်၊ ထိုအမျိုးအစားအတွက် ဇယား ၁ တွင် သတ်မှတ်ထားသော အတိုင်းအတာထက် မပိုစေရ။

(၂) အောက်ပါ စည်းကမ်းချက်များနှင့် ညီညွတ်သော သာသနာရေး အဆောက်အအုံ ပိုင်ဆိုင်သည့် လယ်ယာမြေကို၊ ဇယား ၁ တွင် သတ်မှတ်ထားသည့်အတိုင်း၊ ပုဒ်မ ၅ အရ ပြန်လည် သိမ်းယူခြင်းမှ ကင်းလွတ်ခွင့်ပြုရမည်။

(က) အဆိုပါ လယ်ယာမြေသည်—

- (ကက) ဝတ္ထုကံမြေဟု အမျိုးအစား ခွဲခြားသတ်မှတ်ထားပြီး ဖြစ်ရမည်။ သို့တည်းမဟုတ်
- (ခခ) မြန်မာဘုရင်များက ဝတ္ထုကံမြေအဖြစ် လှူဒါန်းထားသော လယ်ယာမြေဖြစ်ရမည်။ သို့တည်းမဟုတ်

° ၁၉၅၄ ခုနှစ်၊ အက်ဥပဒေ အမှတ် ၂၂ အရ အစားထည့်သွင်းသည်။

- (ဂဂ) သာသနာရေးကိစ္စများအတွက် မြေခွန်တော်လွှတ် အပိုင်စာချုပ်ဖြင့် ပေးပြီးသော လယ်ယာမြေဖြစ်ရမည်။ သို့တည်းမဟုတ်
- (ဃဃ) အဆိုပါ အဆောက်အအုံသို့ ၁၉၅၃ ခုနှစ်၊ ဇွန်လ ၂၂ ရက်နေ့မတိုင်မီက အဆိုပါ လယ်ယာမြေကို ပေးလှူလွှဲပြောင်းထားပြီးဖြစ်ကြောင်း သက်ဆိုင်ရာမြေစာရင်းဌာနစာရင်းတွင်၊ ထိုနေ့မတိုင်မီက မှတ်သားထားပြီးဖြစ်ရမည်။ သို့ရာတွင် ထိုလယ်ယာမြေသည် မြည်နယ်တခုခုတွင်ဖြစ်စေ၊ ချင်းပိသေသတိုင်းတွင်ဖြစ်စေ [မြေစာရင်းဌာနစာရင်းမရှိသောကွင်းတွင်ဖြစ်စေ၊] တည်ရှိသော လယ်ယာမြေဖြစ်လျှင်၊ အဆိုပါ အဆောက်အအုံသို့ ၁၉၅၃ ခုနှစ်၊ ဇွန်လ ၂၂ ရက်နေ့ မတိုင်မီက ပေးလှူလွှဲပြောင်းထားပြီး ဖြစ်ကြောင်း နိုင်ငံတော်သမ္မတက ကျေနပ်လောက်အောင် လုံလောက်သော သက်သေအထောက်အထားရှိရမည်။ ထို့ပြင်

- (ခ) အဆိုပါ လယ်ယာမြေမှရရှိသည့် ဝင်ငွေ ဝတ္ထုပစ္စည်းကို၊ သာသနာရေးကိစ္စ သက်သက်အတွက် အသုံးပြုရမည်။ ထို့ပြင်
- (ဂ) အဆိုပါ အဆောက်အအုံ၏ ဂေါပကလူကြီးများ စီမံအုပ်ချုပ်သည့် လယ်ယာမြေ ဖြစ်ရမည်။

(၃) အောက်ပါ စည်းကမ်းချက်များနှင့် ညီညွတ်သော သာသနာ ဝန်ထမ်းပိုင်ဆိုင်သည့် လယ်ယာမြေကို၊ ဇယား ၁ တွင် သတ်မှတ်ထားသည့်အတိုင်း၊ ပုဒ်မ ၅ အရ ပြန်လည်သိမ်းယူခြင်းမှ ကင်းလွတ်ခွင့်ပြုရမည်။

- (က) ထိုပုဂ္ဂိုလ်သည်၊ အဆိုပါ လယ်ယာမြေကို ပိုင်ဆိုင်ရမည်။
- (ခ) ၁၉၅၃ ခုနှစ်၊ ဇွန်လ ၂၂ ရက်နေ့မတိုင်မီက၊ အဆိုပါ လယ်ယာမြေကို၊ ထိုပုဂ္ဂိုလ်အား ပေးလှူလွှဲပြောင်းထားပြီးဖြစ်ကြောင်း သက်ဆိုင်ရာမြေစာရင်းဌာနစာရင်းတွင်၊ ထိုနေ့မတိုင်မီက မှတ်သားထားပြီးဖြစ်ရမည်။ သို့ရာတွင် ထိုလယ်ယာမြေသည် ပြည်နယ်တခုခုတွင် ဖြစ်စေ၊ ချင်းပိသေသတိုင်းတွင် ဖြစ်စေ၊ [မြေစာရင်းဌာန စာရင်းမရှိသော ကွင်းတွင် ဖြစ်စေ၊] တည်ရှိသော လယ်ယာမြေဖြစ်လျှင်၊ အဆိုပါပုဂ္ဂိုလ်သို့ ၁၉၅၃ ခုနှစ်၊ ဇွန်လ ၂၂ ရက်နေ့မတိုင်မီက ပေးလှူလွှဲပြောင်းထားပြီးဖြစ်ကြောင်း နိုင်ငံတော်သမ္မတက ကျေနပ်လောက်အောင် လုံလောက်သော သက်သေအထောက်အထားရှိရမည်။
- (ဂ) အဆိုပါလယ်ယာမြေမှ ရရှိသည့် ဝင်ငွေဝတ္ထုပစ္စည်းကို သာသနာရေးကိစ္စ သက်သက်အတွက် အသုံးပြုရမည်။ ထို့ပြင်
- (ဃ) ထိုပုဂ္ဂိုလ်သည်၊ ပြည်ထောင်စုနိုင်ငံသားဖြစ်ရမည်။

(၄) ဇယား ၁၊ အပိုဒ် ၅၊ ၆၊ သို့တည်းမဟုတ် အပိုဒ် ၇ တွင် သီးခြားဖော်ပြထားသည့် လယ်ယာမြေတမျိုးမျိုးကို၊ အဆိုပါ ဇယား ၁ တွင်၊ ထိုလယ်ယာမြေအတွက် သီးခြားဖော်ပြထားသည့် အတိုင်းအတာနှင့် အညီ၊ ပုဒ်မ ၅ အရ ပြန်လည်သိမ်းယူခြင်းမှ ကင်းလွတ်ခွင့်ပြုရမည်။

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° ၁၉၅၄ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၂၂ အရ ထည့်သွင်းသည်။

အခန်း ၄။

လယ်ယာမြေကိုဝေငှခြင်း။

ဝေငှခြင်း။

၇။ ။(၁) ပုဒ်မ ၈ ပါ ပြဋ္ဌာန်းချက်များနှင့် မဆန့်ကျင်စေဘဲ၊ နိုင်ငံတော် အတွက် လိုအပ်သော လယ်ယာမြေမှအပ၊ ပုဒ်မ ၅ အရ နိုင်ငံတော်က ပြန်လည်သိမ်းယူထားသော လယ်ယာ မြေကို၊ ဤအက်ဥပဒေအရ ပြုသည့် နည်းဥပဒေများဖြင့် ပြဋ္ဌာန်းထားသည့် ဦးစားပေးရန် အစီ အစဉ်များနှင့်အညီ၊ အောက်ပါ တောင်သူလယ်သမားအိမ်ထောင်သားစုများအား၊ အောက်တွင် သီးခြားဖော်ပြထားသော အတိုင်းအတာများအထိ ဝေငှရမည်။

(က) ပုဒ်မ ၆ အရ ကင်းလွတ်ခွင့် မရထိုက်သော တောင်သူလယ်သမားအိမ်ထောင် သားစုတစ်စုလျှင်၊ တတိုးထွန်အထိ၊ ၎င်းပြင် ထိုတောင်သူလယ်သမားအိမ်ထောင် သားစုတွင် လယ်ယာမြေကို လုပ်ကိုင်သည့် အရွယ်ရောက်ပြီးသူ လေးယောက် ထက်ပိုမိုခွဲလျှင်၊ ထိုကဲ့သို့ ပိုမိုသော သူတဦးအတွက် ထိုအိမ်ထောင်သားစုရှိ ထိုက်သည့် မူလတတိုးထွန်၏ လေးပုံတပုံအထိ။

(ခ) ပုဒ်မ ၆ အရ ကင်းလွတ်ခွင့်ရရှိထိုက်သောတောင်သူလယ်သမားအိမ်ထောင်သား စုတစ်စု၏ ကင်းလွတ်ခွင့် ရထိုက်သော လယ်ယာမြေဧရိယာမှာ (ထိုအိမ်ထောင် သားစုသည် ပုဒ်မ ၆ အရ၊ ကင်းလွတ်ခွင့်ကို မရထိုက်လျှင်)၊ ဤပုဒ်မအရ ၎င်း အိမ်ထောင်သားစုရထိုက်သည့် တတိုးထွန်မမြည့်မှီခွဲသော်၊ ထိုတတိုးထွန်ပြည့်မှီ ရန် လိုသမျှသော ဧရိယာအထိ။

(၂) ပုဒ်မခွဲ(၁)တွင် မည်သို့ပင်ပါရှိစေကာမူ၊ နိုင်ငံတော်သမတက၊ သို့တည်းမဟုတ် ဤကိစ္စအလို့ငှါ နိုင်ငံတော်သမတက ခန့်အပ်သော အာဏာပိုင်များက လိုအပ်သည်ဟု ထင်မြင်လျှင်၊ ပုဒ်မခွဲ (၁)တွင် ရည်ညွှန်းထားသော လယ်ယာမြေများကိုသော်၎င်း၊ နိုင်ငံတော်က အလိုရှိသည့် အတိုင်း သုံးစွဲနိုင်သည့် လယ်ယာလုပ်ကိုင်နိုင်သော မြေရိုင်းများကိုသော်၎င်း၊ ပုဒ်မ ၁၃ အရ တည် ထောင်ဖွဲ့စည်းထားသော တောင်သူလယ်သမားအဖွဲ့အစည်းများသို့၊ ဤအက်ဥပဒေအရပြုသော နည်း ဥပဒေများနှင့်အညီ ဝေငှရန် ညွှန်ကြားနိုင်သည်။

(၃) ပုဒ်မခွဲ (၁)နှင့်(၂) တွင် မည်သို့ပင် ပါရှိစေကာမူ၊ နိုင်ငံတော်သမတသည်၊ မိမိက လုံလောက်သည်ဟု ထင်မြင်သော အကြောင်းတစ်ခုခုကြောင့် ပြန်လည်သိမ်းယူသည့် လယ်ယာမြေကို ဝေငှခြင်းမပြုလုပ်နိုင်လျှင်၊ ထိုလယ်ယာမြေနှင့် စပ်လျဉ်း၍၊ မိမိက သင့်သည် ထင်မြင်သည့် နည်းလမ်း အတိုင်း စီမံခန့်ခွဲနိုင်သည်။

စည်းကမ်းချက် များ။

၈။ ။ပုဒ်မ ၇ တွင် သီးခြားဖော်ပြထားသည့် တောင်သူ လယ်သမား အိမ်ထောင်သား စုတိုင်းသည်၊ အောက်ပါစည်းကမ်းချက်များကိုလိုက်နာရမည်။  
ထိုအိမ်ထောင်သားစု၏ အကြီးအကဲတဦးသည်—

(က) ပုဒ်မ ၃၊ အပိုဒ် (၈) တွင် ပြဋ္ဌာန်းထားသည့် နည်းလမ်းအတိုင်း လယ်ယာမြေ ကို လုပ်ကိုင်ခွဲရမည်။

(ခ) နိုင်ငံတော်သမတက၊ သို့တည်းမဟုတ်ဤကိစ္စအလို့ငှါ နိုင်ငံတော်သမတက ခန့် အပ်သောအာဏာပိုင်များက ညွှန်ကြားသည့်အတိုင်း၊ ပုဒ်မ ၁၃ နှင့် ဤ အက် ဥပဒေအရ ပြုသည့်နည်းဥပဒေများနှင့်အညီ တည်ထောင် ဖွဲ့စည်းထားသော တောင်သူလယ်သမားအဖွဲ့အစည်းများတွင် ပါဝင်ပါမည်ဟု စာဖြင့်ရေးသား၍ ကတိပြုရမည်။ ထို့ပြင်

(ဂ) ပြည်ထောင်စုနိုင်ငံသားဖြစ်ရမည်။

အခန်း ၅။

ကင်းလွတ်ခွင့်ပေးသည့်လယ်ယာမြေနှင့် ဝေငှသည့်လယ်ယာမြေအပေါ်တွင်ရရှိသည့်အခွင့်အရေးများ။

၉။ ။(၁) နိုင်ငံတော်၏ အခွင့်အရေးများနှင့် ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁)၊ (၂)၊ (၃) နှင့် (၄) အပြင်၊ ပုဒ်မ ၁၁ ပါ ပြဋ္ဌာန်းချက်များနှင့် မဆန့်ကျင်လျှင်၊ ပုဒ်မ ၆ အရ၊ ကင်းလွတ်ခွင့် ပေးသည့်လယ်ယာမြေကိုပိုင်ဆိုင်သူသည်၊ သို့တည်းမဟုတ် သာသနာရေးအဆောက်အအုံသည်၊ အဆို ပါလယ်ယာမြေနှင့်စပ်လျဉ်း၍၊ အောက်ပါအခွင့်အရေးများကို ရရှိစေရမည်။

ကင်းလွတ်ခွင့် ပေးသည့်လယ် ယာမြေနှင့် စပ် လျဉ်းသည့် အ ခွင့် အရေးများ။

- (က) အဆိုပါလယ်ယာမြေကို လက်ရှိထားနိုင်ခွင့်၊ လုပ်ကိုင်နိုင်ခွင့်၊ ယင်းသို့လုပ်ကိုင် ခြင်းမှ ပေါ်ထွက်လာသည့်အကျိုးအမြတ်များကို ခံစားနိုင်ခွင့်။
- (ခ) အဆိုပါလယ်ယာမြေကို၊ တောင်သူလယ်သမား အဖွဲ့အစည်းတခုခု အားသော် ၎င်း၊ တောင်သူလယ်သမားတဦးဦးအားသော်၎င်း၊ ပုဒ်မ ၃၊ အပိုဒ် (ဂ) တွင် ပြဋ္ဌာန်းထားသည့်နည်းလမ်းအတိုင်း အဆိုပါလယ်ယာမြေကိုလုပ်ကိုင်ပါမည်ဟု စာဖြင့်ရေးသား၍ ကတိပြုသောတောင်သူလယ်သမားမဟုတ်သူ တဦးဦးအား သော်၎င်း၊ရောင်းချခြင်း၊ အပိုင်ပေးခြင်းကိုပြုလုပ်နိုင်ခွင့်။ ၎င်းပြင်၊ သာသနာရေး အဆောက်အအုံနှင့် သာသနာဝန်ထမ်းအားပေးလှူနိုင်ခွင့်။ ထို့ပြင်
- (ဂ) အဆိုပါလယ်ယာမြေကို ခွဲစိတ်နိုင်ခွင့်၊ သို့တည်းမဟုတ် အခြားလယ်ယာမြေနှင့် လဲလှယ်နိုင်ခွင့်။

ပဌမခြွင်းချက်။ ။သို့ရာတွင် အပိုဒ် (ခ) နှင့် (ဂ) တွင် သီးခြား ဖော်ပြထားသော အခွင့်အရေးများကို ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများနှင့် ညီညွတ်၍၊ နိုင်ငံတော်သမတ၏၊ သို့တည်းမဟုတ် ဤကိစ္စအလို့ငှါ နိုင်ငံတော် သမတက ခန့်အပ်သောအာဏာပိုင်များ၏ ခွင့်ပြုချက်ဖြင့်သာ ခံစားခွင့်ရရှိစေရမည်။

ဒုတိယခြွင်းချက်။ ။သို့ရာတွင် သာသနာဝန်ထမ်း ပိုင်ဆိုင်သည့် လယ်ယာမြေ၊သို့တည်း မဟုတ် သာသနာရေးအဆောက်အအုံပိုင်ဆိုင်သည့် လယ်ယာမြေကို၊ တည်ဆဲ အခြားတရားဥပဒေတခုခုနှင့်မဆန့်ကျင်လျှင်၊ သီးစားချထားနိုင်ခွင့်ရှိစေရမည်။

(၂) နိုင်ငံတော်၏ အခွင့်အရေးများအပြင်၊ ဇယား ၁ နှင့် ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁) နှင့် (၄)၊ ၎င်းပြင် ပုဒ်မ ၁၁ ပါ ပြဋ္ဌာန်းချက်များနှင့် မဆန့်ကျင်လျှင်၊ သာသနာရေးအဆောက်အအုံ၊ သို့တည်းမဟုတ် သာသနာဝန်ထမ်းတဦးဦး ပိုင်ဆိုင်သည့် လယ်ယာမြေမှအပ၊ ပုဒ်မ ၆ အရ ကင်းလွတ်ခွင့်ပေးထားသော လယ်ယာမြေကို၊ အမွေဆက်ခံနိုင်ခွင့်ရှိစေရမည်။

ခြွင်းချက်။ ။သို့ရာတွင်လယ်ယာမြေကို၊ ပုဒ်မ ၃၊ အပိုဒ် (ဂ) တွင် ပြဋ္ဌာန်း ထားသည့် နည်းလမ်းအတိုင်း သတ်မှတ်ထားသည့်အချိန်ကာလအတွင်း လုပ်ကိုင်ပါမည်ဟု စာဖြင့် ရေးသား၍ ကတိပေးရန်ပျက်ကွက်သည့် တောင်သူလယ်သမားမဟုတ်သူ တဦးဦးက အမွေရအဖြစ်ဖြင့် လက်ခံ ရရှိလျှင်၊ အဆိုပါလယ်ယာမြေကို နိုင်ငံတော်သမတက ပြန်လည်သိမ်းယူရမည်။

၁၀။ ။(၁) နိုင်ငံတော်၏ အခွင့်အရေး များအပြင်၊ ပုဒ်မ ၁၂ ပါ ပြဋ္ဌာန်းချက်များနှင့် ဝေငှသည့်လယ် မဆန့်ကျင်လျှင်၊ ပုဒ်မ ၇ အရဖြစ်စေ၊ ပုဒ်မ ၅၂ အရဖြစ်စေ၊ ဝေငှသည့်လယ်ယာမြေကို ပိုင်ဆိုင်သော ယာမြေနှင့် စပ်

လျှင်သည့် အ တောင်သူလယ်သမားအိမ်ထောင်သားရ၏ အကြီးအကဲတဦးဦးသည်၊ အဆိုပါ လယ်ယာမြေနှင့် ခွင့်အရေးများ။ စပ်လျဉ်း၍၊ အောက်ပါအခွင့်အရေးများကိုရရှိစေရမည်။

- (က) အဆိုပါလယ်ယာမြေကို လက်ရှိထားနိုင်ခွင့်၊ လုပ်ကိုင်နိုင်ခွင့်၊ ယင်းသို့ လုပ်ကိုင်ခြင်းမပေါ်ထွက်လာသည့်အကျိုးအမြတ်များကို ခံစားနိုင်ခွင့်။
- (ခ) အဆိုပါအိမ်ထောင်သားရ၏ အကြီးအကဲတဦးဦးပါဝင်သည့် တောင်သူ လယ်သမားအဖွဲ့အစည်း တခုခုအား၊ အဆိုပါ လယ်ယာမြေကို ရောင်းချနိုင်ခွင့်၊ သို့တည်းမဟုတ်အပိုင်ပေးနိုင်ခွင့်။ ထို့ပြင်
- (ဂ) အဆိုပါလယ်ယာမြေကို ခွဲစိတ်နိုင်ခွင့်၊ သို့တည်းမဟုတ် အခြားလယ်ယာမြေနှင့် လဲလှယ်နိုင်ခွင့်။

ခြွင်းချက်။ ။သို့ရာတွင် အပိုဒ် (ခ) နှင့် (ဂ) တွင် သီးခြား ဖော်ပြထားသော အခွင့်အရေးများကို ဤအက်ဥပဒေအရ ပြုသည့်နည်းဥပဒေများနှင့်ညီညွတ်၍၊ နိုင်ငံတော်သမတ၏၊ သို့တည်းမဟုတ် ဤကိစ္စအလို့ငှါ နိုင်ငံတော် သမတက ခန့်အပ်သောအာဏာပိုင်များ၏ ခွင့်ပြုချက်ဖြင့်သာ ခံစားခွင့်ရရှိစေရမည်။

(၂) နိုင်ငံတော်၏ အခွင့်အရေးများအပြင်၊ ဤအက်ဥပဒေပါ အခြားပြဋ္ဌာန်းချက် များနှင့် မဆန့်ကျင်လျှင်၊ ပုဒ်မ ၇ အရဖြစ်စေ၊ ပုဒ်မ ၅၂ အရဖြစ်စေ၊ ဝေငှပြီးသော လယ်ယာမြေကို အမွေဆက်ခံနိုင်ခွင့်ရှိစေရမည်။

ခြွင်းချက်။ ။သို့ရာတွင် လယ်ယာမြေကို၊ ပုဒ်မ ၃၊ အပိုဒ် (ဂ) တွင် ပြဋ္ဌာန်းထားသည့် နည်းလမ်းအတိုင်း သတ်မှတ်ထားသည့် အချိန်ကာလအတွင်း လုပ်ကိုင်မည်ဟု စာဖြင့်ရေးသား၍၊ ကတိပေးရန်ပျက်ကွက်သည့် တောင်သူလယ်သမားမဟုတ်သူတဦးဦးက အမွေရအဖြစ်ဖြင့် လက်ခံရရှိလျှင်၊ အဆိုပါလယ်ယာမြေကို နိုင်ငံတော်သမတက ပြန်လည်သိမ်းယူရမည်။

အခန်း ၆။

ကင်းလွတ်ခွင့်ပေးသည့်လယ်ယာမြေနှင့် ဝေငှသည့်လယ်ယာမြေနှင့်စပ်လျဉ်းသည့်စည်းကမ်းချက်များ။

ကင်းလွတ်ခွင့် ပေးသည့်လယ် ယာမြေနှင့်စပ် လျဉ်းသည့် စည်းကမ်း ချက်များ။

၁၁။ ။(၁) တောင်သူလယ်သမား အိမ်ထောင်သားရအကြီးအကဲတဦးဦးသည်၊ ပုဒ်မ ၆ အရ ကင်းလွတ်ခွင့်ပြုထားသော လယ်ယာမြေကိုပိုင်ဆိုင်လျှင်၊ ထိုသူသည်၊ အဆိုပါ လယ်ယာမြေနှင့်စပ်လျဉ်း၍၊ အောက်ပါစည်းကမ်းချက်များကိုလိုက်နာရမည်။

- (က) ထိုသူသည်၊ ပုဒ်မ ၉ ပါ ပြဋ္ဌာန်းချက်များနှင့် မညီညွတ်လျှင်၎င်း၊ ဤအက်ဥပဒေ အရပြုသည့် နည်းဥပဒေများနှင့် မညီညွတ်လျှင်၎င်း၊ အဆိုပါ လယ်ယာမြေကို ပေါင်နှံခြင်း၊ ရောင်းချခြင်း၊ သို့တည်းမဟုတ် အခြားနည်းဖြင့် လွှဲပြောင်းခြင်း မပြုရ။
- (ခ) ထိုသူသည်၊ ပုဒ်မ ၉ ပါ ပြဋ္ဌာန်းချက်များနှင့်မညီညွတ်လျှင်၎င်း၊ ဤအက်ဥပဒေ အရပြုသည့် နည်းဥပဒေများနှင့်မညီညွတ်လျှင်၎င်း၊ အဆိုပါ လယ်ယာမြေကို ခွဲစိတ်ခြင်း၊ သို့တည်းမဟုတ် လဲလှယ်ခြင်းမပြုရ။
- (ဂ) ထိုသူသည်၊ ပုဒ်မ ၃၊ အပိုဒ် (ဂ) တွင် ပြဋ္ဌာန်းထားသည့် နည်းလမ်းအတိုင်း၊ အဆိုပါလယ်ယာမြေကို လုပ်ကိုင်ရမည်။

- (ဃ) ထိုသူသည်၊ အဆိုပါလယ်ယာမြေနှင့်စပ်လျဉ်း၍ နိုင်ငံတော်က စည်းကြပ်သော အခွန်အတုတ်များကို ပေးဆောင်ရမည်။
- (င) ထိုသူပါဝင်သည့် အိမ်ထောင်သားစုသည်၊ တောင်သူလယ်သမား အိမ်ထောင် သားစုအဖြစ်မှ ရပ်စဲခြင်းမရှိစေရ။
- (စ) ထိုသူသည်၊ အဆိုပါ လယ်ယာမြေကို လုံလောက်သော အကြောင်းမရှိဘဲ၊ မြေလပ်အဖြစ်မထားရ။ ထို့ပြင်
- (ဆ) ထိုသူသည်၊ အဆိုပါလယ်ယာမြေကို သီးစားချထားခြင်း၊ သို့တည်းမဟုတ် အငှားချထားခြင်းမပြုရ။

(၂) တလုံးတစည်းတည်းဖြစ်၍ပစ္စည်းမခွဲဝေရသေးသောတောင်သူလယ်သမားအိမ်ထောင် သားစု၏ အကြီးအကဲတဦးဦးသည်၊ ပုဒ်မ ၆ အရ ကင်းလွတ်ခွင့် ပြုထားသည့် လယ်ယာမြေကို ပိုင်ဆိုင်လျှင်၊ ထိုသူသည်၊ အဆိုပါလယ်ယာမြေနှင့်စပ်လျဉ်း၍၊ အောက်ပါ စည်းကမ်းချက်များကို လိုက်နာရမည်။

- (က) ထိုသူသည်၊ ပုဒ်မခွဲ (၁) တွင် ပြဋ္ဌာန်းထားသည့်စည်းကမ်းချက်များကို လိုက် နာရမည်။ ထို့ပြင်
- (ခ) ထိုသူသည်၊ လယ်ယာမြေကိုသိမ်းယူခြင်းမှ သာမန်အားဖြင့်ရရှိသည့်ကင်းလွတ် ခွင့်ထက် ပိုမိုသောကင်းလွတ်ခွင့်ကို ရရှိသော လယ်ယာမြေကို ပိုင်ဆိုင်လျှင်၊ ထိုသူ၏ အိမ်ထောင်သားစုတွင် ပါဝင်သော လယ်ယာမြေကိုလုပ်ကိုင်သည့် အရွယ်ရောက်ပြီးသူ အရေအတွက်မှာ လေးယောက်ထက် ပိုစေရမည်ဖြစ်၊ ထိုအရွယ်ရောက်ပြီး သူတို့ကလည်း အဆိုပါ အိမ်ထောင်သားစု အကြီးအကဲ ပိုင်ဆိုင်သော လယ်ယာမြေကို လုပ်ကိုင်ရမည်။

(၃) အရွယ်မရောက်သေးသူတဦးသည်၊ သို့တည်းမဟုတ် စိတ်ပေါ့သွပ်သူတဦးသည်၊ ပုဒ်မ ၆ အရ ကင်းလွတ်ခွင့်ပြုထားသော လယ်ယာမြေကိုပိုင်ဆိုင်လျှင်၊ ထိုသူတို့၏အုပ်ထိန်းသူသည် အဆိုပါလယ်ယာ မြေနှင့်စပ်လျဉ်း၍၊ အောက်ပါစည်းကမ်းချက်များကိုလိုက်နာရမည်။

- (က) ထိုသူသည်၊ ပုဒ်မခွဲ (၁)၊ အပိုဒ် (က)၊ (ခ)၊ (ဃ)၊ (စ) နှင့် (ဆ) တွင် ပြဋ္ဌာန်းထားသည့် စည်းကမ်းချက်များကို လိုက်နာရမည်။ ထို့ပြင်
- (ခ) အဆိုပါ အုပ်ထိန်းသူသည်၊ သို့တည်းမဟုတ် ထိုသူ၏ ကိုယ်စားလှယ်သည်၊ ပုဒ်မ ၃၊ အပိုဒ် (ဂ) တွင် ပြဋ္ဌာန်းထားသည့် နည်းလမ်းအတိုင်း၊ အဆိုပါ လယ်ယာမြေကိုလုပ်ကိုင်ရမည်။

(၄) တောင်သူလယ်သမားမဟုတ်သည့် အိမ်ထောင်သားစု၏ အကြီးအကဲတဦးဦးသည်၊ ပုဒ်မ ၆ အရ ကင်းလွတ်ခွင့်ပြုထားသည့်လယ်ယာမြေကိုပိုင်ဆိုင်လျှင်၊ ထိုသူသည်၊ အဆိုပါလယ်ယာ မြေနှင့်စပ်လျဉ်း၍၊အောက်ပါစည်းကမ်းချက်များကိုလိုက်နာရမည်။

- (က) ထိုသူသည်၊ ပုဒ်မခွဲ (၁) တွင်ပြဋ္ဌာန်းထားသည့် စည်းကမ်းချက်များကိုလိုက်နာ ရမည်။ ထို့ပြင်
- (ခ) ထိုသူသည်၊ ပုဒ်မ ၃၊ အပိုဒ် (ဂ) တွင် ပြဋ္ဌာန်းထားသည့်နည်းလမ်းအတိုင်း၊ အဆိုပါလယ်ယာမြေကို ပုဒ်မ ၆ အရ၊ ထိုသူအား ကင်းလွတ်ခွင့်ဝေးသည့်နှစ် နောက်တဆက်တည်းဖြစ်သော လယ်ယာလုပ်ငန်းချိန်မှစ၍၊ သို့တည်းမဟုတ် အဆိုပါလယ်ယာမြေကိုပိုင်ဆိုင်သည့် နှစ်နောက်ကျရောက်သောလယ်ယာလုပ် ငန်းချိန်မှစ၍၊သို့တည်းမဟုတ်နိုင်ငံတော်သမ္မတကမ္ဘာ့သတ်မှတ်သည့် လယ်ယာလုပ်

ငန်းချိန်မှစ၍ သို့တည်းမဟုတ်ဤကိစ္စအလို့ငှါ နိုင်ငံတော်သမတဏ္ဍာန် အစီအစဉ် အာဏာပိုင်က သတ်မှတ်သည့် လယ်ယာလုပ်ငန်းချိန်မှစ၍ လုပ်ကိုင် ရမည်။

(၅) သာသနာဝန်ထမ်း တဦးဦးသည်၊ ပုဒ်မ ၆ အရ ကင်းလွတ်ခွင့်ပြုထားသော လယ် ယာမြေကိုပိုင်ဆိုင်လျှင်၊ ထိုပုဂ္ဂိုလ်သည်၊ အဆိုပါလယ်ယာမြေနှင့်စပ်လျဉ်း၍၊ အောက်ပါစည်းကမ်း ချက်များကိုလိုက်နာရမည်။

- (က) ထိုပုဂ္ဂိုလ်သည်၊ ပုဒ်မ ၉ ပါပြဋ္ဌာန်းချက်နှင့် မညီညွတ်လျှင်၎င်း၊ ဤအက်ဥပဒေ အရပြုသည့် နည်းဥပဒေများနှင့် မညီညွတ်လျှင်၎င်း၊ အဆိုပါ လယ်ယာမြေကို ပေါင်နှံခြင်း၊ ရောင်းချခြင်း၊ သို့တည်းမဟုတ် အခြားနည်းဖြင့် လွှဲပြောင်းခြင်း မပြုရ။
- (ခ) ထိုပုဂ္ဂိုလ်သည်၊ ပုဒ်မ ၉ ပါပြဋ္ဌာန်းချက်များနှင့်မညီညွတ်လျှင်၎င်း၊ ဤအက်ဥပဒေ အရပြုသည့် နည်းဥပဒေများနှင့်မညီညွတ်လျှင်၎င်း၊ အဆိုပါလယ်ယာမြေကို ခွဲစိတ်ခြင်း၊ သို့တည်းမဟုတ် လဲလှယ်ခြင်းမပြုရ။
- (ဂ) ထိုပုဂ္ဂိုလ်သည်၊ သာသနာဝန်ထမ်းအဖြစ်မှရပ်စဲခြင်းမရှိစေရ။
- (ဃ) ထိုပုဂ္ဂိုလ်သည်၊ အဆိုပါလယ်ယာမြေနှင့်စပ်လျဉ်း၍နိုင်ငံတော်က စည်းကြပ်သည့် အခွန်အတုတ်များကို ပေးဆောင်ရမည်။
- (င) ထိုပုဂ္ဂိုလ်သည်၊ အဆိုပါ လယ်ယာမြေမှရရှိသည့် ဝင်ငွေ ဝတ္ထုပစ္စည်းကို သာသနာရေးကိစ္စသက်သက်အတွက် အသုံးပြုရမည်။ ထို့ပြင်
- (စ) ထိုပုဂ္ဂိုလ်သည်၊ အဆိုပါလယ်ယာမြေကို လုံလောက်သော အကြောင်းမရှိဘဲ မြေလပ်အဖြစ်မထားရ။

ခြွင်းချက်။ ။သို့ရာတွင်၊ နိုင်ငံတော်သမတသည်၊ အကြောင်းအားလျော်စွာ၊ ဤပုဒ်မ ခွဲပါ စည်းကမ်းချက်များအနက်၊ မည်သည့် စည်းကမ်းချက်ကိုမဆို သာသနာ ဝန်ထမ်းတဦးဦးအား လိုက်နာခြင်းမှကင်းလွတ်ခွင့်ပြုနိုင်သည်။

(၆) သာသနာရေးအဆောက်အအုံတခုသည်၊ ပုဒ်မ ၆ အရ ကင်းလွတ်ခွင့် ပြုထားသော လယ်ယာမြေကိုပိုင်ဆိုင်လျှင်၊ အဆိုပါအဆောက်အအုံ၏ ဂေါပကလူကြီးများသည်၊ ထိုလယ်ယာ မြေနှင့်စပ်လျဉ်း၍၊ အောက်ပါစည်းကမ်းချက်များကိုလိုက်နာရမည်။

- (က) ထိုလူကြီးများသည်၊ ပုဒ်မ ၉ ပါ ပြဋ္ဌာန်းချက်များနှင့် မညီညွတ်လျှင်၎င်း၊ ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများနှင့်မညီညွတ်လျှင်၎င်း၊ အဆိုပါလယ် ယာမြေကို ပေါင်နှံခြင်း၊ ရောင်းချခြင်း၊ သို့တည်းမဟုတ် အခြားနည်းဖြင့် လွှဲပြောင်းခြင်းမပြုရ။
- (ခ) ထိုလူကြီးများသည်၊ ပုဒ်မ ၉ ပါ ပြဋ္ဌာန်းချက်များနှင့် မညီညွတ်လျှင်၎င်း၊ ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများနှင့် မညီညွတ်လျှင်၎င်း၊ အဆိုပါ လယ်ယာမြေကိုခွဲစိတ်ခြင်း၊ သို့တည်းမဟုတ်လဲလှယ်ခြင်းမပြုရ။
- (ဂ) ထိုလူကြီးများသည်၊ အဆိုပါ လယ်ယာမြေနှင့်စပ်လျဉ်း၍ နိုင်ငံတော်ကစည်း ကြပ်သည့်အခွန်အတုတ်များကို ပေးဆောင်ရမည်။
- (ဃ) ထိုလူကြီးများသည်၊ အဆိုပါလယ်ယာမြေကို လုံလောက်သောအကြောင်းမရှိဘဲ မြေလပ်အဖြစ်မထားရ။ ထို့ပြင်



- (င) ထိုလူကြီးများသည်၊ အဆိုပါလယ်ယာမြေမှရရှိသည့် ဝင်ငွေဝတ္ထုပစ္စည်းကို သာသနာရေးကိစ္စသက်သက်အတွက် အသုံးပြုရမည်။

ခြင်းချက်။ ။ သို့ရာတွင် နိုင်ငံတော်သမ္မတသည်၊ အကြောင်းအားလျော်စွာ၊ ဤပုဒ်မခွဲပါ စည်းကမ်းချက်များအနက်၊ မည်သည့် စည်းကမ်းချက်ကိုမဆို သာသနာရေး အဆောက်အအုံ၏ ဂေါပကလူကြီးများအား လိုက်နာခြင်းမှ ကင်းလွတ်ခွင့်ပြု နိုင်သည်။

၁၂။ ။ (၁) တောင်သူလယ်သမား အိမ်ထောင်သားစု၏ အကြီးအကဲ တဦးဦးသည်၊ ဝင်ငွေသော ပုဒ်မ ၇ အရ ဖြစ်စေ၊ ပုဒ်မ ၅၂ အရ ဖြစ်စေ၊ ဝင်ငွေသော လယ်ယာမြေကိုပိုင်ဆိုင်လျှင်၊ ထိုသူ လယ်ယာမြေ သည်၊ အဆိုပါ လယ်ယာမြေနှင့်စပ်လျဉ်း၍၊ အောက်ပါစည်းကမ်းချက်များကို လိုက်နာရမည်။ ဝင်ငွေသော လယ်ယာမြေ နှင့်စပ်လျဉ်း သည့် စည်း ကမ်းချက်များ။

- (က) ထိုသူသည်၊ ပုဒ်မ ၁၀ ပါ ပြဋ္ဌာန်းချက်များနှင့်မညီညွတ်လျှင်၎င်း၊ ဤအက်ဥပဒေ အရ ပြုသည့်နည်းဥပဒေများနှင့် မညီညွတ်လျှင်၎င်း၊ အဆိုပါ လယ်ယာမြေကို ပေါင်နှံခြင်း၊ ရောင်းချခြင်း၊ သို့တည်းမဟုတ် အခြားနည်းဖြင့် လွှဲပြောင်းခြင်း မပြုရ။
- (ခ) ထိုသူသည်၊ ပုဒ်မ ၁၀ ပါ ပြဋ္ဌာန်းချက်များနှင့်မညီညွတ်လျှင်၎င်း၊ ဤအက်ဥပဒေ အရပြုသည့် နည်းဥပဒေများနှင့် မညီညွတ်လျှင်၎င်း၊ အဆိုပါ လယ်ယာမြေကို ခွဲစိတ်ခြင်း၊ သို့တည်းမဟုတ်လဲလှယ်ခြင်းမပြုရ။
- (ဂ) ထိုသူသည်၊ ပုဒ်မ ၃၊ အပိုဒ် (ဝ) တွင်ပြဋ္ဌာန်းထားသည့် နည်းလမ်းအတိုင်း၊ အဆိုပါလယ်ယာမြေကို လုပ်ကိုင်ရမည်။
- (ဃ) ထိုသူပါဝင်သော အိမ်ထောင်သားစုသည်၊ တောင်သူလယ်သမား အိမ်ထောင် သားစုအဖြစ်မှ ရပ်စဲခြင်းမရှိစေရ။
- (င) ထိုသူသည်၊ အဆိုပါလယ်ယာမြေနှင့်စပ်လျဉ်း၍၊ နိုင်ငံတော်က စည်းကြပ်သော အခွန်အတုတ်များကို ပေးဆောင်ရမည်။
- (စ) ထိုသူသည်၊ အဆိုပါလယ်ယာမြေကို၊ လုံလောက်သောအကြောင်းမရှိဘဲခြေလှံ အဖြစ်မထားရ။
- (ဆ) ထိုသူသည်၊ အဆိုပါလယ်ယာမြေကို သီးစားချထားခြင်း၊ သို့တည်းမဟုတ် အငှား ချထားခြင်းမပြုရ။
- (ဇ) ထိုသူသည်၊ ဤအက်ဥပဒေပါ ပြဋ္ဌာန်းချက်များနှင့် ဤအက်ဥပဒေအရ ပြုသည့် နည်းဥပဒေများနှင့်အညီ၊ အခါအားလျော်စွာ တည်ထောင်ဖွဲ့စည်းထားသော တောင်သူလယ်သမားအဖွဲ့အစည်းများတွင်ပါဝင်ရမည်။

(၂) တောင်သူလယ်သမား အိမ်ထောင်သားစုတစ်စုတွင် ပါဝင်သော အရွယ်ရောက်ပြီး သူသည်၊ သို့တည်းမဟုတ် အရွယ်မရောက်သေးသူသည်၊ သို့တည်းမဟုတ် စိတ်ပေါ့သွပ်သူသည်၊ ပုဒ်မ ၇ အရ ဖြစ်စေ၊ ပုဒ်မ ၅၂ အရဖြစ်စေ၊ ဝင်ငွေသော လယ်ယာမြေကို ပိုင်ဆိုင်လျှင်၊ ထိုအရွယ် ရောက်ပြီးသူသည်၊ သို့တည်းမဟုတ် အရွယ် မရောက်သေးသူကို အုပ်ထိန်းသူသည်၊ သို့တည်းမဟုတ် စိတ်ပေါ့သွပ်သူကို အုပ်ထိန်းသူသည်၊ အဆိုပါ လယ်ယာမြေနှင့် စပ်လျဉ်း၍၊ အောက်ပါစည်းကမ်းချက်များကို လိုက်နာရမည်။

- (က) ထိုသူသည်၊ ပုဒ်မ ၁၀ ပါ ပြဋ္ဌာန်းချက်များနှင့် မညီညွတ်လျှင်၎င်း၊ ဤအက်ဥ ပဒေအရပြုသည့် နည်းဥပဒေများနှင့် မညီညွတ်လျှင်၎င်း၊ အဆိုပါ လယ်ယာမြေ

ကို ပေါင်နှံခြင်း၊ ရောင်းချခြင်း၊ သို့တည်းမဟုတ် အခြားနည်းဖြင့်လွှဲပြောင်းခြင်း မပြုရ။

- (ခ) ထိုသူသည်၊ ပုဒ်မ ၁၀ ပါ ပြဋ္ဌာန်းချက်များနှင့် မညီညွတ်လျှင်၊ ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများနှင့်မညီညွတ်လျှင်၊ အဆိုပါလယ်ယာမြေကို ခွဲစိတ်ခြင်း၊ သို့တည်းမဟုတ် လဲလှယ်ခြင်းမပြုရ။
- (ဂ) အဆိုပါအရွယ်ရောက်ပြီးသူသည်၊ သို့တည်းမဟုတ် အုပ်ထိန်းသူသည်၊ သို့တည်းမဟုတ် အုပ်ထိန်းသူ၏ ကိုယ်စားလှယ်သည်၊ အဆိုပါ လယ်ယာမြေကို ပုဒ်မ ၃၊ အပိုဒ်(ဂ) တွင် ပြဋ္ဌာန်းထားသည့် နည်းလမ်းအတိုင်း လုပ်ကိုင်ရမည်။
- (ဃ) ထိုသူသည်၊ အဆိုပါ လယ်ယာမြေနှင့်စပ်လျဉ်း၍၊ နိုင်ငံတော်က စည်းကြပ်သော အခွန်အတုတ်များကို ပေးဆောင်ရမည်။
- (င) ထိုသူသည်၊ အဆိုပါလယ်ယာမြေကို လုံလောက်သောအကြောင်းမရှိဘဲ မြေလပ်အဖြစ်ထားရ။
- (စ) ထိုသူသည်၊ အဆိုပါ လယ်ယာမြေကို၊ သီးစားချထားခြင်း၊ သို့တည်းမဟုတ် အငှားချထားခြင်းမပြုရ။ ထို့ပြင်
- (ဆ) ထိုသူသည်၊ ဤအက်ဥပဒေပါ ပြဋ္ဌာန်းချက်များနှင့် ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများနှင့်အညီ၊ အခါအားလျော်စွာ တည်ထောင်ဖွဲ့စည်းထားသော တောင်သူလယ်သမား အဖွဲ့အစည်းများတွင် ပါဝင်ရမည်။

အခန်း ၇။

တောင်သူလယ်သမားအဖွဲ့အစည်းများ။

တောင်သူလယ်သမားအဖွဲ့အစည်းများ။ ၁၃။ ။ (၁) နိုင်ငံတော်သမတသည်၊ ဤအက်ဥပဒေအရ၊ တောင်သူလယ်သမားများ ဝါဝင်ရမည်ဟု ပြဋ္ဌာန်းထားသော တောင်သူလယ်သမားအဖွဲ့အစည်းများနှင့်၊ မိမိကဖွဲ့စည်းရန် လိုအပ်သည်ဟု ထင်မြင်သည့် အခြားတောင်သူလယ်သမားအဖွဲ့အစည်းများအတွက် တည်ထောင် ဖွဲ့စည်းခြင်းနှင့် အုပ်ချုပ်ခြင်းကိစ္စများအတွက် နည်းဥပဒေများကိုပြုနိုင်သည်။

(၂) တောင်သူလယ်သမားအဖွဲ့အစည်းများသည်၊ ဤအက်ဥပဒေနှင့်သော်၎င်း၊ ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများနှင့်သော်၎င်း၊ မဆန့်ကျင်စေဘဲ၊ စည်းကမ်းဥပဒေများကိုပြုနိုင်သည်။

အခန်း ၈။

မြေယာကော်မီတီများ။

ဗဟိုမြေယာကော်မီတီ။ ၁၄။ ။ နိုင်ငံတော်သမတသည်၊ ဗဟိုမြေယာ ကော်မီတီတစ်ခုကို ခန့်အပ်နိုင်သည်။ ၎င်းပြင် အဆိုပါကော်မီတီအား၊ ဤအက်ဥပဒေပါ ကိစ္စများကို ဆောင်ရွက်ရန်အလို့ငှါ၊ အောက်ပါ အာဏာ အားလုံးကို၊ သို့တည်းမဟုတ် အာဏာတစ်ခုခုကို အပ်နှင်းနိုင်သည်။

- (က) လယ်ယာမြေဝေငှခြင်းနှင့်စပ်လျဉ်းသည့် စီမံကိန်းရေးဆွဲနိုင်သည့်အာဏာ။
- (ခ) တောင်သူလယ်သမား အဖွဲ့အစည်းများကို တည်ထောင်ဖွဲ့စည်းခြင်းနှင့်စပ်လျဉ်းသည့် စီမံကိန်းရေးဆွဲနိုင်သည့်အာဏာ။

- (ဂ) အခြားမြေယာကော်မတီများအား ယေဘုယျအားဖြင့် နည်းလမ်းညွှန်ပြနိုင်သည့် အာဏာ။
- (ဃ) အခြားမြေယာကော်မတီများအား ယေဘုယျအားဖြင့် ကြီးကြပ်အုပ်ချုပ်နိုင်သည့် အာဏာ။ ထို့ပြင်
- (င) နိုင်ငံတော်သမ္မတက နည်းဥပဒေဖြင့်ပြဋ္ဌာန်းသည့် အခြားအာဏာများ။

၁၅။ ။ နိုင်ငံတော်သမ္မတသည်၊ မိမိလိုအပ်သည်ဟု ထင်မြင်သည့် ခရိုင်များတွင် ခရိုင် မြေယာကော်မတီများကို ခန့်အပ်နိုင်သည်။ ၎င်းပြင် အဆိုပါကော်မတီများအား၊ ဤအက်ဥပဒေပါ ကော်မတီ၊ ကိစ္စများကို ဆောင်ရွက်ရန်အလို့ငှါ၊ အောက်ပါအာဏာအားလုံးကို၊ သို့တည်းမဟုတ် အာဏာ တခုခုကို အပ်နှင်းနိုင်သည်။

- (က) နည်းဥပဒေများတွင် ပြဋ္ဌာန်းထားသည့်အတိုင်း၊ ကျေးရွာ မြေယာ ကော်မတီ များကို၊ သို့တည်းမဟုတ် ရပ်ကွက်မြေယာကော်မတီများကို ရွေးကောက် တင်မြှောက်ရန်အတွက် စီစဉ်နိုင်သည့်အာဏာ။
- (ခ) ကျေးရွာမြေယာကော်မတီများအား၊ သို့တည်းမဟုတ် ရပ်ကွက်မြေယာကော်မတီ များအား၊ ယေဘုယျအားဖြင့် နည်းလမ်းညွှန်ပြနိုင်သည့် အာဏာ။
- (ဂ) ကျေးရွာ မြေယာကော်မတီများအား၊ သို့တည်းမဟုတ် ရပ်ကွက် မြေယာကော် မတီများအား၊ ယေဘုယျအားဖြင့် ကြီးကြပ်အုပ်ချုပ်နိုင်သည့်အာဏာ။ ထို့ပြင်
- (ဃ) နိုင်ငံတော်သမ္မတက နည်းဥပဒေဖြင့် ပြဋ္ဌာန်းသည့် အခြားအာဏာများ။

၁၆။ ။ နိုင်ငံတော်သမ္မတသည်၊ မိမိလိုအပ်သည်ဟု ထင်မြင်သည့် ဒေသများတွင်၊ ကျေးရွာ၊ ကျေးရွာ၊ သို့ မြေယာကော်မတီများကို၊ သို့တည်းမဟုတ် ရပ်ကွက်မြေယာကော်မတီများကို ရွေးကောက် တည်းမဟုတ် တင်မြှောက်ခြင်းဖြင့်ဖြစ်စေ၊ အခြားနည်းဖြင့်ဖြစ်စေ၊ ခန့်အပ်နိုင်သည်။ ၎င်းပြင်၊ အဆိုပါ ကော်မတီ ရပ်ကွက် မြေ ယာကော်မ တီများအား၊ ဤအက်ဥပဒေပါကိစ္စများကို ဆောင်ရွက်ရန်အလို့ငှါ၊ အောက်ပါ အာဏာအားလုံးကို၊ သို့တည်းမဟုတ် အာဏာတခုခုကို အပ်နှင်းနိုင်သည်။

- (က) ပုဒ်မ ၆ အရ၊ ကင်းလွတ်ခွင့်ပေးနိုင်သည့်အာဏာ။
- (ခ) ပုဒ်မ ၇ အရ၊ လယ်ယာမြေဝေငှနိုင်သည့်အာဏာ။
- (ဂ) ပုဒ်မ ၁၃ အရ၊ တောင်သူလယ်သမားအဖွဲ့အစည်းများကို တည်ထောင်ဖွဲ့စည်း နိုင်သည့်အာဏာ။ ထို့ပြင်
- (ဃ) နိုင်ငံတော်သမ္မတက နည်းဥပဒေဖြင့် ပြဋ္ဌာန်းသည့် အခြားအာဏာများ။

### အခန်း ၉။

#### ကောင်စီများ။

၁၇။ ။ (၁) နိုင်ငံတော်သမ္မတသည်၊ ကျေးလက်စီးပွားရေး (Rural Economy) ကောင်စီများ။ ကို အားပေးချီးမြှင့်ရန်ကိစ္စအလို့ငှါ၊ တောင်သူလယ်သမားအဖွဲ့အစည်းများ၏ ကိုယ်စားလှယ်များနှင့် နိုင်ငံတော်သမ္မတက လိုအပ်သည်ဟုထင်မြင်သည့် ကျွမ်းကျင်သူများပါဝင်သော အောက်ပါကောင်စီ များကို ဖွဲ့စည်းနိုင်သည်။

- (က) ပြည်ထောင်စု မြေယာနှင့် ကျေးလက်ကြီးပွားရေး (Rural Development) ကောင်စီ။

- (ခ) တိုင်းမြေယာနှင့် ကျေးလက်ကြီးပွားရေးကောင်စီ။ ထို့ပြင်
- (ဂ) ခရိုင်မြေယာနှင့် ကျေးလက်ကြီးပွားရေးကောင်စီ။

(၂) နိုင်ငံတော် သမတ သည်၊ အဆိုပါ ကောင်စီများကို ဖွဲ့စည်းရန်အလို့ငှါ နည်းဥပဒေများကို ပြုနိုင်သည်။

ခြွင်းချက်။ ။ သို့ရာတွင် နိုင်ငံတော် သမတ သည်၊ အခြားအဖွဲ့များကိုလည်း ခန့်အပ်နိုင်သည်။ ၎င်းပြင် အဆိုပါအဖွဲ့များအား၊ ကျေးလက်စီးပွားရေးကို အားပေးနိုင်ရန်အလို့ငှါ၊ ထိုအဖွဲ့များ၏ အာဏာများကို နည်းဥပဒေဖြင့် ပြဋ္ဌာန်းနိုင်သည်။

ပြည်ထောင်စု  
မြေယာနှင့်  
ကျေးလက်  
ကြီးပွားရေး  
ကောင်စီ၏  
အာဏာများ။

၁၈။ ။ နိုင်ငံတော် သမတ သည်၊ ပြည်ထောင်စုမြေယာနှင့် ကျေးလက်ကြီးပွားရေးကောင်စီအား၊ အောက်ပါ အာဏာအားလုံးကို၊ သို့တည်းမဟုတ် အာဏာတခုခုကို အပ်နှင်းနိုင်သည်။

- (က) တိုင်းမြေယာနှင့် ကျေးလက်ကြီးပွားရေးကောင်စီနှင့် ခရိုင်မြေယာနှင့် ကျေးလက်ကြီးပွားရေးကောင်စီများအပြင်၊ တောင်သူလယ်သမား အဖွဲ့အစည်းများကို တည်ထောင်ဖွဲ့စည်းရန်အတွက် စီမံကိန်းရေးဆွဲနိုင်သည့်အာဏာ။
- (ခ) အဆိုပါကောင်စီများနှင့် တောင်သူလယ်သမား အဖွဲ့အစည်းများ၏ လုပ်ငန်းဆောင်တာများနှင့်စပ်လျဉ်း၍၊ စီမံကိန်းရေးဆွဲနိုင်သည့်အာဏာ။
- (ဂ) အဆိုပါကောင်စီများနှင့် တောင်သူလယ်သမား အဖွဲ့အစည်းများ၏ လုပ်ငန်းဆောင်တာများကို ဆက်စပ်ပူးပေါင်းပေးနိုင်သည့် အာဏာ။
- (ဃ) အဆိုပါကောင်စီများနှင့် တောင်သူလယ်သမား အဖွဲ့အစည်းများကို ယေဘုယျအားဖြင့် နည်းလမ်းညွှန်ပြုနိုင်သည့်အာဏာ။ ထို့ပြင်
- (င) နိုင်ငံတော် သမတ က နည်းဥပဒေဖြင့် ပြဋ္ဌာန်းသည့် အခြားအာဏာများ။

တိုင်းမြေယာ  
နှင့် ကျေးလက်  
ကြီးပွားရေး  
ကောင်စီများ  
၏ အာဏာ  
များ။

၁၉။ ။ နိုင်ငံတော်သမတ သည်၊ တိုင်းမြေယာနှင့်ကျေးလက်ကြီးပွားရေးကောင်စီများအား၊ အောက်ပါအာဏာအားလုံးကို၊ သို့တည်းမဟုတ် အာဏာတခုခုကို အပ်နှင်းနိုင်သည်။

- (က) ခရိုင်မြေယာနှင့် ကျေးလက်ကြီးပွားရေးကောင်စီနှင့် တောင်သူလယ်သမားအဖွဲ့အစည်းများ၏ လုပ်ငန်းဆောင်တာများကို ဆက်စပ်ပူးပေါင်းပေးနိုင်သည့်အာဏာ။
- (ခ) အဆိုပါကောင်စီများနှင့် တောင်သူလယ်သမားအဖွဲ့အစည်းများအား၊ ယေဘုယျအားဖြင့် နည်းလမ်းညွှန်ပြုနိုင်သည့်အာဏာ။ ထို့ပြင်
- (ဂ) နိုင်ငံတော်သမတ က နည်းဥပဒေဖြင့် ပြဋ္ဌာန်းသည့် အခြားအာဏာများ။

ခရိုင်မြေယာနှင့်  
ကျေးလက်ကြီး  
ပွားရေး ကောင်  
စီများ၏ အာ  
ဏာများ။

၂၀။ ။ နိုင်ငံတော်သမတ သည်၊ ခရိုင်မြေယာနှင့်ကျေးလက်ကြီးပွားရေး ကောင်စီများအား၊ အောက်ပါအာဏာအားလုံးကို၊ သို့တည်းမဟုတ် အာဏာတခုခုကို အပ်နှင်းနိုင်သည်။

- (က) တောင်သူလယ်သမားအဖွဲ့အစည်းများ၏ လုပ်ငန်းဆောင်တာများကို ဆက်စပ်ပူးပေါင်းပေးနိုင်သည့်အာဏာ။
- (ခ) အဆိုပါ တောင်သူလယ်သမားအဖွဲ့အစည်းများအား၊ ယေဘုယျအားဖြင့် နည်းလမ်းညွှန်ပြုနိုင်သည့်အာဏာ။ ထို့ပြင်
- (ဂ) နိုင်ငံတော်သမတ က နည်းဥပဒေဖြင့်ပြဋ္ဌာန်းသည့် အခြားအာဏာများ။

၂၁။ ။ နိုင်ငံတော်သမ္မတသည်၊ အခါအားလျော်စွာ ကျေးလက်စီးပွားရေးဖွံ့ဖြိုးမှုအတွက် ကောင်စီများ လိုအပ်သည်ဟုထင်မြင်လျှင်၊ မြေယာနှင့် ကျေးလက်ကြီးပွားရေးဆိုင်ရာ တိုင်းများနှင့် ခရိုင်များ၏ နယ်နိမိတ်များကို သတ်မှတ်နိုင်သည်။

အခန်း ၁၀။

အာဏာပိုင်များနှင့် အမှုဆောင်အဖွဲ့များကို ခန့်အပ်ဖွဲ့စည်းခြင်း။

၂၂။ ။ နိုင်ငံတော်သမ္မတသည်၊ မိမိကလိုအပ်သည်ဟုထင်မြင်သည့် အာဏာပိုင်များကို ခန့်အပ်ဖွဲ့စည်း ခန့်အပ်နိုင်သည်။ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့များကို ဖွဲ့စည်းနိုင်သည်။ ၎င်းပြင် ဤအက်ဥပဒေပါ မြင်း၊ ကိစ္စများကို ဆောင်ရွက်ရန်အလိုရှိ၍၊ ထိုအာဏာပိုင်များ၏၊ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့များ၏ အာဏာများကို၊ နည်းဥပဒေဖြင့် ပြဋ္ဌာန်းနိုင်သည်။

အခန်း ၁၁။

ကော်မတီ၊ ကောင်စီ၊ အမှုဆောင်အဖွဲ့နှင့်အာဏာပိုင်တို့၏ အဆင့်အတန်းနှင့်အာဏာများ။

၂၃။ ။ ဤအက်ဥပဒေအရ ဖွဲ့စည်းထားသည့် ကောင်စီများ၊ သို့တည်းမဟုတ် အမှုဆောင် တရားမရုံး၏ အဖွဲ့များ၊ သို့တည်းမဟုတ် ခန့်အပ်ထားသည့်ကော်မတီများ၊ သို့တည်းမဟုတ် အာဏာပိုင်များသည်၊ အချို့အာဏာ များကို လွှဲအပ် ရာဇဝတ်ကုန်ထုံးဥပဒေပုဒ်မ ၄၈၀ နှင့် ပုဒ်မ ၄၈၂ တို့၏ အဓိပ္ပါယ်အရ၊ တရားရုံးများဖြစ်သည်ဟု မှတ်ယူရမည်။ ၎င်းပြင်၊ အဆိုပါကော်မတီသည်၊ သို့တည်းမဟုတ် ကောင်စီသည်၊ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့သည်၊ သို့တည်းမဟုတ် အာဏာပိုင်သည်၊ အောက်ပါ ကိစ္စများနှင့်စပ်လျဉ်း၍၊ တရားမကျင့်ထုံး ဥပဒေအရ၊ တရားရုံးများအား အပ်နှံထားသည့်အာဏာများကို ရရှိစေရမည်။

- (က) ဆိုင်ရာအကြောင်းအရာများနှင့် စာချုပ်စာတမ်းစသည်များကို ဖွင့်လှစ်ထုတ်ဖော် စေခြင်းနှင့် ကြည့်ရှုစစ်ဆေးခြင်း။
- (ခ) သက်သေများကို လာရောက်စေရန် အတင်းအကြပ် ဆင့်ဆိုခေါ်ယူခြင်း၊ သက် သေစရိတ်တင်သွင်းရန် ဆင့်ဆိုနိုင်ခြင်း။
- (ဂ) စာချုပ်စာတမ်းများကို လာရောက်တင်ပြစေရန် အတင်းအကြပ်ပြုလုပ်ခြင်း။
- (ဃ) သက်သေများကို ကျမ်းသစ္စာဖြင့် စစ်ဆေးခြင်း။
- (င) ရက်ချိန်းများပေးခြင်း။
- (စ) စာဖြင့်ရေးသား၍ ပေးပို့သော ကျမ်းကျိန်ထွက်ဆိုချက်များကို လက်ခံခြင်း။
- (ဆ) မလာမရောက်နိုင်သော သက်သေများကို ကော်မရှင်ထုတ်၍ စစ်ဆေးခြင်း။ ထို့ပြင်
- (ဇ) နေရာဌာနများကို ကြည့်ရှုစစ်ဆေးခြင်း။

၂၄။ ။ ဤအက်ဥပဒေအရ သဘောရိုးဖြင့်ပြုသော၊ သို့တည်းမဟုတ် သဘောရိုးဖြင့် ပြုရာ လွှတ်ငြိမ်းခွင့် ရောက်သော အပြုအမူတစ်ခုခုနှင့်စပ်လျဉ်း၍၊ ဤအက်ဥပဒေအရ ခန့်အပ်သော တဦးတယောက်သော ပေးခြင်း။ သူကိုဖြစ်စေ၊ အာဏာပိုင်တဦးဦးကိုဖြစ်စေ၊ အမှုဆောင်အဖွဲ့ဝင်တဦးဦးကိုဖြစ်စေ၊ ကော်မတီကိုဖြစ် စေ၊ သို့တည်းမဟုတ် ဤအက်ဥပဒေအရ ဖွဲ့စည်းသောကောင်စီကိုဖြစ်စေ၊ အမှုဆောင်အဖွဲ့ကိုဖြစ်စေ၊ တရားမမှုသော်၎င်း၊ ရာဇဝတ်မှုသော်၎င်း၊ တခြားတရားမှုခင်းသော်၎င်း စွဲဆိုခြင်းမပြုရ။

၂၁။ ။ နိုင်ငံတော်သမ္မတသည်၊ အခါအားလျော်စွာ ကျေးလက်စီးပွားရေးဖွံ့ဖြိုးမှုအတွက် ကောင်စီများ လိုအပ်သည်ဟုထင်မြင်လျှင်၊ မြေယာနှင့် ကျေးလက်ကြီးပွားရေးဆိုင်ရာ တိုင်းများနှင့် ခရိုင်များ၏ နယ်နိမိတ်များကို သတ်မှတ်နိုင်သည်။

အခန်း ၁၀။

အာဏာပိုင်များနှင့် အမှုဆောင်အဖွဲ့များကို ခန့်အပ်ဖွဲ့စည်းခြင်း။

၂၂။ ။ နိုင်ငံတော်သမ္မတသည်၊ မိမိကလိုအပ်သည်ဟုထင်မြင်သည့် အာဏာပိုင်များကို ခန့်အပ်ဖွဲ့စည်း ခန့်အပ်နိုင်သည်။ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့များကို ဖွဲ့စည်းနိုင်သည်။ ၎င်းပြင် ဤအက်ဥပဒေပါ မြေ၊ ကိစ္စများကို ဆောင်ရွက်ရန်အလို့ငှာ၊ ထိုအာဏာပိုင်များ၏၊ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့များ၏ အာဏာများကို၊ နည်းဥပဒေဖြင့် ပြဋ္ဌာန်းနိုင်သည်။

အခန်း ၁၁။

ကော်မီတီ၊ ကောင်စီ၊ အမှုဆောင်အဖွဲ့နှင့်အာဏာပိုင်တို့၏ အဆင့်အတန်းနှင့်အာဏာများ။

၂၃။ ။ ဤအက်ဥပဒေအရ ဖွဲ့စည်းထားသည့် ကောင်စီများ၊ သို့တည်းမဟုတ် အမှုဆောင် တရားမရုံး၏ အဖွဲ့များ၊ သို့တည်းမဟုတ် ခန့်အပ်ထားသည့်ကော်မီတီများ၊ သို့တည်းမဟုတ် အာဏာပိုင်များသည်၊ အချို့အာဏာ များကို လွှဲအပ် ရာဇဝတ်ကုဏ်ထူးဥပဒေပုဒ်မ ၄၈၀ နှင့် ပုဒ်မ ၄၈၂ တို့၏ အဓိပ္ပါယ်အရ၊ တရားရုံးများဖြစ်သည်ဟု မှတ်ယူရမည်။ ၎င်းပြင်၊ အဆိုပါကော်မီတီသည်၊ သို့တည်းမဟုတ် ကောင်စီသည်၊ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့သည်၊ သို့တည်းမဟုတ် အာဏာပိုင်သည်၊ အောက်ပါ ကိစ္စများနှင့်စပ်လျဉ်း၍၊ တရားမကျင့်ထုံး ဥပဒေအရ၊ တရားရုံးများအား အပ်နှံထားသည့်အာဏာများကို ရရှိစေရမည်။

- (က) ဆိုင်ရာအကြောင်းအရာများနှင့် စာချုပ်စာတမ်းစသည်များကို ဖွင့်လှစ်ထုတ်ဖော် စေခြင်းနှင့် ကြည့်ရှုစစ်ဆေးခြင်း။
- (ခ) သက်သေများကို လာရောက်စေရန် အတင်းအကြပ် ဆင့်ဆိုခေါ်ယူခြင်း၊ သက် သေစရိတ်တင်သွင်းရန် ဆင့်ဆိုနိုင်ခြင်း။
- (ဂ) စာချုပ်စာတမ်းများကို လာရောက်တင်ပြစေရန် အတင်းအကြပ်ပြုလုပ်ခြင်း။
- (ဃ) သက်သေများကို ကျမ်းသစ္စာဖြင့် စစ်ဆေးခြင်း။
- (င) ရက်ချိန်းများပေးခြင်း။
- (စ) စာဖြင့်ရေးသား၍ ပေးပို့သော ကျမ်းကျိန်ထွက်ဆိုချက်များကို လက်ခံခြင်း။
- (ဆ) မလာမရောက်နိုင်သော သက်သေများကို ကော်မရှင်ထုတ်၍ စစ်ဆေးခြင်း။ ထို့ပြင်
- (ဇ) နေရာဌာနများကို ကြည့်ရှုစစ်ဆေးခြင်း။

၂၄။ ။ ဤအက်ဥပဒေအရ သဘောရိုးဖြင့်ပြုသော၊ သို့တည်းမဟုတ် သဘောရိုးဖြင့် ပြုရာ လွှတ်ငြိမ်းခွင့် ရောက်သော အပြုအမူတခုခုနှင့်စပ်လျဉ်း၍၊ ဤအက်ဥပဒေအရ ခန့်အပ်သော တဦးတယောက်သော ပေးခြင်း။ သူကိုဖြစ်စေ၊ အာဏာပိုင်တဦးဦးကိုဖြစ်စေ၊ အမှုဆောင်အဖွဲ့ဝင်တဦးဦးကိုဖြစ်စေ၊ ကော်မီတီကိုဖြစ် စေ၊ သို့တည်းမဟုတ် ဤအက်ဥပဒေအရ ဖွဲ့စည်းသောကောင်စီကိုဖြစ်စေ၊ အမှုဆောင်အဖွဲ့ကိုဖြစ်စေ၊ တရားမမှုသော်၎င်း၊ ရာဇဝတ်မှုသော်၎င်း၊ တခြားတရားမူဝင်သော်၎င်း စွဲဆိုခြင်းမပြုရ။

ပြည်သူ့ဝန်ထမ်း။

၂၅။ ။ ဤအက်ဥပဒေအရ ခန့်အပ်ထားသည့်သူသည်၊ သို့တည်းမဟုတ် အာဏာပိုင်သည်၊ သို့တည်းမဟုတ် ကောင်စီလူကြီးသည်၊ သို့တည်းမဟုတ် ကော်မတီလူကြီးသည်၊ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့ဝင်လူကြီးသည်၊ ရာဇသတ်ကြီးပုဒ်မ ၂၁ ၏ အဓိပ္ပါယ်အရ၊ ပြည်သူ့ဝန်ထမ်းဖြစ်သည်ဟု မှတ်ယူရမည်။

အခန်း ၁၂။

နုတ်ပယ်ခြင်းနှင့် ဖျက်သိမ်းခြင်း။

အဖွဲ့ဝင်များအား နုတ်ပယ်ခြင်း။

၂၆။ ။ ဤအက်ဥပဒေအရ ခန့်အပ်သည့် ကော်မတီလူကြီးသည်၊ သို့တည်းမဟုတ် ကောင်စီလူကြီးသည်၊ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့အဖွဲ့ဝင်လူကြီးသည်၊ မိမိ၏တာဝန်ကို ဆောင်ရွက်ရန် ထပ်တလဲလဲပျက်ကွက်လျှင်၊ သို့တည်းမဟုတ် မိမိ၏အာဏာများကို ပိုမိုသုံးစွဲလျှင်၊ သို့တည်းမဟုတ် အလွဲသုံးစွဲလျှင်၊ နိုင်ငံတော်သမ္မတ သည်၊ ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများနှင့်အညီ စုံစမ်းစစ်ဆေးရန် ညွှန်ကြားနိုင်သည့်ပြင်၊ ထိုသို့စုံစမ်းစစ်ဆေးပြီးလျှင် အဆိုပါကော်မတီလူကြီးကို၊ သို့တည်းမဟုတ် ကောင်စီလူကြီးကို၊ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့ဝင်လူကြီးကို နုတ်ပယ်နိုင်သည်။ သို့တည်းမဟုတ် နိုင်ငံတော်သမ္မတက၊ သင့်သည်ထင်မြင်သည့် ကာလအပိုင်းအခြားအတွက် ရာထူးမှခေတ္တချုတ်ထားနိုင်သည်။ သို့တည်းမဟုတ် ၎င်း၏အာဏာအားလုံးကိုဖြစ်စေ၊ အချို့ကိုဖြစ်စေ၊ ရုပ်သိမ်းနိုင်သည်။

ကော်မတီ၊ ကောင်စီနှင့် အမှုဆောင်အဖွဲ့များကို ခေတ္တရာထူးမှ ချုတ်သိမ်းခြင်းနှင့် ဖျက်သိမ်းခြင်း။

၂၇။ ။ ဤအက်ဥပဒေအရခန့်အပ်သည့် ကော်မတီသည်၊ သို့တည်းမဟုတ် ဖွဲ့စည်းသည့် ကောင်စီသည်၊ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့သည်၊ မိမိ၏တာဝန်များကို ဆောင်ရွက်ရန် ထပ်တလဲလဲပျက်ကွက်လျှင်၊ သို့တည်းမဟုတ် မိမိ၏အာဏာများကို ပိုမိုသုံးစွဲလျှင်၊ သို့တည်းမဟုတ် အလွဲသုံးစွဲလျှင် နိုင်ငံတော်သမ္မတ သည်၊ ဤအက်ဥပဒေအရ ပြုသည့်နည်းဥပဒေများနှင့်အညီ စုံစမ်းစစ်ဆေးရန်၊ ညွှန်ကြားနိုင်သည့်ပြင်၊ ထိုသို့စုံစမ်းစစ်ဆေးပြီးလျှင်၊ အဆိုပါ ကော်မတီကို၊ သို့တည်းမဟုတ် ကောင်စီကို၊ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့ကို ဖျက်သိမ်းနိုင်သည်။ သို့တည်းမဟုတ် နိုင်ငံတော်သမ္မတက သင့်သည်ထင်မြင်သည့် ကာလအပိုင်းအခြားအတွက်၊ ခေတ္တရပ်စဲထားနိုင်သည်။ သို့တည်းမဟုတ် ၎င်း၏အာဏာအားလုံးကိုဖြစ်စေ၊ အချို့ကိုဖြစ်စေ၊ ရုပ်သိမ်းနိုင်သည်။

အကူးအပြောင်း ကာလဆိုင်ရာ လုပ်ငန်း အစီအစဉ်။

၂၈။ ။ နိုင်ငံတော်သမ္မတသည်၊ ဤအက်ဥပဒေအရ ခန့်အပ်သည့် ကော်မတီကိုဖြစ်စေ၊ ဖွဲ့စည်းသည့် ကောင်စီကိုဖြစ်စေ၊ ဖွဲ့စည်းသည့်အမှုဆောင်အဖွဲ့ကိုဖြစ်စေ၊ ဖျက်သိမ်းရန်၊ သို့တည်းမဟုတ် ခေတ္တရပ်စဲထားရန်၊ သို့တည်းမဟုတ် အာဏာများကိုရုပ်သိမ်းရန်၊ ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများနှင့် အညီညွှန်ကြားရာ၌၊ ထိုကော်မတီ၏၊ သို့တည်းမဟုတ် ကောင်စီ၏၊ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့၏ လုပ်ငန်းဆောင်တာများကိုဖြစ်စေ၊ အဆိုပါရုပ်သိမ်းပြီးသော အာဏာများကိုဖြစ်စေ၊ နိုင်ငံတော်သမ္မတက သင့်သည်ထင်မြင်သည့်အာဏာပိုင်က ဆောင်ရွက်ရမည်ဟု၊ သို့တည်းမဟုတ် သုံးစွဲရမည်ဟု ညွှန်ကြားနိုင်သည်။ ၎င်းပြင်၊ နိုင်ငံတော်သမ္မတသည်၊ အဆိုပါအာဏာပိုင်အား အကြံဉာဏ်ပေးရန် အတိုင်ပင်ခံအဖွဲ့တဖွဲ့ကိုလည်း ခန့်အပ်နိုင်သည်။

အခန်း ၁၃။

စည်းကမ်းချက်များကို လိုက်နာရန်ပျက်ကွက်၍ ကင်းလွတ်ခွင့်ပြုပြီးသောလယ်ယာမြေနှင့် ဝေငှပြီး သောလယ်ယာမြေကို ပြန်လည်သိမ်းယူခြင်း။

၂၉။ ။ (၁) ပုဒ်မ ၁၁ ကွင် ပြဋ္ဌာန်းထားသည့် စည်းကမ်းချက်များကို တရားဥပဒေအရ လိုက်နာရန် တာဝန်ရှိသူ မည်သူမဆို၊ ပုဒ်မခွဲ (၁) နှင့် (၅) ၏ အပိုဒ် (ခ)၊ (ဃ) နှင့် (စ) အပြင်၊ ပုဒ်မခွဲ (၆) ပါ စည်းကမ်းချက်များမှတစ်ပါး၊ ပုဒ်မ ၁၁ ၏ အခြားစည်းကမ်းချက် တခုခုကို လိုက်နာ ရန် ပျက်ကွက်လျှင်၊ နိုင်ငံတော်သမ္မတက ဤကိစ္စအလို့ငှါ ခန့်အပ်သည့်အာဏာပိုင်များသည်၊ ဤ အက်ဥပဒေအရပြုသည့် နည်းဥပဒေများနှင့်အညီ စုံစမ်းစစ်ဆေးပြီးနောက်၊ အဆိုပါစည်းကမ်းဖောက် ဖျက်မှုနှင့်စပ်လျဉ်းသည့် ထိုသူ၏ လယ်ယာမြေကို၊ လျော်ကြေးမပေးဘဲ ပြန်လည်သိမ်းယူရမည်။

ပုဒ်မ ၁၁ ပါ စည်းကမ်း ချက် များကိုလိုက်နာ ရန် ပျက်ကွက်၍ ပြန်လည် သိမ်း ယူခြင်း။

(၂) ပုဒ်မ ၄ တွင်ပါရှိသည့်ပြဋ္ဌာန်းချက်များကို တရားဥပဒေအရ လိုက်နာရန် တာဝန် ရှိသူ မည်သူမဆို၊ အဆိုပါပြဋ္ဌာန်းချက် တခုခုကိုလိုက်နာရန် ပျက်ကွက်လျှင်၊ နိုင်ငံတော်သမ္မတက ဤကိစ္စအလို့ငှါ ခန့်အပ်သည့် အာဏာပိုင်များသည်၊ ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများနှင့် အညီ စုံစမ်းစစ်ဆေးပြီးနောက်၊ အဆိုပါပြဋ္ဌာန်းချက်ဖောက်ဖျက်မှုနှင့် စပ်လျဉ်းသည့်ထိုသူ၏လယ်ယာ မြေကို၊ လျော်ကြေးမပေးဘဲ ပြန်လည်သိမ်းယူရမည်။

(၃) နိုင်ငံတော်သမ္မတသည်၊ သို့တည်းမဟုတ် ဤကိစ္စအလို့ငှါ နိုင်ငံတော်သမ္မတက ခန့် အပ်သည့် အာဏာပိုင်သည်၊ ဤအက်ဥပဒေအရ လယ်ယာမြေများကိုသိမ်းယူခြင်းမှ၊ ကင်းလွတ်ခွင့် ရရှိသူတို့အားမိမိအား မူလပေးခဲ့သော ကင်းလွတ်ခွင့်အရ ပိုင်ဆိုင်ခွင့်ပြုသည့် လယ်ယာမြေ ဧရိယာထက်၊ ဤအက်ဥပဒေနှင့်အညီမဟုတ်ဘဲ၊ လယ်ယာမြေကို ပိုမိုပိုင်ဆိုင်နေလျှင်၊ ထိုပိုမိုပိုင်ဆိုင် နေသည့်လယ်ယာမြေကို၊ လျော်ကြေးမပေးဘဲ ပြန်လည်သိမ်းယူနိုင်သည်။

၃၀။ ။ ပုဒ်မ ၁၁၊ ပုဒ်မခွဲ (၁) ၏၊ သို့တည်းမဟုတ် ပုဒ်မခွဲ (၅) ၏ အပိုဒ် (ခ) တွင်ဖြစ် စေ၊ အပိုဒ် (စ) တွင်ဖြစ်စေ၊ ပြဋ္ဌာန်းထားသည့် စည်းကမ်းချက်များကို တရားဥပဒေအရ၊ လိုက်နာရန် တာဝန်ရှိသူ မည်သူမဆို၊ အဆိုပါစည်းကမ်းချက် တခုခုကိုလိုက်နာရန် ထပ်တလဲလဲပျက်ကွက်လျှင်၊ နိုင်ငံတော်သမ္မတက ဤကိစ္စအလို့ငှါခန့်အပ်သည့် အာဏာပိုင်များသည်၊ ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများနှင့် အညီစုံစမ်းစစ်ဆေးပြီးနောက်၊ အဆိုပါစည်းကမ်းဖောက်ဖျက်မှုနှင့် စပ်လျဉ်းသည့် ထိုသူ၏လယ်ယာမြေကို၊ လျော်ကြေးမပေးဘဲ ပြန်လည်သိမ်းယူရမည်။

ပုဒ်မ ၁၁ ပါ အချို့စည်း ကမ်း ချက်များ ကို လိုက်နာရန် ထပ်တလဲလဲ ပျက်ကွက်၍ ပြန်လည် သိမ်း ယူခြင်း။

၃၁။ ။ ပုဒ်မ ၁၂ တွင် ပြဋ္ဌာန်းထားသည့် စည်းကမ်းချက်များကို တရားဥပဒေအရ လိုက် နာရန်တာဝန်ရှိသူ မည်သူမဆို၊ ပုဒ်မ ၁၂၊ ပုဒ်မခွဲ (၁)၊ အပိုဒ် (ခ)၊ (င) နှင့် (စ) အပြင်၊ ပုဒ်မခွဲ (၂)၊ အပိုဒ် (ခ)၊ (ဃ) နှင့် (င) ပါ စည်းကမ်းချက်များမှတစ်ပါး၊ ပုဒ်မ ၁၂ ၏ အခြားစည်းကမ်း ချက်တခုခုကိုလိုက်နာရန်ပျက်ကွက်လျှင် နိုင်ငံတော်သမ္မတက၊ ဤကိစ္စအလို့ငှါခန့်အပ်သည့်အာဏာ ပိုင်များသည်၊ ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများနှင့်အညီ၊ စုံစမ်းစစ်ဆေးပြီးနောက်၊ အဆို ပါစည်းကမ်းဖောက်ဖျက်မှုနှင့်စပ်လျဉ်းသည့် ထိုသူ၏လယ်ယာမြေကို၊ လျော်ကြေးမပေးဘဲ ပြန်လည် သိမ်းယူရမည်။

ပုဒ်မ ၁၂ ပါ စည်းကမ်း ချက် များကိုလိုက်နာ ရန် ပျက်ကွက်၍ ပြန်လည် သိမ်း ယူခြင်း။



ပုဒ်မ ၁၂ ပါ ၃၂။ ။ပုဒ်မ ၁၂၊ ပုဒ်မခွဲ(၁)၊ အပိုဒ်(ခ)တွင်ဖြစ်စေ၊ အပိုဒ်(စ)တွင်ဖြစ်စေ၊ သို့တည်း  
အချို့ စည်း မဟုတ် ပုဒ်မ ၁၂၊ ပုဒ်မခွဲ(၂)၊ အပိုဒ်(ခ)တွင်ဖြစ်စေ၊ အပိုဒ်(င)တွင်ဖြစ်စေ၊ ပြဋ္ဌာန်းထားသည့်  
ကမ်းချက် များ စည်းကမ်းချက်များကို တရားဥပဒေအရလိုက်နာရန် တာဝန်ရှိသူမည်သူမဆို၊ အဆိုပါစည်းကမ်းချက်  
ကို လိုက်နာရန် ထပ်တလဲလဲ ဖျက်ကွက်မှုပြုလုပ်လျှင်၊ နိုင်ငံတော်သမ္မတက ဤကိစ္စအလို့ငှါ ခန့်အပ်သည့်  
ပျက်ကွက်မှု ပြန် အာဏာပိုင်များသည်၊ ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများနှင့်အညီ စုံစမ်းစစ်ဆေးပြီးနောက်၊  
လည် သိမ်းယူ အဆိုပါ စည်းကမ်းချက်များနှင့်စပ်လျဉ်းသည့် ထိုသူ၏လယ်ယာမြေကို၊ လျော်ကြေး မပေးဘဲ  
ခြင်း။ ပြန်လည်သိမ်းယူရမည်။

မမြေလည် ၃၃။ ။ဤအက်ဥပဒေအရ လယ်ယာမြေကို ပိုင်ဆိုင်သူသည်၊ နိုင်ငံတော်က စည်းကြပ်သည့်  
သော အခွန်အ တွက်များကို ပေးဆောင်ရန် ဖျက်ကွက်လျှင်၊ တည်ဆဲတရားဥပဒေအရ၊ ထိုအခွန်အတွက်ကို  
တွက်များကို မြေခွန်တော်မပြေ ကျန်ငွေဖြစ်ဘိသကဲ့သို့ တောင်းခံရမည်။  
တောင်းခံခြင်း။

အခန်း ၁၄။

အယူခံခြင်း၊ ပြန်လည်ဆင်ခြင်ခြင်းနှင့် ပြင်ဆင်ခြင်းများ။

အာဏာ အပ် ၃၄။ ။နိုင်ငံတော်သမ္မတသည်၊ နည်းဥပဒေဖြင့်၊ အောက်ပါ ကိစ္စများအတွက် ပြဋ္ဌာန်း  
နှင်းခြင်း။ နိုင်သည်။

- (က) ဤအက်ဥပဒေအရ ခန့်အပ်သောကောင်မီတီက၊ သို့တည်းမဟုတ် အာဏာပိုင်က  
ဖြစ်စေ၊ ဖွဲ့စည်းထားသောကောင်မီတီက၊ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့ကဖြစ်  
စေ၊ ချမှတ်သောအမိန့်ကို၊ သို့တည်းမဟုတ် စီရင်ချက်ကို၊ အယူခံခြင်း၊ ပြန်လည်  
ဆင်ခြင်ခြင်းအပြင်၊ မြင်ဆင်ခြင်းနှင့် စပ်လျဉ်းသော အာဏာများအပ်နှင်းခြင်း။
- (ခ) အယူခံမှု၊ ပြန်လည်ဆင်ခြင်မှုနှင့် ပြင်ဆင်မှုများအတွက် ကာလစည်းကမ်းသတ်မှတ်  
သတ်မှတ်ခြင်း။ ထို့ပြင်
- (ဂ) ပြဋ္ဌာန်းရန်လိုအပ်သည်ဟု ထင်မြင်ယူဆသော အခြားကိစ္စများ။

ပြင်ဆင်ခြင်း။ ၃၅။ ။နိုင်ငံတော်သမ္မတသည်၊ မည်သည့်အချိန်အခါတွင်မဆို လိုအပ်သည်ဟု ထင်မြင်  
ယူဆလျှင်၊ ဤအက်ဥပဒေပါ ပြဋ္ဌာန်းချက်များနှင့် ဤအက်ဥပဒေအရပြုသည့် နည်းဥပဒေပါ ပြဋ္ဌာန်း  
ချက်များအရ ချမှတ်ထားသော အမိန့်ကို၊ သို့တည်းမဟုတ် စီရင်ချက်ကို၊ အတည်ပြုနိုင်သည်။  
သို့တည်းမဟုတ် ပြင်ဆင်နိုင်သည်။ သို့တည်းမဟုတ် ပယ်ဖျက်နိုင်သည်။

အခန်း ၁၅။

တရားမရုံးနှင့် အခြားအာဏာပိုင်များ၏ စီရင်ပိုင်ခွင့်အာဏာကို တားမြစ်ခြင်း။

တရားမရုံး၏ စီ ၃၆။ ။တည်ဆဲအခြားတရားဥပဒေတွင် မည်သို့ပင်ပါရှိစေကာမူ၊ လျော်ကြေးကို မည်သူရ  
ရင်ပိုင်ခွင့် အာ ထိုက်သည်ဟုသောပြဿနာနှင့်စပ်လျဉ်း၍၊ အပြင်းပျင်းသောမူခင်းကိစ္စနှင့်၊ အုပ်ထိန်းသူခန့်အပ်ခြင်းနှင့်  
ဏာကို တား စပ်လျဉ်းသည့် မူခင်းကိစ္စများမှတစ်ပါး၊ ဤအက်ဥပဒေပါ မည်သည့်အခြားကိစ္စကိုမျှ တရားမရုံးက၊  
မြစ်ခြင်း။ စီရင်ပိုင်ခွင့်အာဏာမရှိစေရ။

၃၇။ ။လယ်ယာမြေကို တရားမရုံးကချမှတ်သောအမိန့်၊ သို့တည်းမဟုတ် ဒီကနီအရသော် လယ်ယာ မြေ  
 ၎င်း၊ တည်ဆဲ အခြားတရားဥပဒေအရ ချမှတ်သော အမိန့်အရသော်၎င်း၊ ဝါရမ်းဖမ်းဆီးခြင်း၊ ကျောင်းချင်း  
 သို့တည်းမဟုတ် ရောင်းချခြင်းမပြုရ။ မူ ကာကွယ်  
 ခြင်း။

အခန်း ၁၆။

လယ်ယာမြေကိုအသုံးချခြင်း။

၃၈။ ။(၁) နိုင်ငံတော်သမတသည်၊ ဒေသတခုခုတွင် သီးနှံအမျိုးအစား တခုခုကိုစိုက် လယ်ယာ မြေ  
 ပျိုးခြင်းဖြင့်သော်၎င်း၊ ဒေသတခုခုတွင် လယ်ယာမြေကို သတ်မှတ်ထားသော နည်းလမ်းအတိုင်း ကိုအသုံးချ  
 အသုံးချခြင်းဖြင့်သော်၎င်း၊ နိုင်ငံတော်အတွက်ဖြစ်စေ၊ တောင်သူလယ်သမားများ အတွက်ဖြစ်စေ၊ ခြင်း။  
 အကျိုးဖြစ်ထွန်းစေမည်ဟု ထင်မြင်ယူဆလျှင်၊ အဆိုပါ သီးနှံအမျိုးအစားကို စိုက်ပျိုးစေရန်သော်၎င်း၊  
 အဆိုပါနည်းလမ်းအတိုင်း လယ်ယာမြေကို အသုံးချစေရန်သော်၎င်း၊ သို့တော်မည် ထင်မြင်သည့်  
 အတိုင်း ဆောင်ရွက်နိုင်သည်။ သို့တည်းမဟုတ် ဆောင်ရွက်စေနိုင်သည်။

(၂) နိုင်ငံတော်သမတသည်၊ ဖုန်မခွဲ (၁) ပါကီစွများကို ဆောင်ရွက်ရန် အလို့ငှါ  
 နည်းဥပဒေများပြုနိုင်သည်။

၃၉။ ။ဤအက်ဥပဒေပါ အခြားပြဋ္ဌာန်းချက်များတွင် ပည်သူပင်ပါရှိစေကာမူ၊ နိုင်ငံတော် လယ်ယာ မြေ  
 သမတသည်၊ သို့တည်းမဟုတ် ဤကိစ္စအလို့ငှါ၊ နိုင်ငံတော်သမတက ခန့်အပ်သောအာဏာပိုင် ကိုသတ်မှတ်  
 သည်။ လိုအပ်သည်ဟုထင်မြင်ယူဆလျှင်၊ မည်သည့် လယ်ယာမြေကိုမဆို ဒီမိုသတ်မှတ်သည့်နည်း သည်နည်းလမ်း  
 လမ်းအတိုင်း အသုံးချရန်ဆင့်ဆိုနိုင်သည်။ အတိုင်း အသုံး  
 ခြင်း။

၄၀။ ။(၁) နိုင်ငံတော်သမတသည်၊ တည်ဆဲအခြားတရားဥပဒေနှင့်ဤအက်ဥပဒေတွင် အချို့ လယ်ယာ  
 မည်သူပင်ပါရှိစေကာမူ၊ ကျွန်းမြေ၊ ကျေးရွာ လယ်ယာသုံမြေ(Village Communal Land)နှင့် အမျိုးအစား  
 နိုင်ငံတော်က အလိုရှိသည့်အတိုင်း သုံးစွဲနိုင်သည့် လယ်ယာ လုပ်ကိုင်နိုင်သော မြေရိုင်းများကို များကို အသုံးချ  
 ဤအက်ဥပဒေအရ ပြုသည့်နည်းဥပဒေများနှင့်အညီ စီမံခန့်ခွဲစေနိုင်သည်။ ခြင်းနှင့် ဆက်  
 လက် ထားရှိ  
 ခြင်း။

(၂) နိုင်ငံတော်သမတကသော်၎င်း၊ ဤကိစ္စအလို့ငှါ နိုင်ငံတော်သမတက ခန့်အပ်သော  
 အာဏာပိုင်ကသော်၎င်း၊ အခြားနည်းအမိန့် ဆင့်ဆိုသည်မှတစ်ပါး၊ ကျွဲနွားစားကျက်များနှင့် ရွာဘုံ  
 မြေများကို မပျက်စီးစေဘဲ ဆက်လက်ထားရှိရမည်။

အခန်း ၁၇။

လယ်ယာမြေကိုအုပ်ချုပ်ခြင်း။

၄၁။ ။တည်ဆဲအခြားတရားဥပဒေတွင် မည်သူပင်ပါရှိစေကာမူ၊ နိုင်ငံတော်သမတသည်၊ လယ်ယာမြေ  
 ဤအက်ဥပဒေအရ၊ လယ်ယာမြေကို အုပ်ချုပ်ရန်ကိစ္စအလို့ငှါ နည်းဥပဒေများပြုနိုင်သည်။ ကို အုပ်ချုပ်  
 ခြင်း။

အခန်း ၁၀။

လျှော်ကြေး။

လျှော်ကြေးပေးခြင်း။

၎ ၄၂။ ။(၁) တည်ဆဲအခြားတရားဥပဒေတွင် မည်သို့ပင်ပါရှိစေကာမူ၊ ဤအက်ဥပဒေပါ အခြားပြဌာန်းချက်များကို အထောက်အထားပြု၍၊ ပုဒ်မ ၅ အရဖြစ်စေ၊ ပုဒ်မ ၉၊ ပုဒ်မခွဲ (၂)၊ ခြွင်းချက်အရဖြစ်စေ၊ နိုင်ငံတော်က ပြန်လည်သိမ်းယူသော လယ်ယာမြေအတွက် လျှော်ကြေးကို၊ ဤပုဒ်မနှင့် ဇယား ၂ ပါ ပြဌာန်းချက်များနှင့်အညီ ပေးရမည်။

ခြွင်းချက်။ ။သို့ရာတွင် နိုင်ငံတော်က လယ်ယာမြေများကို ပြန်လည် သိမ်းယူသည့်အတွက် ဤပုဒ်မခွဲအရ၊ ပိုင်ရှင်တစ်ဦးက ထိုယာမြေအတွက် ရရှိမည့်လျှော်ကြေးငွေစုစုပေါင်း၏ ဖျမ်းမျှခြင်း လျှော်ကြေးနှုန်းသည်၊ တဧကလျှင် ငွေတကျပ်ပြားငါးဆယ်ထက်လျော့နည်းလျှင်၊ ထိုယာမြေများ အတွက် လျှော်ကြေးငွေကို တဧကလျှင်ငွေတကျပ်ပြားငါးဆယ်အထိ တိုးမြှင့်၍ပေးရမည်။

(၂) အပိုင်စာချုပ် (Grant) အရ၊ သို့တည်းမဟုတ် အငှားစာချုပ် (Lease) အရ၊ လယ်ယာမြေအပေါ်တွင် အခွင့်အရေးရရှိ၍၊ ထိုအပိုင်စာချုပ် (Grant) ကို၊ သို့တည်းမဟုတ် အငှားစာချုပ် (Lease) ကို ရရှိရန်အတွက် အစိုးရအား စပေါ်ငွေ (Premium) ပေးခဲ့ရသောလယ်ယာမြေကို နိုင်ငံတော်က ပြန်လည်သိမ်းယူလျှင်၊ ပုဒ်မခွဲ (၁) အရ ပေးရမည့်လျှော်ကြေးအပြင်၊ အဆိုပါ စပေါ်ငွေ (Premium) နှင့်ညီမျှသောငွေကိုလည်း လျှော်ကြေးအဖြစ်ပေးရမည်။

(၃) ပုဒ်မခွဲ (၁) တွင် ရည်ညွှန်းထားသောလယ်ယာမြေကို အဆောက်အအုံဖြင့် တိုးတက်ကောင်းမွန်အောင် ပြုပြင်ထားလျှင်၊ ထိုသို့ပြုပြင်ထားခြင်းအတွက်လျှော်ကြေးပေးရမည်။ အဆိုပါ တိုးတက်ကောင်းမွန်အောင် ပြုပြင်ထားသည့် အဆောက်အအုံများကို၊ အောက်ပါနည်းလမ်းအတိုင်း တန်ဖိုးဖြတ်ရမည်။

မူလတည်ဆောက်သည့်ကုန်ကျစရိတ်နှင့်ထိုသို့တည်ဆောက်ထားသည့်အဆောက်အအုံကို မွမ်းမံပြုပြင်သည့်အတွက် ကုန်ကျစရိတ် နှစ်ရပ်စပါးမှ တန်ဖိုးယုတ်လျော့သည့်အတွက်နှင့် ပျက်စီးယိုယွင်းသည့်အတွက် တန်ဖိုးကိုနုတ်ရမည်။

(၄) နိုင်ငံတော်သမတသည်၊ ဤပုဒ်မအရ ပေးရမည့်လျှော်ကြေးကို၊ ငွေဖြင့်ဖြစ်စေ၊ စာချုပ်စာတမ်း (Bond) ဖြင့်ဖြစ်စေ၊ အခြားနည်းလမ်းဖြင့်ဖြစ်စေတတ်ကြောင်းတည်း၊ သို့တည်းမဟုတ် အကြိမ်ကြိမ် ပေးနိုင်စေရန်၊ အခါအားလျော်စွာ နည်းလမ်းများကို သတ်မှတ်နိုင်သည်။

(၅) နိုင်ငံတော်သမတသည်၊ ဤပုဒ်မပါ ကိစ္စများကို ဆောင်ရွက်ရန် နည်းဥပဒေများပြုနိုင်သည်။

အခြားနည်းဖြင့် သက်သာခွင့် ပေးခြင်း။

၎ ၄၃။ ။နိုင်ငံတော်သမတသည်၊ အကြောင်းအားလျော်စွာ လိုအပ်သည်ဟုထင်မြင်လျှင်၊ ပုဒ်မ ၄၂ အရ၊ လျှော်ကြေးရထိုက်သူတစ်ဦးအား၊ ထိုလျှော်ကြေးအပြင် ပုဒ်မ ၆ အရ ခွင့်ပြုသည့် ကင်းလွတ်ခွင့်မျိုးမဟုတ်သော အခြားသက်သာခွင့်ကို ပေးနိုင်သည်။

ဆယ်ဦး ကော်မရှင်။

၎ ၄၄။ ။(၁) နိုင်ငံတော်သမတသည်၊ ဤအက်ဥပဒေအရ လျှော်ကြေးပေးရန်နည်းလမ်းများနှင့်စပ်လျဉ်း၍ မိမိအားအကြံဉာဏ်ပေးရန် ဆယ်ဦးထက်မများသည့် ပုဂ္ဂိုလ်များပါဝင်သော ကော်ရှင်တစ်ခုကို ဖွဲ့စည်းရမည်။

၁ ၁၉၅၄ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၂၂ အရ အစားထည့်သွင်းသည်။

(၂) ထိုကော်မရှင်သည်၊ ရာဇဝတ်ကျင့်ထုံးဥပဒေပုဒ်မ ၄၈၀ နှင့် ပုဒ်မ ၄၈၂ တို့၏ အဓိပ္ပါယ်အရ၊ တရားမရုံးဖြစ်သည်ဟုမှတ်ယူရမည်။ အဆိုပါကော်မရှင်သည် မိမိတို့က သင့်သည် တင်မြှင်သည့်အချိန်များနှင့် နေရာများတွင် ရုံးထိုင်နိုင်သည့်ပြင်၊ အောက်ပါကိစ္စများနှင့်စပ်လျဉ်း၍၊ တရားမကျင့်ထုံးဥပဒေအရ၊ တရားရုံးများအား အပ်နှင်းထားသည့်အာဏာများကို ရရှိစေရမည်။

- (က) ဆိုင်ရာ အကြောင်းအရာများနှင့် စာချုပ်စာတမ်းစသည်များကို ဖွင့်လှစ်ထုတ်ဖော်ခြင်းနှင့် ကြည့်ရှုစစ်ဆေးခြင်း။
- (ခ) သက်သေများကို လာရောက်စေရန် အတင်းအကြပ် ဆင့်ဆို ခေါ်ယူခြင်း၊ သက်သေစရိတ်တင်သွင်းရန် ဆင့်ဆိုနိုင်ခြင်း။
- (ဂ) စာချုပ်စာတမ်းများကို လာရောက်တင်ပြစေရန် အတင်းအကြပ်ပြုလုပ်ခြင်း။
- (ဃ) သက်သေများကို ကျမ်းသစ္စာဖြင့်စစ်ဆေးခြင်း။
- (င) ရက်ချိန်းများပေးခြင်း။
- (စ) စာဖြင့်ရေးသား၍ပေးသော ကျမ်းကျိန်ထွက်ဆိုချက်များကို လက်ခံခြင်း။
- (ဆ) မလာမရောက်နိုင်သောသက်သေများကိုကော်မရှင်ထုတ်၍စစ်ဆေးခြင်း။ ထို့ပြင်
- (ဇ) နေရာဌာနများကို ကြည့်ရှုစစ်ဆေးခြင်း။

၄၅။ ။(၁) နိုင်ငံတော်သမ္မတသည်၊ ပုဒ်မ ၄၂ နှင့် ဇယား ၂ ပါ၊ ပြဋ္ဌာန်းချက်များနှင့် လျော်ကြေး အညီ၊ လျော်ကြေးလျှောက်လွှာများကိုလက်ခံစစ်ဆေးဆုံးဖြတ်ရန်၊ လျော်ကြေးအရာရှိများကိုခန့်အပ်၍၊ ထိုအရာရှိများအား မိမိကလိုအပ်သည်ဟုဆင်မြှင်သည့်အာဏာများကို အပ်နှင်းနိုင်သည်။

လျော်ကြေး အရာရှိများ။

(၂) နိုင်ငံတော်သမ္မတသည်၊ ဤအက်ဥပဒေအရ၊ လျော်ကြေးလျှောက်လွှာများကို လက်ခံခြင်းနှင့် စစ်ဆေးခြင်း၊ ထို့ပြင် လျော်ကြေးတွက်ချက်ခြင်းနှင့် သတ်မှတ်ခြင်းများအတွက် လိုက်နာရမည့်နည်းလမ်းများကို၊ နည်းဥပဒေဖြင့် ပြဋ္ဌာန်းနိုင်သည်။

အခန်း ၁၉။

ပြစ်ဒဏ်များ။

၄၆။ ။မည်သူမဆို၊ ပုဒ်မ ၄ ပါ ပြဋ္ဌာန်းချက်များကို ကျူးလွန်ဖောက်ဖျက်လျှင်၊ ထိုသူကို ကျပ်ငါးရာထိ ငွေဒဏ်ချမှတ်ရမည်။

လွှဲပြောင်းခြင်း အတွက် ပြစ်ဒဏ်။

၄၇။ ။မည်သူမဆို၊ ဤအက်ဥပဒေအရ တာဝန်များကိုဆောင်ရွက်နေသော ဤအက်ဥပဒေအရ ခန့်အပ်သည့် ကော်မတီကို၊ သို့တည်းမဟုတ် အာဏာပိုင်ကို၊ သို့တည်းမဟုတ် ဖွဲ့စည်းထားသည့်ကောင်စီကို၊ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့ကို၊ သို့တည်းမဟုတ် ကော်မတီလူကြီးကို၊ သို့တည်းမဟုတ် ကောင်စီလူကြီးကို၊ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့ဝင်လူကြီးကို တားဆီးပိတ်ပင်လျှင်၊ ထိုသူကို နှစ်နှစ်ထိထောင်ဒဏ်ဖြစ်စေ၊ ကျပ်တထောင်ထိငွေဒဏ်ဖြစ်စေ၊ ဒဏ်နှစ်ရပ်လုံးဖြစ်စေ ချမှတ်ရမည်။

တားဆီးပိတ်ပင်သူတို့အတွက် ပြစ်ဒဏ်။

၄၈။ ။မည်သူမဆို၊ ဤအက်ဥပဒေအရ ခန့်အပ်သော ကော်မတီက၊ သို့တည်းမဟုတ် အာဏာပိုင်က၊ သို့တည်းမဟုတ် ဖွဲ့စည်းထားသော ကောင်စီက၊ သို့တည်းမဟုတ် အမှုဆောင်အဖွဲ့က၊ ဤအက်ဥပဒေအရ ထုတ်ဆင့်သည့်အမိန့်ကို၊ သို့တည်းမဟုတ် ဆင့်ဆိုချက်ကို လိုက်နာရန်ပျက်ကွက်လျှင်၊ ထိုသူကို ကြောက်လှံထိ ထောင်ဒဏ်ဖြစ်စေ၊ ကျပ်နှစ်ရာထိငွေဒဏ်ဖြစ်စေ၊ ဒဏ်နှစ်ရပ်လုံးဖြစ်စေ ချမှတ်ရမည်။

အမိန့်ကိုလိုက်နာရန်ပျက်ကွက်သူတို့အတွက် ပြစ်ဒဏ်။

ငါးဦး၊ သို့မဟုတ် ငါးဦးထက်ပိုသော သူများက ကျူးလွန်သည့် အတွက် ပြစ်ဒဏ်။

၄၉။ ။ငါးဦး၊ သို့တည်းမဟုတ် ငါးဦးထက်ပိုသူတို့သည်၊ ပုဒ်မ ၄၇ အရ၊ သို့တည်းမဟုတ် ပုဒ်မ ၄၈ အရ၊ ပြစ်မှုကျူးလွန်ရန် စုံညီကြံရွယ်ချက်ဖြင့် အသင်းဖွဲ့စည်းလျက် ၎င်းတို့အနက်၊ တဦးဦးက မိမိတို့၏ စုံညီကြံရွယ်ချက် အထောက်အကူအပံ့ ပုဒ်မ ၄၇ အရ၊ သို့တည်းမဟုတ် ပုဒ်မ ၄၈ အရ၊ ပြစ်မှုကျူးလွန်လျှင်၊ ထိုသူအသီးသီးကို သုံးနှစ်ထိ ထောင်ဒဏ်ချမှတ်ရမည်။

အခန်း ၂၀။

အရပ်ရပ်ဆိုင်ရာ ပြဋ္ဌာန်းချက်များ။

နည်းဥပဒေပြုခြင်း။

၅၀။ ။(၁) နိုင်ငံတော် သမ္မတ သည်၊ ဤအက်ဥပဒေပါ ကိစ္စများဆောင်ရွက်ရန် နည်းဥပဒေများပြုနိုင်သည်။

(၂) အထူးသဖြင့် အထက်အဆိုပါအာဏာ၏ ယေဘုယျသဘောကို မထိခိုက်စေဘဲ၊ ထိုနည်းဥပဒေများသည်—

- (က) လယ်ယာမြေကို ဤအက်ဥပဒေအရ၊ ပြန်လည်သိမ်းယူရာတွင် လိုက်နာရမည့် နည်းလမ်းကို ပြဋ္ဌာန်းနိုင်သည်။
- (ခ) ပုဒ်မ ၆ အရ၊ လိုက်နာရမည့်နည်းလမ်းကို ပြဋ္ဌာန်းနိုင်သည်။
- (ဂ) ပုဒ်မ ၇ အရ၊ လိုက်နာရမည့်နည်းလမ်းကို ပြဋ္ဌာန်းနိုင်သည်။
- (ဃ) ပုဒ်မ ၄၃ အရ၊ လိုက်နာရမည့်နည်းလမ်းကို ပြဋ္ဌာန်းနိုင်သည်။
- (င) ပုဒ်မ ၁၆ တွင် ရည်ညွှန်းထားသည့် ရွေးကောက်တင်မြှောက်မှုအတွက် ပြဋ္ဌာန်းနိုင်သည်။
- (စ) တတိုးထွန်ကို သတ်မှတ်ပြဋ္ဌာန်းနိုင်သည်။ ထို့ပြင်
- (ဆ) နိုင်ငံတော် သမ္မတ က လိုအပ်သည်ဟုထင်မြင်ယူဆသော အခြားကိစ္စအရပ်ရပ်ကို ပြဋ္ဌာန်းနိုင်သည်။

အထူးပြဋ္ဌာန်းချက်။

၅၁။ ။နိုင်ငံတော်သမ္မတသည်၊ အမိန့်ကြော်ငြာစာထုတ်ပြန်၍၊ ထိုအမိန့်ကြော်ငြာစာတွင် သီးခြားဖော်ပြထားသည့် အရပ်ဒေသများ၌၊ သီးခြားဖော်ပြထားသည့်နေ့တွင် ၁၉၅၃ ခုနှစ်၊ သီးစားချထားရေး အက်ဥပဒေအာဏာတည်ခြင်းမှ ရပ်စဲရမည်ဟုကျေညာနိုင်သည်။ ထိုအမိန့်ကြော်ငြာစာအရ အဆိုပါအက်ဥပဒေအာဏာတည်ခြင်းမှ ရပ်စဲသည့်အခါ၊ မြန်မာနိုင်ငံတော် ယေဘုယျ စကားရပ် အက်ဥပဒေပုဒ်မ ၅ ပါ၊ ဥပဒေများရုပ်သိမ်းခြင်းနှင့် စပ်လျဉ်းသည့် ပြဋ္ဌာန်းချက်များသည် အကျိုးသက်ရောက်ရမည်။

ပြဋ္ဌာန်းချက်များနှင့် မညီညွတ်၍ ပြန်လည် သိမ်းယူသောခြေ။

၅၂။ ။ဤအက်ဥပဒေပါ အခြားပြဋ္ဌာန်းချက်များတွင်၊ သို့တည်းမဟုတ် ဤအက်ဥပဒေအရ ပြုသည့်နည်းဥပဒေများတွင် မည်သို့ပင်ပါရှိစေကာမူ၊ နိုင်ငံတော် သမ္မတ သည်၊ ဤအက်ဥပဒေပါ ပြဋ္ဌာန်းချက်များနှင့်၊ သို့တည်းမဟုတ် ဤအက်ဥပဒေအရ ပြုသည့်နည်းဥပဒေများနှင့် မညီညွတ်၍ ပြန်လည်သိမ်းယူသော လယ်ယာမြေကို၊ တောင်သူလယ်သမားများသို့ဖြစ်စေ၊ တောင်သူလယ်သမား အဖွဲ့အစည်းများသို့ဖြစ်စေ၊ မိမိသင့်သည်ထင်မြင်သည့် နည်းလမ်းအတိုင်း ဝေငှစေနိုင်သည်။

ရုပ်သိမ်းခြင်းနှင့် မပြီးပြတ်သေးသော အမှုများ။

၅၃။ ။(၁) ၁၉၄၈ ခုနှစ်၊ လယ်ယာမြေ နိုင်ငံပိုင်ပြုလုပ်ရေး အက်ဥပဒေ (၁၉၄၈ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၆၈) ကိုရုပ်သိမ်းလိုက်သည်။

(၂) ၁၉၄၈ ခုနှစ်၊ လယ်ယာမြေ နိုင်ငံပိုင်ပြုလုပ်ရေးအက်ဥပဒေကို ရုပ်သိမ်းစေကာမူ၊ ထိုအက်ဥပဒေနှင့် ထိုအက်ဥပဒေအရပြုသည့် နည်းဥပဒေများနှင့်အညီ ခန့်ထားသော ယာယီခရိုင်

မြေယာကော်မီတီများသည်၊ သို့တည်းမဟုတ် အခြားသော မြေယာကော်မီတီများသည်၊ သို့တည်းမဟုတ် အဖွဲ့များသည်၊ သို့တည်းမဟုတ် အာဏာပိုင်များသည်၊ ဤအက်ဥပဒေနှင့် ဤအက်ဥပဒေအရ ပြုသည့် နည်းဥပဒေများနှင့်အညီ ခန့်အပ်သည်ဟုယူဆရမည်။ အဆိုပါ ယာယီခရိုင်မြေယာကော်မီတီထံတွင်သော်၎င်း၊ အခြားသော မြေယာကော်မီတီများထံတွင်သော်၎င်း၊ အဖွဲ့များထံတွင်သော်၎င်း၊ အာဏာပိုင်များ ထံတွင်သော်၎င်း၊ မပြီးပြတ်ဖြစ်နေသေးသော လျှောက်လွှာများကို၊ သို့တည်းမဟုတ် အမှုများကို ဤအက်ဥပဒေနှင့် ဤအက်ဥပဒေအရ ပြုသည့်နည်းဥပဒေများနှင့်အညီ လျှောက်ထားသည်၊ သို့တည်းမဟုတ် စတင်ဆောင်ရွက်သည်ဟုယူဆရမည်။

အဆိုပါယာယီခရိုင်မြေယာကော်မီတီများသည်၊ သို့တည်းမဟုတ် အခြားသောမြေယာကော်မီတီများသည်၊ သို့တည်းမဟုတ် အဖွဲ့များသည်၊ သို့တည်းမဟုတ် အာဏာပိုင်များသည်၊ အဆိုပါ လျှောက်လွှာများနှင့်၊ သို့တည်းမဟုတ် အမှုများနှင့်သက်ဆိုင်သည့် ကိစ္စရပ်များကို ဤအက်ဥပဒေအရ၊ ခန့်အပ်ထားသည့် ကော်မီတီများက၊ သို့တည်းမဟုတ် အဖွဲ့များက၊ သို့တည်းမဟုတ် အာဏာပိုင်များက မိမိတို့တာဝန်ဝတ်တရားများကို စတင်ဆောင်ရွက်သည့်အချိန်အထိ ဆက်လက်ဆောင်ရွက်ရမည်။

၅၄။ ။သံလျင်မြို့နယ်တွင် ၁၉၄၇ ခုနှစ်၊ လယ်ယာမြေ ခိုင်ပိုင်ပြုလုပ်ရေးအက်ဥပဒေအရ ဆောင်ရွက်ချက်များသည်၊ ဤအက်ဥပဒေစတင်အာဏာတည်သည့်နေ့တွင် ပျက်ပြယ်သည်ဟု မှတ်ယူရမည်။

သံလျင်မြို့နယ်တွင် ဆောင်ရွက်ချက်များကို ပျက် သိမ်းခြင်း။

ဇယား ၁။

၁။ ။ကြေးတိုင်စာရင်းများတွင်၊ စပါးမြေမျိုးကြီးများဟူ၍ သော်၎င်း၊ မြေစာရင်းဌာနစာရင်းများတွင်၊ စပါးစိုက်ပျိုးသည့် မြေဟူ၍သော်၎င်း၊ အမျိုးအစားခွဲခြားထားသည်၊ သို့တည်းမဟုတ် ထိုသို့သောစာရင်းများမထားရှိလျှင်၊ သာမန်အားဖြင့် စပါးစိုက်ပျိုးရန်အတွက် အသုံးပြုသည့် မြေများ ဖြစ်ခဲ့လျှင်—

- (က) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁)၊ အပိုဒ် (က) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့်ညီညွတ်သော တောင်သူလယ်သမား အိမ်ထောင်သားစု ပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ဧက ၀.၅ ဆယ် အထိ။
- (ခ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁)၊ အပိုဒ် (ခ)၊ အပိုဒ်ခွဲ (ကက)၊ (ခခ)၊ (ဂဂ) နှင့် (ဃဃ) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့် ညီညွတ်သော တလုံးတစည်းတည်းဖြစ်၍၊ ပစ္စည်းမခွဲဝေရသေးသော တောင်သူလယ်သမား အိမ်ထောင်သားစုပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ဧက ၀.၅ ဆယ်အထိ။ ၎င်းပြင် ထိုအိမ်ထောင်သားစုတွင် အရွယ်ရောက်ပြီးသူဦးရေသည်၊ လေးဦးထက် ပိုမိုသည်ပြင်၊ ထိုအိမ်ထောင်သားစုသည်၊ ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁)၊ အပိုဒ် (ခ) ၏ ပဌမခြင်းချက်တွင် သီးခြားဖော်ပြထားသော စည်းကမ်းချက်များနှင့်ညီညွတ်လျှင်၊ ထိုလေးဦးထက်ပိုသော အရွယ်ရောက်ပြီးသူတဦးစီအတွက် ဧကတစ်ဆယ့်နှစ်နှင့် ဒဿမငါးဆယ်အထိ။
- (ဂ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁)၊ အပိုဒ် (ဂ) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့်ညီညွတ်သော အရွယ်မရောက်သေးသူတဦးပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ဧကတစ်ဆယ်အထိ။

- (ဃ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁) ၊ အပိုဒ် (ဃ) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့်ညီညွတ်သော စိတ်ပေါ့သွပ်သူတဦး ပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ဧကတဆယ်အထိ။
- (င) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁) ၊ အပိုဒ် (င) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့် ညီညွတ်သော တောင်သူလယ်သမား မဟုတ်သည့် အိမ်ထောင်သားစုပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ဧကနှစ်ဆယ်အထိ။
- ° (စ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁) ၊ အပိုဒ် (စ) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့်ညီညွတ်သော တောင်သူလယ်သမား အိမ်ထောင်သားစု ပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ဧကနှစ်ဆယ်အထိ။

ခြွင်းချက်။ ။ သို့ရာတွင် အပိုဒ်ခွဲ (ဂ) အရ၊ ကင်းလွတ်ခွင့် တောင်းဆိုခြင်းသည်၊ တောင်သူလယ်သမား အိမ်ထောင်သားစု တစုတည်းမှ၊ တဦးထက်ပိုမိုသော အရွယ် မချောက်သေးသူများအတွက် ဖြစ်ခဲ့လျှင်၊ ကင်းလွတ်ခွင့် ဖော်သော လယ်ယာမြေအားလုံး၏ ဧရိယာသည်၊ ဧကငါးဆယ်ထက်မပိုစေရ။

၂။ ။ ကြေးတိုင်စာရင်းများတွင်၊ ကျောက်ဆည်ခရိုင်၌၊ ပြုတ်စိုက်ပျိုး၍ ( S ) ဟုမှတ်သားထားသောမြေများပါဝင်သည့် ယာမြေမျိုးကြီးဟူ၍သော်ငြား၊ မြေစာရင်းဌာန စာရင်းများတွင် ယာမြေ၊ ပြုတ်မြေဟူ၍သော်ငြား၊ အမျိုးအစားခွဲခြားထားသည်။ သို့တည်းဟုတ် ထိုသို့သောစာရင်းများမထားရှိလျှင်၊ သာမန်အားဖြင့်၊ ယာကောက်ပဲသီးနှံစိုက်ပျိုးရန်အတွက် အသုံးပြုသည့်မြေများ ဖြစ်ခဲ့လျှင်—

- (က) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁) ၊ အပိုဒ် (က) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့် ညီညွတ်သော တောင်သူလယ်သမား အိမ်ထောင်သားစုပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ဧကနှစ်ဆယ့်ငါးအထိ။
- (ခ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁) ၊ အပိုဒ် (ခ) ၊ အပိုဒ်ခွဲ (ကက)၊ (ခခ)၊ (ဂဂ) နှင့် (ဃဃ) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့် ညီညွတ်သော တလုံးတစည်းတည်းဖြစ်၍၊ ပစ္စည်းမခွဲဝေရသေးသော တောင်သူလယ်သမား အိမ်ထောင်သားစုပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ဧကနှစ်ဆယ့်ငါးအထိ။ ၎င်းပြင် ထိုအိမ်ထောင်သားစုတွင် အရွယ်ရောက်ပြီးသူဦးရေသည်၊ လေးဦးထက် ပိုမိုသည့်ပြင်၊ ထိုအိမ်ထောင်သားစုသည်၊ ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁) ၊ အပိုဒ် (ခ) ၏ ပဌမခြွင်းချက်တွင် သီးခြားဖော်ပြထားသော စည်းကမ်းချက်များနှင့်ညီညွတ်လျှင်၊ ထိုလေးဦးထက်ပိုမိုသော အရွယ်ရောက်ပြီးသူတဦးစီအတွက်၊ ဧကခြောက် နှင့် ဒသမ နှစ်ဆယ့်ငါးအထိ။
- (ဂ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁) ၊ အပိုဒ် (ဂ) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့် ညီညွတ်သော အရွယ်မရောက်သေးသူတဦးပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ဧကတဆယ်အထိ။
- (ဃ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁) ၊ အပိုဒ် (ဃ) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့်ညီညွတ်သော စိတ်ပေါ့သွပ်သူတဦး ပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ဧကတဆယ်အထိ။

° ၁၉၅၄ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၂၂ အရထည့်သွင်းသည်။

- (င) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁)၊ အပိုဒ် (င) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့် ညီညွတ်သော တောင်သူလယ်သမား မဟုတ်သည့် အိမ်ထောင်သားစုပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ဧကတဆယ်အထိ။
- °(စ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁)၊ အပိုဒ် (စ) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့်ညီညွတ်သော တောင်သူလယ်သမား အိမ်ထောင်သားစု ပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ဧကတဆယ်အထိ။

ခြင်းချက်။ ။သို့ရာတွင် အပိုဒ်ခွဲ (ဂ) အရ၊ ကင်းလွတ်ခွင့် တောင်းဆိုခြင်းသည်၊ တောင်သူလယ်သမား အိမ်ထောင်သားစု တစုတည်းမှ၊ တဦးထက်ပိုမိုသော အရွယ် မရောက်သေးသူများ အတွက် ဖြစ်ခဲ့လျှင်၊ ကင်းလွတ်ခွင့်ပေးသော လယ်ယာမြေအားလုံး၏ ဧရိယာသည် ဧကနှစ်ဆယ့်ငါးထက်မပိုစေရ။

၃။ ။ကြေးတိုင်စာရင်းများတွင်၊ ကိုင်းယာမြေမျိုးကြီးနှင့် မန္တလေးခရိုင်နှင့် ရွှေဘိုခရိုင်ရှိ (KA) မြေမျိုးကြီးများ၊ မြင်းခြံခရိုင်ရှိ (YT) မြေမျိုးကြီးများပါဝင်သည့် ကိုင်းမြေမျိုးကြီးများဟူ၍ သော်ငြား၊ မြေစာရင်းဌာနစာရင်းများတွင်၊ ကိုင်း၊ ကိုင်းယာ (KA) နှင့် (YT) မြေမျိုးဟူ၍သော် ငြား၊ အမျိုးအစားခွဲခြားထားသည်။ သို့တည်းမဟုတ် ထိုသို့သောစာရင်းများမထားရှိလျှင်၊ သာမန် အားဖြင့် ကိုင်းကောက်ဝဲသီးနှံစိုက်ပျိုးရန်အတွက် အသုံးပြုသည့်မြေများဖြစ်ခဲ့လျှင်—

- (က) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁)၊ အပိုဒ် (က) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့်ညီညွတ်သော တောင်သူလယ်သမား အိမ်ထောင်သားစု ပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ဧကတဆယ်အထိ။
- (ခ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁)၊ အပိုဒ် (ခ)၊ အပိုဒ်ခွဲ (ကက)၊ (ခခ)၊ (ဂဂ) နှင့် (ဃဃ) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့် ညီညွတ်သော တလုံးတစည်းတည်းဖြစ်၍၊ ပစ္စည်းမခွဲဝေရသေးသော တောင်သူလယ်သမား အိမ်ထောင်သားစု ပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ဧကတဆယ်အထိ။ ၎င်းပြင်၊ ထိုအိမ်ထောင်သားစုတွင် အရွယ်ရောက်ပြီးသူဦးရေသည် လေးဦးထက် ပိုမိုသည်ပြင်၊ ထိုအိမ်ထောင်သားစုသည်၊ ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁)၊ အပိုဒ် (ခ) ၏ပဌမခြင်းချက်တွင် သီးခြားဖော်ပြထားသော စည်းကမ်းချက်များနှင့် ညီညွတ်လျှင်၊ ထိုလေးဦးထက်ပိုမိုသော အရွယ်ရောက်ပြီးသူ တဦးစီအတွက် နှစ်ဧက နှင့် ဒဿမငါးဆယ်အထိ။
- (ဂ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁)၊ အပိုဒ် (ဂ) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့် ညီညွတ်သော အရွယ်မရောက်သေးသူတဦးပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ သုံးဧကအထိ။
- (ဃ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁)၊ အပိုဒ် (ဃ) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့် ညီညွတ်သော စိတ်ပေါ့သွပ်သူတဦးပိုင်ဆိုင်သည့် လယ်ယာမြေ ဖြစ်ခဲ့လျှင်၊ သုံးဧကအထိ။
- (င) ပုဒ်မ ၆၊ ပုဒ်မခွဲ (၁)၊ အပိုဒ် (င) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့်ညီညွတ်သော တောင်သူလယ်သမား မဟုတ်သည့် အိမ်ထောင်သားစုပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ခြောက်ဧကအထိ။

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° ၁၉၅၄ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၂၂ အရ ထည့်သွင်းသည်။



°(စ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ(၁)၊ အပိုဒ်(စ)တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့်ညီညွတ်သော တောင်သူလယ်သမား အိမ်ထောင်သားစု ပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ခြောက်ဧကအထိ။

ခြွင်းချက်။ ။ သို့ရာတွင်၊ အပိုဒ်ခွဲ (ဂ) အရ၊ ကင်းလွတ်ခွင့် တောင်းဆိုခြင်းသည်၊ တောင်သူလယ်သမားအိမ်ထောင်သားစု တစ်စုတည်းမှ၊ တဦးထက်ပိုမိုသော အရွယ်မရောက်သေးသူများအတွက်ဖြစ်ခဲ့လျှင်၊ ကင်းလွတ်ခွင့်ပေးသော လယ်ယာမြေအားလုံး၏ ဧရိယာသည်၊ ဧကတစ်ဆယ်ထက်မပိုစေရ။

၄။ ။ ကြေးတိုင်စာရင်းများတွင် ကြံမြေမျိုးကြီးများဟူ၍သော်၎င်း၊ မြေစာရင်းဌာန စာရင်းများတွင် ကြံစိုက်ပျိုးသည့်မြေဟူ၍သော်၎င်း၊ အမျိုးအစားခွဲခြားထားသည်။ သို့တည်းမဟုတ် ထိုသို့သောစာရင်းများမထားရှိလျှင်၊ သာမန်အားဖြင့် ကြံစိုက်ပျိုးရန်အတွက် အသုံးပြုသည့်မြေများ ဖြစ်ခဲ့လျှင်—

- (က) ပုဒ်မ ၆၊ ပုဒ်မခွဲ(၁)၊ အပိုဒ်(က)တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့် ညီညွတ်သော တောင်သူလယ်သမား အိမ်ထောင်သားစု ပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ တစ်ဆယ်<sup>၁</sup> ဧကအထိ။
- (ခ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ(၁)၊ အပိုဒ်(ခ)၊ အပိုဒ်ခွဲ (ကက)၊ (ခခ)၊ (ဂဂ) နှင့် (ဃဃ) တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့် ညီညွတ်သည့် တလုံးကစည်းတည်းဖြစ်၍၊ ဝစွည်းမခွဲဝေရသေးသော တောင်သူလယ်သမား အိမ်ထောင်သားစုပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ တစ်ဆယ်<sup>၁</sup> ဧကအထိ။ ၎င်းပြင်၊ ထိုအိမ်ထောင်သားစုတွင် အရွယ်မရောက်ပြီးသူဦးရေသည်၊ လေးဦးထက်ပိုမိုသည့်ပြင်၊ ထိုအိမ်ထောင်သားစုသည်၊ ပုဒ်မ ၆၊ ပုဒ်မခွဲ(၁)၊ အပိုဒ်(ခ)၏ ပဌမခြွင်းချက်တွင် သီးခြားဖော်ပြထားသော စည်းကမ်းချက်များနှင့် ညီညွတ်လျှင်၊ ထိုလေးဦးထက်ပိုမိုသော အရွယ်မရောက်ပြီးသူ တဦးစီအတွက် နှစ်<sup>၂</sup> ဧကနှင့် ဒဿမ ငါးဆယ်အထိ။
- (ဂ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ(၁)၊ အပိုဒ်(ဂ)တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့်ညီညွတ်သော အရွယ်မရောက်သေးသူတဦးပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ငါး<sup>၁</sup> ဧကအထိ။
- (ဃ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ(၁)၊ အပိုဒ်(ဃ)တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့် ညီညွတ်သော စိတ်ပေါ်သွင်သူတဦး ပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ငါး<sup>၁</sup> ဧကအထိ။
- (င) ပုဒ်မ ၆၊ ပုဒ်မခွဲ(၁)၊ အပိုဒ်(င)တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့်ညီညွတ်သော တောင်သူလယ်သမား မဟုတ်သည့် အိမ်ထောင်သားစုပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ငါး<sup>၁</sup> ဧကအထိ။
- °(စ) ပုဒ်မ ၆၊ ပုဒ်မခွဲ(၁)၊ အပိုဒ်(စ)တွင် သီးခြားဖော်ပြထားသည့် စည်းကမ်းချက်များနှင့်ညီညွတ်သော တောင်သူလယ်သမား အိမ်ထောင်သားစု ပိုင်ဆိုင်သည့် လယ်ယာမြေဖြစ်ခဲ့လျှင်၊ ငါးဧကအထိ။

<sup>၁</sup> ၁၉၅၄ ခုနှစ်၊ အက်ဥပဒေ အမှတ် ၂၂ အရ ထည့်သွင်းသည်။  
<sup>၂</sup> အဆိုပါအက်ဥပဒေအရ အစားထည့်သွင်းသည်။

**ခြင်းမျက်။** ။သို့ရာတွင်၊ အပိုင်း (ဂ) အရ၊ ကင်းလွတ်ခွင့် တောင်းဆိုခြင်းသည်၊  
တောင်သူလယ်သမား အိမ်ထောင်သားစု တစုတည်းမှ၊ တဦးထက် ပိုမိုသော  
အရွယ် မရောက်သေးသူများ အတွက် ဖြစ်ခဲ့လျှင်၊ ကင်းလွတ်ခွင့် ပေးသော  
လယ်ယာမြေအားလုံး၏ ဧရိယာသည် တဆယ်<sup>၁</sup> ဧကထက်မပိုစေရ။

၅။ ။ကြေးတိုင်စာရင်းများတွင်၊ ဓနိမြေမျိုးကြီးများဟူ၍သော်၎င်း၊ မြေစာရင်းဌာနစာရင်း  
များတွင် ဓနိမြေဟုအမျိုးအစားခွဲခြားထားသည်။ သို့တည်းမဟုတ် ထိုသို့သောစာရင်းများမထားရှိ  
လျှင်၊ သာမန်အားဖြင့် ဓနိစိုက်ပျိုးရန်အတွက် အသုံးပြုသည့် ဓနိမြေအားလုံး။

၆။ ။ကြေးတိုင်စာရင်းများတွင်၊ ပခုက္ကူခရိုင်ရှိ (KG) ဟုမှတ်သားထားသော မြေများနှင့်  
ဟင်္သာတခရိုင်ရှိ (BV) ကွမ်းပင်စိုက်ပျိုးသောမြေများဟု မှတ်သားထားသည့် မြေများပါဝင်သည့်  
ဥယျာဉ်မြေမျိုးကြီးများဟူ၍သော်၎င်း၊ မြေစာရင်းဌာန စာရင်းများတွင် ဥယျာဉ်မြေ၊ ခြံမြေဟူ၍သော်  
၎င်း၊ အမျိုးအစားခွဲခြားထားသည်။ သို့တည်းမဟုတ် ထိုသို့သောစာရင်းများ မထားရှိလျှင် သာမန်  
အားဖြင့် ဥယျာဉ်သီးနှံများ စိုက်ပျိုးရန်အတွက် အသုံးပြုသည့် ဥယျာဉ်မြေအားလုံး။

၇။ ။ကြေးတိုင်စာရင်းများတွင် (RR)ဟုမှတ်သားထားသော ကြက်ပေါင်စေးဂရန်များ  
အပါအဝင်၊ ကြက်ပေါင်စေး မြေမျိုးကြီးများဟူ၍သော်၎င်း၊ မြေစာရင်းဌာန စာရင်းများတွင်၊  
ကြက်ပေါင်စေးပင်စိုက်ပျိုးသော မြေများဟူ၍သော်၎င်း၊ အမျိုးအစားခွဲခြားထားသည်။ သို့တည်း  
မဟုတ် ထိုသို့သောစာရင်းများမထားရှိလျှင်၊ သာမန်အားဖြင့် ကြက်ပေါင်စေးပင်များ စိုက်ပျိုးရန်  
အတွက် အသုံးပြုသည့်မြေအားလုံး။

၈။ ။သာသနာရေးအဆောက်အအုံများ၊ သို့တည်းမဟုတ် သာသနာဝန်ထမ်းများပိုင်ဆိုင်  
သည့် လယ်ယာမြေအားလုံး။

ဇယား ၂။<sup>၁</sup>

| မြေအမျိုးအစား။                                                                                                                                                                                                                                                                                        | လျော်ကြေး။                              |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| ၁။ (က) အထက်မြန်မာပြည် မြေနှင့်အခွန်<br>တော် ဥပဒေ (The Upper<br>Burma Land and Revenue<br>Regulation) အရ၊ နိုင်ငံ<br>တော်ပိုင် မြေဟု သတ်မှတ် ပြီး<br>လျှင်၊ အဆိုပါ ဥပဒေ အတည်<br>ဖြစ်သော ဒေသများ၌ တည်ရှိ<br>သည့်လယ်ယာမြေ။<br>(ခ) ပြည်နယ်အတွင်းရှိ နိုင်ငံတော်ပိုင်<br>မြေဟု သတ်မှတ် ထားသော<br>လယ်ယာမြေ။ | ၁။ မြေခွန်တော်နှင့် ညီမျှသော လျော်ကြေး။ |

<sup>၁</sup> ၁၈၅၄ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၂၂ အရအစားထည်သင်းသည်။

| မြေအမျိုးအစား။                                                                                                                                                                                                                                                                                               | လျော်ကြေး။                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>၂။ (က) အထက် မြန်မာပြည် မြေနှင့် အခွန်တော် ဥပဒေ (The Upper Burma Land and Revenue Regulation) အရ၊ နိုင်ငံတော်ပိုင်မြေဟု သတ်မှတ်သည့်လယ်ယာမြေမှ အပ၊ အဆိုပါဥပဒေအတည်ဖြစ်သောဒေသများတွင် တည်ရှိသည့် အခြားလယ်ယာမြေ။</p> <p>(ခ) မြည်နယ် အတွင်းရှိ နိုင်ငံတော်မြေဟုသတ်မှတ်ထားသည့် လယ်ယာမြေမှ အပ၊ အခြားလယ်ယာမြေ။</p> | <p>၂။ ၁၉၅၃ ခုနှစ်၊ ဇွန်လ ၂၂ ရက်နေ့မတိုင်မီက လွှဲပြောင်းပြီးဖြစ်ကြောင်းကို ထိုနေ့မတိုင်မီက ရေစက္ကူကြိုမှတ်ပုံတင်ပြီးသော၊ သို့တည်းမဟုတ် ထိုနေ့မတိုင်မီက သက်ဆိုင်ရာ မြေစာရင်းဌာနစာရင်းတွင် မှတ်သားထားပြီး ဖြစ်သော လယ်ယာမြေအပေါ်တွင် ပိုင်ဆိုင်ခွင့် ရရှိထားသူ တဦးတယောက်၏၊ သို့တည်းမဟုတ် ဘဏ်၏၊ သို့တည်းမဟုတ် ကုမ္ပဏီ၏၊ သို့တည်းမဟုတ် အဖွဲ့အစည်း၏၊ သို့တည်းမဟုတ် ကုန်ဖက်စပ် လုပ်ငန်း၏၊ သို့တည်းမဟုတ် ပစ္စည်း မခွဲဝေရ သေးသည့် ဟိန္ဒူလူမျိုးအိမ်ထောင်သားစု၏ ပိုင်ဆိုင်ခွင့် ရရှိထားသောလယ်ယာမြေများအနက်၊ ဤအက်ဥပဒေအရ နိုင်ငံတော်က ပြန်လည်သိမ်းယူပိုင်ခွင့် ရှိသည့် လယ်ယာမြေ ဧကစုစုပေါင်း၏—</p> <p>(က) ၀၄၄မဧက ၁၀၀ အတွက်၊ မြေခွန်တော်၏ တဆယ့် နှစ်ဆနှင့် ညီမျှသောလျော်ကြေး။</p> <p>(ခ) နောက်ဧက ၁၀၀ အတွက်၊ မြေခွန်တော်၏ တဆယ့်တဆနှင့်ညီမျှသောလျော်ကြေး။</p> <p>(ဂ) နောက်ဧက ၀၀၀ အတွက်၊ မြေခွန်တော်၏ ဆယ်ဆ နှင့် ညီမျှသောလျော်ကြေး။</p> <p>(ဃ) နောက်ဧက ၁၀၀ အတွက်၊ မြေခွန်တော်၏ ကိုးဆနှင့်ညီမျှသော လျော်ကြေး။</p> <p>(င) နောက်ဧက ၁၀၀ အတွက်၊ မြေခွန်တော်၏ ရှစ်ဆနှင့်ညီမျှသော လျော်ကြေး။</p> <p>(စ) နောက်ဧက ၁၀၀ အတွက်၊ မြေခွန်တော်၏ ခုနစ်ဆနှင့်ညီမျှသောလျော်ကြေး။</p> |

| မြေအမျိုးအစား။                                                                                                                                                        | လျော်ကြေး။                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>၃။ မြေနှင့် အခွန်တော် အက်ဥပဒေ (The Land and Revenue Act) ပုဒ်မ ၇ အရ၊ အခွန်အရေးများ ရရှိပြီးလျှင်၊ အဆိုပါ အက်ဥပဒေ အတည် ဖြစ်သော ဒေသများတွင် တည်ရှိသည့် လယ်ယာမြေ။</p> | <p>(ဆ) နောက် ကေ ၁၀၀ အတွက်၊ မြေခွန်တော်၏ ခြောက်ဆ နှင့် ညီမျှသော လျော်ကြေး။</p> <p>(ဇ) နောက် ကေ ၁၀၀ အတွက်၊ မြေခွန်တော်၏ ငါးဆနှင့် ညီမျှသော လျော်ကြေး။</p> <p>(ဈ) နောက် ကေ ၁၀၀ အတွက်၊ မြေခွန်တော်၏ လေးဆနှင့် ညီမျှသော လျော်ကြေး။</p> <p>(ည) နောက် ကေ ၁၀၀ အတွက်၊ မြေခွန်တော်၏ သုံးဆနှင့် ညီမျှသော လျော်ကြေး။</p> <p>(ဋ) နောက် ကေ ၁၀၀ အတွက်၊ မြေခွန်တော်၏ နှစ်ဆနှင့် ညီမျှသော လျော်ကြေး။</p> <p>(ဌ) ကျန် ကေများ အတွက်၊ မြေခွန်တော်နှင့် ညီမျှသော လျော်ကြေး။</p> <p>၃။ ၁၉၅၃ ခုနှစ်၊ ဇွန်လ ၂၂ ရက်နေ့ မတိုင်မီက လွှဲပြောင်းပြီးဖြစ်ကြောင်းကို ထိုနေ့မတိုင်မီက ရေစာကြိုမှတ်တင်ပြီးသော၊ သို့တည်းမဟုတ် ထိုနေ့မတိုင်မီက သက်ဆိုင်ရာမြေစာရင်းဌာန စာရင်းတွင် မှတ်သားထားပြီးဖြစ်သော လယ်ယာမြေအပေါ်တွင် ပိုင်ဆိုင်ခွင့် ရရှိထားသူ တဦးတယောက်၏ သို့တည်းမဟုတ် ဘဏ်၏၊ သို့တည်းမဟုတ် ကုမ္ပဏီ၏၊ သို့တည်းမဟုတ် အဖွဲ့အစည်း၏၊ သို့တည်းမဟုတ် ကုန်ဖက်စပ် လုပ်ငန်း၏၊ သို့တည်းမဟုတ် ပစ္စည်းမခွဲဝေရသေးသည့် ဟိန္ဒူလူမျိုး အိမ်ထောင်သားစု၏ ပိုင်ခွင့် ရရှိထားသော လယ်ယာမြေများ အနက်၊ ဤ အက်ဥပဒေ အရခိုင်တော်က ပြန်လည်သိမ်းယူပိုင်ခွင့် ရှိသည့် လယ်ယာမြေကေစုပေါင်း၏—</p> <p>(က) ဝဋ္ဌမကေ ၁၀၀ အတွက်၊ မြေခွန်တော်၏ တဆယ့်နှစ်ဆနှင့် ညီမျှသော လျော်ကြေး။</p> |



| မြေအမျိုးအစား။                                                                                                                                                                      | လျော်ကြေး။                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| ၄။ မြေနှင့် အခွန်တော်အက်ဥပဒေ (The Land and Revenue Act) ပုဒ်မ ၇ အရ အခွန်အရေးများရှိပြီး ဖြစ်သည့် လယ်ယာမြေများမှအပအဆိုပါအက်ဥပဒေအတည်ဖြစ်သော ဒေသများတွင် တည်ရှိသည့် အခြားလယ်ယာမြေများ။ | ၄။ မြေခွန်တော်နှင့် ညီမျှသောလျော်ကြေး။ |

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## THE REGISTRATION ACT.

[INDIA ACT XVI, 1908.] (1st January, 1909.)

## PART I.

## PRELIMINARY.

1. (1) \* \* \* \*

(2) The President of the Union may, by notification, exclude any area from the operation of this Act.

Power to  
exempt from  
operation of  
Act.

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

Definitions

- (1) “ addition ” means the place of residence, and the profession, trade, rank and title (if any) of a person described, and, in the case of a

native of India or Pakistan or the Union of Burma, his caste (if any) and his father's name, or where he is usually described as the son of his mother, then his mother's name :

- (2) "book" includes a portion of a book and also any number of sheets connected together with a view of forming a book or portion of a book :
- (3) "district" and "sub-district" respectively mean a district and sub-district formed under this Act :
- (4) "District Court" includes the High Court in its ordinary original civil jurisdiction :
- (5) "endorsement" and "endorsed" include and apply to an entry in writing by a registering officer on a rider or covering slip to any document tendered for registration under this Act :
- (6) "immoveable property" includes lands, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass :
- (7) "lease" includes a counterpart, an undertaking to cultivate or occupy, and an agreement to lease :
- (8) "minor" means a person who, according to the personal law to which he is subject, has not attained majority :
- (9) "moveable property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property : and
- (10) "representative" includes the guardian of a minor and the committee or other legal curator of a lunatic or idiot.

## PART II.

### OF THE REGISTRATION ESTABLISHMENT.

Inspector-  
General of  
Registration.

3. (1) The President of the Union shall appoint an officer to be the Inspector-General of Registration :

Provided that the President of the Union may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector-General shall be exercised and performed by such officer or officers, and within such local limits, as the President of the Union appoints in this behalf.

- (2) Any Inspector-General may hold simultaneously any other office under the Government.

4. \* \* \* \*

Districts and  
sub-districts.

5. (1) For the purposes of this Act, the President of the Union shall form districts and sub-districts, and shall prescribe, and may alter, the limits of such districts and sub-districts.

(2) The districts and sub-districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the Gazette.

(3) Every such alteration shall take effect on such day after the date of the notification as is therein mentioned.

6. The President of the Union may appoint such persons, whether public officers or not, as he thinks proper, to be Registrars of the several districts, and to be Sub-Registrars of the several sub-districts, formed as aforesaid, respectively :

Registrars  
and Sub-  
Registrars.

Provided that the President of the Union may delegate, subject to such restrictions and conditions as he thinks fit, to the Inspector-General of Registration the power of appointing Sub-Registrars.

7. (1) The President of the Union shall establish in every district an office to be styled the office of the Registrar and in every sub-district an office or offices to be styled the office of the Sub-Registrar or the offices of the Joint Sub-Registrars.

Offices of  
Registrar  
and Sub-  
Registrar.

(2) The President of the Union may amalgamate with any office of a Registrar any office of a Sub-Registrar subordinate to such Registrar, and may authorize any Sub-Registrar whose office has been so amalgamated to exercise and perform, in addition to his own powers and duties, all or any of the powers and duties of the Registrar to whom he is subordinate :

Provided that no such authorization shall enable a Sub-Registrar to hear an appeal against an order passed by himself under this Act.

8. (1) The President of the Union may also appoint officers, to be called Inspectors of Registration offices, and may prescribe the duties of such officers.

Inspectors  
of Registra-  
tion offices.

(2) Every such Inspector shall be subordinate to the Inspector-General.

9. \* \* \* \*

10. (1) When any Registrar is absent otherwise than on duty in his district, or when his office is temporarily vacant, any person whom the Inspector-General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, shall be the Registrar during such absence or until the President of the Union fills up the vacancy.

Absence of  
Registrar or  
vacancy in  
his office.

(2) \* \* \* \*

11. When any Registrar is absent from his office on duty in his district, he may appoint any Sub-Registrar or other person in his district to perform during such absence, all the duties of a Registrar except those mentioned in sections 68 and 72.

Absence of  
Registrar on  
duty in his  
district.

Absence of Sub-Registrar or vacancy in his office.

Report of certain appointments, and suspension, removal and dismissal of officers.

12. When any Sub-Registrar is absent, or when his office is temporarily vacant, any person whom the Registrar of the district appoints in this behalf shall be Sub-Registrar during such absence, or until the vacancy is filled up.

13. (1) All appointments made by the Inspector-General under section 6 and all appointments made under section 10, section 11 or section 12 shall be reported to the President of the Union by the Inspector-General.

(2) Such report shall be either special or general, as the President of the Union directs.

(3) The President of the Union may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead, and the Inspector-General of Registration may, subject to such conditions and restrictions as the President of the Union may impose, exercise the like power in the case of Sub-Registrars appointed by him.

Remuneration and establishments of registering officers.

14. (1) The President of the Union may assign such salaries as he deems proper to the registering officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries.

(2) The President of the Union may allow proper establishments for the several offices under this Act.

Seal of registering officers.

15. The several Registrars and Sub-Registrars shall use a seal bearing the following inscription [in Burmese and such other language]<sup>1</sup> as the President of the Union directs :—

“ The seal of the Registrar (*or* of the Sub-Registrar) of . ”

Register books and fire-proof boxes.

16. (1) The President of the Union shall provide for the office of every registering officer the books necessary for the purposes of this Act.

(2) The books so provided shall contain the forms from time to time prescribed by the Inspector-General, with the sanction of the President of the Union, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

(3) The President of the Union shall supply the office of every Registrar with a fire-proof box, and shall in each district make suitable provision for the safe custody of the records connected with the registration of documents in such district.

### PART III.

#### OF REGISTRABLE DOCUMENTS.

Documents of which registration is compulsory.

17. (1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which this Act came or comes into force, namely :—

(a) instruments of gift of immoveable property ;

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

- (b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property ;
- (c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest ;
- (d) leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent ; and
- (e) non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property :

Provided that the President of the Union may, by order published in the Gazette, exempt from the operation of this sub-section any leases executed in any district, or part of a district, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

(2) Nothing in clauses (b) and (c) of sub-section (1) applies to—

- (i) any composition deed ; or
- (ii) any instrument relating to shares in a joint stock company, notwithstanding that the assets of such company consists in whole or in part of immoveable property ; or
- (iii) any debenture issued by any such company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the company has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or
- (iv) any endorsement upon or transfer of any debenture issued by any such company ; or
- (v) any document not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immoveable property, but merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or extinguish any such right, title or interest ; or

- (vi) any decree or order of a Court except a decree or order expressed to be made on a compromise and comprising immoveable property other than that which is the subject-matter of the suit or proceeding ; or
- (vii) any grant of immoveable property by Government ; or
- (viii) any instrument of partition made by a revenue officer ; or
- (ix) any order granting a loan or instrument of collateral security granted under the Land Improvement Loans Act ; or
- (x) any order granting a loan under the Agriculturists Loans Act, or instrument for securing the repayment of a loan made under that Act [or instrument for securing the repayment of an agricultural loan made by a co-operative society]<sup>1</sup> ; or
- (xi) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage ; or
- (xii) any certificate of sale granted to the purchaser of any property sold by public auction by a civil or revenue officer.

*Explanation.*—A document purporting or operating to effect a contract for the sale of immoveable property shall not be deemed to require or ever to have required registration by reason only of the fact that such document contains a recital of the payment of any earnest money or of the whole or any part of the purchase money.

(3) Authorities to adopt a son, not conferred by a will, shall also be registered.

Documents  
of which  
registration  
is optional.

18. Any of the following documents may be registered under this Act, namely :—

- (a) instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immoveable property ;
- (b) instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest ;
- (c) leases of immoveable property for any term not exceeding one year, and leases exempted under section 17 ;
- (d) instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in moveable property ;
- (e) wills, and
- (f) all other documents not required by section 17 to be registered.

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<sup>1</sup> Inserted by Act LXXXII, 1947.

19. If any document duly presented for registration be in a language which the registering officer does not understand, and which is not commonly used in the district, he shall refuse to register the document unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

Document in language not understood by registering officer.

20. (1) The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration.

Documents containing interlineations, blanks, erasures or alterations.

(2) If the registering officer registers any such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

21. (1) No non-testamentary document relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

Description of property and maps or plans.

(2) Houses in towns shall be described as situate on the north or other side of the street or road (which should be specified) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered.

(3) Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(4) No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration unless it is accompanied by a true copy of the map or plan, or, in case such property is situate in several districts, by such number of true copies of the map or plan as are equal to the number of such districts.

(5) No non-testamentary document relating to a part of a holding shall be accepted for registration unless—

(a) it is accompanied—

(i) where a Government map or plan of the holding is available, by two true copies of such map or plan, or

(ii) where such map or plan is not available, by two true copies of the map or plan of the holding made by a qualified surveyor, and

(b) the part to which the document relates is clearly marked in the copies of such maps or plans :

Provided that if such document relates to parts of holdings situated in several districts, it shall be accompanied by such number of true copies of the map as are equal to twice the number of such districts.



*Explanation.*—For the purposes of this sub-section a “holding” is a continuous area of land held by one person or by a number of persons jointly on the same tenure and on the same title.

Description of houses and land by reference to Government maps or surveys.

22. (1) Where it is, in the opinion of the President of the Union, practicable to describe houses, not being houses in towns, and lands by reference to a Government map or survey, the President of the Union may, by rule made under this Act, require that such houses and lands as aforesaid shall, for the purposes of section 21, be so described.

(2) Save as otherwise provided by any rule made under sub-section (1), failure to comply with the provisions of section 21, sub-section (2) or sub-section (3), shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify that property.

## PART IV.

### OF THE TIME OF PRESENTATION.

Time for presenting documents.

23. Subject to the provisions contained in sections 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution :

Provided that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final.

Re-registration of certain documents.

23A. Notwithstanding anything to the contrary contained in this Act, if in any case a document requiring registration has been accepted for registration by a Registrar or Sub-Registrar from a person not duly empowered to present the same, and has been registered, any person claiming under such document may, within four months from his first becoming aware that the registration of such document is invalid, present such document or cause the same to be presented in accordance with the provisions of Part VI for re-registration in the office of the Registrar of the district in which the document was originally registered ; and upon the Registrar being satisfied that the document was so accepted for registration from a person not duly empowered to present the same, he shall proceed to the re-registration of the document as if it had not been previously registered, and as if such presentation for re-registration was a presentation for registration made within the time allowed therefor under Part IV, and all the provisions of this Act as to registration of documents shall apply to such re-registration ; and such document, if duly re-registered in accordance with the provisions of this section, shall be deemed to have been duly registered for all purposes from the date of its original registration.

24. Where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

Documents executed by several persons at different times.

25. (1) If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in the Union of Burma is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration-fee, such document shall be accepted for registration.

Provision where delay in presentation is unavoidable.

(2) Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

26. When a document purporting to have been executed by all or any of the parties out of the Union of Burma is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the registering officer, if satisfied—

Documents executed out of the Union of Burma.

(a) that the instrument was so executed, and

(b) that it has been presented for registration within four months after its arrival in the Union of Burma,

may, on payment of the proper registration-fee, accept such document for registration.

27. A will may at any time be presented for registration or deposited in manner hereinafter provided.

Wills may be presented or deposited at any time.

## PART V.

### OF THE PLACE OF REGISTRATION.

28. Save as in this Part otherwise provided, every document mentioned in section 17, sub-section (1), clauses (a), (b), (c) and (d), and section 18, clauses (a), (b) and (c), shall be presented for registration in the office of a Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate.

Place for registering documents relating to land.

29. (1) Every document other than a document referred to in section 28, and a copy of a decree or order, may be presented for registration either in the office of the Sub-Registrar in whose sub-district the document was executed, or in the office of any other Sub-Registrar at which all the persons executing and claiming under the document desire the same to be registered.

Place for registering other documents.

(2) A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose sub-district the original decree or order was made, or, where the decree or order does not affect immoveable property, in the office of any other Sub-Registrar at which all the persons claiming under the decree or order desire the copy to be registered.

Registration  
by Regis-  
trars in cer-  
tain cases.

30. (1) Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

(2) \* \* \* \*

Registra-  
tion or ac-  
ceptance  
for deposit  
at private  
residence.

31. In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit :

Provided that such officer may on special cause being shown attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will.

## PART VI.

### OF PRESENTING DOCUMENTS FOR REGISTRATION.

Persons to  
present do-  
cuments  
for registra-  
tion.

32. Except in the cases mentioned in section 31 and section 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office—

- (a) by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order, or
- (b) by the representative or assign of such person, or
- (c) by the agent of such person, representative or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

Power-of-  
attorney  
recognizable  
for purposes  
of section 32.

33. (1) For the purposes of section 32, the following powers-of-attorney shall alone be recognized, namely :—

- (a) if the principal at the time of executing the power-of-attorney resides in any part of the Union of Burma in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose district or sub-district the principal resides ;
- (b) if the principal at the time aforesaid resides in any other part of the Union of Burma, a power-of-attorney executed before and authenticated by any Magistrate ;
- (c) if the principal at the time aforesaid does not reside in the Union of Burma, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of His Britannic Majesty or of the Government :

Provided that the following persons shall not be required to attend at any registration office or Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (a) and (b) of this section, namely :—

- (i) persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend ;

- (ii) persons who are in jail under civil or criminal process ; and
- (iii) persons exempt by law from personal appearance in Court.

(2) In the case of every such person the Registrar or Sub-Registrar or Magistrate, as the case may be, if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid.

(3) To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Magistrate may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for examination.

(4) Any power-of-attorney mentioned in this section may be proved by the production of it without further proof when it purports on the face of it to have been executed before and authenticated by the person or Court herein-before mentioned in that behalf.

(5) Powers-of-attorney authenticated in British India before the 1st April, 1937, in accordance with the provisions of clause (a) or clause (b) of sub-section (1) or section 33 of the Indian Registration Act, 1908, shall (as from the said date) be deemed to have been executed and authenticated in accordance with the provisions of clause (c) of sub-section (1) of this section.

India XVI,  
1908.

34. (1) Subject to the provisions contained in this Part and in sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation under sections 23, 24, 25 and 26 :

Enquiry  
before regis-  
tration by  
registering  
officer.

Provided that, if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, in addition to the fine, if any, payable under section 25, the document may be registered.

(2) Appearances under sub-section (1) may be simultaneous or at different times.

(3) The registering officer shall thereupon—

- (a) enquire whether or not such document was executed by the persons by whom it purports to have been executed ;
- (b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document ; and
- (c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

(4) Any application for a direction under the proviso to sub-section (1) may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

(5) Nothing in this section applies to copies of decrees or orders.

Procedure on admission and denial of execution respectively.

35. (1) (a) If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document, or

(b) if in the case of any person appearing by a representative, assign or agent, such representative, assign or agent admits the execution, or

(c) if the person executing the document is dead, and his representative or assign appears before the registering officer and admits the execution,

the registering officer shall register the document as directed in sections 58 to 61, inclusive.

(2) The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

(3) (a) If any person by whom the document purports to be executed denies its execution, or

(b) if any such person appears to the registering officer to be a minor, an idiot or a lunatic, or

(c) if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document as to the person so denying, appearing or dead :

Provided that, where such officer is a Registrar, he shall follow the procedure prescribed in Part XII :

Provided further that the President of the Union may, by notification in the Gazette, declare that any Sub-Registrar named in the notification shall, in respect of documents the execution of which is denied, be deemed to be a Registrar for the purposes of this sub-section and of Part XII.

## PART VII.

### OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

Procedure where appearance of executant or witness is desired.

36. If any person presenting any document for registration, or claiming under any document which is capable of being so presented, desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or Court as the President of the Union directs in this behalf to issue a summons requiring him to appear at the registration office, either in person or by duly authorized agent, as in the summons may be mentioned, and at a time named therein.

Officer or Court to issue and cause service of summons.

37. The officer or Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

38. (1) (a) A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration-office, or  
 (b) a person in jail under civil or criminal process, or  
 (c) persons exempt by law from personal appearance in Court, and who would but for the provision next hereinafter contained be required to appear in person at the registration-office,

Persons exempt from appearance at registration-office.

shall not be required so to appear.

(2) In the case of every such person the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him or issue a commission for his examination.

39. The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses, and for their remuneration in suits before civil Courts, shall, save aforesaid and *mutatis mutandis*, apply to any summons or commission issued and any person summoned to appear under the provisions of this Act.

Law as to summonses, commissions and witnesses.

## PART VIII.

### OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

40. (1) The testator, or after his death any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration.

Persons entitled to present wills and authorities to adopt.

(2) The donor, or after his death the donee, of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

41. (1) A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

Registration of wills and authorities to adopt.

(2) A will or authority to adopt presented for registration by any other person entitled to present it shall be registered if the registering officer is satisfied—

- (a) that the will or authority was executed by the testator or donor, as the case may be ;
- (b) that the testator or donor is dead ; and
- (c) that the person presenting the will or authority is, under section 40, entitled to present the same.

## PART IX.

### OF THE DEPOSIT OF WILLS.

42. Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any) and with a statement of the nature of the document

Deposit of wills.

Procedure  
on deposit  
of wills.

43. (1) On receiving such cover, the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register-book No. 5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

(2) The Registrar shall then place and retain the sealed cover in his fire-proof box.

Withdrawal  
of sealed  
cover depo-  
sited under  
section 42.

44. If the testator who has deposited such cover wishes to withdraw it, he may apply, either personally or by duly authorized agent, to the Registrar who holds it in deposit, and such Registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

Proceedings  
on death of  
depositor.

45. (1) If, on the death of a testator who has deposited a sealed cover under section 42, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and, at the applicant's expense, cause the contents thereof to be copied into his Book No. 3.

(2) When such copy has been made, the Registrar shall re-deposit the original will.

Saving of  
certain  
enactments  
and powers  
of Courts.

46. (1) Nothing hereinbefore contained shall affect the provisions of section 284 of the Succession Act or the power of any Court by order to compel the production of any will.

(2) When any such order is made, the Registrar shall, unless the will has been already copied under section 45, open the cover and cause the will to be copied into his Book No. 3 and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

## PART X.

### OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

Time from  
which  
registered  
document  
operates.

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

Registered  
documents  
relating to  
property  
when to take  
effect against  
oral agree-  
ments.

48. All non-testamentary documents duly registered under this Act, and relating to any property, whether moveable or immoveable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession and the same constitutes a valid transfer under any law for the time being in force :

Provided that a mortgage by deposit of title-deeds, as defined in section 58 of the Transfer of Property Act, shall take effect against any mortgage-deed subsequently executed and registered which relates to the same property.

49. No document required by section 17 or by any provision of the Transfer of Property Act or by any law formerly in force for the registration of documents in the Union of Burma to be registered shall—

Effect of non-registration of documents required to be registered.

- (a) affect any immoveable property comprised therein, or
- (b) confer any power to adopt, or
- (c) be received as evidence of any transaction affecting such property or conferring such power,

unless it has been registered :

Provided that an unregistered document affecting immoveable property may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, or as evidence of part performance of a contract for the purposes of section 53A of the Transfer of Property Act, or as evidence of any collateral transaction not required to be effected by registered instrument.

50. (1) Every document of the kinds mentioned in clauses (a), (b), (c) and (d) of section 17, sub-section (1), and clauses (a) and (b) of section 18, shall, if duly registered, take effect as regards the property comprised therein against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.

Certain registered documents relating to land to take effect against unregistered documents.

(2) Nothing in sub-section (1) applies to leases exempted under the proviso to sub-section (1) of section 17 or to any document mentioned in sub-section (2) of the same section, or to any registered document which had not priority under the law in force on the 1st January, 1909.<sup>1</sup>

*Explanation.*—In cases where Act No. XVI of 1864<sup>2</sup> or the Indian Registration Act, 1866, was in force in the place and at the time in and at which such unregistered document was executed, “unregistered” means not registered according to such Act, and, where the document is executed after the first day of July, 1871, not registered under the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or the Indian Registration Act, 1908, or this Act.

India XX, 1866.

India VIII, 1871

India III, 1877.

India XVI, 1908.

## PART XI.

### OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

#### (A) *As to the Register-books and Indexes.*

51. (1) The following books shall be kept in the several offices hereinafter named, namely :—

Register-books to be kept in the several offices.

A—In all registration offices—

Book 1, “Register of non-testamentary documents relating to immoveable property” ;

<sup>1</sup> Date of commencement of this Act.

<sup>2</sup> Namely, the Registration of Assurances Act, which was repealed by India Act XX of 1866.



- Book 2, "Record of reasons for refusal to register";
- Book 3, "Register of wills and authorities to adopt", and
- Book 4, "Miscellaneous Register";

B—In the offices of Registrars—

Book 5, "Register of deposits of wills".

(2) In Book 1 shall be entered or filed all documents or memoranda registered under sections 17, 18 and 89 which relate to immoveable property, and are not wills.

(3) In Book 4 shall be entered all documents registered under clauses (d) and (f) of section 18 which do not relate to immoveable property.

(4) Nothing in this section shall be deemed to require more than one set of books where the office of the Registrar has been amalgamated with the office of a Sub-Registrar.

Duties of  
registering  
officer when  
document  
presented.

52. (1) (a) The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it;

(b) a receipt for such document shall be given by the registering officer to the person presenting the same; and

(c) subject to the provisions contained in section 62, every document admitted to registration shall without unnecessary delay be copied in the book appropriated therefor according to the order of its admission.

(2) All such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector-General.

Entries to be  
numbered  
consecutive-  
ly.

53. All entries in each book shall be numbered in a consecutive series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Current  
indexes and  
entries  
therein.

54. In every office in which any of the books hereinbefore mentioned are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has copied, or filed a memorandum of, the document to which it relates.

Indexes to  
be made by  
registering  
officers, and  
their con-  
tents.

55. (1) Four such indexes shall be made in all registration-offices, and shall be named, respectively, Index No. I, Index No. II, Index No. III and Index No. IV.

(2) Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document entered or memorandum filed in Book No. 1.

(3) Index No. II shall contain such particulars mentioned in section 21 relating to every such document and memorandum as the Inspector-General from time to time directs in that behalf.

(4) Index No. III shall contain the names and additions of all persons executing every will and authority entered in Book No. 3, and of the executors

and persons respectively appointed thereunder, and after the death of the testator or the donor (but not before) the names and additions of all persons claiming under the same.

(5) Index No. IV shall contain the names and additions of all persons executing and of all persons claiming under every document entered in Book No. 4.

(6) Each Index shall contain such other particulars, and shall be prepared in such form, as the Inspector-General from time to time directs.

56. \* \* \* \* \*

57. (1) Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2 and the Indexes relating to Book No. 1 shall be at all times open to inspection by any person applying to inspect the same ; and, subject to the provisions of section 62, copies of entries in such books shall be given to all persons applying for such copies.

(2) Subject to the same provisions, copies of entries in Book No. 3 and in the Index relating thereto shall be given to the persons executing the documents to which such entries relate, or to their agents, and after the death of the executants (but not before) to any person applying for such copies.

(3) Subject to the same provisions, copies of entries in Book No. 4 and in the Index relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer, or to his agent or representative.

(4) The requisite search under this section for entries in Books Nos. 3 and 4 shall be made only by the registering officer.

(5) All copies given under this section shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

*(B) As to the Procedure on admitting to Registration.*

58. (1) On every document admitted to registration, other than a copy of a decree or order, or a copy sent to a registering officer under section 89, there shall be endorsed from time to time the following particulars, namely :—

- (a) the signature and addition of every person admitting the execution of the document, and if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent ;
- (b) the signature and addition of every person examined in reference to such document under any of the provisions of this Act ; and
- (c) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

(2) If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

Endorsements to be dated and signed by registering officer.

59. The registering officer shall affix the date and his signature to all endorsements made under sections 52 and 58, relating to the same document and made in his presence on the same day.

Certificate of registration.

60. (1) After such of the provisions of sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word "registered," together with the number and page of the book in which the document has been copied.

(2) Such certificate shall be signed, sealed and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section 59 have occurred, as therein mentioned.

Endorsements and certificate to be copied and document returned.

61. (1) The endorsements and certificate referred to and mentioned in sections 59 and 60 shall thereupon be copied into the margin of the Register-book, and the copy of the map or plan (if any) mentioned in section 21 shall be filed in Book No. 1.

(2) The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in section 52.

Procedure on presenting document in language unknown to registering officer.

62. (1) When a document is presented for registration under section 19, the translation shall be transcribed in the register of documents of the nature of the original, and, together with the copy referred to in section 19, shall be filed in the registration office.

(2) The endorsements and certificate respectively mentioned in sections 59 and 60 shall be made on the original, and, for the purpose of making the copies and memoranda required by sections 57, 64, 65 and 66, the translation shall be treated as if it were the original.

Power to administer oaths and record of substance of statements.

63. (1) Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

(2) Every such officer may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness of such note, it shall be signed by the registering officer.

(3) Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

*(C) Special Duties of Sub-Registrar.*

64. Every Sub-Registrar on registering a non-testamentary document relating to immoveable property not wholly situate in his own sub-district shall make a memorandum thereof and of the endorsement and certificate (if any) thereon, and send the same to every other Sub-Registrar subordinate to the same Registrar as himself in whose sub-district any part of such property is situate, and such Sub-Registrar shall file the memorandum in his Book No. 1.

Procedure where document relates to land in several sub-districts.

65. (1) Every Sub-Registrar on registering a non-testamentary document relating to immoveable property situate in more districts than one shall also forward a copy thereof and of the endorsement and certificate (if any) thereon, together with a copy of the map or plan (if any) mentioned in section 21, to the Registrar of every district in which any part of such property is situate other than the district in which his own sub-district is situate.

Procedure where document relates to land in several districts.

(2) The Registrar on receiving the same shall file in his Book No. 1 the copy of the document and the copy of the map or plan (if any), and shall forward a memorandum of the document to each of the Sub-Registrars subordinate to him within whose sub-district any part of such property is situate; and every Sub-Registrar receiving such memorandum shall file it in his Book No. 1.

*(D) Special Duties of Registrar.*

66. (1) On registering any non-testamentary document relating to immoveable property the Registrar shall forward a memorandum of such document to each Sub-Registrar subordinate to himself in whose sub-district any part of the property is situate.

Procedure after registration of documents relating to land.

(2) The Registrar shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in section 21, to every other Registrar in whose district any part of such property is situate.

(3) Such Registrar on receiving any such copy shall file it in his Book No. 1, and shall also send a memorandum of the copy to each of the Sub-Registrars subordinate to him within whose sub-district any part of the property is situate.

(4) Every Sub-Registrar receiving any memorandum under this section shall file it in his Book No. 1.

67. \* \* \* \*

*(E) Of the Controlling Powers of Registrars and Inspector-General.*

Power of Registrars to superintend and control Sub-Registrars.

**68. (1)** Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.

(2) Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered.

Power of Inspector-General to superintend registration offices and make rules.

**69. (1)** The Inspector-General shall exercise a general superintendence over all the registration offices in the Union of Burma, and shall have power from time to time to make rules consistent with this Act—

- (a) providing for the safe custody of books, papers and documents ;
- (b) declaring what languages shall be deemed to be commonly used in each district ;
- (c) declaring what territorial divisions shall be recognized under section 21 ;
- (d) regulating the amount of fines imposed under sections 25 and 34, respectively ;
- (e) regulating the exercise of the discretion reposed in the registering officer by section 63 ;
- (f) regulating the form in which registering officers are to make memoranda of documents ;
- (g) regulating the authentication by Registrars and Sub-Registrars of the books kept in their respective offices under section 51 ;
- (h) declaring the particulars to be contained in Indexes Nos. I, II, III, and IV, respectively ;
- (i) declaring the holidays that shall be observed in the registration offices ; and
- (j) generally, regulating the proceedings of the Registrars and Sub-Registrars.

(2) The rules so made shall be submitted to the President of the Union for approval, and, after they have been approved, they shall be published in the Gazette, and on publication shall have effect as if enacted in this Act.

Power of Inspector-General to remit fines.

**70.** The Inspector-General may also, in the exercise of his discretion remit wholly or in part the difference between any fine levied under section 25 or section 34 and the amount of the proper registration fee.

**PART XII.****OF REFUSAL TO REGISTER.**

Reasons for refusal to register to be recorded.

**71. (1)** Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his book No. 2 and endorse the words "registration refused" on the

document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

72. (1) Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate, if presented to such Registrar within thirty days from the date of the order; and the Registrar may reverse or alter such order.

Appeal to Registrar from orders of Sub-Registrar refusing registration on ground other than denial of execution.

(2) If the order of the Registrar directs the document to be registered and the document is duly presented for registration within thirty days after the making of such order, the Sub-Registrar shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59, and 60; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.

73. (1) When a Sub-Registrar has refused to register a document on the ground that any person by whom it purports to be executed, or his representative or assign, denies its execution, any person claiming under such document, or his representative, assign or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply to the Registrar to whom such Sub-Registrar is subordinate in order to establish his right to have the document registered.

Application to Registrar where Sub-Registrar refuses to register on ground of denial of execution.

(2) Such application shall be in writing and shall be accompanied by a copy of the reasons recorded under section 71, and the statements in the application shall be verified by the applicant in manner required by law for the verification of plaints.

74. In such case, and also where such denial as aforesaid is made before a Registrar in respect of a document presented for registration to him, the Registrar shall, as soon as conveniently may be, enquire—

Procedure of Registrar on such application.

(a) whether the document has been executed;

(b) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration, as the case may be, so as to entitle the document to registration.

75. (1) If the Registrar finds that the document has been executed and that the said requirements have been complied with, he shall order the document to be registered.

Order by Registrar to register and procedure thereon.

(2) If the document is duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same and

thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60.

(3) Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

(4) The Registrar may, for the purpose of any enquiry under section 74, summon and enforce the attendance of witnesses, and compel them to give evidence, as if he were a civil Court, and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure.

Order of  
refusal by  
Registrar.

**76. (1) Every Registrar refusing—**

- (a) to register a document except on the ground that the property to which it relates is not situate within his district or that the document ought to be registered in the office of a Sub-Registrar, or
- (b) to direct the registration of a document under section 7 or section 75,

shall make an order of refusal and record the reasons for such order in his Book No. 2, and, on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

(2) No appeal lies from any order by a Registrar under this section or section 72.

Suit in case  
of order of  
refusal by  
Registrar.

**77. (1)** Where the Registrar refuses to order the document to be registered under section 72 or section 76, any person claiming under such document, or his representative, assign or agent, may, within thirty days after the making of the order of refusal, institute in the civil Court, within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office if it be duly presented for registration within thirty days after the passing of such decree.

(2) The provisions contained in sub-sections (2) and (3) of section 75 shall, *mutatis mutandis*, apply to all documents presented for registration in accordance with any such decree, and, notwithstanding anything contained in this Act, the document shall be receivable in evidence in such suit.

### PART XIII.

#### OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

Fees to be  
fixed by  
President.

**78. The President of the Union shall prepare a table of fees payable—**

- (a) for the registration of documents ;
- (b) for searching the registers ;
- (c) for making or granting copies of reasons, entries or documents, before, on or after registration ;

and of extra or additional fees payable—

- (d) for every registration under section 30 ;
- (e) for the issue of commissions ;
- (f) for filing translations ;
- (g) for attending at private residences ;
- (h) for the safe custody and return of documents ; and
- (i) for such other matters as appear to the President of the Union necessary to effect the purposes of this Act.

79. A table of the fees so payable shall be published in the Gazette, and a copy thereof [ \* \* \* \* ]<sup>1</sup> shall be exposed to public view in every registration office. Publication of fees.

80. All fees for the registration of documents under this Act shall be payable on the presentation of such documents. Fees payable on presentation.

## PART XIV.

### OF PENALTIES.

81. Every registering officer appointed under this Act and every person employed in his office for the purposes of this Act, who, being charged with the endorsing, copying, translating or registering of any document presented or deposited under its provisions, endorses, copies, translates or registers such document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury as defined in the Penal Code to any person, shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both. Penalty for incorrectly endorsing, copying, translating or registering documents with intent to injure.

82. Whoever—

- (a) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or enquiry under this Act ; or
- (b) intentionally delivers to a registering officer, in any proceeding under section 19 or section 21, a false copy or translation of a document, or a false copy of a map or plan ; or
- (c) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act ; or
- (d) abets anything made punishable by this Act ;

shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Penalty for making false statements, delivering false copies or translations, false personation, and abetment.

<sup>1</sup> The words "in English and the vernacular language of the district" were omitted by the Union of Burma (Adaptation of Laws) Order, 1948.



Registering officer may commence prosecutions.

**83. (1)** A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector-General or of the Registrar or the Sub-Registrar in whose district or sub-district, as the case may be, the offence has been committed.

(2) Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class.

Registering officers to be deemed public servants.

**84. (1)** Every registering officer appointed under this Act shall be deemed to be a public servant within the meaning of the Penal Code.

(2) Every person shall be legally bound to furnish information to such registering officer when required by him to do so.

(3) In section 228 of the Penal Code, the words "judicial proceeding" shall be deemed to include any proceeding under this Act.

## PART XV.

### MISCELLANEOUS.

Destruction of unclaimed documents.

**85.** Documents (other than wills) remaining unclaimed in any registration office for a period exceeding two years may be destroyed.

Registering officer not liable for thing *bona fide* done or refused in his official capacity.

**86.** No registering officer shall be liable to any suit, claim or demand by reason of anything in good faith done or refused in his official capacity.

Nothing so done invalidated by defect in appointment or procedure.

**87.** Nothing done in good faith pursuant to this Act or [any Act previously in force]<sup>1</sup> by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Registration of documents executed by Government officers or certain public functionaries.

**88. (1)** Notwithstanding anything herein contained, it shall not be necessary for any officer of Government, or for the Administrator-General, Official Trustee or Official Assignee, Receiver or Registrar of the High Court to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in section 58.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to any Secretary to Government or to such officer of Government, Administrator-General, Official Trustee, Official Assignee, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

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

89. (1) Every officer granting a loan under the Land Improvement Loans Act shall send a copy of his order to the registering officer within the local limits of whose jurisdiction the whole or any part of the land to be improved, or of the land to be granted as collateral security, is situate, and such registering officer shall file the copy in his Book No. 1.

Copies of certain orders, certificates and instruments to be sent to registering officers and filed.

(2) Every Court granting a certificate of sale of immoveable property under the Code of Civil Procedure shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immoveable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1.

(3) Every officer granting a loan under the Agriculturists Loans Act shall send a copy of any instrument whereby immoveable property is mortgaged for the purpose of securing the repayment of the loan, and if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1.

<sup>1</sup> (3a) Every officer of a co-operative society granting an agricultural loan shall send a copy of any instrument, whereby immoveable property is mortgaged for the purpose of securing the repayment of the loan, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy in his Book No. 1.

(4) Every revenue-officer granting a certificate of sale to the purchaser of immoveable property sold by public auction shall send a copy of the certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situate, and such officer shall file the copy in his Book No. 1.

#### *Exemptions from Act.*

90. (1) Nothing contained in this Act shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps, namely :—

Exemption of certain documents executed by or in favour of Government

- (a) documents issued, received or attested by any officer engaged in making a settlement or revision of settlement of land-revenue, and which form part of the records of such settlement ; or
- (b) documents and maps issued, received or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey ; or
- (c) documents which, under any law for the time being in force, are filed periodically in any revenue office by officers charged with the preparation of village-records ; or

<sup>1</sup> Inserted by Act LXXXII, 1947.

(d) documents evidencing transfers of land or any interest in land on behalf of the Government.

(2) All such documents and maps shall, for the purposes of sections 48 and 49, be deemed to have been and to be registered in accordance with the provisions of this Act.

Inspection  
and copies of  
such docu-  
ments.

91. Subject to such rules and the previous payment of such fees as the President of the Union prescribes in this behalf, all documents and maps mentioned in section 90, clauses (a), (b) and (c), and all registers of the documents mentioned in clause (d), shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

## THE REGISTRATION (TEMPORARY PROVISIONS) ACT, 1947. \*

[BURMA ACT IX, 1947.] (6th February, 1947.)

WHEREAS by reason of circumstances arising out of the war it is expedient that temporary provision should be made for the registration of certain documents ;

\* \* \* \* \*

It is hereby enacted as follows :—

Short title  
and duration.

1. (1) This Act may be called the Registration (Temporary Provisions) Act, 1947.

(2) It shall remain in force until the President of the Union by notification shall declare it to be no longer in force.

Definitions.

2. In this Act—

(a) “the Act” means the Registration Act ;

(b) “emergency period” means the period commencing with the 1st day of December, 1944, and ending with—

(i) the date of promulgation of this Act, or

(ii) the date on which the Registration Office concerned is re-opened subsequent to the return of the Civil Government of Burma, whichever is later.

NOTE.—The emergency period covers both the period of the absence of the legal Government from Burma and the period of the British Military Administration in Burma.

Registration  
of certain  
documents.

3. Notwithstanding anything contained in the Act the following documents shall be accepted for registration under this Act on payment of the usual fees prescribed therefor under the Act, namely,—

(a) documents executed during the emergency period without payment of such penalty or fine as is prescribed under the Act, if presented for registration within four months after the termination of the emergency period, [and on payment of

\* Published in *Burma Gazette*, 1947, Part 1, page 73.

such penalty or fine, if presented for registration beyond the four months after the termination of the emergency period;].<sup>1</sup>

- (b) documents executed during the period of four months prior to the emergency period (*i.e.* from 1st August 1941 to 30th November 1941) on payment of such penalty or fine as is prescribed under the Act.

<sup>2</sup>4. The following documents may, if desired, be tendered to be placed on record in the manner to be prescribed by the President of the Union in cases where the official Register Books concerned are found to have been lost or destroyed in consequence of the war :—

- (i) documents in original already registered under the Act,
- (ii) registered counterparts or duplicate signed copies of such documents, and
- (iii) certified copies of documents, which were already registered either before or during the emergency period, but the originals or registered duplicates of which were subsequently lost.

5. Except as otherwise expressly provided herein, the Act shall apply to all applications for registration and matters arising therefrom as if this Act had not been passed.

Application  
of the  
Registration  
Act.

6. The President of the Union may make rules<sup>1</sup> prescribing the manner in which, and the terms and conditions subject to which, any document may be presented for registration under this Act.

7. The President of the Union may also make rules<sup>3</sup> and regulations for the reconstruction of private and public documents, title deeds, registration records and other papers lost or destroyed during the emergency period.

<sup>1</sup> Inserted by Act LXVIII, 1947.

<sup>2</sup> Substituted *ibid.*

<sup>3</sup> For the Registration (Temporary Provisions) Rules, 1947, see *Burma Gazette*, 1947, Part I, page 763.

# PART XVII—TRANSFER OF PROPERTY.

အပိုင်း ၁၇။ ။ ပစ္စည်းလွှဲပြောင်းရေး။

## THE TRANSFER OF PROPERTY ACT.

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**THE TRANSFER OF PROPERTY ACT.**

[INDIA ACT IV, 1882.] (1st July, 1882.)

**CHAPTER I.**

**PRELIMINARY.**

1. The President of the Union may, from time to time, by notification, <sup>1</sup> extend this Act or any part thereof to the whole or any specified part of the Union of Burma and may, from time to time, by notification, exempt, either retrospectively or prospectively, any part of the Union of Burma from all or any of the following provisions, namely :—

Sections 54, paragraphs 2 and 3, 59, 107 and 123.

<sup>2</sup> Notwithstanding anything in the foregoing part of this section, sections 54, paragraphs 2 and 3, 59, 107 and 123 shall not extend or be extended to any district or tract of country for the time being excluded from the operation of the Registration Act under the power conferred by the first section of that Act or otherwise.

2. Nothing herein contained shall be deemed to affect—

(a) \* \* \* \*

(b) any terms or incidents of any contract or constitution of property which are consistent with the provisions of this Act, and are allowed by the law for the time being in force.

(c) any right or liability arising out of a legal relation constituted before this Act comes into force, or any relief in respect of any such right or liability ; or

(d) save as provided by section 57 and Chapter IV of this Act, any transfer by operation of law or by, or in execution of, a decree or order of a Court of competent jurisdiction ;

Saving of  
certain  
enactments,  
incidents,  
rights, liabi-  
lities, etc.

and nothing in the second Chapter of this Act shall be deemed to affect any rule of Muhammadan law.

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<sup>1</sup> The whole Act has been extended, with effect from the 22nd December, 1924, to the whole of Burma except certain specified areas ; see *Burma Gazette*, 1924, Part I, page 1082.

<sup>2</sup> These provisions extend to every cantonment in the Union of Burma ; see section 287 of the Cantonments Act.

Interpreta-  
tion clause.

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

“immoveable property” does not include standing timber, growing crops or grass ;

“instrument” means a non-testamentary instrument ;

“attested”, in relation to an instrument, means and shall be deemed always to have meant attested by two or more witnesses each of whom has seen the executant sign or affix his mark to the instrument or has seen some other person sign the instrument in the presence and by the direction of the executant, or has received from the executant a personal acknowledgment of his signature or mark, or of the signature of such other person, and each of whom has signed the instrument in the presence of the executant ; but it shall not be necessary that more than one of such witnesses shall have been present at the same time, and no particular form of attestation shall be necessary ;

“attached to the earth” means—

- (a) rooted in the earth, as in the case of trees and shrubs ;
- (b) imbedded in the earth, as in the case of walls or buildings ; or
- (c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached ;

“actionable claim” means a claim to any debt, other than a debt secured by mortgage of immoveable property or by hypothecation or pledge of moveable property, or to any beneficial interest in moveable property not in the possession, either actual or constructive, of the claimant, which the civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent ;

a person is said to have “notice” of a fact when he actually knows that fact, or when, but for wilful abstention from an inquiry or search which he ought to have made, or gross negligence, he would have known it.

*Explanation 1.*—Where any transaction relating to immoveable property is required by law to be and has been effected by a registered instrument, any person acquiring such property or any part of, or share or interest in, such property shall be deemed to have notice of such instrument as from the date of registration or, where the property is not all situated in one sub-district, or where the registered instrument has been registered under sub-section (2) of section 30 of the Registration Act, from the earliest date on which any memorandum of such registered instrument has been filed by any Sub-Registrar within whose sub-district any part of the property which is being acquired, or of the property wherein a share or interest is being acquired, is situated :

Provided that—

- (1) the instrument has been registered and its registration completed in the manner prescribed by the Registration Act and the rules made thereunder,

- (2) the instrument or memorandum has been duly entered or filed, as the case may be, in books kept under section 51 of that Act, and
- (3) the particulars regarding the transaction to which the instrument relates have been correctly entered in the indexes kept under section 55 of that Act.

*Explanation II.*—Any person acquiring any immoveable property or any share or interest in any such property shall be deemed to have notice of the title, if any, of any person who is for the time being in actual possession thereof:

*Explanation III.*—A person shall be deemed to have had notice of any fact if his agent acquires notice thereof whilst acting on his behalf in the course of business to which that act is material :

Provided that, if the agent fraudulently conceals the fact, the principal shall not be charged with notice thereof as against any person who was a party to or otherwise cognizant of the fraud.

4. The chapters and sections of this Act which relate to contracts shall be taken as part of the Contract Act.

Enactments relating to contracts to be taken as part of Contract Act.

And sections 54, paragraphs 2 and 3, 59, 107 and 123 shall be read as supplemental to the Registration Act.

## CHAPTER II. <sup>1</sup>

### OF TRANSFERS OF PROPERTY BY ACT OF PARTIES.

#### (A) *Transfer of Property, whether moveable or immoveable.*

5. In the following sections “transfer of property” means an act by which a living person conveys property, in present or in future, to one or more other living persons, or to himself or to himself and one or more other living persons, and “to transfer property” is to perform such act.

“Transfer of property” defined.

In this section “living person” includes a company or association or body of individuals, whether incorporated or not, but nothing herein contained shall affect any law for the time being in force relating to transfer of property to or by companies, associations or bodies of individuals.

6. Property of any kind may be transferred, except as otherwise provided by this Act or by any other law for the time being in force.

What may be transferred.

(a) The chance of an heir-apparent succeeding to an estate, the chance of a relation obtaining a legacy on the death of a kinsman, or any other mere possibility of a like nature, cannot be transferred.

(b) A mere right of re-entry for breach of a condition subsequent cannot be transferred to any one except the owner of the property affected thereby.

<sup>1</sup> Nothing in Chapter II is to be deemed to affect any rule of Muhammadan Law see section 2.

- (c) An easement cannot be transferred apart from the dominant heritage.
- (d) An interest in property restricted in its enjoyment to the owner personally cannot be transferred by him.
- (dd) A right to future maintenance, in whatsoever manner arising, secured or determined, cannot be transferred.
- (e) A mere right to sue cannot be transferred.
- (f) A public office cannot be transferred, nor can the salary of a public officer, whether before or after it has become payable.
- (g) Stipends allowed to military, air-force and civil pensioners of Government and political pensions cannot be transferred.
- (h) No transfer can be made (1) in so far as it is opposed to the nature of the interest affected thereby, or (2) for an unlawful object or consideration within the meaning of section 23 of the Contract Act, or (3) to a person legally disqualified to be transferee.
- (i) Nothing in this section shall be deemed to authorize a tenant having an untransferable right of occupancy, or the farmer of an estate in respect of which default has been made in paying revenue, to assign his interest as such tenant or farmer.

Persons  
competent  
to transfer.

7. Every person competent to contract and entitled to transferable property, or authorized to dispose of transferable property not his own, is competent to transfer such property either wholly or in part, and either absolutely or conditionally, in the circumstances, to the extent and in the manner allowed and prescribed by any law for the time being in force.

Operation of  
transfer.

8. Unless a different intention is expressed or necessarily implied, a transfer of property passes forthwith to the transferee all the interest which the transferor is then capable of passing in the property, and in the legal incidents thereof.

Such incidents include, where the property is land, the easements annexed thereto, the rents and profits thereof accruing after the transfer, and all things attached to the earth ;

and, where the property is machinery attached to the earth, the moveable parts thereof ;

and, where the property is a house, the easements annexed thereto, the rent thereof accruing after the transfer, and the locks, keys, bars, doors, windows, and all other things provided for permanent use therewith ;

and, where the property is a debt or other actionable claim, the securities therefor (except where they are also for other debts or claims not transferred to the transferee), but not arrears of interest accrued before the transfer ;

and, where the property is money or other property yielding income, the interest or income thereof accruing after the transfer takes effect.

Oral  
transfer.

9. A transfer of property may be made without writing in every case in which a writing is not expressly required by law.

**10.** Where property is transferred subject to a condition or limitation absolutely restraining the transferee or any person claiming under him from parting with or disposing of his interest in the property, the condition or limitation is void, except in the case of a lease where the condition is for the benefit of the lessor or those claiming under him : Provided that property may be transferred to or for the benefit of a woman (not being a Hindu, Muhammadan or Buddhist) so that she shall not have power during her marriage to transfer or charge the same or her beneficial interest therein.

Condition  
restraining  
alienation.

**11.** Where, on a transfer of property, an interest therein is created absolutely in favour of any person, but the terms of the transfer direct that such interest shall be applied or enjoyed by him in a particular manner, he shall be entitled to receive and dispose of such interest as if there were no such direction.

Restriction  
repugnant  
to interest  
created.

Where any such direction has been made in respect of one piece of immoveable property for the purpose of securing the beneficial enjoyment of another piece of such property, nothing in this section shall be deemed to affect any right which the transferor may have to enforce such direction or any remedy which he may have in respect of a breach thereof.

**12.** Where property is transferred subject to a condition or limitation making any interest therein, reserved or given to or for the benefit of any person, to cease on his becoming insolvent or endeavouring to transfer or dispose of the same, such condition or limitation is void.

Condition  
making  
interest  
determina-  
ble on  
insolvency or  
attempted  
alienation.

Nothing in this section applies to a condition in a lease for the benefit of the lessor or those claiming under him.

**13.** Where, on a transfer of property, an interest therein is created for the benefit of a person not in existence at the date of the transfer, subject to a prior interest created by the same transfer, the interest created for the benefit of such person shall not take effect unless it extends to the whole of the remaining interest of the transferor in the property.

Transfer for  
benefit of  
unborn  
person.

#### *Illustration.*

*A transfers property of which he is the owner to B in trust for A and his intended wife successively for their lives, and, after the death of the survivor, for the eldest son of the intended marriage for life, and after his death for A's second son. The interest so created for the benefit of the eldest son does not take effect, because it does not extend to the whole of A's remaining interest in the property.*

**14.** No transfer of property can operate to create an interest which is to take effect after the life-time of one or more persons living at the date of such transfer, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the interest created is to belong.

Rule against  
perpetuity.

Transfer to class some of whom come under sections 13 and 14.

**15.** If, on a transfer of property, an interest therein is created for the benefit of a class of persons with regard to some of whom such interest fails by reason of any of the rules contained in sections 13 and 14, such interest fails in regard to those persons only and not in regard to the whole class.

Transfer to take effect on failure of prior interest.

**16.** Where, by reason of any of the rules contained in sections 13 and 14, an interest created for the benefit of a person or of a class of persons fails in regard to such person or the whole of such class, any interest created in the same transaction and intended to take effect after or upon failure of such prior interest also fails.

Direction for accumulation.

**17.** (1) Where the terms of a transfer of property direct that the income arising from the property shall be accumulated either wholly or in part during a period longer than—

- (a) the life of the transferor, or
- (b) a period of eighteen years from the date of the transfer,

such direction shall, save as hereinafter provided, be void to the extent to which the period during which the accumulation is directed exceeds the longer of the aforesaid periods, and at the end of such last-mentioned period the property and the income thereof shall be disposed of as if the period during which the accumulation has been directed to be made had elapsed.

(2) This section shall not affect any direction for accumulation for the purpose of—

- (i) the payment of the debts of the transferor or any other person taking any interest under the transfer, or
- (ii) the provision of portions for children or remoter issue of the transferor or of any other person taking any interest under the transfer, or
- (iii) the preservation or maintenance of the property transferred ;

and such direction may be made accordingly.

Transfer in perpetuity for benefit of public.

**18.** The restrictions in sections 14, 16 and 17 shall not apply in the case of a transfer of property for the benefit of the public in the advancement of religion, knowledge, commerce, health, safety or any other object beneficial to mankind.

Vested interest.

**19.** Where, on a transfer of property, an interest therein is created in favour of a person without specifying the time when it is to take effect, or in terms specifying that it is to take effect forthwith or on the happening of an event which must happen, such interest is vested, unless a contrary intention appears from the terms of the transfer.

A vested interest is not defeated by the death of the transferee before he obtains possession.

*Explanation.*—An intention that an interest shall not be vested is not to be inferred merely from a provision whereby the enjoyment thereof is postponed, or whereby a prior interest in the same property is given or reserved to some

other person, or whereby income arising from the property is directed to be accumulated until the time of enjoyment arrives, or from a provision that if a particular event shall happen the interest shall pass to another person.

20. Where, on a transfer of property, an interest therein is created for the benefit of a person not then living, he acquires upon his birth, unless a contrary intention appears from the terms of the transfer, a vested interest, although he may not be entitled to the enjoyment thereof immediately on his birth.

When unborn person acquires vested interest on transfer for his benefit.

21. Where, on a transfer of property, an interest therein is created in favour of a person to take effect only on the happening of a specified uncertain event, or if a specified uncertain event shall not happen, such person thereby acquires a contingent interest in the property. Such interest becomes a vested interest, in the former case, on the happening of the event, in the latter, when the happening of the event becomes impossible.

Contingent interest.

*Exception.*—Where, under a transfer of property, a person becomes entitled to an interest therein upon attaining a particular age, and the transferor also gives to him absolutely the income to arise from such interest before he reaches that age, or directs the income or so much thereof as may be necessary to be applied for his benefit, such interest is not contingent.

22. Where, on a transfer of property, an interest therein is created in favour of such members only of a class as shall attain a particular age, such interest does not vest in any member of the class who has not attained that age.

Transfer to members of a class who attain a particular age.

23. Where, on a transfer of property, an interest therein is to accrue to a specified person if a specified uncertain event shall happen and no time is mentioned for the occurrence of that event, the interest fails unless such event happens before, or at the same time as, the intermediate or precedent interest ceases to exist.

Transfer contingent on happening of specified uncertain event.

24. Where, on a transfer of property, an interest therein is to accrue to such of certain persons as shall be surviving at some period, but the exact period is not specified, the interest shall go to such of them as shall be alive when the intermediate or precedent interest ceases to exist unless a contrary intention appears from the terms of the transfer.

Transfer to such of certain persons as survive at some period } not specified.

#### *Illustration.*

*A transfers property to B for life, and after his death to C and D, equally to be divided between them, or to the survivor of them. C dies during the life of B. D survives B. At B's death the property passes to D.*

25. An interest created on a transfer of property and dependent upon a condition fails if the fulfilment of the condition is impossible, or is forbidden by law, or is of such a nature that, if permitted, it would defeat the provisions of any law, or is fraudulent, or involves or implies injury to the person or property of another, or the Court regards it as immoral or opposed to public policy.

Conditional transfer.



*Illustrations.*

(a) *A* lets a farm to *B* on condition that he shall walk a hundred miles in an hour. The lease is void.

(b) *A* gives Rs. 500 to *B* on condition that he shall marry *A*'s daughter *C*. At the date of the transfer *C* was dead. The transfer is void.

(c) *A* transfers Rs. 500 to *B* on condition that he shall murder *C*. The transfer is void.

(d) *A* transfers Rs. 500 to his niece *C*, if she will desert her husband. The transfer is void.

Fulfilment  
of condition  
precedent.

**26.** Where the terms of a transfer of property impose a condition to be fulfilled before a person can take an interest in the property, the condition shall be deemed to have been fulfilled if it has been substantially complied with.

*Illustrations.*

(a) *A* transfers Rs. 5,000 to *B* on condition that he shall marry with the consent of *C*, *D* and *E*. *E* dies. *B* marries with the consent of *C* and *D*. *B* is deemed to have fulfilled the condition.

(b) *A* transfers Rs. 5,000 to *B* on condition that he shall marry with the consent of *C*, *D* and *E*. *B* marries without the consent of *C*, *D* and *E*, but obtains their consent after the marriage. *B* has not fulfilled the condition.

Conditional  
transfer to  
one person  
coupled with  
transfer to  
another on  
failure of  
prior dis-  
position.

**27.** Where, on a transfer of property, an interest therein is created in favour of one person, and by the same transaction an ulterior disposition of the same interest is made in favour of another, if the prior disposition under the transfer shall fail, the ulterior disposition shall take effect upon the failure of the prior disposition, although the failure may not have occurred in the manner contemplated by the transferor.

But, where the intention of the parties to the transaction is that the ulterior disposition shall take effect only in the event of the prior disposition failing in a particular manner, the ulterior disposition shall not take effect unless the prior disposition fails in that manner.

*Illustrations.*

(a) *A* transfers Rs. 500 to *B* on condition that he shall execute a certain lease within three months after *A*'s death, and, if he should neglect to do so, to *C*. *B* dies in *A*'s life-time. The disposition in favour of *C* takes effect.

(b) *A* transfers property to his wife; but, in case she should die in his life-time, transfers to *B* that which he had transferred to her. *A* and his wife perish together, under circumstances which make it impossible to prove that she died before him. The disposition in favour of *B* does not take effect.

Ulterior  
transfer con-  
ditional on  
happening or  
not happen-  
ing of  
specified  
event.

**28.** On a transfer of property an interest therein may be created to accrue to any person with the condition superadded that in case a specified uncertain event shall happen such interest shall pass to another person, or that in case a specified uncertain event shall not happen such interest shall pass to another person. In each case the dispositions are subject to the rules contained in sections 10, 12, 21, 22, 23, 24, 25 and 27.

Fulfilment of  
condition  
subsequent.

**29.** An ulterior disposition of the kind contemplated by the last preceding section cannot take effect unless the condition is strictly fulfilled.

*Illustration.*

*A* transfers Rs. 500 to *B*, to be paid to him on his attaining his majority or marrying, with a proviso that, if *B* dies a minor or marries without *C*'s consent, the Rs. 500 shall go to *D*. *B* marries when only 17 years of age, without *C*'s consent. The transfer to *D* takes effect.

30. If the ulterior disposition is not valid, the prior disposition is not affected by it.

Prior disposition not affected by invalidity of ulterior disposition.

*Illustration.*

A transfers a farm to B for her life, and, if she do not desert her husband, to C. B is entitled to the farm during her life as if no condition had been inserted.

31. Subject to the provisions of section 12, on a transfer of property an interest therein may be created with the condition superadded that it shall cease to exist in case a specified uncertain event shall happen or in case a specified uncertain event shall not happen.

Condition that transfer shall cease to have effect in case specified uncertain event happens or does not happen.

*Illustrations.*

(a) A transfers a farm to B for his life, with a proviso that, in case B cuts down a certain wood, the transfer shall cease to have any effect. B cuts down the wood. He loses his life-interest in the farm.

(b) A transfers a farm to B, provided that, if B shall not go to England within three years after the date of the transfer, his interest in the farm shall cease. B does not go to England within the term prescribed. His interest in the farm ceases.

32. In order that a condition that an interest shall cease to exist may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of the creation of an interest.

Such condition must not be invalid.

33. Where, on a transfer of property, an interest therein is created subject to a condition that the person taking it shall perform a certain act, but no time is specified for the performance of the act, the condition is broken when he renders impossible, permanently or for an indefinite period, the performance of the act.

Transfer conditional on performance of act, no time being specified for performance.

34. Where an act is to be performed by a person either as a condition to be fulfilled before an interest created on a transfer of property is enjoyed by him, or as a condition on the non-fulfilment of which the interest is to pass from him to another person, and a time is specified for the performance of the act, if such performance within the specified time is prevented by the fraud of a person who would be directly benefited by non-fulfilment of the condition, such further time shall as against him be allowed for performing the act as shall be requisite to make up for the delay caused by such fraud. But if no time is specified for the performance of the act, then, if its performance is by the fraud of a person interested in the non-fulfilment of the condition rendered impossible or indefinitely postponed, the condition shall as against him be deemed to have been fulfilled.

Transfer conditional on performance of act, time being specified.

*Election.*

35. Where a person professes to transfer property which he has no right to transfer, and as part of the same transaction confers any benefit on the owner of the property, such owner must elect either to confirm such transfer or to dissent from it; and in the latter case he shall relinquish the benefit so conferred, and the benefit so relinquished shall revert to the transferor or his representative as if it had not been disposed of.

Election when necessary.

subject nevertheless

where the transfer is gratuitous, and the transferor has, before the election, died or otherwise become incapable of making a fresh transfer,

and in all cases where the transfer is for consideration,

to the charge of making good to the disappointed transferee the amount or value of the property attempted to be transferred to him.

*Illustrations.*

The farm of Hmawbi is the property of C and worth Rs. 800. A by an instrument of gift professes to transfer it to B, giving by the same instrument Rs. 1,000 to C. C elects to retain the farm. He forfeits the gift of Rs. 1,000.

In the same case, A dies before the election. His representative must out of the Rs. 1,000 pay Rs. 800 to B.

The rule in the first paragraph of this section applies whether the transferor does or does not believe that which he professes to transfer to be his own.

A person taking no benefit directly under a transaction, but deriving a benefit under it indirectly, need not elect.

A person who in his one capacity takes a benefit under the transaction may in another dissent therefrom.

*Exception to the last preceding four rules.*—Where a particular benefit is expressed to be conferred on the owner of the property which the transferor professes to transfer, and such benefit is expressed to be in lieu of that property, if such owner claim the property, he must relinquish the particular benefit, but he is not bound to relinquish any other benefit conferred upon him by the same transaction.

Acceptance of the benefit by the person on whom it is conferred constitutes an election by him to confirm the transfer, if he is aware of his duty to elect and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives enquiry into the circumstances.

Such knowledge or waiver shall, in the absence of evidence to the contrary, be presumed if the person on whom the benefit has been conferred has enjoyed it for two years without doing any act to express dissent.

Such knowledge or waiver may be inferred from any act of his which renders it impossible to place the persons interested in the property professed to be transferred in the same condition as if such act had not been done.

*Illustration.*

A transfers to B an estate to which C is entitled and as part of the same transaction gives C a coal-mine. C takes possession of the mine and exhausts it. He has thereby confirmed the transfer of the estate to B.

If he does not within one year after the date of the transfer signify to the transferor or his representatives his intention to confirm or to dissent from the transfer, the transferor or his representatives may, upon the expiration of that period, require him to make his election; and if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the transfer.

In case of disability, the election shall be postponed until the disability ceases, or until the election is made by some competent authority.

#### *Apportionment.*

36. In the absence of a contract or local usage to the contrary, all rents, annuities, pensions, dividends, and other periodical payments in the nature of income shall, upon the transfer of the interest of the person entitled to receive such payments, be deemed, as between the transferor and transferee, to accrue due from day to day, and to be apportionable accordingly, but to be payable on the days appointed for the payment thereof.

Apportionment of periodical payments on determination of interest of person entitled.

37. When, in consequence of a transfer, property is divided and held in several shares, and thereupon the benefit of any obligation relating to the property as a whole passes from one to several owners of the property, the corresponding duty shall, in the absence of a contract to the contrary amongst the owners, be performed in favour of each of such owners in proportion to the value of his share in the property, provided that the duty can be severed and that the severance does not substantially increase the burden of the obligation; but if the duty cannot be severed, or if the severance would substantially increase the burden of the obligation, the duty shall be performed for the benefit of such one of the several owners as they shall jointly designate for that purpose :

Apportionment of benefit of obligation on severance.

Provided that no person on whom the burden of the obligation lies shall be answerable for failure to discharge it in manner provided by this section, unless and until he has had reasonable notice of the severance.

Nothing in this section applies to leases for agricultural purposes unless and until the President of the Union, by notification in the Gazette, so directs.

#### *Illustrations.*

(a) A sells to B, C and D a house situate in a village and leased to E at an annual rent of Rs. 30 and delivery of one fat sheep, B having provided half the purchase-money and C and D one quarter each. E having notice of this, must pay Rs. 15 to B, Rs. 7½ to C, and Rs. 7½ to D, and must deliver the sheep according to the joint direction of B, C and D.

(b) In the same case, each house in the village being bound to provide ten days' labour each year on a dyke to prevent inundation, E had agreed as a term of his lease to perform this work for A. B, C and D severally require E to perform the ten days' work due on account of the house of each. E is not bound to do more than ten day's work in all, according to such directions as B, C and D may join in giving.

#### *(B) Transfer of Immoveable Property.*

38. Where any person, authorized only under circumstances in their nature variable to dispose of immoveable property, transfers such property for consideration, alleging the existence of such circumstances, they shall, as between the transferee on the one part and the transferor and other person (if any) affected by the transfer on the other part, be deemed to have existed if the transferee, after using reasonable care to ascertain the existence of such circumstances, has acted in good faith.

Transfer by person authorized only under certain circumstances to transfer.

*Illustration.*

*A*, a Hindu widow whose husband has left collateral heirs, alleging that the property held by her as such is insufficient for her maintenance, agrees, for purposes neither religious nor charitable, to sell a field, part of such property, to *B*. *B* satisfies himself by reasonable enquiry that the income of the property is insufficient for *A*'s maintenance, and that the sale of the field is necessary, and, acting in good faith, buys the field from *A*. As between *B* on the one part and *A* and the collateral heirs on the other part a necessity for the sale shall be deemed to have existed.

Transfer where third person is entitled to maintenance.

39. Where a third person has a right to receive maintenance or a provision for advancement or marriage from the profits of immoveable property, and such property is transferred, the right may be enforced against the transferee if he has notice thereof or if the transfer is gratuitous ; but not against a transferee for consideration and without notice of the right, nor against such property in his hands.

Burden of obligation imposing restriction on use of land,

or of obligation annexed to ownership but not amounting to interest or easement.

40. Where, for the more beneficial enjoyment of his own immoveable property, a third person has, independently of any interest in the immoveable property of another or of any easement thereon, a right to restrain the enjoyment in a particular manner of the latter property, or

where a third person is entitled to the benefit of an obligation arising out of contract and annexed to the ownership of immoveable property, but not amounting to an interest therein or easement thereon,

such right or obligation may be enforced against a transferee with notice thereof or a gratuitous transferee of the property affected thereby, but not against a transferee for consideration and without notice of the right or obligation, nor against such property in his hands.

*Illustration.*

*A* contracts to sell a farm to *B*. While the contract is still in force he sells the farm to *C*, who has notice of the contract. *B* may enforce the contract against *C* to the same extent as against *A*.

Transfer by ostensible owner.

41. Where, with the consent, express or implied, of the persons interested in immoveable property, a person is the ostensible owner of such property and transfers the same for consideration, the transfer shall not be voidable on the ground that the transferor was not authorized to make it : provided that the transferee, after taking reasonable care to ascertain that the transferor had power to make the transfer, has acted in good faith.

Transfer by person having authority to revoke former transfer.

42. Where a person transfers any immoveable property, reserving power to revoke the transfer, and subsequently transfers the property for consideration to another transferee, such transfer operates in favour of such transferee (subject to any condition attached to the exercise of the power) as a revocation of the former transfer to the extent of the power.

*Illustration.*

*A* lets a house to *B*, and reserves power to revoke the lease if, in the opinion of a specified surveyor, *B* should make a use of it detrimental to its value. Afterwards *A*, thinking that such a use has been made, lets the house to *C*. This operates as a revocation of *B*'s lease subject to the opinion of the surveyor as to *B*'s use of the house having been detrimental to its value.

43. Where a person fraudulently or erroneously represents that he is authorized to transfer certain immoveable property and professes to transfer such property for consideration, such transfer shall, at the option of the transferee, operate on any interest which the transferor may acquire in such property at any time during which the contract of transfer subsists.

Transfer by unauthorized person who subsequently acquires interest in property transferred

Nothing in this section shall impair the right of transferees in good faith for consideration without notice of the existence of the said option.

*Illustration.*

*A*, a Hindu, who has separated from his father *B*, sells to *C* three fields, *X*, *Y* and *Z*, representing that *A* is authorized to transfer the same. Of these fields *Z* does not belong to *A*, it having been retained by *B* on the partition; but on *B*'s dying *A* as heir obtains *Z*. *C*, not having rescinded the contract of sale, may require *A* to deliver *Z* to him.

44. Where one of two or more co-owners of immoveable property legally competent in that behalf transfers his share of such property or any interest therein, the transferee acquires, as to such share or interest, and so far as is necessary to give effect to the transfer, the transferor's right to joint possession or other common or part enjoyment of the property, and to enforce a partition of the same, but subject to the conditions and liabilities affecting, at the date of the transfer, the share or interest so transferred.

Transfer by one co-owner.

Where the transferee of a share of a dwelling-house belonging to an undivided family is not a member of the family, nothing in this section shall be deemed to entitle him to joint possession or other common or part enjoyment of the house.

45. Where immoveable property is transferred for consideration to two or more persons, and such consideration is paid out of a fund belonging to them in common, they are, in the absence of a contract to the contrary, respectively entitled to interests in such property identical, as nearly as may be, with the interests to which they were respectively entitled in the fund; and, where such consideration is paid out of separate funds belonging to them respectively, they are, in the absence of a contract to the contrary, respectively entitled to interest in such property in proportion to the shares of the consideration which they respectively advanced.

Joint transfer for consideration.

In the absence of evidence as to the interests in the fund to which they were respectively entitled, or as to the shares which they respectively advanced, such persons shall be presumed to be equally interested in the property.

46. Where immoveable property is transferred for consideration by persons having distinct interests therein, the transferors are, in the absence of a contract to the contrary, entitled to share in the consideration equally, where their interests in the property were of equal value, and, where such interests were of unequal value, proportionately to the value of their respective interests.

Transfer for consideration by persons having distinct interests:

*Illustrations.*

(a) *A*, owning a moiety, and *B* and *C* each a quarter share, of an estate, exchange an eighth share of that estate for a quarter share of another estate. There being no agreement to the contrary, *A* is entitled to an eighth share in the latter estate, and *B* and *C* each to a sixteenth share therein.

(b) *A* being entitled to a life-interest in an estate and *B* and *C* to the reversion, sell the estate for Rs. 1,000. *A*'s life-interest is ascertained to be worth Rs. 600, the reversion Rs. 400. *A* is entitled to receive Rs. 600 out of the purchase-money, *B* and *C* to receive Rs. 400.

Transfer by  
co-owners of  
share in com-  
mon pro-  
perty.

47. Where several co-owners of immoveable property transfer a share therein without specifying that the transfer is to take effect on any particular share or shares of the transferors, the transfer, as among such transferors, takes effect on such shares equally where the shares were equal, and, where they were unequal, proportionately to the extent of such shares.

*Illustration.*

*A*, the owner of an eight-anna share, and *B* and *C*, each the owner of a four-anna share, in an estate, transfer a two-anna share in the estate to *D*, without specifying from which of their several shares the transfer is made. To give effect to the transfer one-anna share is taken from the share of *A*, and half an anna share from each of the shares of *B* and *C*.

Priority of  
rights created  
by transfer.

48. Where a person purports to create by transfer at different times rights in or over the same immoveable property, and such rights cannot all exist or be exercised to their full extent together, each later created right shall, in the absence of a special contract or reservation binding the earlier transferees, be subject to the rights previously created.

Transferee's  
right under  
policy.

49. Where immoveable property is transferred for consideration, and such property or any part thereof is at the date of the transfer insured against loss or damage by fire, the transferee, in case of such loss or damage, may, in the absence of a contract to the contrary, require any money which the transferor actually receives under the policy, or so much thereof as may be necessary, to be applied in reinstating the property.

Rent *bona-  
fide* paid to  
holder under  
defective  
title.

50. No person shall be chargeable with any rents or profits of any immoveable property, which he has in good faith paid or delivered to any person of whom he in good faith held such property, notwithstanding it may afterwards appear that the person to whom such payment or delivery was made had no right to receive such rents or profits.

*Illustration.*

*A* lets a field to *B* at a rent of Rs. 50, and then transfers the field to *C*. *B*, having no notice of the transfer, in good faith pays the rent to *A*. *B* is not chargeable with the rent so paid.

Improve-  
ments made  
by *bona fide*  
holders under  
defective  
titles.

51. When the transferee of immoveable property makes any improvement on the property believing in good faith that he is absolutely entitled thereto, and he is subsequently evicted therefrom by any person having a better title, the transferee has a right to require the person causing the eviction either to have the value of the improvement estimated and paid or secured to the transferee, or to sell his interest in the property to the transferee at the then market-value thereof, irrespective of the value of such improvement.

The amount to be paid or secured in respect of such improvement shall be the estimated value thereof at the time of the eviction.

When, under the circumstances aforesaid, the transferee has planted or sown on the property crops which are growing when he is evicted therefrom, he is entitled to such crops and to free ingress and egress to gather and carry them.

52. During the pendency in any Court having authority in the Union of Burma of any suit or proceeding which is not collusive and in which any right to immoveable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the rights of any other party thereto under any decree or order which may be made therein, except under the authority of the Court and on such terms as it may impose.

Transfer of property pending suit relating thereto.

*Explanation.*—For the purposes of this section, the pendency of a suit or proceeding shall be deemed to commence from the date of the presentation of the plaint or the institution of the proceeding in a Court of competent jurisdiction, and to continue until the suit or proceeding has been disposed of by a final decree or order and complete satisfaction or discharge of such decree or order has been obtained, or has become unobtainable by reason of the expiration of any period of limitation prescribed for the execution thereof by any law for the time being in force.

53. (1) Every transfer of immoveable property made with intent to defeat or delay the creditors of the transferor shall be voidable at the option of any creditor so defeated or delayed.

Fraudulent transfer.

Nothing in this sub-section shall impair the rights of a transferee in good faith and for consideration.

Nothing in this sub-section shall affect any law for the time being in force relating to insolvency.

A suit instituted by a creditor (which term includes a decree-holder whether he has or has not applied for execution of his decree) to avoid a transfer on the ground that it has been made with intent to defeat or delay the creditors of the transferor shall be instituted on behalf of, or for the benefit of, all the creditors.

(2) Every transfer of immoveable property made without consideration with intent to defraud a subsequent transferee shall be voidable at the option of such transferee.

For the purposes of this sub-section, no transfer made without consideration shall be deemed to have been made with intent to defraud by reason only that a subsequent transfer for consideration was made.



Part performance.

**53A.** Where any person contracts to transfer for consideration any immoveable property by writing signed by him or on his behalf from which the terms necessary to constitute the transfer can be ascertained with reasonable certainty,

and the transferee has, in part performance of the contract, taken possession of the property or any part thereof, or the transferee, being already in possession, continues in possession in part performance of the contract and has done some act in furtherance of the contract,

and the transferee has performed or is willing to perform his part of the contract,

then, notwithstanding that the contract, though required to be registered, has not been registered, or, where there is an instrument of transfer, that the transfer has not been completed in the manner prescribed therefor by the law for the time being in force, the transferor or any person claiming under him shall be debarred from enforcing against the transferee and persons claiming under him any right in respect of the property of which the transferee has taken or continued in possession, other than a right expressly provided by the terms of the contract :

Provided that nothing in this section shall affect the rights of a transferee for consideration who has no notice of the contract or of the part performance thereof.

### CHAPTER III.

#### OF SALES OF IMMOVEABLE PROPERTY.

"Sale" defined.

**54.** "Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised.

Sale how made.

<sup>1</sup> Such transfer, in the case of tangible immoveable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

<sup>1</sup>In the case of tangible immoveable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property.

Delivery of tangible immoveable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale.

A contract for the sale of immoveable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property.

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<sup>1</sup> As to limitation to the territorial operation of paragraphs 2 and 3 of section 54, see section 1, *supra*. These paragraphs extend to every cantonment in the Union of Burma; see section 287 of the Cantonments Act.

55. In the absence of a contract to the contrary, the buyer and the seller of immoveable property respectively are subject to the liabilities, and have the rights, mentioned in the rules next following or such of them as are applicable to the property sold :

Rights and liabilities of buyer and seller.

(1) The seller is bound—

- (a) to disclose to the buyer any material defect in the property or in the seller's title thereto of which the seller is, and the buyer is not, aware, and which the buyer could not with ordinary care discover ;
- (b) to produce to the buyer on his request for examination all documents of title relating to the property which are in the seller's possession or power ;
- (c) to answer to the best of his information all relevant questions put to him by the buyer in respect to the property or the title thereto ;
- (d) on payment or tender of the amount due in respect of the price, to execute a proper conveyance of the property when the buyer tenders it to him for execution at a proper time and place ;
- (e) between the date of the contract of sale and the delivery of the property, to take as much care of the property and all documents of title relating thereto which are in his possession as an owner of ordinary prudence would take of such property and documents ;
- (f) to give, on being so required, the buyer, or such person as he directs, such possession of the property as its nature admits ;
- (g) to pay all public charges and rent accrued due in respect of the property up to the date of the sale, the interest on all incumbrances on such property due on such date, and, except where the property is sold subject to incumbrances, to discharge all incumbrances on the property then existing.

(2) The seller shall be deemed to contract with the buyer that the interest which the seller professes to transfer to the buyer subsists and that he has power to transfer the same :

Provided that, where the sale is made by a person in a fiduciary character, he shall be deemed to contract with the buyer that the seller has done no act whereby the property is incumbered or whereby he is hindered from transferring it.

The benefit of the contract mentioned in this rule shall be annexed to, and shall go with, the interest of the transferee as such, and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

(3) Where the whole of the purchase-money has been paid to the seller, he is also bound to deliver to the buyer all documents of title relating to the property which are in the seller's possession or power :

Provided that, (a) where the seller retains any part of the property comprised in such documents, he is entitled to retain them all, and (b) where the whole of such property is sold to different buyers, the buyer of the lot of greatest value is entitled to such documents. But in case (a) the seller, and in case (b) the buyer of the lot of greatest value, is bound, upon every reasonable request by the buyer, or by any of the other buyers, as the case may be, and at the cost of the person making the request, to produce the said documents and furnish such true copies thereof or extracts therefrom as he may require ; and in the meantime, the seller, or the buyer of the lot of greatest value, as the case may be, shall keep the said documents safe, uncanceled and undefaced, unless prevented from so doing by fire or other inevitable accident.

(4) The seller is entitled—

- (a) to the rents and profits of the property till the ownership thereof passes to the buyer ;
- (b) where the ownership of the property has passed to the buyer before payment of the whole of the purchase-money, to a charge upon the property in the hands of the buyer, any transferee without consideration or any transferee with notice of the non-payment, for the amount of the purchase-money, or any part thereof remaining unpaid, and for interest on such amount or part from the date on which possession has been delivered.

(5) The buyer is bound—

- (a) to disclose to the seller any fact as to the nature or extent of the seller's interest in the property of which the buyer is aware but of which he has reason to believe that the seller is not aware, and which materially increases the value of such interest ;
- (b) to pay or tender, at the time and place of completing the sale, the purchase-money to the seller or such person as he directs : provided that, where the property is sold free from incumbrances, the buyer may retain out of the purchase-money the amount of any incumbrances on the property existing at the date of the sale, and shall pay the amount so retained to the persons entitled thereto ;
- (c) where the ownership of the property has passed to the buyer, to bear any loss arising from the destruction, injury or decrease in value of the property not caused by the seller ;
- (d) where the ownership of the property has passed to the buyer, as between himself and the seller, to pay all public charges and rent which may become payable in respect of the property, the principal moneys due on any incumbrances subject to which the property is sold, and the interest thereon afterwards accruing due.

(6) The buyer is entitled—

- (a) where the ownership of the property has passed to him, to the benefit of any improvement in, or increase in value of the property, and to the rents and profits thereof ;

- (b) unless he has improperly declined to accept delivery of the property, to a charge on the property, as against the seller and all persons claiming under him, to the extent of the seller's interest in the property, for the amount of any purchase money properly paid by the buyer in anticipation of the delivery and for interest on such amount; and, when he properly declines to accept the delivery, also for the earnest (if any) and for the costs (if any) awarded to him of a suit to compel specific performance of the contract or to obtain a decree for its rescission.

An omission to make such disclosures as are mentioned in this section, paragraph (1), clause (a), and paragraph (5), clause (a), is fraudulent.

56. If the owner of two or more properties mortgages them to one person and then sells one or more of the properties to another person, the buyer is, in the absence of a contract to the contrary, entitled to have the mortgage debt satisfied out of the property or properties not sold to him, so far as the same will extend, but not so as to prejudice the rights of the mortgagee or persons claiming under him or of any other person who has for consideration acquired an interest in any of the properties.

Marshalling  
by subse-  
quent pur-  
chaser.

#### *Discharge of Incumbrances on Sale.*

57. (a) Where immoveable property subject to any incumbrance, whether immediately payable or not, is sold by the Court or in execution of a decree, or out of Court, the Court may, if it thinks fit, on the application of any party to the sale, direct or allow payment into Court,—

Provision by  
Court for in-  
cumbrance  
and sale freed  
therefrom.

- (1) in case of an annual or monthly sum charged on the property, or of a capital sum charged on a determinable interest in the property—of such amount as, when invested in securities of the Government of India or the Government of the Union of Burma, the Court considers will be sufficient, by means of the interest thereof, to keep down or otherwise provide for that charge, and
- (2) in any other case of a capital sum charged on the property—of the amount sufficient to meet the incumbrance and any interest due thereon.

But in either case there shall also be paid into Court such additional amount as the Court considers will be sufficient to meet the contingency of further costs, expenses and interest, and any other contingency except depreciation of investments not exceeding one-tenth part of the original amount to be paid in, unless the Court for special reasons (which it shall record) thinks fit to require a larger additional amount.

(b) Thereupon the Court may, if it thinks fit, and after notice to the incumbrancer, unless the Court, for reasons to be recorded in writing, thinks fit to dispense with such notice, declare the property to be freed from the incumbrance, and make any order for conveyance, or vesting order, proper for giving effect to the sale, and give directions for the retention and investment of the money in Court.

(c) After notice served on the persons interested in or entitled to the money or fund in Court, the Court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof.

(d) An appeal shall lie from any declaration, order or direction under this section as if the same were a decree.

(e) In this section "Court" means (1) the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, (2) the Court of a District Judge within the local limits of whose jurisdiction the property or any part thereof is situate, (3) any other Court which the President of the Union may, from time to time, by notification in the Gazette, declare to be competent to exercise the jurisdiction conferred by this section.

## CHAPTER IV.

### OF MORTGAGES OF IMMOVEABLE PROPERTY AND CHARGES.

**58.** (a) A mortgage is the transfer of an interest in specific immoveable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability.

"Mortgage,"  
"mortgagor,"  
"mortgagee,"  
"mortgage-  
money" and  
"mortgage-  
deed"  
defined.

The transferor is called a mortgagor, the transferee a mortgagee; the principal money and interest of which payment is secured for the time being are called the mortgage-money, and the instrument (if any) by which the transfer is effected is called a mortgage-deed.

Simple mort-  
gage.

(b) Where, without delivering possession of the mortgaged property, the mortgagor binds himself personally to pay the mortgage-money, and agrees, expressly or impliedly, that, in the event of his failing to pay according to his contract, the mortgagee shall have a right to cause the mortgaged property to be sold and the proceeds of sale to be applied, so far as may be necessary, in payment of the mortgage-money, the transaction is called a simple mortgage and the mortgagee a simple mortgagee.

Mortgage by  
conditional  
sale.

(c) Where the mortgagor ostensibly sells the mortgaged property—  
on condition that on default of payment of the mortgage-money on a certain date the sale shall become absolute, or  
on condition that on such payment being made the sale shall become void, or  
on condition that on such payment being made the buyer shall transfer the property to the seller,

the transaction is called a mortgage by conditional sale and the mortgagee a mortgagee by conditional sale :

Provided that no such transaction shall be deemed to be a mortgage unless the condition is embodied in the document which effects or purports to effect the sale.

(d) Where the mortgagor delivers possession or expressly or by implication binds himself to deliver possession of the mortgaged property to the mortgagee, and authorizes him to retain such possession until payment of the mortgage-money, and to receive the rents and profits accruing from the property or any part of such rents and profits and to appropriate the same in lieu of interest or in payment of the mortgage-money, or partly in lieu of interest or partly in payment of the mortgage-money, the transaction is called an usufructuary mortgage and the mortgagee an usufructuary mortgagee.

Usufructuary mortgage.

(e) Where the mortgagor binds himself to repay the mortgage-money on a certain date, and transfers the mortgaged property absolutely to the mortgagee, but subject to a proviso that he will re-transfer it to the mortgagor upon payment of the mortgage-money as agreed, the transaction is called an English mortgage.

English mortgage.

(f) Where a person in any of the following towns, namely, the towns of Rangoon, Moulmein, Bassein and Akyab, and in any other town<sup>1</sup> which the President of the Union may, by notification in the Gazette, specify in this behalf, delivers to a creditor or his agent documents of title to immoveable property, with intent to create a security thereon, the transaction is called a mortgage by deposit of title-deeds.

Mortgage by deposit of title-deeds.

(g) A mortgage which is not a simple mortgage, a mortgage by conditional sale, an usufructuary mortgage, an English mortgage or a mortgage by deposit of title-deeds within the meaning of this section is called an anomalous mortgage.

Anomalous mortgage.

<sup>2</sup> 59. Where the principal money secured is one hundred rupees or upwards, a mortgage other than a mortgage by deposit of title-deeds can be effected only by a registered instrument signed by the mortgagor and attested by at least two witnesses.

Mortgage when to be by assurance.

Where the principal money secured is less than one hundred rupees, a mortgage may be effected either by a registered instrument signed and attested as aforesaid, or (except in the case of a simple mortgage) by delivery of the property.

59A. Unless otherwise expressly provided, references in this Chapter to mortgagors and mortgagees shall be deemed to include references to persons deriving title from them respectively.

References to mortgagors and mortgagees to include persons deriving title from them.

#### *Rights and Liabilities of Mortgagor.*

60. At any time after the principal money has become due, the mortgagor has a right, on payment or tender, at a proper time and place, of the mortgage-money, to require the mortgagee (a) to deliver to the mortgagor

Right of mortgagor to redeem.

<sup>1</sup> Mandalay has been so notified ; see *Gazette of India*, 1915, Part I, page 1906.

<sup>2</sup> As to limitation to the territorial operation of section 59, see section 1 ; section 59 extends over every Cantonment ; see section 287 of the Cantonments Act.

the mortgage-deed and all documents relating to the mortgaged property which are in the possession or power of the mortgagee, (b) where the mortgagee is in possession of the mortgaged property, to deliver possession thereof to the mortgagor and (c) at the cost of the mortgagor either to re-transfer the mortgaged property to him or to such third person as he may direct, or to execute and (where the mortgage has been effected by a registered instrument) to have registered an acknowledgment in writing that any right in derogation of his interest transferred to the mortgagee has been extinguished :

Provided that the right conferred by this section has not been extinguished by act of the parties or by decree of a Court.

The right conferred by this section is called a right to redeem and a suit to enforce it is called a suit for redemption.

Nothing in this section shall be deemed to render invalid any provision to the effect that, if the time fixed for payment of the principal money has been allowed to pass or no such time has been fixed, the mortgagee shall be entitled to reasonable notice before payment or tender of such money.

Redemption of portion of mortgaged property.

Nothing in this section shall entitle a person interested in a share only of the mortgaged property to redeem his own share only on payment of a proportionate part of the amount remaining due on the mortgage, except only where a mortgagee, or, if there are more mortgagees than one, all such mortgagees, has or have acquired, in whole or in part, the share of a mortgagor.

Obligation to transfer to third party instead of re-transfer to mortgagor.

**60A.** (1) Where a mortgagor is entitled to redemption, then, on the fulfilment of any conditions on the fulfilment of which he would be entitled to require a re-transfer, he may require the mortgagee, instead of re-transferring the property, to assign the mortgage-debt and transfer the mortgaged property to such third person as the mortgagor may direct ; and the mortgagee shall be bound to assign and transfer accordingly.

(2) The rights conferred by this section belong to and may be enforced by the mortgagor or by any incumbrancer notwithstanding an intermediate incumbrance ; but the requisition of any incumbrancer shall prevail over a requisition of the mortgagor and, as between incumbrancers, the requisition of a prior incumbrancer shall prevail over that of a subsequent incumbrancer.

(3) The provisions of this section do not apply in the case of a mortgagee who is or has been in possession.

Right to inspection and production of documents.

**60B.** A mortgagor, as long as his right of redemption subsists, shall be entitled at all reasonable times, at his request and at his own cost, and on payment of the mortgagee's costs and expenses in this behalf, to inspect and make copies or abstracts of, or extracts from, documents of title relating to the mortgaged property which are in the custody or power of the mortgagee.

**61.** A mortgagor, who has executed two or more mortgages in favour of the same mortgagee shall, in the absence of a contract to the contrary, when the principal money of any two or more of the mortgages has become due, be entitled to redeem any one such mortgage separately, or any two or more of such mortgages together.

Right to redeem separately or simultaneously.

**62.** In the case of an usufructuary mortgage, the mortgagor has a right to recover possession of the property together with the mortgage-deed and all documents relating to the mortgaged property which are in the possession or power of the mortgagee,—

Right of usufructuary mortgagor to recover possession.

(a) where the mortgagee is authorized to pay himself the mortgage-money from the rents and profits of the property,—when such money is paid ;

(b) where the mortgagee is authorized to pay himself from such rents and profits or any part thereof a part only of the mortgage-money—when the term, if any, prescribed for the payment of the mortgage-money has expired and the mortgagor pays or tenders to the mortgagee the mortgage-money or the balance thereof or deposits it in Court as hereinafter provided.

**63.** Where mortgaged property in possession of the mortgagee has, during the continuance of the mortgage, received any accession, the mortgagor, upon redemption, shall, in the absence of a contract to the contrary, be entitled as against the mortgagee to such accession.

Accession to mortgaged property.

Where such accession has been acquired at the expense of the mortgagee, and is capable of separate possession or enjoyment without detriment to the principal property, the mortgagor desiring to take the accession must pay to the mortgagee the expense of acquiring it. If such separate possession or enjoyment is not possible, the accession must be delivered with the property, the mortgagor being liable, in the case of an acquisition necessary to preserve the property from destruction, forfeiture or sale, or made with his assent, to pay the proper cost thereof, as an addition to the principal money, with interest at the same rate as is payable on the principal, or, where no such rate is fixed, at the rate of nine per cent. per annum.

Accession acquired in virtue of transferred ownership.

In the case last mentioned the profits, if any, arising from the accession shall be credited to the mortgagor.

Where the mortgage is usufructuary and the accession has been acquired at the expense of the mortgagee, the profits, if any, arising from the accession shall, in the absence of a contract to the contrary, be set off against interest, if any, payable on the money so expended.

**63A. (1)** Where mortgaged property in possession of the mortgagee has during the continuance of the mortgage been improved, the mortgagor, upon redemption, shall, in the absence of a contract to the contrary, be entitled to the improvement ; and the mortgagor shall not, save only in cases provided for in sub-section (2), be liable to pay the cost thereof.

Improvements to mortgaged property.



(2) Where any such improvement was effected at the cost of the mortgagee and was necessary to preserve the property from destruction or deterioration or was necessary to prevent the security from becoming insufficient, or was made in compliance with the lawful order of any public servant or public authority, the mortgagor shall, in the absence of a contract to the contrary, be liable to pay the proper cost thereof as an addition to the principal money with interest at the same rate as is payable on the principal, or where no such rate is fixed, at the rate of nine per cent. per annum, and the profits, if any, accruing by reason of the improvement shall be credited to the mortgagor.

Renewal of  
mortgaged  
lease.

64. Where the mortgaged property is a lease, and the mortgagee obtains a renewal of the lease, the mortgagor, upon redemption, shall, in the absence of a contract by him to the contrary, have the benefit of the new lease.

Implied  
contracts by  
mortgagor.

65. In the absence of a contract to the contrary, the mortgagor shall be deemed to contract with the mortgagee—

- (a) that the interest which the mortgagor professes to transfer to the mortgagee subsists, and that the mortgagor has power to transfer the same ;
- (b) that the mortgagor will defend, or if the mortgagee be in possession of the mortgaged property, enable him to defend, the mortgagor's title thereto ;
- (c) that the mortgagor will, so long as the mortgagee is not in possession of the mortgaged property, pay all public charges accruing due in respect of the property ;
- (d) where the mortgaged property is a lease, that the rent payable under the lease, the conditions contained therein, and the contracts binding on the lessee have been paid, performed and observed down to the commencement of the mortgage ; and that the mortgagor will, so long as the security exists and the mortgagee is not in possession of the mortgaged property, pay the rent reserved by the lease, or, if the lease be renewed, the renewed lease, perform the conditions contained therein and observe the contracts binding on the lessee, and indemnify the mortgagee against all claims sustained by reason of the non-payment of the said rent or the non-performance or non-observance of the said conditions and contracts ;
- (e) and, where the mortgage is a second or subsequent incumbrance on the property, that the mortgagor will pay the interest from time to time accruing due on each prior incumbrance as and when it becomes due, and will at the proper time discharge the principal money due on such prior incumbrance.

The benefit of the contracts mentioned in this section shall be annexed to and shall go with the interest of the mortgagee as such, and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

**65A.** (1) Subject to the provisions of sub-section (2), a mortgagor, while lawfully in possession of the mortgaged property, shall have power to make leases thereof which shall be binding on the mortgagee. Mortgagor's power to lease.

(2) (a) Every such lease shall be such as would be made in the ordinary course of management of the property concerned, and in accordance with any local law, custom or usage.

(b) Every such lease shall reserve the best rent that can reasonably be obtained, and no premium shall be paid or promised and no rent shall be payable in advance.

(c) No such lease shall contain a covenant for renewal.

(d) Every such lease shall take effect from a date not later than six months from the date on which it is made.

(e) In the case of a lease of buildings, whether leased with or without the land on which they stand, the duration of the lease shall in no case exceed three years, and the lease shall contain a covenant for payment of the rent and a condition of re-entry on the rent not being paid within a time therein specified.

(3) The provisions of sub-section (1) apply only if and as far as a contrary intention is not expressed in the mortgage-deed; and the provisions of sub-section (2) may be varied or extended by the mortgage-deed and, as so varied and extended, shall, as far as may be, operate in like manner and with all like incidents, effects and consequences, as if such variations or extensions were contained in that sub-section.

**66.** A mortgagor in possession of the mortgaged property is not liable to the mortgagee for allowing the property to deteriorate; but he must not commit any act which is destructive or permanently injurious thereto, if the security is insufficient or will be rendered insufficient by such act. Waste by mortgagor in possession.

*Explanation.*—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

#### *Rights and Liabilities of Mortgagee.*

**67.** In the absence of a contract to the contrary, the mortgagee has at any time after the mortgage-money has become due to him, and before a decree has been made for the redemption of the mortgaged property, or the mortgage-money has been paid or deposited as hereinafter provided, a right to obtain from the Court a decree that the mortgagor shall be absolutely debarred of his right to redeem the property, or a decree that the property be sold. Right to foreclosure or sale.

A suit to obtain a decree that a mortgagor shall be absolutely debarred of his right to redeem the mortgaged property is called a suit for foreclosure.

Nothing in this section shall be deemed—

(a) to authorize any mortgagee, other than a mortgagee by conditional sale or a mortgagee under an anomalous mortgage by the terms of which he is entitled to foreclose, to institute a suit for

all his available remedies against the mortgaged property or what remains of it, unless the mortgagee abandons his security and, if necessary, re-transfers the mortgaged property.

69. (1) A mortgagee, or any person acting on his behalf, shall, subject to the provisions of this section, have power to sell or concur in selling the mortgaged property, or any part thereof, in default of payment of the mortgage-money, without the intervention of the Court, in the following cases and in no others, namely :—

Power of  
sale when  
valid.

- (a) where the mortgage is an English mortgage, and neither the mortgagor nor the mortgagee is a Hindu, Muhammadan or Buddhist or a member of any other race, sect, tribe or class from time to time specified in this behalf by the President of the Union in the Gazette ;
  - (b) where a power of sale without the intervention of the Court is expressly conferred on the mortgagee by the mortgage-deed and the mortgagee is the Government ;
  - (c) where a power of sale without the intervention of the Court is expressly conferred on the mortgagee by the mortgage-deed and the mortgaged property or any part thereof was, on the date of the execution of the mortgage-deed, situate within the towns of Rangoon, Moulmein, Bassein, Akyab or in any other town or area which the President of the Union may, by notification in the Gazette, specify in this behalf.
- (2) No such power shall be exercised unless and until—
- (a) notice in writing requiring payment of the principal money has been served on the mortgagor, or on one of several mortgagors, and default has been made in payment of the principal money, or of part thereof, for three months after such service ; or
  - (b) some interest under the mortgage amounting at least to five hundred rupees is in arrear and unpaid for three months after becoming due.

(3) When a sale has been made in professed exercise of such a power, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorize the sale, or that due notice was not given, or that the power was otherwise improperly or irregularly exercised ; but any person damnified by an unauthorized or improper or irregular exercise of the power shall have his remedy in damages against the person exercising the power.

(4) The money which is received by the mortgagee, arising from the sale, after discharge of prior incumbrances, if any, to which the sale is not made subject, or after payment into Court under section 57 of a sum to meet any prior incumbrance, shall, in the absence of a contract to the contrary, be held by him in trust to be applied by him, first, in payment of all costs, charges and expenses properly incurred by him as incident to the sale or any attempted sale ; and, secondly, in discharge of the mortgage-money and costs and other

money, if any, due under the mortgage ; and the residue of the money so received shall be paid to the person entitled to the mortgaged property, or authorized to give receipts for the proceeds of the sale thereof.

(5) Nothing in this section or in section 69A applies to powers conferred before the first day of July, 1882. <sup>1</sup>

Appointment  
of receiver.

**69A. (1)** A mortgagee having the right to exercise a power of sale under section 69 shall, subject to the provisions of sub-section (2), be entitled to appoint, by writing signed by him or on his behalf, a receiver of the income of the mortgaged property or any part thereof.

(2) Any person who has been named in the mortgage-deed and is willing and able to act as receiver may be appointed by the mortgagee.

If no person has been so named, or if all persons named are unable or unwilling to act, or are dead, the mortgagee may appoint any person to whose appointment the mortgagor agrees ; failing such agreement, the mortgagee shall be entitled to apply to the Court for the appointment of a receiver, and any person appointed by the Court shall be deemed to have been duly appointed by the mortgagee.

A receiver may at any time be removed by writing signed by or on behalf of the mortgagee and the mortgagor, or by the Court on application made by either party and on due cause shown.

A vacancy in the office of receiver may be filled in accordance with the provisions of this sub-section.

(3) A receiver appointed under the powers conferred by this section shall be deemed to be the agent of the mortgagor ; and the mortgagor shall be solely responsible for the receiver's acts or defaults, unless the mortgage-deed otherwise provides or unless such acts or defaults are due to the improper intervention of the mortgagee.

(4) The receiver shall have power to demand and recover all the income of which he is appointed receiver by suit, execution or otherwise, in the name either of the mortgagor or of the mortgagee, to the full extent of the interest which the mortgagor could dispose of, and to give valid receipts accordingly for the same, and to exercise any powers which may have been delegated to him by the mortgagee in accordance with the provisions of this section.

(5) A person paying money to the receiver shall not be concerned to inquire if the appointment of the receiver was valid or not.

(6) The receiver shall be entitled to retain out of any money received by him, for his remuneration, and in satisfaction of all costs, charges and expenses incurred by him as receiver, a commission at such rate not exceeding five per cent. on the gross amount of all money received as is specified in his appointment, and, if no rate is so specified, then at the rate of five per cent. on that gross amount, or at such other rate as the Court thinks fit to allow on application made by him for that purpose.

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<sup>1</sup> Date of commencement of this Act.

(7) The receiver shall, if so directed in writing by the mortgagee, insure to the extent, if any, to which the mortgagee might have insured, and keep insured against loss or damage by fire, out of the money received by him, the mortgaged property or any part thereof being of an insurable nature.

(8) Subject to the provisions of this Act as to the application of insurance money, the receiver shall apply all money received by him as follows, namely :—

- (i) in discharge of all rents, taxes, land revenue, rates and outgoings whatever affecting the mortgaged property ;
- (ii) in keeping down all annual sums or other payments, and the interest on all principal sums, having priority to the mortgage in right whereof he is receiver ;
- (iii) in payment of his commission, and of the premiums on fire, life or other insurances, if any, properly payable under the mortgage-deed or under this Act, and the cost of executing necessary or proper repairs directed in writing by the mortgagee ;
- (iv) in payment of the interest falling due under the mortgage ;
- (v) in or towards discharge of the principal money, if so directed in writing by the mortgagee ;

and shall pay the residue, if any, of the money received by him to the person who, but for the possession of the receiver, would have been entitled to receive the income of which he is appointed receiver, or who is otherwise entitled to the mortgaged property.

(9) The provisions of sub-section (1) apply only if and as far as a contrary intention is not expressed in the mortgage-deed ; and the provisions of sub-sections (3) to (8) inclusive, varied or extended, shall, as far as may be, operate in like manner and with all the like incidents, effects and consequences, as if such variations or extensions were contained in the said sub-sections.

(10) Application may be made, without the institution of a suit, to the Court for its opinion, advice or direction on any present question respecting the management or administration of the mortgaged property, other than questions of difficulty or importance not proper in the opinion of the Court for summary disposal. A copy of such application shall be served upon, and the hearing thereof may be attended by, such of the persons interested in the application as the Court may think fit.

The costs of every application under this sub-section shall be in the discretion of the Court.

(11) In this section, “the Court” means the Court which would have jurisdiction in a suit to enforce the mortgage.

70. If, after the date of a mortgage, any accession is made to the mortgaged property, the mortgagee, in the absence of a contract to the contrary, shall, for the purposes of the security, be entitled to such accession.

Accession to mortgaged property.

#### *Illustrations.*

(a) *A mortgages to B a certain field bordering on a river. The field is increased by alluvion. For the purposes of his security, B is entitled to the increase.*

(b) *A mortgages a certain plot of building land to B and afterwards erects a house on the plot. For the purposes of his security B is entitled to the house as well as the plot.*

Renewal of  
mortgaged  
lease.

71. When the mortgaged property is a lease and the mortgagor obtains a renewal of the lease, the mortgagee, in the absence of a contract to the contrary, shall, for the purposes of the security, be entitled to the new lease

Rights of  
mortgagee  
in possession.

72. A mortgagee may spend such money as is necessary—

- (a) \* \* \* \*
- (b) for the preservation of the mortgaged property from destruction, forfeiture or sale ;
- (c) for supporting the mortgagor's title to the property ;
- (d) for making his own title thereto good against the mortgagor ; and,
- (e) when the mortgaged property is a renewable lease-hold, for the renewal of the lease ;

and may, in the absence of a contract to the contrary, add such money to the principal money, at the rate of interest payable on the principal, and where no such rate is fixed, at the rate of nine per cent. per annum : Provided that the expenditure of money by the mortgagee under clause (b) or clause (c) shall not be deemed to be necessary unless the mortgagor has been called upon and has failed to take proper and timely steps to preserve the property or to support the title.

Where the property is by its nature insurable, the mortgagee may also, in the absence of a contract to the contrary, insure and keep insured against loss or damage by fire the whole or any part of such property ; and the premiums paid for any such insurance shall be added to the principal money with interest at the same rate as is payable on the principal money or, where no such rate is fixed, at the rate of nine per cent. per annum. But the amount of such insurance shall not exceed the amount specified in this behalf in the mortgage-deed or (if no such amount is therein specified) two-thirds of the amount that would be required in case of total destruction to reinstate the property insured.

Nothing in this section shall be deemed to authorize the mortgagee to insure when an insurance of the property is kept up by or on behalf of the mortgagor to the amount in which the mortgagee is hereby authorized to insure.

Right to  
proceeds of  
revenue sale  
or compen-  
sation on  
acquisition.

73. (1) Where the mortgaged property or any part thereof or any interest therein is sold owing to failure to pay arrears of revenue or other charges of a public nature or rent due in respect of such property, and such failure did not arise from any default of the mortgagee, the mortgagee shall be entitled to claim payment of the mortgage-money, in whole or in part, out of any surplus of the sale proceeds remaining after payment of the arrears and of all charges and deductions directed by law.

(2) Where the mortgaged property or any part thereof or any interest therein is acquired under the Land Acquisition Act, or any other enactment for the time being in force providing for the compulsory acquisition of immoveable property, the mortgagee shall be entitled to claim payment of

the mortgage-money, in whole or in part, out of the amount due to the mortgagor as compensation.

(3) Such claims shall prevail against all other claims except those of prior incumbrancers, and may be enforced notwithstanding that the principal money on the mortgage has not become due.

74-75. \* \* \* \*

76. When, during the continuance of the mortgage, the mortgagee takes possession of the mortgaged property,—

Liabilities of mortgagee in possession.

- (a) he must manage the property as a person of ordinary prudence would manage it if it were his own ;
- (b) he must use his best endeavours to collect the rents and profits thereof ;
- (c) he must, in the absence of a contract to the contrary, out of the income of the property pay the Government revenue, all other charges of a public nature and all rent accruing due in respect thereof during such possession, and any arrears of rent in default of payment of which the property may be summarily sold ;
- (d) he must, in the absence of a contract to the contrary, make such necessary repairs of the property as he can pay for out of the rents and profits thereof after deducting from such rents and profits the payments mentioned in clause (c) and the interest on the principal money ;
- (e) he must not commit any act which is destructive or permanently injurious to the property ;
- (f) where he has insured the whole or any part of the property against loss or damage by fire, he must, in case of such loss or damage, apply any money which he actually receives under the policy, or so much thereof as may be necessary, in reinstating the property, or, if the mortgagor so directs, in reduction or discharge of the mortgage-money ;
- (g) he must keep clear, full and accurate accounts of all sums received and spent by him as mortgagee, and, at any time during the continuance of the mortgage, give the mortgagor, at his request and cost, true copies of such accounts and of the vouchers by which they are supported ;
- (h) his receipts from the mortgaged property, or, where such property is personally occupied by him, a fair occupation-rent in respect thereof, shall, after deducting the expenses properly incurred for the management of the property and the collection of rents and profits and the other expenses mentioned in clauses (c) and (d), and interest thereon, be debited against him in reduction of the amount (if any) from time to time due to him on account of interest and, so far as such receipts exceed any interest due, in reduction or discharge of the mortgage-money ; the surplus, if any, shall be paid to the mortgagor ;

- (i) when the mortgagor tenders, or deposits in manner hereinafter provided, the amount for the time being due on the mortgage, the mortgagee must, notwithstanding the provisions in the other clauses of this section, account for his receipts from the mortgaged property from the date of the tender or from the earliest time when he could take such amount out of Court, as the case may be, and shall not be entitled to deduct any amount therefrom on account of any expenses incurred after such date or time in connection with the mortgaged property.

Loss occasioned by his default.

If the mortgagee fail to perform any of the duties imposed upon him by this section, he may, when accounts are taken in pursuance of a decree made under this Chapter, be debited with the loss, if any, occasioned by such failure.

Receipts in lieu of interest.

77. Nothing in section 76, clauses (b), (d), (g) and (h), applies to cases where there is a contract between the mortgagee and the mortgagor that the receipts from the mortgaged property shall, so long as the mortgagee is in possession of the property, be taken in lieu of interest on the principal money, or in lieu of such interest and defined portions of the principal.

#### Priority.

Postponement of prior mortgagee.

78. Where, through the fraud, misrepresentation or gross neglect of a prior mortgagee, another person has been induced to advance money on the security of the mortgaged property, the prior mortgagee shall be postponed to the subsequent mortgagee.

Mortgage to secure uncertain amount when maximum is expressed.

79. If a mortgage made to secure future advances, the performance of an engagement or the balance of a running account, expresses the maximum to be secured thereby, a subsequent mortgage of the same property shall, if made with notice of the prior mortgage, be postponed to the prior mortgage in respect of all advances or debits not exceeding the maximum, though made or allowed with notice of the subsequent mortgage.

#### Illustration.

A mortgages his estate to his bankers, B. & Co., to secure the balance of his account with them to the extent of Rs. 10,000. A then mortgages the estate to C, to secure Rs. 10,000. C having notice of the mortgage to B. & Co., and C gives notice to B. & Co., of the second mortgage. At the date of the second mortgage, the balance due to B. & Co., does not exceed Rs. 5,000. B. & Co., subsequently advance to A sums making the balance of the account against him exceed the sum of Rs. 10,000. B. & Co. are entitled, to the extent of Rs. 10,000, to priority over C.

80. \* \* \* \*

#### Marshalling and Contribution.

Marshalling securities.

81. If the owner of two or more properties mortgages them to one person and then mortgages one or more of the properties to another person, the subsequent mortgagee is, in the absence of a contract to the contrary, entitled to have the prior mortgage-debt satisfied out of the property or



properties not mortgaged to him, so far as the same will extend, but not so as to prejudice the rights of the prior mortgagee or of any other person who has for consideration acquired an interest in any of the properties.

82. Where property subject to a mortgage belongs to two or more persons having distinct and separate rights of ownership therein, the different shares in or parts of such property owned by such persons are, in the absence of a contract to the contrary, liable to contribute rateably to the debt secured by the mortgage, and, for the purpose of determining the rate at which each such share or part shall contribute, the value thereof shall be deemed to be its value at the date of the mortgage after deduction of the amount of any other mortgage or charge to which it may have been subject on that date.

Contribution  
to mortgage-  
debt.

Where, of two properties belonging to the same owner, one is mortgaged to secure one debt and then both are mortgaged to secure another debt, and the former debt is paid out of the former property, each property is, in the absence of a contract to the contrary, liable to contribute rateably to the latter debt after deducting the amount of the former debt from the value of the property out of which it has been paid.

Nothing in this section applies to a property liable under section 81 to the claim of the subsequent mortgagee.

#### *Deposit in Court.*

83. At any time after the principal money payable in respect of any mortgage has become due and before a suit for redemption of the mortgaged property is barred, the mortgagor, or any other person entitled to institute such suit, may deposit, in any Court in which he might have instituted such suit, to the account of the mortgagee, the amount remaining due on the mortgage.

Power to  
deposit in  
Court money  
due on  
mortgage.

The Court shall thereupon cause written notice of the deposit to be served on the mortgagee, and the mortgagee may, on presenting a petition (verified in manner prescribed by law for the verification of complaints) stating the amount then due on the mortgage, and his willingness to accept the money so deposited in full discharge of such amount, and on depositing in the same Court the mortgage-deed and all documents in his possession or power relating to the mortgaged property, apply for and receive the money, and the mortgage-deed and all such other documents so deposited shall be delivered to the mortgagor or such other person as aforesaid.

Right to  
money depo-  
sited by  
mortgagor.

Where the mortgagee is in possession of the mortgaged property, the Court shall, before paying to him the amount so deposited, direct him to deliver possession thereof to the mortgagor and at the cost of the mortgagor either to re-transfer the mortgaged property to the mortgagor or to such third person as the mortgagor may direct, or to execute and (where the mortgage has been effected by a registered instrument) have registered an acknowledgment in writing that any right in derogation of the mortgagor's interest transferred to the mortgagee has been extinguished.

Cessation of  
interest.

84. When a mortgagor or such other person as aforesaid has tendered or deposited in Court under section 83 the amount remaining due on the mortgage, interest on the principal money shall cease from the date of the tender, or in the case of a deposit, where no previous tender of such amount has been made, as soon as the mortgagor or such other person as aforesaid has done all that has to be done by him to enable the mortgagee to take such amount out of Court, and the notice required by section 83 has been served on the mortgagee :

Provided that, where the mortgagor has deposited such amount without having made a previous tender thereof and has subsequently withdrawn the same or any part thereof, interest on the principal money shall be payable from the date of such withdrawal.

Nothing in this section or in section 83 shall be deemed to deprive the mortgagee of his right to interest when there exists a contract that he shall be entitled to reasonable notice before payment or tender of the mortgage-money and such notice has not been given before the making of the tender or deposit, as the case may be.

85—90. \* \* \* \*

### *Redemption.*

Persons who  
may sue for  
redemption.

91. Besides the mortgagor, any of the following persons may redeem, or institute a suit for redemption of, the mortgaged property, namely :—

- (a) any person (other than the mortgagee of the interest sought to be redeemed) who has any interest in, or charge upon, the property mortgaged or in or upon the right to redeem the same ;
- (b) any surety for the payment of the mortgage-debt or any part thereof ; or
- (c) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property.

Subrogation.

92. Any of the persons referred to in section 91 (other than the mortgagor) and any co-mortgagor shall, on redeeming property subject to the mortgage, have, so far as regards redemption, foreclosure or sale of such property, the same rights as the mortgagee whose mortgage he redeems may have against the mortgagor or any other mortgagee.

The right conferred by this section is called the right of subrogation, and a person acquiring the same is said to be subrogated to the rights of the mortgagee whose mortgage he redeems.

A person who has advanced to a mortgagor money with which the mortgage has been redeemed shall be subrogated to the rights of the mortgagee whose mortgage has been redeemed, if the mortgagor has by a registered instrument agreed that such person shall be so subrogated.

Nothing in this section shall be deemed to confer a right of subrogation on any person unless the mortgage in respect of which the right is claimed has been redeemed in full.

93. No mortgagee paying off a prior mortgage, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his original security ; and, except in the case provided for by section 79, no mortgagee making a subsequent advance to the mortgagor, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his security for such subsequent advance.

Prohibition of tacking.

94. Where a property is mortgaged for successive debts to successive mortgagees, a mesne mortgagee has the same rights against mortgagees posterior to himself as he has against the mortgagor.

Rights of mesne mortgagee.

95. Where one of several mortgagors redeems the mortgaged property, he shall, in enforcing his right of subrogation under section 92 against his co-mortgagors, be entitled to add to the mortgage-money recoverable from them such proportion of the expenses properly incurred in such redemption as is attributable to their share in the property.

Right of redeeming co-mortgagor to expenses.

96. The provisions hereinbefore contained which apply to a simple mortgage shall, so far as may be, apply to a mortgage by deposit of title-deeds.

Mortgage by deposit of title-deeds.

97. \* \* \* \*

#### *Anomalous Mortgages.*

98. In the case of an anomalous mortgage the rights and liabilities of the parties shall be determined by their contract as evidenced in the mortgage-deed, and, so far as such contract does not extend, by local usage.

Rights and liabilities of parties to anomalous mortgages.

99. \* \* \* \*

#### *Charges.*

100. Where immoveable property of one person is by act of parties or operation of law made security for the payment of money to another, and the transaction does not amount to a mortgage, the latter person is said to have a charge on the property ; and all the provisions hereinbefore contained which apply to a simple mortgage shall, so far as may be, apply to such charge.

Charges.

Nothing in this section applies to the charge of a trustee on the trust property for expenses properly incurred in the execution of his trust, and, save as otherwise expressly provided by any law for the time being in force, no charge shall be enforced against any property in the hands of a person to whom such property has been transferred for consideration and without notice of the charge.

No merger in  
case of  
subsequent  
incumbrance.

**101.** Any mortgagee of, or person having a charge upon, immoveable property, or any transferee from such mortgagee or charge-holder, may purchase or otherwise acquire the rights in the property of the mortgagor or owner, as the case may be, without thereby causing the mortgage or charge to be merged as between himself and any subsequent mortgagee of, or person having a subsequent charge upon, the same property; and no such subsequent mortgagee or charge-holder shall be entitled to foreclose or sell such property without redeeming the prior mortgage or charge, or otherwise than subject thereto.

*Notice and Tender.*

Service or  
tender on or  
to agent.

**102.** Where the person on or to whom any notice or tender is to be served or made under this Chapter does not reside in the district in which the mortgaged property or some part thereof is situate, service or tender on or to an agent holding a general power-of-attorney from such person or otherwise duly authorized to accept such service or tender shall be deemed sufficient.

Where no person or agent on whom such notice should be served can be found or is known to the person required to serve the notice, the latter person may apply to any Court in which a suit might be brought for redemption of the mortgaged property, and such Court shall direct in what manner such notice shall be served, and any notice served in compliance with such direction shall be deemed sufficient;

Provided that, in the case of a notice required by section 83 in the case of a deposit, the application shall be made to the Court in which the deposit has been made.

Where no person or agent to whom such tender should be made can be found or is known to the person desiring to make the tender, the latter person may deposit in any Court in which a suit might be brought for redemption of the mortgaged property the amount sought to be tendered, and such deposit shall have the effect of a tender of such amount.

Notice, etc.,  
to or by per-  
son incompete-  
nt to  
contract.

**103.** Where, under the provisions of this Chapter, a notice is to be served on or by, or a tender or deposit made or accepted or taken out of Court by, any person incompetent to contract, such notice may be served on or by, or tender or deposit made, accepted or taken by, the legal curator of the property of such person; but where there is no such curator, and it is requisite or desirable in the interests of such person that a notice should be served or a tender or deposit made under the provisions of this Chapter, application may be made to any Court in which a suit might be brought for the redemption of the mortgage to appoint a guardian *ad litem* for the purpose of serving or receiving service of such notice, or making or accepting such tender, or making or taking out of Court such deposit, and for the performance of all consequential acts which could or ought to be done by such person if he were competent to contract; and the provisions of Order XXXII in the First Schedule to the Code of Civil Procedure shall, so far as may be, apply to such

application and to the parties thereto and to the guardian appointed thereunder.

**104.** The High Court may, from time to time, make rules consistent with this Act for carrying out, in itself and in the Courts of Civil Judicature subject to its superintendence, the provisions contained in this Chapter. Power to make rules.

## CHAPTER V.

### OF LEASES OF IMMOVEABLE PROPERTY.

**105.** A lease of immoveable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms. "Lease" defined.

The transferor is called the lessor, the transferee is called the lessee, the price is called the premium, and the money, share, service or other thing to be so rendered is called the rent. "Lessor,"  
"lessee,"  
"premium"  
and "rent"  
defined.

**106.** In the absence of a contract or local law or usage to the contrary, a lease of immoveable property for agricultural or manufacturing purposes shall be deemed to be a lease from year to year, terminable, on the part of either lessor or lessee, by six months' notice expiring with the end of a year of the tenancy; and a lease of immoveable property for any other purpose shall be deemed to be a lease from month to month, terminable, on the part of either lessor or lessee, by fifteen days' notice expiring with the end of a month of the tenancy. Duration of certain leases in absence of written contract or local usage.

Every notice under this section must be in writing signed by or on behalf of the person giving it, and either be sent by post to the party who is intended to be bound by it or be tendered or delivered personally to such party, or to one of his family or servants at his residence, or (if such tender or delivery is not practicable) affixed to a conspicuous part of the property.

<sup>1</sup> **107.** A lease of immoveable property from year to year or for any term exceeding one year, or reserving a yearly rent, can be made only by a registered instrument. Leases how made.

All other leases of immoveable property may be made either by a registered instrument or by oral agreement accompanied by delivery of possession.

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<sup>1</sup> As to limitation to the territorial operation of section 107, see section 1; section 107 extends to every cantonment in the Union of Burma; see section 287 of the Cantonments Act.

Where a lease of immoveable property is made by a registered instrument, such instrument or, where there are more instruments than one, each such instrument shall be executed by both the lessor and the lessee :

Provided that the President of the Union may, from time to time, by notification in the Gazette, direct that leases of immoveable property, other than leases from year to year, or for any term exceeding one year, or reserving a yearly rent, or any class of such leases, may be made by unregistered instrument or by oral agreement without delivery of possession.

Rights and liabilities of lessor and lessee.

**108.** In the absence of a contract or local usage to the contrary, the lessor and the lessee of immoveable property, as against one another, respectively, possess the rights and are subject to the liabilities mentioned in the rules next following, or such of them as are applicable to the property leased :—

*(A) Rights and Liabilities of the Lessor.*

- (a) The lessor is bound to disclose to the lessee any material defect in the property, with reference to its intended use, of which the former is and the latter is not aware, and which the latter could not with ordinary care discover ;
- (b) the lessor is bound on the lessee's request to put him in possession of the property ;
- (c) the lessor shall be deemed to contract with the lessee that, if the latter pays the rent reserved by the lease and performs the contracts binding on the lessee, he may hold the property during the time limited by the lease without interruption.

The benefit of such contract shall be annexed to and go with the lessee's interest as such, and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

*(B) Rights and Liabilities of the Lessee.*

- (d) If during the continuance of the lease any accession is made to the property, such accession (subject to the law relating to alluvion for the time being in force) shall be deemed to be comprised in the lease ;
- (e) if by fire, tempest or flood, or violence of an army or of a mob or other irresistible force, any material part of the property be wholly destroyed or rendered substantially and permanently unfit for the purposes for which it was let, the lease shall, at the option of the lessee, be void :

Provided that, if the injury be occasioned by the wrongful act or default of the lessee, he shall not be entitled to avail himself of the benefit of this provision ;

- (f) if the lessor neglects to make, within a reasonable time after notice, any repairs which he is bound to make to the property, the lessee may make the same himself, and deduct the expense

of such repairs with interest from the rent, or otherwise recover it from the lessor ;

- (g) if the lessor neglects to make any payment which he is bound to make, and which, if not made by him, is recoverable from the lessee or against the property, the lessee may make such payment himself, and deduct it with interest from the rent, or otherwise recover it from the lessor ;
- (h) the lessee may, even after the determination of the lease, remove, at any time whilst he is in possession of the property leased but not afterwards, all things which he has attached to the earth : provided he leaves the property in the state in which he received it ;
- (i) when a lease of uncertain duration determines by any means except the fault of the lessee, he or his legal representative is entitled to all the crops planted or sown by the lessee and growing upon the property when the lease determines, and to free ingress and egress to gather and carry them ;
- (j) the lessee may transfer absolutely or by way of mortgage or sub-lease the whole or any part of his interest in the property, and any transferee of such interest or part may again transfer it. The lessee shall not, by reason only of such transfer, cease to be subject to any of the liabilities attaching to the lease ;

nothing in this clause shall be deemed to authorize a tenant having an untransferable right of occupancy, or the farmer of an estate in respect of which default has been made in paying revenue, to assign his interest as such tenant or farmer ;

- (k) the lessee is bound to disclose to the lessor any fact as to the nature or extent of the interest which the lessee is about to take, of which the lessee is, and the lessor is not, aware, and which materially increases the value of such interest ;
- (l) the lessee is bound to pay or tender, at the proper time and place, the premium or rent to the lessor or his agent in this behalf ;
- (m) the lessee is bound to keep, and on the termination of the lease to restore, the property in as good condition as it was in at the time when he was put in possession, subject only to the changes caused by reasonable wear and tear or irresistible force, and to allow the lessor and his agents, at all reasonable times during the term, to enter upon the property and inspect the condition thereof and give or leave notice of any defect in such condition ; and, when such defect has been caused by any act or default on the part of the lessee, his servants or agents, he is bound to make it good within three months after such notice has been given or left ;

- (n) if the lessee becomes aware of any proceeding to recover the property or any part thereof, or of any encroachment made upon, or any interference with, the lessor's rights concerning such property, he is bound to give, with reasonable diligence, notice thereof to the lessor ;
- (o) the lessee may use the property and its products (if any) as a person of ordinary prudence would use them if they were his own ; but he must not use, or permit another to use, the property for a purpose other than that for which it was leased, or fell or sell timber, pull down or damage buildings belonging to the lessor, or work mines or quarries not open when the lease was granted, or commit any other act which is destructive or permanently injurious thereto ;
- (p) he must not, without the lessor's consent, erect on the property any permanent structure, except for agricultural purposes ;
- (q) on the determination of the lease, the lessee is bound to put the lessor into possession of the property.

Rights of  
lessor's  
transferee.

**109.** If the lessor transfers the property leased, or any part thereof, or any part of his interest therein, the transferee, in the absence of a contract to the contrary, shall possess all the rights, and, if the lessee so elects, be subject to all the liabilities of the lessor as to the property or part transferred so long as he is the owner of it ; but the lessor shall not, by reason only of such transfer, cease to be subject to any of the liabilities imposed upon him by the lease, unless the lessee elects to treat the transferee as the person liable to him :

Provided that the transferee is not entitled to arrears of rent due before the transfer, and that if the lessee, not having reason to believe that such transfer has been made, pays rent to the lessor, the lessee shall not be liable to pay such rent over again to the transferee.

The lessor, the transferee and the lessee may determine what proportion of the premium or rent reserved by the lease is payable in respect of the part so transferred, and, in case they disagree, such determination may be made by any Court having jurisdiction to entertain a suit for the possession of the property leased.

Exclusion of  
day on which  
term com-  
mences.

**110.** Where the time limited by a lease of immoveable property is expressed as commencing from a particular day, in computing that time such day shall be excluded. Where no day of commencement is named, the time so limited begins from the making of the lease.

Duration of  
lease for a  
year.

Where the time so limited is a year or a number of years, in the absence of an express agreement to the contrary, the lease shall last during the whole anniversary of the day from which such time commences.

Option to de-  
termine  
lease.

Where the time so limited is expressed to be terminable before its expiration, and the lease omits to mention at whose option it is so terminable, the lessee, and not the lessor, shall have such option.



**111. A lease of immoveable property determines—**

Determination of lease.

- (a) by efflux of the time limited thereby ;
- (b) where such time is limited conditionally on the happening of some event—by the happening of such event ;
- (c) where the interest of the lessor in the property terminates on, or his power to dispose of the same extends only to, the happening of any event—by the happening of such event ;
- (d) in case the interests of the lessee and the lessor in the whole of the property become vested at the same time in one person in the same right ;
- (e) by express surrender ; that is to say, in case the lessee yields up his interest under the lease to the lessor, by mutual agreement between them ;
- (f) by implied surrender ;
- (g) by forfeiture ; that is to say, (1) in case the lessee breaks an express condition which provides that on breach thereof the lessor may re-enter, or (2) in case the lessee renounces his character as such by setting up a title in a third person or by claiming title in himself, or (3) the lessee is adjudicated an insolvent and the lease provides that the lessor may re-enter on the happening of such event ; and in any of these cases the lessor or his transferee gives notice in writing to the lessee of his intention to determine the lease ;
- (h) on the expiration of a notice to determine the lease, or to quit, or of intention to quit, the property leased, duly given by one party to the other.

*Illustration to clause (f).*

A lessee accepts from his lessor a new lease of the property leased, to take effect during the continuance of the existing lease. This is an implied surrender of the former lease, and such lease determines thereupon.

**112. A forfeiture under section 111, clause (g) is waived by acceptance of rent which has become due since the forfeiture, or by distress for such rent, or by any other act on the part of the lessor showing an intention to treat the lease as subsisting :**

Waiver of forfeiture.

Provided that the lessor is aware that the forfeiture has been incurred :

Provided also that, where rent is accepted after the institution of a suit to eject the lessee on the ground of forfeiture, such acceptance is not a waiver.

**113. A notice given under section 111, clause (h), is waived, with the express or implied consent of the person to whom it is given, by any act on the part of the person giving it showing an intention to treat the lease as subsisting.**

Waiver of notice to quit.

*Illustrations.*

(a) A, the lessor, gives B, the lessee, notice to quit the property leased. The notice expires, B tenders, and A accepts, rent which has become due in respect of the property since the expiration of the notice. The notice is waived.

(b) *A*, the lessor, gives *B*, the lessee, notice to quit the property leased. The notice expires, and *B* remains in possession. *A* gives to *B* as lessee a second notice to quit. The first notice is waived.

Relief against forfeiture for non-payment of rent.

**114.** Where a lease of immoveable property has determined by forfeiture for non-payment of rent, and the lessor sues to eject the lessee, if at the hearing of the suit the lessee pays or tenders to the lessor the rent in arrear, together with interest thereon and his full costs of the suit, or gives such security as the Court thinks sufficient for making such payment within fifteen days, the Court may, in lieu of making a decree for ejectment, pass an order relieving the lessee against the forfeiture, and thereupon the lessee shall hold the property leased as if the forfeiture had not occurred.

Relief against forfeiture in certain other cases.

**114A.** Where a lease of immoveable property has determined by forfeiture for a breach of an express condition which provides that on breach thereof the lessor may re-enter, no suit for ejectment shall lie unless and until the lessor has served on the lessee a notice in writing—

(a) specifying the particular breach complained of, and

(b) if the breach is capable of remedy, requiring the lessee to remedy the breach,

and the lessee fails, within a reasonable time from the date of the service of the notice, to remedy the breach, if it is capable of remedy.

Nothing in this section shall apply to an express condition against the assigning, under-letting, parting with the possession, or disposing, of the property leased, or to an express condition relating to forfeiture in case of non-payment of rent.

Effect of surrender and forfeiture on under-leases.

**115.** The surrender, express or implied, of a lease of immoveable property does not prejudice an under-lease of the property or any part thereof previously granted by the lessee, on terms and conditions substantially the same (except as regards the amount of rent) as those of the original lease; but unless the surrender is made for the purpose of obtaining a new lease, the rent payable by, and the contracts binding on, the under-lessee shall be respectively payable to and enforceable by the lessor.

The forfeiture of such a lease annuls all such under-leases, except where such forfeiture has been procured by the lessor in fraud of the under-lessees, or relief against the forfeiture is granted under section 114.

Effect of holding over.

**116.** If a lessee or under-lessee of property remains in possession thereof after the determination of the lease granted to the lessee, and the lessor or his legal representative accepts rent from the lessee or under-lessee, or otherwise assents to his continuing in possession, the lease is, in the absence of an agreement to the contrary, renewed from year to year, or from month to month, according to the purpose for which the property is leased, as specified in section 106.

*Illustrations.*

(a) *A* lets a house to *B* for five years. *B* underlets the house to *C* at a monthly rent of Rs. 100. The five years expire, but *C* continues in possession of the house and pays the rent to *A*. *C*'s lease is renewed from month to month.

(b) *A* lets a farm to *B* for the life of *C*. *C* dies, but *B* continues in possession with *A*'s assent. *B*'s lease is renewed from year to year.

117. None of the provisions of this Chapter apply to leases for agricultural purposes, except in so far as the President of the Union may, by notification published in the Gazette, declare all or any of such provisions to be so applicable in the case of all or any of such leases, together with, or subject to, those of the local law, if any, for the time being in force.

Exemption of leases for agricultural purposes.

Such notification shall not take effect until the expiry of six months from the date of its publication.

## CHAPTER VI.

## OF EXCHANGES.

118. When two persons mutually transfer the ownership of one thing for the ownership of another, neither thing or both things being money only, the transaction is called an "exchange."

"Exchange" defined.

A transfer of property in completion of an exchange can be made only in manner provided for the transfer of such property by sale.

119. If any party to an exchange or any person claiming through or under such party is by reason of any defect in the title of the other party deprived of the thing or any part of the thing received by him in exchange, then, unless a contrary intention appears from the terms of the exchange, such other party is liable to him or any person claiming through or under him for loss caused thereby, or at the option of the person so deprived for the return of the thing transferred, if still in the possession of such other party or his legal representative or a transferee from him without consideration.

Right of party deprived of thing received in exchange.

120. Save as otherwise provided in this Chapter, each party has the rights and is subject to the liabilities of a seller as to that which he gives, and has the rights and is subject to the liabilities of a buyer as to that which he takes.

Rights and liabilities of parties.

121. On an exchange of money, each party thereby warrants the genuineness of the money given by him.

Exchange of money.

## CHAPTER VII.

## OF GIFTS.

" Gift " defined.

**122.** " Gift " is the transfer of certain existing moveable or immoveable property, made voluntarily and without consideration, by one person, called the donor, to another, called the donee, and accepted by or on behalf of the donee.

Acceptance when to be made.

Such acceptance must be made during the lifetime of the donor and while he is still capable of giving.

If the donee dies before acceptance, the gift is void.

Transfer how effected.

<sup>1</sup> **123.** For the purpose of making a gift of immoveable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor, and attested by at least two witnesses.

For the purpose of making a gift of moveable property, the transfer may be effected either by a registered instrument signed as aforesaid or by delivery.

Such delivery may be made in the same way as goods sold may be delivered.

Gift of existing and future property.

**124.** A gift comprising both existing and future property is void as to the latter.

Gift to several, of whom one does not accept.

**125.** A gift of a thing to two or more donees, of whom one does not accept it, is void as to the interest which he would have taken had he accepted.

When gift may be suspended or revoked.

**126.** The donor and donee may agree that on the happening of any specified event which does not depend on the will of the donor a gift shall be suspended or revoked ; but a gift which the parties agree shall be revocable, wholly or in part, at the mere will of the donor, is void wholly or in part, as the case may be.

A gift may also be revoked in any of the cases (save want or failure of consideration) in which, if it were a contract, it might be rescinded.

Save as aforesaid, a gift cannot be revoked.

Nothing contained in this section shall be deemed to affect the rights of transferees for consideration without notice.

*Illustrations.*

(a) *A* gives a field to *B*, reserving to himself, with *B*'s assent, the right to take back the field in case *B* and his descendants die before *A*. *B* dies without descendants in *A*'s life-time. *A* may take back the field.

<sup>1</sup> As to limitation to the territorial operation of section 123, see section 1 ; this section extends to every cantonment in the Union of Burma ; see section 287 of the Cantonments Act.

(b) *A* gives a lakh of rupees to *B*, reserving to himself, with *B*'s assent, the right to take back at pleasure Rs. 10,000 out of the lakh. The gift holds good as to Rs. 90,000 but is void as to Rs. 10,000, which continue to belong to *A*.

**127.** Where a gift is in the form of a single transfer to the same person of several things, of which one is, and the others are not, burdened by an obligation, the donee can take nothing by the gift unless he accepts it fully. Onerous gift.

Where a gift is in the form of two or more separate and independent transfers to the same person of several things the donee is at liberty to accept one of them and refuse the others, although the former may be beneficial and the latter onerous.

A donee not competent to contract and accepting property burdened by any obligation is not bound by his acceptance. But if, after becoming competent to contract and being aware of the obligation, he retains the property given, he becomes so bound. Onerous gift to disqualified person.

#### *Illustrations.*

(a) *A* has shares in *X*, a prosperous joint stock company, and also shares in *Y* a joint stock company in difficulties. Heavy calls are expected in respect of the shares in *Y*. *A* gives *B* all his shares in joint stock companies. *B* refuses to accept the shares in *Y*. He cannot take the shares in *X*.

(b) *A*, having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is more than the house can be let for, gives to *B* the lease and also, as a separate and independent transaction, a sum of money. *B* refuses to accept the lease. He does not by this refusal forfeit the money.

**128.** Subject to the provisions of section 127, where a gift consists of the donor's whole property, the donee is personally liable for all the debts due by and liabilities of the donor at the time of the gift to the extent of the property comprised therein. Universal donee.

**129.** Nothing in this Chapter relates to gifts of moveable property made in contemplation of death, or shall be deemed to affect any rule of Muhammadan law. Saving of donations *mortis causa* and Muhammadan law.

## CHAPTER VIII.

### OF TRANSFERS OF ACTIONABLE CLAIMS.

**130.** (1) The transfer of an actionable claim, whether with or without consideration, shall be effected only by the execution of an instrument in writing signed by the transferor or his duly authorized agent, shall be complete and effectual upon the execution of such instrument, and thereupon all the rights and remedies of the transferor, whether by way of damages or otherwise, shall vest in the transferee, whether such notice of the transfer as is hereinafter provided be given or not : Transfer of actionable claim.

Provided that every dealing with the debt or other actionable claim by the debtor or other person from or against whom the transferor would, but for such instrument of transfer as aforesaid, have been entitled to recover or

enforce such debt or other actionable claim, shall (save where the debtor or other person is a party to the transfer or has received express notice thereof as hereinafter provided) be valid as against such transfer.

(2) The transferee of an actionable claim may, upon the execution of such instrument of transfer as aforesaid, sue or institute proceedings for the same in his own name without obtaining the transferor's consent to such suit or proceedings and without making him a party thereto.

*Exception.*—Nothing in this section applies to the transfer of a marine or fire policy of insurance.

*Illustrations.*

(i) *A* owes money to *B*, who transfers the debt to *C*. *B* then demands the debt from *A*, who, not having received notice of the transfer, as prescribed in section 131, pays *B*. The payment is valid, and *C* cannot sue *A* for the debt.

(ii) *A* effects a policy on his own life with an insurance company and assigns it to a bank for securing the payment of an existing or future debt. If *A* dies, the bank is entitled to receive the amount of the policy and to sue on it without the concurrence of *A*'s executor, subject to the proviso in sub-section (1) of section 130 and to the provisions of section 132.

Notice to be  
in writing,  
signed.

**131.** Every notice of transfer of an actionable claim shall be in writing, signed by the transferor or his agent duly authorized in this behalf, or, in case the transferor refuses to sign, by the transferee or his agent, and shall state the name and address of the transferee.

Liability of  
transferee of  
actionable  
claim.

**132.** The transferee of an actionable claim shall take it subject to all the liabilities and equities to which the transferor was subject in respect thereof at the date of the transfer.

*Illustrations.*

(i) *A* transfers to *C* a debt due to him by *B*, *A* being then indebted to *B*. *C* sues *B* for the debt due by *B* to *A*. In such suit *B* is entitled to set off the debt due by *A* to him although *C* was unaware of it at the date of such transfer.

(ii) *A* executed a bond in favour of *B* under circumstances entitling the former to have it delivered up and cancelled. *B* assigns the bond to *C* for value and without notice of such circumstances. *C* cannot enforce the bond against *A*.

Warranty of  
solvency of  
debtor.

**133.** Where the transferor of a debt warrants the solvency of the debtor, the warranty, in the absence of a contract to the contrary, applies only to his solvency at the time of the transfer, and is limited, where the transfer is made for consideration, to the amount or value of such consideration.

Mortgaged  
debt.

**134.** Where a debt is transferred for the purpose of securing an existing or future debt, the debt so transferred, if received by the transferor or recovered by the transferee, is applicable, first, in payment of the costs of such recovery, secondly, in or towards satisfaction of the amount for the time being secured by the transfer, and the residue, if any, belongs to the transferor or other person entitled to receive the same.

**135.** Every assignee, by endorsement or other writing, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

Assignment of rights under marine or fire policy of insurance.

**136.** No judge, legal practitioner or officer connected with any Court of Justice shall buy or traffic in, or stipulate for, or agree to receive any share of or interest in, any actionable claim, and no Court of Justice shall enforce, at his instance or at the instance of any person claiming by or through him, any actionable claim so dealt with by him as aforesaid.

Incapacity of officers connected with Courts of Justice.

**137.** Nothing in the foregoing sections of this Chapter applies to stocks, shares or debentures, or to instruments which are for the time being, by law or custom, negotiable, or to any mercantile document of title to goods.

Saving of negotiable instruments, etc.

*Explanation.*—The expression “mercantile document of title to goods” includes a bill of lading, dock-warrant, warehouse-keeper’s certificate, railway receipt, warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented.

## THE MONTHLY LEASES (TERMINATION) ACT, 1946.

[BURMA ACT XLIX, 1946.] (23rd December, 1941.)

WHEREAS it is expedient to provide for the termination of certain leases from month to month of immovable property which cannot be enjoyed by reason of enemy occupation of Burma ;

\* \* \* \*

It is hereby enacted as follows :—

**1.** (1) This Act may be called the Monthly Leases (Termination) Act, 1946.

Short title and commencement.

(2) It shall be deemed to have come into force with effect from the twenty-third day of December, 1941.

**2.** This Act shall apply only to leases of immovable property from month to month :

Application of Act,

Provided that nothing herein contained shall affect any leases of immovable property which have been determined at any time after the twenty-third day of December, 1941, by or under the provisions of any other law for the time being in force, or by agreement between the parties.

Definition.

3. In this Act,—

- (a) “enemy” means any State or Sovereign of a State which is at war with His Britannic Majesty ;
- (b) “lease” includes a sub-lease ; and
- (c) “lessee” includes a “sub-lessee.”

Termination  
of lease.

4. Notwithstanding anything contained in any law for the time being in force, if a lessee ceases to occupy or be in possession of an immovable property by reason of the occupation by the enemy of the place where the immovable property which is the subject of a lease is situate, the lease of such immovable property shall be deemed to have been determined with effect from the end of the month in which the lessee so ceased to occupy or be in possession of the property.

Consequences ensuing  
on termination.

5. On the determination of a lease under the provisions of this Act, the following consequences shall ensue :—

- (a) The lessee shall be absolved from all liability for payment of rent from the date on which the lease is deemed under the provisions of this Act to have been determined,
- (b) The lessor shall be deemed to have been put into possession of the property leased within the meaning of clause (g) of section 108 of the Transfer of Property Act,
- (c) Except in regard to the payment of such arrears of rent as may be outstanding, if any, all rights and liabilities of the lessee under the lease or under the provisions of the Transfer of Property Act shall cease and determine, and
- (d) Any person in possession of the property after the determination of the lease, except with the consent of the lessor or his agent, shall be deemed to be a trespasser.

### THE URBAN RENT CONTROL ACT, 1948.\*

[BURMA ACT VI, 1948.] (10th January, 1948.)

WHEREAS it is necessary to consolidate and amend the existing Urban Rent Control Act, 1946, and subsequent Amendment Acts which were enacted for the purpose of restricting rents of premises in urban areas and for making provision for other matters incidental to or connected with the purpose aforesaid ;

It is hereby enacted as follows :—

- 1. (1) This Act may be called the Urban Rent Control Act, 1948.
- (2) Subject to the provisions of section 3, it shall extend to all urban areas in the Union of Burma,

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\* Published in *Burma Gazette*, 1948, Part I, Page 71.



<sup>1</sup> (3) [The Act shall come into force at once except the provisions of sections 16A, 16AA, 16B and 16BB which shall come into force on such date and in such area <sup>2</sup> as the President may appoint in this behalf; and it shall be in force until the eighth day of October 1951; but the President may, by notification, <sup>3</sup> direct that it shall continue to be in force for such further period or periods and in such areas as may be specified in that behalf.]

Provided that the expiry of the Act shall not render recoverable any rent which during the continuance thereof was irrecoverable or affect the right of the tenant to recover any sum which during the continuance thereof was under the Act recoverable by him.

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

- (a) “City of Rangoon” means the City of Rangoon as described in Schedule VI to the City of Rangoon Municipal Act as amended from time to time;
- (b) “Controller” means the Controller of Rents appointed under this Act;
- (c) “landlord” means any person for the time being entitled to receive rent in respect of any premises, whether on his own account or on account or on behalf or for the benefit of any other person, or as trustee, guardian or receiver for any other person, [or who would so receive the rent or be entitled to receive the rent, if the premises were let to a tenant,] <sup>4</sup> and includes a legal representative, as defined in the Code of Civil Procedure, and a tenant who sublets any premises and every person from time to time deriving title under a landlord;
- (d) “premises” means—
  - (i) any land on which a building has been erected and any building or part of a building let [or occupied or intended to be let or occupied] <sup>4</sup> separately for any purpose whatever, including a stall let for the retail sale of goods in a market or any other building, and any land, furniture or fixture let together with such building or part of a building;
  - (ii) any land let [or occupied or intended to be let or occupied] <sup>4</sup> separately for any purpose whatever;
- (e) “prescribed” means prescribed by rules made under this Act;

<sup>1</sup> Substituted by Act LIII, 1948.

<sup>2</sup> The provisions of sections 16A, 16AA, 16B and 16BB came into force on 1st December 1948, in the City of Rangoon. See *Burma Gazette*, 1948, part I, page 1246.

<sup>3</sup> For notification extending the operation of this Act in all urban areas to which it is applicable for a further period of three years from 8th October 1951; see *Burma Gazette*, 1951, Part I, page 577.

ဤအက်ဥပဒေအာဏာတည်သော မြို့ရပ်တွက်များတွင် ၁၉၅၄ ခု၊ အောက်တိုဘာလ ၈ ရက်နေ့မှစ၍ နောက်ထပ်တနှစ်အက်လက်အာဏာတည်သောဥပဒေကြမ်းကြောင့် မြန်မာနိုင်ငံပြန်တမ်း ၁၉၅၄ ခု၊ အပိုင်း ၁၊ စာမျက်နှာ ၁၄၆၆ တွင်ကြည့်။

<sup>4</sup> Inserted by Act LIII,—1948.

- (f) "standard rent" in relation to any premises means—
- (I) in the cases specified in section 19 the rent fixed by the Controller, subject to any order of the Chief Judge of the City Civil Court of Rangoon in respect of the City of Rangoon or to any order of the Judge prescribed under section 22, in respect of any other urban area ;
  - (II) in all other cases—
    - (A) the rent at which the premises were let on the first day of September 1939 ;
    - (B) where the premises were not let on the first day of September 1939, the rent at which they were let before that date ;
    - (C) where the premises were first let after the first day of September 1939 and before the first day of January 1941 the rent at which they were first let ;
    - (D) where the premises were let on the first day of September 1939 on a lease providing for a periodical increase of rent—
      - (i) during the currency of the lease the rent so provided for from time to time, and
      - (ii) after the expiry of the lease the rent payable during the last period of the lease ;
    - (E) where the premises were let under a lease for a period of five years or upwards commencing on or before the first day of September 1934, which has expired after the first day of September 1939, the rent fixed by such lease for the period containing the first day of September 1939 : Provided that the President of the Union may prescribe generally or in the case of any urban area or of any class of premises that the standard rent as defined in sub-clauses (A), (B), (C), (D) (ii) and (E) shall be increased by an amount not exceeding 25 per centum [\* \*]<sup>2</sup> if he considers that such increase is justified by prevailing economic conditions ;
- (g) "tenant" means any person by whom or on whose account rent is payable for any premises, and includes a legal representative as defined in the Code of Civil Procedure and every person from time to time deriving title under a tenant and also every person remaining in possession of the premises let to him after the termination of the tenancy or lease with or without the assent of the landlord ;
- (h)<sup>3</sup> ["urban area" includes the City of Rangoon, any area declared to be a Municipality under Chapter II of the Municipal Act, any area declared to be a notified area under section 246 of the said Act, a Cantonment as defined in the Cantonments Act, any

<sup>1</sup> Inserted by Act LIII, 1948.

<sup>2</sup> The words "per annum" were deleted by Act XLII, 1952.

<sup>3</sup> Substituted by Act LV, 1949.

area notified as a town under the Towns Act and any other area, which the President may, by notification, declare to be an urban area for the purpose of this Act.]

3. (1) The President of the Union may, by notification, exempt from the operation of this Act or any portion thereof any such area or class of premises as may be specified in such notification and may subsequently cancel or vary such notification.

(2) If any question arises whether any premises come within an urban area or within any area or class of premises exempted from the operation of the Act by notification under sub-section (1), the decision of the President of the Union on such question shall be final.

(3) Nothing in sections 9, 11 or 12 of this Act shall apply to any premises providing board as well as lodging for its tenants which the President of the Union shall, by notification, declare to be primarily intended for the accommodation of travellers.

4. The President of the Union may, by notification, appoint a Controller and one or more Assistant Controllers for any urban area in which this Act is in operation, and may, by general or special order, invest any Assistant Controller with all or any of the powers of the Controller.

5. (1) Subject to the provisions of this Act, where the rent of any premises has been or is hereafter during the continuance of this Act increased above the standard rent, the amount by which such increased rent exceeds the standard rent shall, notwithstanding any agreement to the contrary, be irrecoverable :

Provided that nothing in this section shall apply—

- (a) to any rent which became due before the commencement of this Act ;
- (b) to any periodical increment of rent accruing under any agreement entered into before the first day of September 1939 ; or
- (c) to rent payable under any lease entered into before the first day of September 1939 which has not expired on the said date.

(2) For the purpose of sub-section (1) the rent shall be deemed to have accrued from day to day.

6. Where the landlord has since the first day of September 1939 incurred or during the continuance of this Act incurs increased expenditure in the maintenance and repairs owing to increased cost of building materials or expenditure on the improvement or structural alteration of any premises (not including expenditure on decorations or repairs), he may apply to the Controller to alter the standard rent.

7. (1) Where as the result of any alteration of the terms of the tenancy the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased within the meaning of this Act, whether the sum payable as rent is increased or not.

(2) Where as the result of any alteration of the terms of the tenancy the terms on which any premises are held are not on the whole less favourable to the tenant than the previous terms, the rent shall not be deemed to be increased within the meaning of this Act, whether the sum payable as rent is increased or not.

8. Where the landlord pays any municipal rates, cesses or taxes in respect of any premises, he may apply to the Controller to increase the standard rent to the extent of the increase in the amount for the time being payable by the landlord in respect of such rates, cesses or taxes, over the amount paid in the period of assessment which included the first day of September 1939.

9. (1) Wherever an increase of the rent of any premises is allowable under the provisions of this Act, no such increase shall be recoverable until the expiry of one month after the landlord has served on the tenant a notice in writing of his intention to increase the rent accompanied by a certificate from the Controller fixing the standard rent.

(2) Where such a notice has been served on any tenant, the increase may be continued without service of any fresh notice on any subsequent tenant.

10. It shall not be lawful for any person in consideration of the grant, renewal or continuance of a tenancy of any premises to require the payment of any fine, premium or any other [ \* \* ]<sup>1</sup> sum in addition to the rent or to demand any advance in excess of one month's rent :

Provided that nothing in this section shall apply to any payment under any written agreement entered into before the first day of September 1939.

10A. (1) Notwithstanding anything contained in any other law the Controller shall on application made to him in that behalf by a tenant, including a person permitted to occupy under the provisions of section 12 (1), in possession of any buildings to which this Act applies cause a notice to be served on the landlord thereof requiring him to make any or all repairs which are in the opinion of the Controller necessary to keep such buildings in a habitable state or to take any measures which are necessary for the maintenance of supply of water or electricity and the maintenance of drainage and sewerage services, if the Controller is satisfied that such supplies or services will be available [ by taking such measures : provided that such supplies or services were maintained before the first day of January 1941.]<sup>2</sup>

*Explanation.*—For the purpose of this sub-section the expression “repairs” means any repairs required for the purpose of keeping buildings in good and tenantable repair, and the landlord shall not be deemed to be responsible for any repairs for which the tenant is responsible under an express agreement in writing.

<sup>1</sup> The word “like” was deleted by Act LIII, 1948.

<sup>2</sup> Substituted for the words “by taking such measures” by Act L, 1950.

(2) This sub-section shall apply to tenancies created whether before or after the eighth day of October 1946.

(3) If after receipt of such notice the landlord fails or neglects to make within reasonable time such repairs or to take within reasonable time such measures, as the case may be, the tenant may submit to the Controller an estimate of the cost of such repairs or measures and may apply to him for permission to make such repairs or to take such measures himself and thereupon the Controller may, after considering such estimate of cost and making such inquiries as he may consider necessary, by an order in writing, permit the tenant to make such repairs or to take such measures as the case may be, at a cost not exceeding such amount as may be specified in the order and it shall thereafter be lawful for the tenant to make such repairs or to take such measures himself and to deduct the cost thereof which shall in no case exceed the amount so specified from the rent or otherwise recover it from the landlord.

11. (1) Notwithstanding anything contained in the Transfer of Property Act or the Contract Act or the Rangoon City Civil Court Act no order or decree for the recovery of possession of any premises to which this Act applies or for the ejectment of a tenant therefrom shall be made or given unless—

- (a) any rent lawfully due from the tenant which accrued after the resumption of civil government on the conclusion of hostilities with Japan has not been paid to the landlord or deposited with the Controller [under section 14B]<sup>1</sup> after a written demand for payment of such rent has been sent to the tenant by registered post and has not been complied with for three weeks from the date of such demand, or any other obligation of the tenancy, whether under the contract of tenancy or under this Act, so far as the same is consistent with the provisions of this Act, has been broken or not performed ; or
- (b) any sum representing rent due from the tenant in respect of any period before the date of resumption of civil government on the conclusion of the hostilities with Japan in respect of which an order or decree has been made or given by a Civil Court in favour of the landlord as against the tenant has not been paid ; or
- (c) the tenant or any other person holding or residing with him has been guilty of conduct which is a nuisance or annoyance to adjoining or neighbouring occupiers, or has been convicted of using the premises or allowing the premises to be used for an immoral or illegal purpose, or the condition of the premises has in the opinion of the Court deteriorated owing to acts of waste by or the neglect or default of the tenant or any such person ; or

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<sup>1</sup> Inserted by Act LIII, 1948.

- <sup>1</sup>(d) the premises, in the case of land, are *bonâ-fide* required by the landlord for erection or re-erection of a building or buildings and the landlord executes a bond in such amount as the Court may deem reasonable that the premises will be used for erection or re-erection of a building or buildings, and that he will give effect to such purpose within a period of one year from the date of vacation of the premises by the tenant ; or
- (e) the building or a part thereof to which this Act applies is reasonably and *bonâ-fide* required by the landlord for re-erection or essential, major and structural repairs and the landlord executes a bond in such amount as the Court may deem reasonable that the said premises will be used for such repairs or re-erection, that he will give effect to such purpose within such period not exceeding nine months from the date of vacation of the premises by the tenant, as the Court may prescribe, and that he will, if so desired by the tenant, reinstate the tenant displaced from the premises on completion of such repairs or re-erection ; or
- (f) the building or a part thereof to which the Act applies is reasonably and *bonâ-fide* required by the owner for occupation by himself exclusively for residential purposes and the owner executed a bond in such amount as the Court may deem reasonable that the said premises will be occupied by himself and that he will give effect to such purpose within three months from the date of vacation of the premises by the tenant :

Provided that for the purpose of this clause the term " owner " shall not include any person except the person who was the owner of the said premises on the first day of May 1945 or has after that date become the owner by the devolution of the said premises upon him by inheritance :

Provided also that this clause shall not apply to tenancies created for a definite period by a written tenancy agreement or by the terms of a consent decree of a Court until the expiry of the term of the tenancy or of the period allowed by the decree, as the case may be.

(2) In making any order or decree for the recovery of possession of any premises or for ejectment of a tenant therefrom under clause (d), (e) or (f) of sub-section (1) of this section the Court shall specify the purpose for which such premises are required by the landlord or the owner as the case may be and shall send to the Controller a copy of such order or decree and of any bond into which the landlord or the owner has entered under the provisions of clause (d), (e) or (f) of sub-section (1). If the landlord or the owner uses the premises for any other purpose than that specified in the order or decree or bond or fails to use them for such purpose within the period therein

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<sup>1</sup> Substituted by Act XLII, 1952.

specified or fails to comply with any conditions imposed upon him in the bond, the Court may upon the application of the tenants against whom such decree or order was made or of the Controller declare that the amount entered in the bond shall be forfeited to the Government, and direct that the landlord or the owner shall in addition pay to the tenant such compensation as the Court thinks fit unless the landlord or the owner proves that he was prevented from using the premises for the said purpose or from complying with the conditions imposed in the bond for reasons which appear to the Court satisfactory.

(3) In addition to awarding any compensation under sub-section (2) the Court shall and if the tenant against whom the decree or order was made so agree, place such person in possession of the premises on the terms and conditions upon which he had held the premises prior to the date of the order or decree.

(4) An order for the forfeiture of a bond or for compensation under this section may be enforced in such manner as is provided by the Code of Civil Procedure for the execution of decrees.

12. (1) In any area or in respect of any class of premises to which the President of the Union may, by notification, declare this section to apply, any person, not already being a tenant of any premises, but being in occupation of such premises *bona-fide* for residential or business purposes, may make application to the Controller to be permitted to continue in occupation of such premises, and the Controller shall, on the applicant making a written declaration of his willingness to pay the standard rent of such premises, issue a written order to the said applicant permitting him to continue in occupation of the said premises and shall send a copy of his order to the landlord, or his authorized agent, if his whereabouts are known.

(2) Subject to any orders passed by a Court under section 13 every order passed under sub-section (1) granting permission to any person to continue in occupation of any premises shall remain in force for so long as the provisions of this section apply to the area in which the said premises are situated or the class of premises within which the said premises come and for three months afterwards:

Provided that if during this period a person in whose favour an order has been passed shall voluntarily vacate the premises the Controller may, on the written application of the landlord, cancel such order and shall not thereafter renew it.

13. (1) Notwithstanding anything contained in any other law, no order or decree for the recovery of possession of any premises which any person has been permitted to occupy under the provisions of section 12, or for the ejectment of any such person therefrom shall be made or given unless—

(a) any rent lawfully due from such person in respect of any period subsequent to the grant to such person by the Controller of permission to occupy the said premises has not been paid to

- the landlord, or deposited with the Controller [ under section 14B ]<sup>1</sup> after written demand for payment of such rent has been sent to such person by registered post and has not been complied with for seven days from the date of such demand ; or
- (b) such person or any person residing with him has been guilty of conduct which is a nuisance or annoyance to adjoining or neighbouring occupiers or has been convicted of using the premises or allowing the premises to be used for an immoral or illegal purpose or the condition of the premises has in the opinion of the Court deteriorated owing to acts of waste by or the neglect or default of any such person ; or
- (c) the premises are reasonably and *bona-fide* required by the landlord for occupation by himself or by any member of his family or for the occupation of any person for whose benefit the premises are held or for any other purpose deemed satisfactory by the Court and the landlord executes a bond in such amount as the Court may deem reasonable that the premises will be occupied by himself or by such member or person or that he will give effect to such purpose within such period as the Court may prescribe ; or
- (d) the order granting such permission has been cancelled under the proviso to section 12 (2).

(2) In making any order or decree for the recovery of possession of any premises under clause (c) of sub-section (1) of this section the Court shall specify the purpose for which such premises are required by the landlord and shall send to the Controller a copy of such order or decree and of any bond into which the landlord has entered under the provisions of clause (c) of sub-section (1). If the landlord uses the premises for any other purpose than that specified in the order or decree or bond or fails to use them for such purpose within the period therein prescribed, the Court may, upon the application of the person against whom such decree or order was made or of the Controller, declare that the amount entered in the bond shall be forfeited to the Government, and direct that the landlord shall, in addition, pay to the tenant such compensation as the Court thinks fit unless the landlord proves that he was prevented from using the premises for the said purpose for reasons which appear to the Court satisfactory.

(3) In lieu of awarding any compensation under sub-section (2) or in addition thereto the Court may, in its discretion and if the person against whom the decree or order was made so agree, place such person in possession of the premises on the terms and conditions upon which he had held the premises prior to the date of the order or decree.

(4) An order for the forfeiture of a bond or for compensation under this section may be enforced in such manner as is provided by the Code of Civil Procedure for the execution of decrees.

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<sup>1</sup> Inserted by Act LIII, 1948.



14. (1) At the time of making or giving of any order or decree for recovery of possession of any premises to which this Act applies or for the ejectment therefrom of a tenant or a person permitted to occupy under the provisions of section 12 (1) or in the case of any such order or decree which has been made or given whether before or after the commencement of this Act and which has not yet been executed, either at the time of the application made by the landlord for execution of such order or decree or on application made by the tenant or the person permitted to occupy under section 12 (1) against execution of such order or decree, the Court shall, except in a case in which either clause (c) of section 11 (1) or clause (b) of section 13 (2) applies, stay or suspend execution of such order or decree or postpone the date of delivery of possession for such period or periods and subject to such conditions, as it thinks fit, in regard to payment, by the tenant or by the person against whom the order or decree has been made or given, of arrears of rent or mesne profits, and if such conditions are complied with, the Court shall discharge or rescind the order or decree :

[Provided that in the case of suits for ejectment from or for recovery of possession of, the premises on any of the grounds specified in clause (d), (e) or (f) of sub-section (1) of section 11 or in clause (c) of sub-section (1) of section 13, the order or decree which has been made or given shall not be discharged or rescinded.]<sup>1</sup>

(2) Where any order or decree of the kind mentioned in sub-section (1) of section 11 or sub-section (1) of section 13 is made or given, whether before or after the commencement of this Act, and the order or decree has not been executed, and the Court is of opinion that such order or decree would not have been made or given if the provisions of section 11 or 13, as the case may be, were in force or applicable thereto at the time when the order or decree was made, the Court shall, on an application by the tenant or person permitted to occupy under section 12 (1), rescind or alter the order or decree in such manner as it thinks fit for the purpose of giving effect to this Act ; and the provisions of sub-section (1) of section 11, or sub-section (1) of section 13, as the case may be, shall, for the purpose of such application, be deemed to be applicable to the suit or proceeding in which such order or decree was made.

14A. (1) No suit or proceeding by a landlord for ejectment or recovery of possession of any premises against a tenant or a person permitted to occupy under section 12 (1) in which any of the grounds specified in clause (d), (e) or (f) of section 11 or clause (c) of section 13 is taken as a ground for such ejectment or such recovery of possession shall be entertained by any Court unless the landlord has been permitted by the Controller by an order in writing under sub-section (3) to institute such suit or proceeding and has produced before such Court proof that such permission has been granted.

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<sup>1</sup> This proviso was inserted by Act LIII, 1948.

(2) A landlord who desires to obtain from the Controller an order referred to in sub-section (1) shall make an application to the Controller in that behalf.

(3) On receipt of such application, if the Controller, after making such enquiries as may be deemed necessary, is satisfied that there is sufficient cause to hold that any of the grounds specified in clause (d), (e) or (f) of sub-section (1) of section 11 or clause (c) of sub-section (1) of section 13 exists, the Controller shall make an order in writing granting the application, and if the Controller is not so satisfied, he shall make an order rejecting the application.

14B. (1) When a landlord refuses to accept any rent referred to in clause (a) of section 11 (1) or clause (a) of section 13 (1) offered by a tenant, though no demand is made by the landlord for payment of such rent in respect of any premises, the tenant—

(a) may deposit such rent, and

(b) may also, unless the landlord signifies by a written notice or otherwise to the tenant his willingness to accept any subsequent rent which becomes due in respect of such premises, deposit such subsequent rent with the Controller.

(2) On any deposit being made under sub-section (1), the Controller shall cause a notice of the receipt of the deposit to be served on the landlord by tendering a copy of the notice to the landlord or his authorized agent or if the landlord or his authorized agent is not found by sending such copy by registered post to the last known address of the landlord or his authorized agent. The amount of the deposit may, subject to such rules as may be prescribed under section 31 (2) (f) of this Act, be withdrawn by the landlord or his authorized agent on application made by him to the Controller in that behalf.

<sup>1</sup> 14C. (1) Any landlord or tenant or any person acting in his behalf shall give a receipt for the true amount of rent or any sum paid to him in respect of any premises by the tenant or sub-tenant, as the case may be, duly signed by him or shall duly acknowledge the receipt of such rent or such sum in a book or booklet maintained for the purpose.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five hundred rupees.

15. An appeal on law and fact shall lie to the High Court from any decree or order made by any Judge of the Rangoon City Civil Court or any Judge of the District Courts outside Rangoon in any suit or application or proceeding arising out of such suit or application for the recovery of possession of any premises to which this Act applies or for the ejectment of a tenant therefrom.

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<sup>1</sup> Inserted by Act LIII, 1948.

16. No Civil Court shall accept a plaint in any suit or allow to be filed any application for distress warrant under section 22 of the Rangoon City Civil Court Act, for the recovery of rent which became due after the enactment of this Act in respect of any premises to which this Act may apply, unless a certificate by the Controller certifying the standard rent of the premises has been attached to the plaint or the application for distress warrant.

<sup>1</sup> 16A. (1) When any premises other than residential premises fall vacant or are likely to fall vacant [or when any new premises other than residential premises are constructed]<sup>2</sup> and the landlord proposes to let the same to a tenant, he shall make an application to the Controller for a permit allowing him to let the same to the prospective tenant.

Similarly when a tenant proposes to sub-let any premises other than residential premises or a part thereof to a sub-tenant, he shall make an application to the Controller for a permit allowing him to sub-let the same or a part thereof to the prospective sub-tenant.

(2) The application under sub-section (1) shall contain the following particulars :—

- (a) Description of premises, such as Room Number, Floor Number, House Number, Name of Street, etc., or in the case of land, Lot Number, Block Number, etc. ;
- (b) Name and address of owner ;
- (c) Name, occupation and address of prospective tenant or sub-tenant;
- (d) Monthly rent proposed ;
- (e) Monthly rental of September 1939, if available or rateable value of 1939-40, as assessed by the Rangoon Corporation/ Municipality ;
- (f) Monthly rent charged at present ;
- (g) Nature of building (pucca, plank or mat) ;
- (h) Nature of accommodation (business or residential) ;
- (i) The date or approximate date on which such premises would be available for being let or re-let, as the case may be ;
- (j) A declaration that no *salami* or promise of payment of *salami* or such other consideration has been demanded or received.

(3) On receipt of the application under sub-section (1), the Controller may make a summary enquiry and if he is satisfied that there are no valid objections he shall grant a permit forthwith. In the case of sub-letting, the Controller shall at the same time send a copy of the permit to the owner by registered post :

Provided that—

- (i) in case where such premises are likely to fall vacant or just fall vacant, the prospective tenant or sub-tenant when approved by the Controller shall pay rent from the date of occupation and

<sup>1</sup> Substituted by Act LIII, 1948.

<sup>2</sup> Inserted by Act LV, 1949.

in case where such premises had already fallen vacant for some time before the application is made under sub-section (1) the prospective tenant or sub-tenant shall pay rent from the date of the application ;

- (ii) in case the tenant sub-lets a portion of such premises which cannot be allotted as a separate tenement, the sub-tenant shall pay the rent of such portion to the tenant who shall continue to be responsible to the landlord for the rent of the whole premises ;
- (iii) in case the tenant sub-lets the whole of such premises or a part thereof which can be allotted as a separate tenement to a sub-tenant, then the sub-tenant shall pay rent to the landlord (i.e., the original lessor) and the tenancy shall be deemed to be assigned to the sub-tenant.

<sup>1</sup> 16AA. (1) When a landlord---

- (a) gives or receives notice in writing terminating the tenancy of any residential premises, or
- (b) otherwise receives information that any residential premises of which he is the landlord [are likely to be vacated by a tenant, or that any such premises have been vacated by a tenant and are either unoccupied or occupied after the commencement of the Urban Rent Control (Amendment) Act, 1950, by any person without the permission of the Controller,<sup>2</sup> or
- (c) constructs any new residential premises or causes any such premises to be so repaired, altered or improved that additional residential accommodation has become available,

he shall send a written intimation to that effect to the Controller ; similarly when a tenant occupying any residential premises—

- (d) gives notice in writing terminating the tenancy in respect of any such premises, or
- (e) has vacated any such premises,

he shall send a written intimation to that effect to the Controller.

(2) In the absence of any reasonable cause, the intimation referred to in sub-section (1) shall be sent—

- (a) in a case falling under clause (a) or clause (d) of sub-section (1), within three days of the notice ;
- (b) in a case falling under clause (b) or clause (e) of sub-section (1), within three days of the date on which the landlord receives the information or within three days of the date on which the premises are vacated, as the case may be ;
- (c) in a case falling under clause (c) of sub-section (1), within three days of the date of completion of the construction, repairs, alterations or improvements, as the case may be.

<sup>1</sup> Inserted by Act LIII, 1948.

<sup>2</sup> Substituted for the words "are likely to be vacated or have been vacated," by Act L, 1950.

(3) While sending such intimation the landlord shall supply the particulars specified in clauses (a), (b), (d), (e), (f), (g), (h) and (i) of sub-section (2) of section 16A.

(4) (a) When the Controller receives intimation under sub-section (1) or otherwise receives information that any residential premises are vacant or about to be vacant, [or that any such premises have been vacated by a tenant, and are occupied, after the commencement of the Urban Rent Control (Amendment) Act, 1950, by any person without the permission of the Controller]<sup>1</sup> he, acting with the advice of an Advisory Board which may be constituted by the President for that purpose, may direct the landlord to let the premises, when they become vacant or, if the premises are vacant, to let the vacant premises, to a person or persons specified in such direction ;

(b) every such direction shall be served upon the landlord by a written notice and on such service being effected, the landlord shall comply with such direction ;

(c) if the Controller cannot procure a suitable tenant for allotment to such premises as are referred to in clause (a) he shall so inform the landlord and the landlord may let such premises to any tenant ;

Provided that [if]<sup>2</sup> such direction or information given to the landlord under clause (a), (b) or (c) [relates to vacant premises, it]<sup>2</sup> shall be served upon the landlord within ten days of the receipt of the intimation sent [by him]<sup>3</sup> under sub-section (1) ;

(d) every tenant or occupier who fails to deliver possession [of such premises to the landlord for allotment]<sup>4</sup> to the person or persons specified in the direction issued under clause (a) of sub-section (4) shall be liable to be summarily evicted.

*Explanation.*—For the purpose of this section and section 16A “residential premises” means premises used purely as residence or premises used mainly as residence and incidentally for business or profession.

**16B.** If any person contravenes the provisions of [sub-section (1) or (2) of section 16A or of sub-section (1) or (2) or (3) or of clause (b) of sub-section (4) of section 16AA]<sup>5</sup> he shall be punishable with simple imprisonment which may extend to three months, or with fine which may extend to two thousand rupees, or with both :

Provided that the Controller may, on information received of a person having committed an offence under this section, institute an enquiry and cause the offender to be prosecuted in a Court.

<sup>1</sup> Inserted by Act L, 1950.

<sup>2</sup> Inserted *ibid.*

<sup>3</sup> Inserted by Act LV, 1949.

<sup>4</sup> Inserted by Act L, 1950.

<sup>5</sup> Substituted for the words “sub-section (1) of section 16A or of sub-section (1) or (2) of section 16AA” by Act LV, 1949.

<sup>1</sup> **16BB.** (1) Whenever a person is convicted of an offence under section 16B [or of an offence of abetment of such offence]<sup>2</sup> the tenants or occupiers of the premises concerned, who are not authorized to occupy by the Controller, shall be liable to be summarily evicted.

(2) For the purpose of evicting the tenants or occupiers who are liable to be summarily evicted under sub-section (1) of this section or under clause (d) of sub-section (4) of section 16AA, the Controller shall serve a notice upon such tenants or occupiers to remove themselves and their property from the said premises within seven days of the receipt of such notice : and if any tenant or occupier has failed to comply with the terms of the said notice within such time, the Controller may call upon the District Superintendent of Police to enforce such removal and the District Superintendent of Police, on receipt of any such requisition, shall cause the aforesaid persons and their property to be removed from such premises and shall take such measures as will prevent any such person from again entering into or remaining upon such premises except with the permission of the Controller.

<sup>3</sup> **16C.** The provisions of sections 16A, 16AA and 16BB shall have effect notwithstanding anything inconsistent therewith contained in any other enactment for the time being in force.

**17.** (1) Where any sum has after the commencement of this Act been paid on account of rent, being a sum which is by reason of the provisions of this Act irrecoverable, such sum shall at any time within a period of six months after the date of payment be recoverable by the tenant by whom it was paid from the landlord who received the payment and may without prejudice to any other method of recovery be deducted by such tenant from any rent payable within six months by him to such landlord.

(2) For the purpose of this section the expression " landlord " includes in the case of joint family property the joint family of which the landlord, if deceased, was a member.

**18.** (1) Where any sum not exceeding three hundred rupees has after the commencement of this Act been overpaid by the tenant to a landlord on account of rent of any premises of which a standard rent has been fixed, being a sum in excess of the standard rent, such sum shall at any time within a period of six months after the date of payment be recoverable without prejudice to any other mode of recovery on application by the tenant to a Magistrate from the landlord under the provisions of the Criminal Procedure in like manner as if it were a fine, and the balance of any rent recovered shall after deduction of the costs of recovery be paid to the tenant.

(2) In a proceeding under sub-section (1), on the production of a certificate from the Controller certifying the standard rent of the premises,

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<sup>1</sup> Inserted by Act LIII, 1948.

<sup>2</sup> Inserted by Act L, 1950.

<sup>3</sup> Inserted by Act LV, 1949.

the Magistrate shall presume, until the contrary is proved, that the standard rent of the premises was as certified in the certificates.

19. (1) The Controller shall, on application made to him by any landlord or tenant grant a certificate certifying the standard rent of any premises leased or rented by such landlord or tenant, as the case may be.

(2) In any of the following cases [the Controller shall, on application made to him by a landlord or tenant, or may of his own motion, fix the standard rent]<sup>1</sup> at such amount as having regard to the provisions of this Act and the circumstances of the case he deems just—

- (a) where by reason of any premises having been let at one time as a whole and at another time in parts, or where a tenant has sub-let a part of any premises let to him or where for any reason any difficulty arises in giving effect to this Act ;
- (b) where in the case of any premises let furnished or of any premises let at an inclusive charge for board and lodging it is necessary to distinguish for the purpose of giving effect to this Act the amount payable as rent from the amount payable as hire of furniture or charge for board and attendance ;
- (c) where any premises have been or are let rent free or at a nominal rent or for some consideration in addition to rent ;
- (d) where the rent paid on the first day of September 1939, or, where the premises were not let on that date, the rent at which they were last let before that date, was in the opinion of the Controller unduly low ;
- (e) where there has been a change in the condition of any premises or an increased expenditure in maintenance and repairs owing to increased cost of building materials or an increase in the municipal rates, cesses or taxes in respect of any premises subsequent to the first day of September 1939 ;
- (f) where any premises are let for the first time after the first day of January 1941 ;
- (g) where for the reason that the condition of the premises has deteriorated since the first day of September 1939 or for any other sufficient reasons the rent, at which the premises were let on the first day of September 1939 or at which the premises were let for the first time let after that date is in the opinion of the Controller excessive or not just and fair.

Provided that—

- (i) under clause (d) the standard rent should not exceed the highest rent at which the premises have been let at any time between the first day of September 1934 and the first day of September

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<sup>1</sup> Substituted for the words " the Controller may fix the standard rent " by Act LIII, 1948.

1939 or the lowest rent at which they were let during that period *plus* twenty-five per cent thereof, whichever amount is greater ;

- (ii) under clause (e) the Controller shall not increase the rent by more than six per cent per annum on the amount expended on the improvement or structural alteration or increased expenditure in the maintenance and repair of the premises as provided for in section 6 ;
- (iii) under clause (g) the standard rent, in the case of private freehold land let separately for any purpose, shall not exceed the existing rate of rent charged by the Government or by the Rangoon Development Trust or the Rangoon Corporation or any other similar local body, as the case may be, for its similar class of land let for similar purposes in the proximity of the land in question ;
- (iv) under clause (f) or (g) in the case of land let separately for any purpose and in respect of which the Government or the Rangoon Development Trust or the Rangoon Corporation or any other similar local body is the landlord, the standard rent shall be the rent at which the land was let by the Government or the Rangoon Development Trust or the Rangoon Corporation or any other local body concerned.

**19A.** (1) Before exercising any of the powers conferred on him by this Act [other than those conferred on him under section 16AA],<sup>1</sup> the Controller shall give notice of his intention to the landlord and tenant [or occupier],<sup>2</sup> if any, and shall duly consider any application received by him from any person interested within such period as shall be specified in the notice.

(2) All orders of the Controller passed under this Act shall be in writing [ \* \* \* \* ].<sup>3</sup>

(3) Any person affected by any order of the Controller shall be entitled to be furnished with a copy thereof duly certified by the Controller to be a correct copy on payment of such sum as the President of the Union may prescribe. Such copy shall be admissible in evidence in any Court to prove the order of the Controller.

**20.** For the purpose of [inspection or enquiry] <sup>1</sup> under this Act the Controller or any person duly authorized by the Controller in writing either generally or specially in this behalf may enter any building or land with or without any assistants between the hours of [6]<sup>4</sup> a.m. and 6 p.m. :

<sup>1</sup> Inserted by Act L, 1950.

<sup>2</sup> Inserted by Act LIII, 1948.

<sup>3</sup> The words " and a copy thereof shall be affixed to some conspicuous part of the premises to which it relates or to some conspicuous object near such premises, and a copy shall also be delivered to the landlord or his authorized agent in such manner as the President of the Union may, by rule, prescribe " were deleted by Act L, 1950.

<sup>4</sup> Substituted for the words " any enquiry " and for the figure " 9 " respectively by Act LIII, 1948.



Provided that no building used for human occupation shall be so entered without the consent of the occupier, unless 24 hours<sup>1</sup> previous notice has been given in writing.

21. (1) For the purposes of any enquiry under this Act the Controller may by written order require any person—

- (a) to furnish him with particulars in such form, within such time and at such place as may be specified in the order as to the rent at which and the manner in which any premises were let in the year 1934 or subsequently and as to any other matter relevant to the enquiry ;
- (b) to produce for his inspection such accounts, rent receipts, books or other documents relevant to the enquiry at such time and at such place [ or to deliver them to such person ]<sup>1</sup> as may be specified in the order.

(2) The Controller shall, subject to any rules made under this Act and in so far as such powers are necessary for carrying out the provisions of this Act, have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and, so far as may be, in the same manner as is provided in the case of a Court by the Code of Civil Procedure.

<sup>2</sup> (3) Every person required to furnish such information as is referred to in sub-section (1) shall be deemed to be legally bound to do so within the meaning of sections 176 and 177 of the Penal Code.

<sup>3</sup> 21A. The Controller may review any order made or deemed to be made by him under this Act and the provisions of Order XLVII of the First Schedule to the Code of Civil Procedure shall, so far as may be, apply to such review.

22. (1) If the decision of the Controller fixing the standard rent for any premises [under section 19]<sup>4</sup> or the order of the Controller made under sub-section (3) of section 14A is questioned, a reference shall lie to the Chief Judge of the City Civil Court of Rangoon, should the premises be situated in the City of Rangoon, and to such Judge as may be prescribed by the President of the Union if the premises are situated in any urban area in which the Act is in force :

<sup>5</sup> Provided that if the Chief Judge of the City Civil Court, or any Judge so prescribed, as the case may be, to whom reference lies under this sub-section, considers that he should not himself deal with a reference made to him, for reasons to be recorded, he may transfer the application to any other Judge

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<sup>1</sup> Inserted by Act LIII, 1948.

<sup>2</sup> Inserted by Act LIII, 1948.

<sup>3</sup> Inserted by Act LIII, 1948.

<sup>4</sup> Inserted by Act LIII, 1948.

<sup>5</sup> This proviso was inserted by Act XLII, 1952.

exercising jurisdiction in the district in which the premises are situated. The Judge to whom the application is so transferred shall have the powers to deal with the application as if reference lies to him.

(2) A copy of the order of the Controller shall be filed with the petition of reference.

(3) The petition of reference shall bear a Court-fee stamp of eight annas.

(4) Any such reference shall be filed within thirty days from the date of the order passed by the Controller ; provided that the time taken in obtaining a copy of the order of the Controller shall be excluded in computing the period in which the reference must be filed.

The decision of the Chief Judge of the City Civil Court of Rangoon or of the Judge of such other Court as aforesaid shall be final.

23. When disposing of references from the decision of the Controller, the Judge may in his discretion follow as nearly as possible either the procedure laid down for the trial of suits by the City Civil Court of Rangoon or the procedure laid down for the regular trial of suits.

24. (1) Whoever knowingly receives whether directly or indirectly on account of the rent of any premises of which the standard rent has been fixed a sum in excess of the standard rent shall on conviction by a Magistrate be punishable in the case of a first offence with fine which extends to five hundred rupees or in the case of a second or subsequent offence in regard to the same or any other premises of which the standard rent has been fixed with fine which may extend to two thousand rupees.

(2) A person shall be deemed to receive a sum in excess of the standard rent, if he receives any consideration representing a money value in excess of such standard rent.

25. (1) Whoever molests or wilfully annoys any tenant or any person in whose favour an order has been made by the Controller under the provision of section 12 with intent to induce him to vacate the premises shall be punishable on conviction by a Magistrate in the case of a first offence with fine that may extend to two hundred rupees or in the case of the second or any subsequent offence with fine which may extend to one thousand rupees.

(2) Without prejudice to the generality of the foregoing sub-section a landlord shall be deemed wilfully to annoy if he fails without reasonable cause to keep the premises as sound against wind and weather as they were at the commencement of this Act or to effect any necessary repairs or to maintain any part of the structure or fittings for the repair or maintenance of which the landlord is by any specific agreement or by custom responsible.

26. Subject to the provisions of this Act the tenant against whom a legal order or decree to vacate and give up the premises to the landlord has been given or made shall not be permitted to occupy or remain in possession of the

said premises; and if notwithstanding such order or decree such tenant continues to occupy or remain in possession thereof he shall be deemed to have committed the offence of criminal trespass as defined in sections 441 and 442 of the Penal Code and he shall be punishable with imprisonment provided therefor in addition to a fine not exceeding double the amount of rent due by him to the landlord.

27. (1) Whoever contravenes the provisions of [ \* \* \* ]<sup>1</sup> section 10 of this Act shall be punishable with imprisonment which may extend to six months or with a fine which may extend to rupees two thousand or with both.

<sup>2</sup> (2) When a person is convicted of an offence punishable under this section and is sentenced to pay a fine, the Court convicting the person may direct that the whole or any part of the fine shall be paid as compensation to any person for any loss caused to him by the offence as provided in section 545 of the Code of Criminal Procedure.

28. Whoever in any case in which an order or decree for the recovery of any premises is prohibited under section 11 or 13, [without the previous written consent]<sup>3</sup> of the Controller or save for the purpose of effecting [urgent repairs or immediate demolition in compliance]<sup>3</sup> with any municipal requisition wilfully disturbs any easement annexed to any premises or removes, destroys or renders unserviceable anything provided for permanent use therewith, or discontinues any supply or service comprised in the tenancy of such premises, shall be punishable in the case of a first offence with fine which may extend to five hundred rupees or in the case of a second offence or subsequent offence in regard to the same or any other premises with fine which may extend to two thousand rupees.

29. No Court shall take cognizance of any offence under this Act except on complaint made within [nine months]<sup>4</sup> from the date of the commission of the alleged offence with the previous sanction of the Controller :

Provided that the Controller shall on reliable information having been received of a person having committed an offence under [section 10]<sup>5</sup> or section 24 (1) promptly institute an enquiry and if a *prima facie* case is elicited, he shall cause the offender to be prosecuted in a Court.

<sup>1</sup> The words " sub-section (1) of " were omitted by the Union of Burma (Adaptation of Laws) Order, 1948, as amended by Judicial Dept. Notification No. 250, dated the 20th May 1948.

<sup>2</sup> Inserted by Act LIII, 1948.

<sup>3</sup> Substituted respectively for the words "with the previous written consent" and for the words "repairs or complying" by Act LIII, 1948.

<sup>4</sup> Substituted for the words "six months" by Act L, 1950.

<sup>5</sup> Substituted for the words "section 10 (1)" by the Union of Burma (Adaptation of Laws) Order, 1948, as amended by Judicial Dept. Notification No. 250, dated the 20th May 1948.

**30.** The President of the Union may prescribe the amount of court-fee payable in respect of a suit or proceeding for ejectment or possession of any premises against a tenant or a person permitted to occupy under section 12 (1) and where such court-fee is prescribed, the court-fee in respect of such suit or proceeding shall, notwithstanding anything contained in the Court Fees Act, be payable in accordance with the amount so prescribed.

**30A.** (1) No suit, prosecution or other legal proceeding shall lie against the Controller or the Assistant Controller for anything done in good faith in exercise of his powers under this Act or against any person for anything which is in good faith done or intended to be done in pursuance of any order made under this Act.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made or deemed to be made under this Act.

**31.** (1) The President of the Union may, by notification in the *Gazette* make rules <sup>1</sup> for the purpose of carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing provisions such rules may—

- (a) prescribe the amount by which the standard rent as defined in sub-clauses (A), (B), (C), (D) (ii) and (E) of section 2 (f) (ii) of the Act shall be increased in the case of any urban area or class of premises ;
- (b) regulate the procedure to be followed in the enquiries by the Controller under this Act ;
- (c) prescribe the date which in the case of any urban area shall be deemed for the purposes of this Act to be the date of resumption of civil government on the conclusion of the hostilities with Japan ;
- (d) prescribe a Judge to whom in any urban area reference from the decision of the Controller shall lie under section 22 ;
- (e) prescribe a scale of costs and fees and provide for the charging or remitting of costs and fees ;
- (f) prescribe the procedure relating to the receipt and withdrawal of the deposit of rent under section 14B ;
- <sup>2</sup> (g) prescribe the number of members of the Advisory Board to be appointed under section 16AA and the quorum and procedure at the meetings of the Board and the fees to be paid to the members thereof.

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<sup>1</sup> For Urban Rent Control Rules, 1948, see *Burma Gazette*, 1948, Part I, page 345.

<sup>2</sup> Inserted by Act LIII, 1948.

32. Nothing in this Act shall apply to any premises in respect of which the Government or a Department of the Government or the Rangoon Development Trust or the Rangoon Corporation or any other local body constituted under the Municipal Act or the Rural Self-Government Act is the landlord, or to any premises which have or may come into the possession of the Government or a Department of the Government or the Rangoon Development Trust or the Rangoon Corporation or any other local body constituted under the Municipal Act or the Rural Self-Government Act as a result of proceedings under the Land Acquisition Act or the Defence of Burma Act or otherwise :

Provided that the exemption given in this section shall not extend to any land or a portion thereof on being sublet by a person holding it on lease or other title from Government or a local body specified in this section.

33. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the third column thereof.

### SCHEDULE.

(See section 33)

#### ENACTMENTS REPEALED.

| Number and year              | Short Title                                          | Extent of Repeal |
|------------------------------|------------------------------------------------------|------------------|
| Burma Act No. XXXIV of 1946. | The Urban Rent Control Act, 1946.                    | The whole.       |
| Burma Act No. XIV of 1947.   | The Urban Rent Control (Amendment) Act, 1947.        | The whole.       |
| Burma Act No. XXVI of 1947.  | The Urban Rent Control (Second Amendment) Act, 1947. | The whole.       |

## PART XVIII.—STATE GRANTS AND LAND ACQUISITION.

အပိုင်း ၁၈။ ။ အစိုးရမြေယာချထားရေးနှင့် မြေယာ  
သိမ်းယူရေး။

### THE STATE GRANTS ACT.

[INDIA ACT XV, 1895.] (10th October, 1895.)

Whereas doubts have arisen as to the extent and operation of the Transfer of Property Act, and as to the power of the State to impose limitations and restrictions upon grants and other transfers of land made by it or under its authority, and it is expedient to remove such doubts ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the State Grants Act.

Transfer of  
Property Act  
not to apply  
to State  
grants.

2. Nothing in the Transfer of Property Act contained shall apply or be deemed ever to have applied to any grant or other transfer of land or of any interest therein heretofore made or hereafter to be made by or on behalf of the State to, or in favour of, any person whomsoever ; but every such grant and transfer shall be construed and take effect as if the said Act had not been passed.

State grants  
to take effect  
according to  
their tenor.

3. All provisions, restrictions, conditions and limitations over contained in any such grant or transfer as aforesaid shall be valid and take effect according to their tenor, any rule of law, statute or enactment of the Union Parliament to the contrary notwithstanding.

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

# THE LAND ACQUISITION ACT.

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**THE LAND ACQUISITION ACT.<sup>1</sup>**

[INDIA ACT I, 1894.] (1st March, 1894.)

**PART I.****PRELIMINARY.**

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

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

- (a) the expression “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth ;

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<sup>1</sup> For modifications of this Act to make provision for improvement and extension of the City of Rangoon, see section 34 and Schedule I of the Rangoon Development Trust Act.

- (b) the expression " person interested " includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act ; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land ;
- (c) the expression " Collector " includes any officer specially appointed by the President of the Union to perform the functions of a Collector under this Act ;
- (d) the expression " Court " means a principal civil Court of original jurisdiction, unless the President of the Union has appointed (as he is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act ;
- (e) the expression " company " means a company constituted or registered by or under the law of the United Kingdom, the Union of Burma or India or Pakistan, and includes a society registered under the law of the Union of Burma or India or Pakistan relating to the registration of societies or co-operative societies ;
- (f) the expression " public purpose " includes the provision of village-sites in districts in which the President of the Union shall have declared by notification in the Gazette that it is customary for the Government to make such provision ; and
- (g) the following persons shall be deemed persons " entitled to act " as and to the extent hereinafter provided (that is to say)—
  - trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability ;
  - a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of full age ; and
  - the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted :

Provided that—

- (i) no person shall be deemed " entitled to act " whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act ;
- (ii) in every such case the person interested may appear by a next friend or, in default of his appearance by a next

friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof ;

- (iii) the provisions of Order XXXI of the Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and
- (iv) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

## PART II.

### ACQUISITION.

#### *Preliminary Investigation.*

14. (1) Whenever it appears to the President of the Union that land in any locality is needed or is likely to be needed for any public purpose, a notification to that effect shall be published in the Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

Publication of preliminary notification and powers of officers thereupon.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by the President of the Union in this behalf, and for his servants and workmen,—

- to enter upon and survey and take levels of any land in such locality;
- to dig or bore into the subsoil ;
- to do all other acts necessary to ascertain whether the land is adapted for such purpose ;
- to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon ;
- to mark such levels, boundaries and line by placing marks and cutting trenches; and,

where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle :

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

<sup>1</sup> As to the amendments with which this Act should be read when land is required for the purposes of a company, see section 38 (2), *infra*.

A protected monument can be acquired under this Act as if its preservation were a "public purpose" within the meaning of the Act ; see section 10 of the Ancient Monuments Preservation Act.

Payment for  
damage.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final.

*Objections.*

Hearing of  
objections.

5A. (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the President of the Union, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the President of the Union on the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

*Declaration of intended Acquisition.*

Declaration  
that land is  
required for  
a public pur-  
pose.

6. (1) Subject to the provisions of Part VII of this Act, when the President of the Union is satisfied, after considering the report, if any, made under section 5A, sub-section (2), that any particular land is needed for a public purpose, or for a company, a declaration shall be made to that effect :

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

(2) The declaration shall be published in the Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a company, as the case may be ; and, after making such declaration, the President of the Union may acquire the land in manner hereinafter appearing.

After dec-  
laration Col-  
lector to take  
order for  
acquisition.

7. Whenever any land shall have been so declared to be needed for a public purpose or for a company, the President of the Union, or some officer authorized by the President of the Union in this behalf, shall direct the Collector to take order for the acquisition of the land.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and if no plan has been made thereof, a plan to be made of the same.

Land to be marked out, measured and planned,

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

Notice to persons interested.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents, authorized to receive service on their behalf, within the revenue-district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and registered under the Burma Post Office Act.

10. (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

Power to require and enforce the making of statements as to names and interests.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Penal Code.

#### *Enquiry into Measurements, Value and Claims, and Award by the Collector.*

11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land at the date of the publication of the notification under section 4,

Enquiry and award by Collector.

sub-section (1), and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

- (i) the true area of the land ;
- (ii) the compensation which in his opinion should be allowed for the land ; and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Award of  
Collector  
when to be  
final.

12. (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

Adjournment  
of enquiry.

13. The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him.

Power to  
summon  
and enforce  
attendance of  
witnesses and  
production  
of documents.

14. For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a civil Court under the Code of Civil Procedure.

Matters to be  
considered  
and neg-  
lected.

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

#### *Taking possession.*

Power to  
take posses-  
sion.

16. When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the State, free from all encumbrances.

Special  
powers in  
cases of  
urgency.

17. (1) In cases of urgency, whenever the President of the Union so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any waste or arable land needed for public purposes or for a company. Such land shall thereupon vest absolutely in the State, free from all encumbrances.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any railway administration to acquire the immediate possession of any land for the maintenance

of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, [or whenever it becomes necessary for the War Office to acquire the immediate possession of any land for the use of the armed forces of the Union,]<sup>1</sup> the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the President of the Union, enter upon and take possession of such land, which shall thereupon vest absolutely in the State, free from all encumbrances :

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24 ; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

(4) In the case of any land to which, in the opinion of the President of the Union, the provisions of sub-section (1) or sub-section (2) are applicable, the President of the Union may direct that the provisions of section 5A shall not apply, and, if he does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub-section (1).

### PART III.

#### REFERENCE TO COURT AND PROCEDURE THEREON.

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested. Reference to Court.

(2) The application shall state the grounds on which objection to the award is taken :

Provided that every such application shall be made,—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award ;

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<sup>1</sup> Inserted by Act LXVII, 1954.

- (b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

Collector's  
statement  
to the Court.

19. (1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand,—

- (a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon ;
- (b) the names of the persons whom he has reason to think interested in such land ;
- (c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11 ; and
- (d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

Service of  
notice.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely :—

- (a) the applicant ;
- (b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded ; and
- (c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

Restriction  
on scope of  
proceedings.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Proceedings  
to be in open  
Court.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any civil Court in the Union of Burma shall be entitled to appear, plead and act (as the case may be) in such proceeding.

Matters to  
be considered  
in determin-  
ing compen-  
sation.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

*first*, the market value of the land at the date of the publication of the notification under section 4, sub-section (1) ;

*secondly*, the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof ;



- thirdly*, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land ;
  - fourthly*, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings ;
  - fifthly*, if in consequence of the acquisition of the land by the Collector the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change ; and
  - sixthly*, the damage (if any) *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.
- (2) In addition to the market-value of the land as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

**24.** But the Court shall not take into consideration—

- first*, the degree of urgency which has led to the acquisition ;
- secondly*, any disinclination of the person interested to part with the land acquired ;
- thirdly*, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit ;
- fourthly*, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put ;
- fifthly*, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired ;
- sixthly*, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put ; or,
- seventhly*, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the notification under section 4, sub-section (1).

Matters to be neglected in determining compensation.

- 25. (1)** When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11.

Rules as to amount of compensation.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

Form of awards.

26. (1) Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment, within the meaning of section 2, clause (2), and section 2, clause (9), respectively, of the Code of Civil Procedure.

Costs.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

Collector may be directed to pay interest on excess compensation.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

#### PART IV.

##### APPORTIONMENT OF COMPENSATION.

Particulars of apportionment to be specified.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

## PART V.

## PAYMENT.

**31. (1)** On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

Payment of compensation or deposit of same in Court.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted :

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount :

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18 :

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section, the Collector may, with the sanction of the President of the Union, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

**32. (1)** If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit ;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been

entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

- (i) in the purchase of such other lands as aforesaid ; or
- (ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely :—

- (a) the costs of such investments as aforesaid ;
- (b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

Investment  
of money  
deposited in  
other cases.

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Payment of  
interest.

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

## PART VI.

### TEMPORARY OCCUPATION OF LAND.

Temporary  
occupation  
of waste or  
arable land.

35. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the President of the Union that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a company, the President of the Union may direct the Collector to procure the occupation and use of the same for such term as the President of the Union shall think fit, not exceeding three years from the commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation,

either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

Procedure when difference as to compensation exists.

36. (1) On payment of such compensation, or on executing such agreement or on making a reference under section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

Power to enter and take possession, and compensation on restoration.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein :

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the President of the Union shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a company.

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

Difference as to condition of land.

## PART VII.

### ACQUISITION OF LAND FOR COMPANIES.

38. (1) The President of the Union may authorize any officer of any company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

Company may be authorized to enter and survey.

(2) In every such case section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the company" were substituted ; and section 5 shall be construed as if after the words "the officer" the words "of the company" were inserted.

38A. An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a company for the purposes of this Part, and the references to company in sections 5A, 6, 7, 17 and 50 shall be interpreted as references also to such concern.

Industrial concern to be deemed company for certain purposes.

Previous  
consent of  
President  
and execu-  
tion of  
agreement  
necessary.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any company unless with the previous consent of the President of the Union, nor unless the company shall have executed the agreement hereinafter mentioned.

Previous  
enquiry

40. (1) Such consent shall not be given unless the President of the Union be satisfied, either on the report of the Collector under section 5A, sub-section (2) or by an enquiry held as hereinafter provided,—

- (a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith, or
- (b) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the President of the Union shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure in the case of a civil Court.

Agreement  
with  
Government.

41. If the President of the Union is satisfied, after considering the report, if any, of the Collector under section 5A, sub-section (2), or on the report of the officer making an enquiry under section 40, that the purpose of the proposed acquisition is to obtain land for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith, or that the proposed acquisition is needed for the construction of a work and that such work is likely to prove useful to the public, he shall require the company to enter into an agreement with the Government, providing to the satisfaction of the President of the Union for the following matters, namely :—

- (1) the payment to Government of the cost of the acquisition ;
- (2) the transfer, on such payment, of the land to the company ;
- (3) the terms on which the land shall be held by the company ;
- (4) where the acquisition is for the purpose of erecting dwelling houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided ; and
- (5) where the acquisition is for the construction of any other work, the time within which and the conditions on which the work shall be executed and maintained, and the terms on which the public shall be entitled to use the work.

Previous  
consent of  
President  
and execu-  
tion of  
agreement  
necessary.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any company unless with the previous consent of the President of the Union, nor unless the company shall have executed the agreement hereinafter mentioned.

Previous  
enquiry

40. (1) Such consent shall not be given unless the President of the Union be satisfied, either on the report of the Collector under section 5A, sub-section (2) or by an enquiry held as hereinafter provided,—

- (a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith, or
- (b) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the President of the Union shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure in the case of a civil Court.

Agreement  
with  
Government.

41. If the President of the Union is satisfied, after considering the report, if any, of the Collector under section 5A, sub-section (2), or on the report of the officer making an enquiry under section 40, that the purpose of the proposed acquisition is to obtain land for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith, or that the proposed acquisition is needed for the construction of a work and that such work is likely to prove useful to the public, he shall require the company to enter into an agreement with the Government, providing to the satisfaction of the President of the Union for the following matters, namely :—

- (1) the payment to Government of the cost of the acquisition ;
- (2) the transfer, on such payment, of the land to the company ;
- (3) the terms on which the land shall be held by the company ;
- (4) where the acquisition is for the purpose of erecting dwelling houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided ; and
- (5) where the acquisition is for the construction of any other work, the time within which and the conditions on which the work shall be executed and maintained, and the terms on which the public shall be entitled to use the work.

42. Every such agreement shall, as soon as may be after its execution, be published in the Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Publication of agreement.

43. The provisions of sections 39 to 42, both inclusive, shall not apply to the acquisition of land for any railway or other company, for the purposes of which under any agreement the Government is, or was, bound to provide land.

Sections 39 to 42 not to apply where Government bound by agreement to provide land for companies. How agreement between railway company and Government may be proved.

44. In the case of the acquisition of land for the purposes of a railway company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

## PART VIII.

### MISCELLANEOUS.

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

Service of notices.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the Court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and registered under the Burma Post Office Act, and service of it may be proved by the production of the addressee's receipt.

46. Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Penalty for obstructing acquisition of land.

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate, and such Magistrate shall enforce the surrender of the land to the Collector.

Magistrate to enforce surrender.



Completion of acquisition not compulsory, but compensation to be awarded when not completed.

48. (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

Acquisition of part of house or building.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired :

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired :

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim under section 23, sub-section (1), *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land, the President of the Union is of opinion that the claim is unreasonable or excessive, he may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary ; but the Collector shall without delay furnish a copy of the order of the President of the Union to the person interested, and shall thereafter proceed to make his award under section 11.

Acquisition of land at cost of a local authority or company.

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or company concerned may appear and adduce evidence for the purpose of determining the amount of compensation :

Provided that no such local authority or company shall be entitled to demand a reference under section 18.

51. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same. Exemption from stamp-duty and fees.

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends. Notice in case of suits for anything done in pursuance of Act.

53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the Court under this Act. Code of Civil Procedure to apply to proceedings before Court.

54. Subject to the provisions of the Code of Civil Procedure applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court, and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to the Supreme Court subject to the provisions contained in section 110 of the Code of Civil Procedure [and in Order XLV thereof].<sup>1</sup> Appeals in proceedings before Court.

55. (1) The President of the Union shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement. Power to make rules.

(2) The power to make rules under sub-section (1) shall be subject to the condition of the rules being made after previous publication.

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

### THE LAND ACQUISITION (MINES) ACT.

[INDIA ACT XVIII, 1885.] (16th October, 1885.)

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act ; It is hereby enacted as follows :—

1. This Act shall extend only to such part of the Union of Burma as the President of the Union may, by notification, direct. Extent.

<sup>1</sup> Order XLV has been omitted from the Code of Civil Procedure by the Union of Burma (Adaptation of Laws) Order, 1948.

Saving for  
mineral  
rights of the  
Government.

2. Except as expressly provided by this Act, nothing in this Act shall affect the right of the State to any mines or minerals.

Declaration  
that mines  
are not  
needed.

3. (1) When the President of the Union makes a declaration under the Land Acquisition Act that land is needed for a public purpose or for a company, he may, if he thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under the Land Acquisition Act, and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under the Land Acquisition Act in respect of the mines, and may—

- (a) when he makes an award under that Act, insert such a statement in his award ;
- (b) when he makes a reference to the Court under that Act, insert such a statement in his reference ; or
- (c) when he takes possession of the land under that Act, publish such a statement in such manner as the President of the Union may, from time to time, prescribe.

3. If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the State when the land so vests under the said Act.

Notice to be  
given before  
working  
mines lying  
under land.

4. If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the President of the Union notice in writing of his intention so to do sixty days before the commencement of working.

Power to  
prevent or  
restrict  
working.

5. (1) At any time or times after the receipt of a notice under the last foregoing section and whether before or after the expiration of the said period of sixty days, the President of the Union may cause the mines or minerals to be inspected by a person appointed by him for the purpose ; and

(2) If it appears to the President of the Union that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the President of the Union may publish a declaration of his willingness either—

- (a) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having an interest in the same ; or

(b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the President of the Union may in the declaration specify.

(3) If the declaration mentioned in case (a) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case (b) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the President of the Union.

(5) Every declaration made under this section shall be published in such manner as the President of the Union may direct.

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

Mode of determining persons interested and amount of compensation.

7. (1) If before the expiration of the said sixty days the President of the Union does not publish a declaration as provided in section 5, the owner, lessee or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

If President does not offer to pay compensation, mines may be worked in a proper manner.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the President of the Union so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water-level

Mining communications.

shall be of greater dimensions or section than may be prescribed by the President of the Union in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

Government  
to pay com-  
pensation for  
injury done  
to mines :

9. The Government shall, from time to time, pay to the owner, lessee or occupier of any such mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Government which cannot be obtained by reason of the action taken under the foregoing sections ; and if any dispute or question arises between the Government and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act.

and also for  
injury aris-  
ing from  
any airway or  
other work.

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

Power to  
enter  
and inspect  
the working  
of mines.

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the President of the Union may, after giving twenty-four hours' notice in writing, enter into and return from any such mines or the works connected therewith ; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being or are about to be worked.

Penalty for  
refusal to  
allow inspec-  
tion.

12. If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the President of the Union for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

13. If it appears that any such mines have been worked contrary to the provisions of this Act, the President of the Union may, if he thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired and the works thereon, and preventing injury thereto; and if, after such notice, any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired and the works thereon, the Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

If mines worked contrary to provisions of this Act, President may require means to be adopted for safety of land acquired.

14. When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to, or has vested by operation of law, in a local authority or company, then sections 4 to 13, both inclusive, shall be read as if for the words "the President of the Union" or "the Government," wherever they occur in those sections, except in section 5, sub-section (5), and section 8, the words "the local authority or company, as the case may be, which has acquired the land" were substituted.

Construction of Act when land acquired has been transferred to a local authority or company.

15. \* \* \* \*

16. In this Act—

Definition of company.

(a) \* \* \* \*

(b) "company" means a company registered under any of the enactments relating to companies from time to time in force in India or Pakistan or the Union of Burma, or formed in pursuance of an Act of Parliament of the United Kingdom of Great Britain and Ireland or by Royal Charter or Letters Patent.

17. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act.

This Act to be read with Land Acquisition Act.

## PART XIX—MOVEABLE PROPERTY.

အပိုင်း ၁၉။ "ရွှေ့ပြောင်းနိုင်သည့် ပစ္စည်းဆိုင်ရာ။"

## THE SALE OF GOODS ACT.

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## THE SALE OF GOODS ACT.

[INDIA ACT III, 1930.] (1st July, 1930.)

## CHAPTER I.

## PRELIMINARY.

- 1. \* \* \* \*

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

- (1) "buyer" means a person who buys or agrees to buy goods ;
- (2) "delivery" means voluntary transfer of possession from one person to another ;

- (3) goods are said to be in a "deliverable state" when they are in such state that the buyer would under the contract be bound to take delivery of them ;
- (4) "document of title to goods" includes a bill of lading, dock warrant, warehouse keeper's certificate, wharfingers' certificate, railway receipt, warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented ;
- (5) "fault" means wrongful act or default ;
- (6) "future goods" means goods to be manufactured or produced or acquired by the seller after the making of the contract of sale ;
- (7) "goods" means every kind of moveable property other than actionable claims and money ; and includes stocks and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale ;
- (8) a person is said to be "insolvent" who has ceased to pay his debts in the ordinary course of business, or cannot pay his debts as they become due, whether he has committed an act of insolvency or not ;
- (9) "mercantile agent" means a mercantile agent having in the customary course of business as such agent authority either to sell goods, or to consign goods for the purposes of sale, or to buy goods, or to raise money on the security of goods ;
- (10) "price" means the money consideration for a sale of goods ;
- (11) "property" means the general property in goods, and not merely a special property ;
- (12) "quality of goods" includes their state or condition ;
- (13) "seller" means a person who sells or agrees to sell goods ;
- (14) "specific goods" means goods identified and agreed upon at the time a contract of sale is made ; and
- (15) expressions used but not defined in this Act and defined in the Contract Act, have the meanings assigned to them in that Act, a contract for the sale of goods being a contract within the meaning of that Act.

3. The unpealed provisions of the Contract Act, save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to contracts for the sale of goods.

Application  
of provisions  
of Contract  
Act.

## CHAPTER II.

## FORMATION OF THE CONTRACT.

*Contract of Sale.*

Sale and  
agreement  
to sell.

4. (1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price. There may be a contract of sale between one part-owner and another.

(2) A contract of sale may be absolute or conditional.

(3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer, the contract is called a sale, but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell.

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

*Formalities of the Contract.*

Contract of  
sale how  
made.

5. (1) A contract of sale is made by an offer to buy or sell goods for a price and the acceptance of such offer. The contract may provide for the immediate delivery of the goods or immediate payment of the price or both, or for the delivery or payment by instalments, or that the delivery or payment or both shall be postponed.

(2) Subject to the provisions of any law for the time being in force, a contract of sale may be made in writing or by word of mouth, or partly in writing and partly by word of mouth, or may be implied from the conduct of the parties.

*Subject-matter of Contract.*

Existing or  
future goods.

6. (1) The goods which form the subject of a contract of sale may be either existing goods, owned or possessed by the seller, or future goods.

(2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen.

(3) Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods.

Goods  
perishing  
before  
making of  
contract.

7. Where there is a contract for the sale of specific goods, the contract is void if the goods without the knowledge of the seller have, at the time when the contract was made, perished or become so damaged as no longer to answer to their description in the contract.

Goods  
perishing  
before  
sale but after  
agreement  
to sell.

8. Where there is an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer perish or become so damaged as no longer to answer to their description in the agreement before the risk passes to the buyer, the agreement is thereby avoided.

*The Price.*

9. (1) The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties. Ascertainment of price.

(2) Where the price is not determined in accordance with the foregoing provisions, the buyer shall pay the seller a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case.

10. (1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and such third party cannot or does not make such valuation, the agreement is thereby avoided : Agreement to sell at valuation.

Provided that, if the goods or any part thereof have been delivered to, and appropriated by, the buyer, he shall pay a reasonable price therefor.

(2) Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain a suit for damages against the party in fault.

*Conditions and Warranties.*

11. Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract. Stipulations as to time.

12. (1) A stipulation in a contract of sale with reference to goods which are the subject thereof may be a condition or a warranty. Condition and warranty.

(2) A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated.

(3) A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

(4) Whether a stipulation in a contract of sale is a condition or a warranty depends in each case on the construction of the contract. A stipulation may be a condition, though called a warranty in the contract.

13. (1) Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition or elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated. When condition to be treated as warranty.

(2) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof, or where the contract is for specific goods the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is a term of the contract, express or implied, to that effect.

(3) Nothing in this section shall affect the case of any condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise.

Implied undertaking as to title, etc.

14. In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is—

- (a) an implied condition on the part of the seller that, in the case of a sale, he has a right to sell the goods and that, in the case of an agreement to sell, he will have a right to sell the goods at the time when the property is to pass ;
- (b) an implied warranty that the buyer shall have and enjoy quiet possession of the goods ;
- (c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made.

Sale by description.

15. Where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description ; and if the sale is by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

Implied conditions as to quality or fitness.

16. Subject to the provisions of this Act and of any other law for the time being in force, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows :—

- (1) Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be reasonably fit for such purpose :

Provided that, in the case of a contract for the sale of a specified article under its patent or other trade name, there is no implied condition as to its fitness for any particular purpose.

- (2) Where goods are bought by description from the seller who deals in goods of that description (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be of merchantable quality ;

Provided that, if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed.

- (3) An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.

- (4) An express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith.

17. (1) A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect. Sale by sample.

(2) In the case of a contract for sale by sample there is an implied condition—

- (a) that the bulk shall correspond with the sample in quality;
- (b) that the buyer shall have a reasonable opportunity of comparing the bulk with the sample;
- (c) that the goods shall be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

### CHAPTER III.

#### EFFECTS OF THE CONTRACT.

##### *Transfer of Property as between Seller and Buyer.*

18. Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are ascertained. Goods must be ascertained.

19. (1) Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred. Property passes when intended to pass.

(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case.

(3) Unless a different intention appears, the rules contained in sections 20 to 24 are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer.

20. Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment of the price or the time of delivery of the goods, or both, is postponed. Specific goods in a deliverable state.

21. Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof. Specific goods to be put into a deliverable state.

Specific good in a deliverable state, when the seller has to do anything thereto in order to ascertain price.

22. Where there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

Sale of unascertained goods and appropriation.

23. (1) Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer. Such assent may be express or implied, and may be given either before or after the appropriation is made.

Delivery to carrier.

(2) Where, in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee (whether named by the buyer or not) for the purpose of transmission to the buyer, and does not reserve the right of disposal, he is deemed to have unconditionally appropriated the goods to the contract.

Goods sent on approval or "on sale or return."

24. When goods are delivered to the buyer on approval or "on sale or return" or other similar terms, the property therein passes to the buyer—

- (a) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction ;
- (b) if he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time.

Reservation of right of disposal.

25. (1) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled. In such case, notwithstanding the delivery of the goods to the buyer, or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.

(2) Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller is *prima facie* deemed to reserve the right of disposal.

(3) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together, to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange, and if he wrongfully retains the bill of lading the property in the goods does not pass to him.

**26.** Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer the goods are at the buyer's risk whether delivery has been made or not : *Risk prima facie passes with property.*

Provided that, where delivery has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault :

Provided also that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee of the goods of the other party.

#### *Transfer of Title.*

**27.** Subject to the provisions of this Act and of any other law for the time being in force, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell : *Sale by person not the owner.*

Provided that, where a mercantile agent is, with the consent of the owner, in possession of the goods or of a document of title to the goods, any sale made by him, when acting in the ordinary course of business of a mercantile agent, shall be as valid as if he were expressly authorized by the owner of the goods to make the same ; provided that the buyer acts in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell.

**28.** If one of several joint owners of goods has the sole possession of them by permission of the co-owners, the property in the goods is transferred to any person who buys them of such joint owner in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell. *Sale by one of joint owners.*

**29.** When the seller of goods has obtained possession thereof under a contract voidable under section 19 or section 19A of the Contract Act, but the contract has not been rescinded at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of the seller's defect of title. *Sale by person in possession under voidable contract.*

**30. (1)** Where a person, having sold goods, continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale shall have the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same. *Seller or buyer in possession after sale.*

**(2)** Where a person, having bought or agreed to buy goods, obtains, with the consent of the seller, possession of the goods or the documents of title to



the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have effect as if such lien or right did not exist.

## CHAPTER IV.

### PERFORMANCE OF THE CONTRACT.

Duties of  
seller and  
buyer.

31. It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them, in accordance with the terms of the contract of sale.

Payment and  
delivery are  
concurrent  
conditions.

32. Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions, that is to say, the seller shall be ready and willing to give possession of the goods to the buyer in exchange for the price, and the buyer shall be ready and willing to pay the price in exchange for possession of the goods.

Delivery.

33. Delivery of goods sold may be made by doing anything which the parties agree shall be treated as delivery or which has the effect of putting the goods in the possession of the buyer or of any person authorized to hold them on his behalf.

Effect of part  
delivery.

34. A delivery of part of goods, in progress of the delivery of the whole, has the same effect, for the purpose of passing the property in such goods, as a delivery of the whole; but a delivery of part of the goods, with an intention of severing it from the whole, does not operate as a delivery of the remainder.

Buyer to  
apply for  
delivery.

35. Apart from any express contract, the seller of goods is not bound to deliver them until the buyer applies for delivery.

Rules as to  
delivery.

36. (1) Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract, express or implied, between the parties. Apart from any such contract, goods sold are to be delivered at the place at which they are at the time of the sale, and goods agreed to be sold are to be delivered at the place at which they are at the time of the agreement to sell, or, if not then in existence, at the place at which they are manufactured or produced.

(2) Where under the contract of sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

(3) Where the goods at the time of sale are in the possession of a third person, there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf:

Provided that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.

(4) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

(5) Unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state shall be borne by the seller.

37. (1) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts the goods so delivered he shall pay for them at the contract rate. Delivery of wrong quantity.

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest, or he may reject the whole. If the buyer accepts the whole of the goods so delivered, he shall pay for them at the contract rate.

(3) Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest, or may reject the whole.

(4) The provisions of this section are subject to any usage of trade, special agreement or course of dealing between the parties.

38. (1) Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by instalments. Instalment deliveries.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments which are to be separately paid for, and the seller makes no delivery or defective delivery in respect of one or more instalments, or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case, depending on the terms of the contract and the circumstances of the case, whether the breach of contract is a repudiation of the whole contract, or whether it is a severable breach giving rise to a claim for compensation, but not to a right to treat the whole contract as repudiated.

39. (1) Where, in pursuance of a contract of sale, the seller is authorized or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer, or delivery of the goods to a wharfinger for safe custody, is *prima facie* deemed to be a delivery of the goods to the buyer. Delivery to carrier or wharfinger.

(2) Unless otherwise authorized by the buyer, the seller shall make such contract with the carrier or wharfinger on behalf of the buyer as may be reasonable having regard to the nature of the goods and the other circumstances of the case. If the seller omits so to do, and the goods are lost or damaged in course of transit or whilst in the custody of the wharfinger, the buyer may decline to treat the delivery to the carrier or wharfinger as a delivery to himself, or may hold the seller responsible in damages.

(3) Unless otherwise agreed, where goods are sent by the seller to the buyer by a route involving sea transit, in circumstances in which it is usual to

insure, the seller shall give such notice to the buyer as may enable him to insure them during their sea transit, and if the seller fails so to do, the goods shall be deemed to be at his risk during such sea transit.

Risk where goods are delivered at distant place.

40. Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold, the buyer shall, nevertheless, unless otherwise agreed, take any risk of deterioration in the goods necessarily incident to the course of transit.

Buyer's right of examining the goods.

41. (1) Where goods are delivered to the buyer which he has not previously examined, he is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

(2) Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he is bound, on request, to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract.

Acceptance.

42. The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them.

Buyer not bound to return rejected goods.

43. Unless otherwise agreed, where goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he intimates to the seller that he refuses to accept them.

Liability of buyer for neglecting or refusing delivery of goods.

44. When the seller is ready and willing to deliver the goods and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods :

Provided that nothing in this section shall affect the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract.

## CHAPTER V.

### RIGHTS OF UNPAID SELLER AGAINST THE GOODS.

" Unpaid seller " defined.

45. (1) The seller of goods is deemed to be an " unpaid seller " within the meaning of this Act—

- (a) when the whole of the price has not been paid or tendered ;
- (b) when a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(2) In this Chapter, the term "seller" includes any person who is in the position of a seller, as, for instance, an agent of the seller to whom the bill of lading has been endorsed, or a consignor or agent who has himself paid, or is directly responsible for, the price.

46. (1) Subject to the provisions of this Act and of any law for the time being in force, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has by implication of law— Unpaid seller's rights.

- (a) a lien on the goods for the price while he is in possession of them ;
- (b) in case of the insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them ;
- (c) a right of re-sale as limited by this Act

(2) Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage in transit where the property has passed to the buyer.

#### *Unpaid Seller's Lien.*

47. (1) Subject to the provisions of this Act, the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases, namely :— Seller's lien.

- (a) where the goods have been sold without any stipulation as to credit ;
- (b) where the goods have been sold on credit, but the term of credit has expired ;
- (c) where the buyer becomes insolvent.

(2) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer.

48. Where an unpaid seller has made part delivery of the goods, he may exercise his right of lien on the remainder unless such part delivery has been made under such circumstances as to show an agreement to waive the lien. Part delivery.

49. (1) The unpaid seller of goods loses his lien thereon—

- (a) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods ;
- (b) when the buyer or his agent lawfully obtains possession of the goods ;
- (c) by waiver thereof.

Termination of lien.

(2) The unpaid seller of goods, having a lien thereon, does not lose his lien by reason only that he has obtained a decree for the price of the goods.

*Stoppage in Transit.*

Right of  
stoppage in  
transit.

**50.** Subject to the provisions of this Act, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transit, that is to say, he may resume possession of the goods as long as they are in the course of transit, and may retain them until payment or tender of the price.

Duration of  
transit.

**51. (1)** Goods are deemed to be in course of transit from the time when they are delivered to a carrier or other bailee for the purpose of transmission to the buyer, until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee.

(2) If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination, the transit is at an end.

(3) If, after the arrival of the goods at the appointed destination, the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent, the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

(4) If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them, the transit is not deemed to be at an end, even if the seller has refused to receive them back.

(5) When goods are delivered to a ship chartered by the buyer, it is a question depending on the circumstances of the particular case whether they are in the possession of the master as a carrier or as agent of the buyer.

(6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf, the transit is deemed to be at an end.

(7) Where part delivery of the goods has been made to the buyer or his agent in that behalf, the remainder of the goods may be stopped in transit unless such part delivery has been given in such circumstances as to show an agreement to give up possession of the whole of the goods.

How stop-  
page in  
transit is  
effected.

**52. (1)** The unpaid seller may exercise his right of stoppage in transit either by taking actual possession of the goods, or by giving notice of his claim to the carrier or other bailee in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice, to be effectual, shall be given at such time and in such circumstances that the principal, by the exercise of reasonable diligence, may communicate it to his servant or agent in time to prevent a delivery to the buyer.

(2) When notice of stoppage in transit is given by the seller to the carrier or other bailee in possession of the goods, he shall re-deliver the goods to, or according to the directions of, the seller. The expenses of such re-delivery shall be borne by the seller.

*Transfer by Buyer and Seller.*

53. (1) Subject to the provisions of this Act, the unpaid seller's right of lien or stoppage in transit is not affected by any sale or other disposition of the goods which the buyer may have made, unless the seller has assented thereto :

Effect of sub-sale or pledge by buyer.

Provided that where a document of title to goods has been issued or lawfully transferred to any person as buyer or owner of the goods, and that person transfers the document to a person who takes the document in good faith and for consideration, then, if such last mentioned transfer was by way of sale, the unpaid seller's right of lien or stoppage in transit is defeated, and if such last mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or stoppage in transit can only be exercised subject to the rights of the transferee.

(2) Where the transfer is by way of pledge, the unpaid seller may require the pledgee to have the amount secured by the pledge satisfied in the first instance, as far as possible, out of any other goods or securities of the buyer in the hands of the pledgee and available against the buyer.

54. (1) Subject to the provisions of this section, a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or stoppage in transit.

Sale not generally rescinded by lien or stoppage in transit.

(2) Where the goods are of a perishable nature, or where the unpaid seller who has exercised his right of lien or stoppage in transit gives notice to the buyer of his intention to re-sell, the unpaid seller may, if the buyer does not within a reasonable time pay or tender the price, re-sell the goods within a reasonable time and recover from the original buyer damages for any loss occasioned by his breach of contract, but the buyer shall not be entitled to any profit which may occur on the re-sale. If such notice is not given, the unpaid seller shall not be entitled to recover such damages and the buyer shall be entitled to the profit, if any, on the re-sale.

(3) Where an unpaid seller who has exercised his right of lien or stoppage in transit re-sells the goods, the buyer acquires a good title thereto as against the original buyer, notwithstanding that no notice of the re-sale has been given to the original buyer.

(4) Where the seller expressly reserves a right of re-sale in case the buyer should make default, and, on the buyer making default, re-sells the goods, the original contract of sale is thereby rescinded, but without prejudice to any claim which the seller may have for damages.

## CHAPTER VI.

## SUITS FOR BREACH OF THE CONTRACT.

55. (1) Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may sue him for the price of the goods.

Suit for price.

(2) Where under a contract of sale the price is payable on a day certain irrespective of delivery and the buyer wrongfully neglects or refuses to pay such price, the seller may sue him for the price although the property in the goods has not passed and the goods have not been appropriated to the contract.

Damages for non-acceptance.

56. Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may sue him for damages for non-acceptance.

Damages for non-delivery.

57. Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may sue the seller for damages for non-delivery.

Specific performance.

58. Subject to the provisions of Chapter II of the Specific Relief Act, in any suit for breach of contract to deliver specific or ascertained goods, the Court may, if it thinks fit, on the application of the plaintiff, by its decree direct that the contract shall be performed specifically, without giving the defendant the option of retaining the goods on payment of damages. The decree may be unconditional, or upon such terms and conditions as to damages, payment of the price or otherwise, as the Court may deem just, and the application of the plaintiff may be made at any time before the decree.

Remedy for breach of warranty.

59. (1) Where there is a breach of warranty by the seller, or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods ; but he may—

(a) set up against the seller the breach of warranty in diminution or extinction of the price ; or

(b) sue the seller for damages for breach of warranty.

(2) The fact that a buyer has set up a breach of warranty in diminution or extinction of the price does not prevent him from suing for the same breach of warranty if he has suffered further damage.

Repudiation of contract before due date.

60. Where either party to a contract of sale repudiates the contract before the date of delivery, the other may either treat the contract as subsisting and wait till the date of delivery, or he may treat the contract as rescinded and sue for damages for the breach.

Interest by way of damages and special damages.

61. (1) Nothing in this Act shall affect the right of the seller or the buyer to recover interest or special damages in any case where by law interest or special damages may be recoverable, or to recover the money paid where the consideration for the payment of it has failed.

(2) In the absence of a contract to the contrary, the Court may award interest at such rate as it thinks fit on the amount of the price—

(a) to the seller in a suit by him for the amount of the price—from the date of the tender of the goods or from the date on which the price was payable ;

(b) to the buyer in a suit by him for the refund of the price in a case of a breach of the contract on the part of the seller—from the date on which the payment was made.

## CHAPTER VII.

## MISCELLANEOUS.

62. Where any right, duty or liability would arise under a contract of sale by implication of law, it may be negatived or varied by express agreement or by the course of dealing between the parties, or by usage, if the usage is such as to bind both parties to the contract. Exclusion of implied terms and conditions.

63. Where in this Act any reference is made to a reasonable time, the question what is a reasonable time is a question of fact. Reasonable time a question of fact.

64. In the case of a sale by auction—

Auction sale,

- (1) where goods are put up for sale in lots, each lot is *primâ facie* deemed to be the subject of a separate contract of sale ;
- (2) the sale is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner ; and, until such announcement is made, any bidder may retract his bid ;
- (3) a right to bid may be reserved expressly by or on behalf of the seller and, where such right is expressly so reserved, but not otherwise, the seller or any one person on his behalf may, subject to the provisions hereinafter contained, bid at the auction ;
- (4) where the sale is not notified to be subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person ; and any sale contravening this rule may be treated as fraudulent by the buyer ;
- (5) the sale may be notified to be subject to a reserved or upset price ;
- (6) if the seller makes use of pretended bidding to raise the price, the sale is voidable at the option of the buyer.

65. \* \* \* \*

66. (1) Nothing in this Act shall affect or be deemed to affect—

Savings.

- (a) any right, title, interest, obligation or liability already acquired, accrued or incurred before the 1st July, 1930,<sup>1</sup> or
- (b) any legal proceedings or remedy in respect of any such right, title, interest, obligation or liability, or
- (c) anything done or suffered before the 1st July, 1930,<sup>1</sup> or
- (d) any enactment relating to the sale of goods, or
- (e) any rule of law not inconsistent with this Act.

(2) The rules of insolvency relating to contracts for the sale of goods shall continue to apply thereto, notwithstanding anything contained in this Act.

(3) The provisions of this Act relating to contracts of sale do not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge or other security.

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<sup>1</sup> Date of commencement of this Act.



# THE TREASURE TROVE ACT.

[INDIA ACT VI, 1878.] (13th February, 1878.)

## Preliminary.

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

Interpreta-  
tion clause.  
"treasure."

### 3. In this Act—

"treasure" means anything of any value hidden in the soil, or in anything affixed thereto ;

"Collector."

"Collector" includes any officer appointed by the President of the Union to perform the functions of a Collector under this Act.

"Owner."

When any person is entitled, under any reservation in an instrument of transfer of any land or thing affixed thereto, to treasure in such land or thing, he shall, for the purposes of this Act, be deemed to be the owner of such land or thing.

## Procedure on finding Treasure.

Notice by  
finder of  
treasure.

4. Whenever any treasure exceeding in amount or value ten rupees is found, the finder shall, as soon as practicable, give to the Collector notice in writing—

- (a) of the nature and amount or approximate value of such treasure ;
- (b) of the place in which it was found ;
- (c) of the date of the finding ;

and either deposit the treasure in the nearest Government treasury, or give the Collector such security as the Collector thinks fit to produce the treasure at such time and place as he may from time to time require.

Notification  
requiring  
claimants to  
appear.

5. On receiving a notice under section 4, the Collector shall, after making such enquiry (if any) as he thinks fit, take the following steps (namely) :—

- (a) he shall publish a notification, in such manner as the President of the Union from time to time prescribes in this behalf, to the effect that on a certain date (*mentioning it*) certain treasure (*mentioning its nature, amount and approximate value*) was found in a certain place (*mentioning it*) ; and requiring all persons claiming the treasure, or any part thereof, to appear personally or by agent before the Collector on a day and at a place therein mentioned, such day not being earlier than four months, or later than six months, after the date of the publication of such notification ;
- (b) when the place in which the treasure appears to the Collector to have been found was at the date of the finding in the possession of some person other than the finder, the Collector shall also serve on such person a special notice in writing to the same effect.

6. Any person having any right to such treasure or any part thereof, as owner of the place in which it was found or otherwise, and not appearing as required by the notification issued under section 5, shall forfeit such right.

Forfeiture of right on failure to appear.

7. On the day notified under section 5, the Collector shall cause the treasure to be produced before him and shall enquire as to and determine—

Matters to be enquired into and determined by the Collector.

(a) the person by whom, the place in which, and the circumstances under which, such treasure was found ; and

(b) as far as is possible, the person by whom, and the circumstances under which such treasure was hidden.

8. If, upon an enquiry made under section 7, the Collector sees reason to believe that the treasure was hidden within one hundred years before the date of the finding by a person appearing as required by the said notification and claiming such treasure, or by some other person under whom such person claims, the Collector shall make an order adjourning the hearing of the case for such period as he deems sufficient, to allow of a suit being instituted in the civil Court by the claimant to establish his right.

Time to be allowed for suit by person claiming the treasure.

9. If upon such enquiry the Collector sees no reason to believe that the treasure was so hidden ; or

When treasure may be declared ownerless.

if, where a period is fixed under section 8, no suit is instituted as aforesaid within such period to the knowledge of the Collector ; or

if such suit is instituted within such period and the plaintiff's claim is finally rejected ;

the Collector may declare the treasure to be ownerless.

Any person aggrieved by a declaration made under this section may appeal against the same within two months from the date thereof to the Chief Controlling Revenue-authority.

Appeal against such declaration

Subject to such appeal, every such declaration shall be final and conclusive.

10. When a declaration has been made in respect of any treasure under section 9, such treasure shall, in accordance with the provisions hereinafter contained, either be delivered to the finder thereof, or be divided between him and the owner of the place in which it has been found in manner hereinafter provided.

Proceedings subsequent to declaration.

11. When a declaration has been made in respect of any treasure as aforesaid, and no person other than the finder of such treasure has appeared as required by the notification published under section 5 and claimed a share of the treasure as owner of the place in which it has been found, the Collector shall deliver such treasure to the finder thereof.

When no other person claims as owner of place treasure to be given to finder.

When only one such person claims and his claim is not disputed, treasure to be divided ;

12. When a declaration has been made as aforesaid in respect of any treasure, and only one person other than the finder of such treasure has so appeared and claimed, and the claim of such person is not disputed by the finder, the Collector shall proceed to divide the treasure between the finder and the person so claiming according to the following rule (namely) :—

If the finder and the person so claiming have not entered into any agreement then in force as to the disposal of the treasure, three-fourths of the treasure shall be allotted to such finder and the residue to such person. If such finder and such person have entered into any such agreement, the treasure shall be disposed of in accordance therewith :

Provided that the Collector may, in any case, if he thinks fit, instead of dividing any treasure as directed by this section,—

(a) allot to either party the whole or more than his share of such treasure, on such party paying to the Collector for the other party such sum of money as the Collector may fix as the equivalent of the share of such other party, or of the excess so allotted, as the case may be ; or

(b) sell such treasure or any portion thereof by public auction, and divide the sale-proceeds between the parties according to the rule hereinbefore prescribed :

Provided also that, when the Collector has by his declaration under section 9 rejected any claim made under this Act by any person other than the said finder or person claiming as owner of the place in which the treasure was found, such division shall not be made until after the expiration of two months without an appeal having been presented under section 9 by the person whose claim has been so rejected, or when an appeal has been so presented, after such appeal has been dismissed.

and shares to be delivered to parties.

When the Collector has made a division under this section, he shall deliver to the parties the portions of such treasure, or the money in lieu thereof, to which they are respectively entitled under such division.

In case of dispute as to ownership of place, proceedings to be stayed.

13. When a declaration has been made as aforesaid in respect of any treasure, and two or more persons have appeared as aforesaid and each of them claimed as owner of the place where such treasure was found, or the right of any person who has so appeared and claimed is disputed by the finder of such treasure, the Collector shall retain such treasure and shall make an order staying his proceedings with a view to the matter being enquired into and determined by a civil Court.

Settlement of such dispute

14. Any person who has so appeared and claimed may, within one month from the date of such order, institute a suit in the civil Court to obtain a decree declaring his right ; and in every such suit the finder of the treasure and all persons disputing such claim before the Collector shall be made defendants.

15. If any such suit is instituted and the plaintiff's claim is finally established therein, the Collector shall, subject to the provisions of section 12, divide the treasure between him and the finder. and division thereupon.

If no such suit is instituted as aforesaid, or if the claims of the plaintiffs in all such suits are finally rejected, the Collector shall deliver the treasure to the finder.

16. The Collector may, at any time after making a declaration under section 9, and before delivering or dividing the treasure as hereinbefore provided, declare by writing under his hand his intention to acquire on behalf of the Government the treasure, or any specified portion thereof, by payment to the persons entitled thereto of a sum equal to the value of the materials of such treasure or portion, together with one-fifth of such value, and may place such sum in deposit in his treasury to the credit of such persons; and thereupon such treasure or portion shall be deemed to be the property of Government, and the money so deposited shall be dealt with, as far as may be, as if it were such treasure or portion. Power to acquire the treasure on behalf of Government.

17. No decision passed or act done by the Collector under this Act shall be called in question by any civil Court, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred. Decision of Collector final, and no suit to lie against him for acts done bona fide.

18. A Collector making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure on a civil Court for the trial of suits. Collector to exercise powers of civil Court.

19. The President of the Union may, from time to time, make rules consistent with this Act to regulate proceedings hereunder. Power to make rules.

Such rules shall, on being published in the Gazette, have the force of law.

#### *Penalties.*

20. If the finder of any treasure fails to give the notice, or does not either make the deposit or give the security, required by section 4, or alters or attempts to alter such treasure so as to conceal its identity, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in the State. Penalty on finder failing to give notice, etc.

and he shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

21. If the owner of the place in which any treasure is found abets, within the meaning of the Penal Code, any offence under section 20, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in the State. Penalty on owner abetting offence under section 20.

and he shall, on conviction before a Magistrate, be punished with imprisonment which may extend to six months, or with fine, or with both.

## THE CUSTODIAN OF MOVABLE PROPERTY ACT.

[BURMA ACT X. 1945.] (1st November, 1945.)

WHEREAS it is expedient to make legislative provision for the recovery and return to the owners of movable property of which the owners have been deprived of possession by circumstances arising out of the war and for the appointment of Custodians of such property ;

\* \* \* \*

It is hereby enacted as follows :—

### CHAPTER I.

#### PRELIMINARY.

Short title  
and com-  
mencement.

1. (1) This Act may be called the Custodian of Movable Property Act, 1945.

(2) It shall come into force on such date<sup>1</sup> as the President of the Union may, by notification, appoint, and shall remain in force until the President of the Union, by notification, shall declare it to be no longer in force.

Definitions.

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

(i) “Custodian” means a Custodian of Movable Property appointed under this Act, and, except in Chapter II, includes an Assistant Custodian ;

(ii) “Owner” includes the legal representatives of a deceased owner ; and

(iii) “prescribed” means prescribed by rules made under this Act.

No presump-  
tion of  
abandonment  
of movable  
property.

3. Where owing to circumstances arising out of the war an owner of movable property relinquished possession thereof within the Union of Burma, it shall be presumed, until the contrary is proved, that he has continued to be the owner of such property and that he has had no intention of abandoning the same or any rights thereto.

Protection  
to person  
making over  
possession of  
movable  
property to  
rightful  
owner or  
Custodian  
within  
stipulated  
time.

4. No proceeding, civil or criminal, shall be instituted in respect of any movable property possession of which was relinquished by the owner thereof owing to circumstances arising out of the war against any person who has come into possession of that property if such person delivers up such property to the owner or to a Custodian within such period after the commencement of this Act as may be prescribed.

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<sup>1</sup> 1st November 1945 see *Burma Gazette*, 1946, Part I, page 76.

## CHAPTER II.

## APPOINTMENT OF CUSTODIANS.

5. (1) The President of the Union may, either for the whole of the Union of Burma or for any particular area, appoint one or more Custodians and such number of Assistant Custodians as he thinks necessary or expedient for securing compliance with the provisions of this Act.

Appointment of Custodians and Assistant Custodians.

(2) Every Assistant Custodian shall act under the direction and control of the Custodian for the area in which he is appointed.

6. Subject to the control of the President of the Union, the Custodian for any area shall have authority to appoint such officers (other than Assistant Custodians) and servants as may be considered necessary or proper for the effective discharge in that area of the duties, powers and functions imposed upon him by this Act.

Appointment of other officers and servants.

## CHAPTER III.

## POWERS AND DUTIES OF CUSTODIANS.

7. (1) Any person who is in possession of movable property, the possession of which was relinquished by the owner thereof in the circumstances mentioned in section 3 may deliver the same to the nearest Custodian, who shall take all property so delivered to him into his custody.

Power to Custodian to take possession of movable property.

(2) If a Custodian has reasonable cause to believe that any movable property of which possession was relinquished in the circumstances mentioned in section 3 is in the possession of any person other than the owner thereof, he may, by day or by night, enter and search any premises for such property and take into his custody, or by order in writing authorise any police officer not below the rank of Sub-Inspector to do so :

<sup>1</sup> Provided that the provisions of this section shall cease to apply to mineral ores and metals other than gold and silver on the 1st November 1948, if they are not delivered to the Custodian or seized by him or by his order before the said date.

8. (1) The Custodian shall retain in his custody all property delivered to him or seized under section 7, and, in respect of each delivery under sub-section (1) of section 7, and of each seizure under sub-section (2) of section 7, shall issue a proclamation, containing a description of each article of which the property consists, and requiring any person who has any claim thereto to appear and establish his right to the same within such period from the date of the proclamation as may be reasonable having regard to the circumstances of each case. The proclamation shall be published in such manner and served on such persons as may be prescribed.

Disposal of Property delivered or seized under section 7.

(2) On the expiry of the period mentioned in the proclamation, or of any further time which may be given, the Custodian shall peruse the

<sup>1</sup> This proviso was inserted by Act XLI, 1948.

statements (if any) put in by the claimants to the property, hear the claimants, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he considers necessary, and shall in a summary manner decide which, if any, of the claimants is entitled to the property, or any part thereof, under this Act.

(3) If the Custodian decides that one or more of the claimants is entitled to any part of the property, the Custodian shall deliver to each such claimant the property to which he is entitled under the order of the Custodian.

(4) If any property delivered or seized under section 7 is subject to speedy and natural decay, or if the Custodian is of opinion that its sale would be for the benefit of the owner thereof, or that its value is less than ten rupees, the Custodian may at any time direct it to be sold, and the net proceeds of such sale shall be held for the benefit of the person who may establish his title to the property.

(5) If no person establishes his claim to any property delivered or seized under section 7 within a period of three years from the date of the proclamation issued under sub-section (1), such property, or the sale proceeds thereof if sold, shall vest in the Government.

[ \* \* \* \* \* ]<sup>1</sup>

Application  
by owner  
for restora-  
tion of  
movable  
property.

9. (1) Any person who has relinquished possession of any movable property in the circumstances mentioned in section 3, and who knows or has reasons to believe that such property or any part thereof is in the possession of any other person, may apply to the Custodian to recover possession of such property from such person : provided that the property can be identified, either in whole or in part, and can be separated from any combination.

~~2~~ (1a) Notwithstanding anything contained in sub-section (1), no application made under the said sub-section shall be entertained by the Custodian after the 31st October 1948.

(2) On receipt of an application under sub-section (1), the Custodian shall cause a notice to be served on the party in whose possession the property is alleged to be, and on any other person who appears from the statement of the applicant to be interested in the property, requiring him or them to attend at the time and place fixed for hearing the application, for the purpose of determining the title to the said property under this Act.

(3) If, after receipt of a notice under sub-section (2), any party in whose possession the property is alleged to be disposes of such property in any manner with a view to defeating the objects of this Act he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(4) The Custodian may, if he thinks fit, at any time after the presentation of the application, exercise his powers under sub-section (2) of section 7 to search for and seize the property mentioned in the application, and may, pending the conclusion of the enquiry under sub-section (2), pass such orders for the proper custody of the property as he thinks fit.

<sup>1</sup> The proviso was deleted by Act XXX, 1949.

<sup>2</sup> Inserted by Act XLI, 1948.

(5) If the applicant or his agent fails to appear at the time and place fixed for hearing the application, or at any subsequent time or place to which the hearing may be adjourned, and there is no sufficient cause for his non-appearance, the Custodian may dismiss the application.

(6) If the opposite party or any other person interested in the property, after having been served with notice, does not attend at such time and place, or at any subsequent time or place to which the hearing may be adjourned, the application may be heard and determined in his absence.

(7) On the date fixed, or on any subsequent date to which the hearing may be adjourned, the Custodian shall peruse the statements (if any) put in, examine the parties, receive all such evidence as may be produced by them respectively and consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and shall in a summary manner decide whether the applicant or any other person is entitled to the property or any part thereof under this Act.

(8) If the Custodian decides that the applicant or any other person is entitled to the property or any part thereof, and the property or such part is in the custody of the Custodian he shall deliver the property or such part to the applicant or such person. If the property or such part is not in the custody of the Custodian, he shall proceed to enforce his order under section 10.

(9) The provisions of sub-section (4) of section 8 shall apply to any property in the custody of the Custodian under the provisions of this section.

(10) Any property in the custody of the Custodian under the provisions of this section to which no person establishes a claim within a period of three years from the date on which it came into the custody of the Custodian, or the sale proceeds thereof, if sold, shall vest in the Government.

10. (1) Any order passed by the Custodian under sub-section (2) of section 8 or sub-section (7) of section 9 may be enforced in the following manner, namely, by serving a notice on the person in possession of the property, or his agent, requiring him, within such time as the Custodian may deem reasonable after the receipt of the said notice, to make over possession of said property to the person entitled under the order thereto, and if such notice is not obeyed, by seizing, or authorizing by order in writing any police officer not below the rank of Sub-Inspector to seize, the said property from the possession of that person or his agent and delivering it to the person entitled thereto.

Restoration  
of possession,  
how to be  
effected.

(2) If the officer shall be resisted or obstructed by any person in seizing any such property, the Custodian may issue a warrant for the arrest of such person, and on proof of the facts of such resistance or obstruction may sentence such person to imprisonment for any period not exceeding thirty days, or to fine which may extend to one hundred rupees, or to both :

Provided that no person sentenced under this sub-section shall be liable to be prosecuted under section 183, section 186 or section 188 of the Penal Code or under sub-section (1) of section 15 of this Act in respect of the same facts.



Costs of enquiry.

**11.** The Custodian may pass such orders as to the costs of any enquiry or proceeding under this Act, and the payment thereof as he may deem fit.

Power to summon and enforce attendance of witnesses and to compel production of documents.

**12.** For the purpose of any enquiry under this Act the Custodian shall have power to summon and enforce the attendance of persons, to receive and record evidence, and to compel the production of documents by the same means and so far as may be in the same manner as provided in the case of a civil Court by the Code of Civil Procedure.

#### CHAPTER IV.

##### GENERAL.

Finality of decision of custodian.

**13.** Except as provided by section 18, the decision of a Custodian under this Act as to the title to any movable property shall be final and shall be conclusive evidence thereof.

Bar to jurisdiction of civil Court.

**14.** Except as otherwise provided in this Act, no civil Court shall have jurisdiction in any matter which the Custodian is empowered or under this Act to determine or shall take cognizance of the manner in which the Custodian exercises any power vested in him by or under this Act.

Penalty for wrongful obstruction or disobedience of order.

**15. (1)** Whoever in any manner wilfully obstructs the Custodian or any officer authorized by the Custodian in the performance of his duties, or refuses to hand over any movable property when required so to do by the Custodian or any officer authorized by the Custodian shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

**(2)** Notwithstanding anything contained in the Code of Criminal Procedure, an offence under this section shall be cognizable and non-bailable.

Power to make rules.

**16. (1)** The President of the Union may make rules<sup>1</sup> to carry out the provisions of this Act.

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

- (a) prescribe the period under section 4 ;
- (b) prescribe the manner in which a proclamation issued under sub-section (1) of section 8 shall be published and the persons on whom a copy of such proclamation shall be served ;
- (c) prescribe the form and contents of applications under section 9 ;
- (d) prescribe the procedure to be adopted and the records to be maintained by Custodians in the conduct of enquiries and the enforcements of orders ;
- (e) prescribe the fees to be paid to Custodians for the custody of any movable property and by whom such fees shall be paid ;

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<sup>1</sup> For such rules, see *Burma Gazette*, 1945, Part I, page 74.

- (f) prescribe the forms of notices and the manner in which they shall be issued and served ;
- (g) provide for the rendering of aid by the police and other public authorities to Custodians in the conduct of enquiries and the enforcement of orders ;
- (h) prescribe the duties to be performed by village headmen, rural policemen and villagers in connection with the proceedings of Custodians.

**17.** No suit, prosecution or other legal proceeding shall lie against— Bar to suits

- (i) any officer or authority vested with powers under this Act for anything in good faith done or intended to be done thereunder ; or
- (ii) any person for any injury or damage caused to any person or any movable property in consequence of any act in good faith done or intended to be done under this Act.

**18.** Nothing done under or in accordance with this Act shall be deemed Saving.  
to preclude any person from instituting a suit or other proceeding in any competent Court under any law for the time being in force for possession of or for establishing any right in respect of any movable property to which such person may deem himself to be presently entitled.

## PART XX—INCORPOREAL RIGHTS (MOVEABLE).

အပိုင်း ၂၀။ ။ဝတ္ထုအထည်ဖြစ်မရှိသည့်အခွင့်အရေး  
များ (အကျိုးပြောင်းနိုင်သည့်ပစ္စည်း) ဆိုင်ရာ။

### THE INTEREST ACT.

[INDIA ACTS XXXII, 1839 ; XXVIII, 1855.] (30th December, 1839 ; 19th  
September, 1855.)

Power of  
Court to  
allow  
interest.

1. Upon all debts or sums certain payable at a certain time or otherwise, the Court before which such debts or sums may be recovered may, if it shall think fit, allow interest to the creditor at a rate not exceeding the current rate of interest from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some written instrument at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the term of payment : provided that interest shall be payable in all cases in which it is otherwise payable by law.

Rate of  
interest to be  
decreed by  
Courts.

2. In any suit in which interest is recoverable, the amount shall be adjudged or decreed by the Court at the rate (if any) agreed upon by the parties ; and, if no rate shall have been agreed upon, at such rate as the Court shall deem reasonable.

Rate of  
interest upon  
a judgment  
or decree.

3. Whenever a Court shall direct that a judgment or decree shall bear interest, or shall award interest upon a judgment or decree, it may order the interest to be calculated at the rate allowed in the judgment or decree upon the principal sum adjudged, or at such other rate as the Court shall think fit.

Contracts for  
usufruct  
of property  
in lieu of  
interest.

4. A mortgage or other contract for the loan of money, by which it is agreed that the use or usufruct of any property shall be allowed in lieu of interest, shall be binding upon the parties.

5. \* \* \* \*

Rate of  
interest on  
future adjust-  
ments of  
accounts.

6. In any case in which an adjustment of accounts may become necessary between the lender and the borrower of money upon any contract whatsoever interest shall be calculated at the rate stipulated therein ; or, if no rate of interest shall have been stipulated and interest be payable under the terms of the contract, at such rate as the Court shall deem reasonable.

## THE USURIOUS LOANS ACT.

[INDIA ACT X, 1918.] (22nd March, 1918.)

1. The President of the Union may, by notification, direct that this Act shall not apply to any area, class of persons, or class of transactions which he may specify in the notification. Power to exclude from operation of Act.

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

- (1) “interest” means rate of interest and includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise ;
- (2) “loan” means a loan whether of money or in kind, and includes any transaction which is, in the opinion of the Court, in substance a loan ;
- (3) “suit to which this Act applies” means any suit—
  - (a) for the recovery of a loan made after the 22nd March, 1918<sup>1</sup> ; or
  - (b) for the enforcement of any security taken or any agreement, whether by way of settlement of account or otherwise, made after the said date, in respect of any loan made either before or after the said date ; or
  - (c) for the redemption of any security given after the said date in respect of any loan made either before or after the said date.

3. (1) Notwithstanding anything in the Interest Act, where, in any suit to which this Act applies, whether heard *ex parte* or otherwise, the Court has reason to believe,— Re-opening of transactions.

- (a) that the interest is excessive, and
- (b) that the transaction was, as between the parties thereto, substantially unfair,

the Court may exercise all or any of the following powers, namely, may,—

- (i) re-open the transaction, take an account between the parties, and relieve the debtor of all liability in respect of any excessive interest ;
- (ii) notwithstanding any agreement purporting to close previous dealings and to create a new obligation, re-open any account already taken between them and relieve the debtor of all liability in respect of any excessive interest, and if anything has been paid or allowed in account in respect of such liability, order the creditor to repay any sum which it considers to be repayable in respect thereof ;
- (iii) set aside, either wholly or in part, or revise or alter any security given or agreement made in respect of any loan, and if the

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<sup>1</sup> Date of commencement of this Act.

creditor has parted with the security, order him to indemnify the debtor in such manner and to such extent as it may deem just :

Provided that, in the exercise of these powers, the Court shall not—

- (i) re-open any agreement purporting to close previous dealings and to create a new obligation which has been entered into by the parties, or any persons from whom they claim, at a date more than twelve years from the date of the transaction ;
- (ii) do anything which affects any decree of a Court.

*Explanation.*—In the case of a suit brought on a series of transactions the expression “the transaction” means, for the purposes of proviso (i), the first of such transactions.

(2) (a) In this section “excessive” means in excess of that which the Court deems to be reasonable having regard to the risk incurred as it appeared, or must be taken to have appeared, to the creditor at the date of the loan.

(b) In considering whether interest is excessive under this section, the Court shall take into account any amounts charged or paid, whether in money or in kind, for expenses, inquiries, fines, bonuses, premia, renewals or any other charges, and if compound interest is charged, the periods at which it is calculated and the total advantage which may reasonably be taken to have been expected from the transaction.

(c) In considering the question of risk, the Court shall take into account the presence or absence of security and the value thereof, the financial condition of the debtor and the result of any previous transactions of the debtor, by way of loan, so far as the same were known, or must be taken to have been known, to the creditor.

(d) In considering whether a transaction was substantially unfair, the Court shall take into account all circumstances materially affecting the relations of the parties at the time of the loan or tending to show that the transaction was unfair, including the necessities or supposed necessities of the debtor at the time of the loan, so far as the same were known, or must be taken to have been known, to the creditor.

*Explanation.*—Interest may of itself be sufficient evidence that the transaction was substantially unfair.

(3) This section shall apply to any suit, whatever its form may be, if such suit is substantially one for the recovery of a loan or for the enforcement of any agreement or security in respect of a loan or for the redemption of any such security.

(4) Nothing in this section shall affect the rights of any transferee for value who satisfies the Court that the transfer to him was *bona fide*, and that he had at the time of such transfer no notice of any fact which would have entitled the debtor as against the lender to relief under this section.

For the purposes of this sub-section, the word “notice” shall have the same meaning as is ascribed to it in section 4 of the Transfer of Property Act.

(5) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any Court.

4. On any application relating to the admission or amount of a proof of a loan in any insolvency proceedings, the Court may exercise the like powers as may be exercised under section 3 by a Court in a suit to which this Act applies. Insolvency proceedings.

## THE NEGOTIABLE INSTRUMENTS ACT.

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**THE NEGOTIABLE INSTRUMENTS ACT.<sup>1</sup>**

[INDIA ACT XXVI, 1881.] (1st March, 1882.)

CHAPTER I.

PRELIMINARY.

Saving as to  
paper cur-  
rency law  
and of usages  
relating to  
hundis, etc.

1. Nothing herein contained affects the law relating to paper currency ; and nothing herein contained affects any local usage relating to any instrument in an oriental language : Provided that such usages may be excluded by any words in the body of the instrument which indicate an intention that the legal relations of the parties thereto shall be governed by this Act.

2. \* \* \* \*

Interpreta-  
tion clause.  
" Banker. "

3. In this Act—

" banker " includes also persons or a corporation or company acting as bankers ; and

" Notary  
public. "

" notary public " includes also any person appointed by the President of the Union to perform the functions of a notary public under this Act.

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<sup>1</sup> For summary procedure on negotiable instruments, see Order XXXVII of the Code of Civil Procedure.

## CHAPTER II.

## OF NOTES, BILLS AND CHEQUES.

4. A "promissory note" is an instrument in writing (not being a bank-note or a currency-note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument. "Promissory note."

*Illustrations.*

A signs instruments in the following terms :

- (a) "I promise to pay B or order Rs. 500."
- (b) "I acknowledge myself to be indebted to B in Rs. 1,000, to be paid on demand for value received."
- (c) "Mr. B, I O U Rs. 1,000."
- (d) "I promise to pay B Rs. 500 and all other sums which shall be due to him."
- (e) "I promise to pay B Rs. 500, first deducting thereout any money which he may owe me."
- (f) "I promise to pay B Rs. 500 seven days after my marriage with C."
- (g) "I promise to pay B Rs. 500, on D's death, provided D leaves me enough to pay that sum."
- (h) "I promise to pay B Rs. 500 and to deliver to him my black horse on 1st January next"

The instruments respectively marked (a) and (b) are promissory notes. The instruments respectively marked (c), (d), (e), (f), (g) and (h) are not promissory notes.

5. A "bill of exchange" is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument. "Bill of exchange."

A promise or order to pay is not "conditional," within the meaning of this section and section 4, by reason of the time for payment of the amount or any instalment thereof being expressed to be on the lapse of a certain period after the occurrence of a specified event which, according to the ordinary expectation of mankind, is certain to happen, although the time of its happening may be uncertain.

The sum payable may be "certain", within the meaning of this section and section 4, although it includes future interest or is payable at an indicated rate of exchange, or is according to the course of exchange, and although the instrument provides that, on default of payment of an instalment, the balance unpaid shall become due.

The person to whom it is clear that the direction is given or that payment is to be made may be a "certain person," within the meaning of this section and section 4, although he is mis-named or designated by description only.

6. A "cheque" is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand. "Cheque."

7. The maker of a bill of exchange or cheque is called the "drawer"; the person thereby directed to pay is called the "drawee." "Drawer."  
"Drawee."

- "Drawee in case of need." When in the bill or in any indorsement thereon the name of any person is given in addition to the drawee to be resorted to in case of need, such person is called a "drawee in case of need."
- "Acceptor." After the drawee of a bill has signed his assent upon the bill, or, if there are more parts thereof than one, upon one of such parts, and delivered the same, or given notice of such signing to the holder or to some person on his behalf, he is called the "acceptor."
- "Acceptor for honour." When a bill of exchange has been noted or protested for non-acceptance or for better security, and any person accepts it *supra protest* for honour of the drawer or of any one of the indorsers, such person is called an "acceptor for honour."
- "Payee." The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid, is called the "payee."
- "Holder." 8. The "holder" of a promissory note, bill of exchange or cheque means any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto.
- Where the note, bill or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.
- "Holder in due course." 9. "Holder in due course" means any person who for consideration became the possessor of a promissory note, bill of exchange or cheque if payable to bearer, or the payee or indorsee thereof, if payable to order, before the amount mentioned in it became payable, and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title.
- "Payment in due course." 10. "Payment in due course" means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford a reasonable ground for believing that he is not entitled to receive payment of the amount therein mentioned.
- Inland instrument. 11. A promissory note, bill of exchange or cheque drawn or made in the Union of Burma, and made payable in, or drawn upon any person resident in, the Union of Burma, shall be deemed to be an inland instrument.
- Foreign instrument. 12. Any such instrument not so drawn, made or made payable shall be deemed to be a foreign instrument.
- "Negotiable instrument." 13. (1) A "negotiable instrument" means a promissory note, bill of exchange or cheque payable either to order or to bearer.
- Explanation (i).—*A promissory note, bill of exchange or cheque is payable to order which is expressed to be so payable or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it shall not be transferable.

*Explanation (ii).*—A promissory note, bill of exchange or cheque is payable to bearer which is expressed to be so payable or on which the only or last indorsement is an indorsement in blank.

*Explanation (iii).*—Where a promissory note, bill of exchange or cheque, either originally or by indorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order at his option.

(2) A negotiable instrument may be made payable to two or more payees jointly or it may be made payable in the alternative to one of two, or one or some of several payees.

14. When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated. Negotiation.

15. When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof or on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the "indorser." Indorsement.

16. (1) If the indorser signs his name only, the indorsement is said to be "in blank," and if he adds a direction to pay the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is said to be "in full," and the person so specified is called the "indorsee" of the instrument. Indorsement "in blank" and "in full."  
"Indorsee."

(2) The provisions of this Act relating to a payee shall apply with the necessary modifications to an indorsee.

17. Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either, and the instrument shall be thenceforward treated accordingly. Ambiguous instruments.

18. If the amount undertaken or ordered to be paid is stated differently in figures and in words, the amount stated in words shall be the amount undertaken or ordered to be paid. Where amount is stated differently in figures and words.

19. A promissory note or bill of exchange, in which no time for payment is specified, and a cheque, are payable on demand. Instruments payable on demand.

20. Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in the Union of Burma, and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives *prima facie* authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instru- Inchoate stamped instruments.

ment, in the capacity in which he signed the same, to any holder in due course for such amount: Provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid thereunder.

**21.** In a promissory note or bill of exchange the expressions "at sight" and "on presentment" mean on demand. The expression "after sight" means, in a promissory note, after presentment for sight, and, in a bill of exchange, after acceptance, or noting for non-acceptance, or protest for non-acceptance.

**22.** The maturity of a promissory note or bill of exchange is the date at which it falls due.

Every promissory note or bill of exchange which is not expressed to be payable on demand, at sight or on presentment is at maturity on the third day after the day on which it is expressed to be payable.

**23.** In calculating the date at which a promissory note or bill of exchange, made payable a stated number of months after date or after sight, or after a certain event, is at maturity, the period stated shall be held to terminate on the day of the month which corresponds with the day on which the instrument is dated, or presented for acceptance or sight, or noted for non-acceptance, or protested for non-acceptance, or the event happens, or, where the instrument is a bill of exchange made payable a stated number of months after sight and has been accepted for honour, with the day on which it was so accepted. If the month in which the period would terminate has no corresponding day, the period shall be held to terminate on the last day of such month.

*Illustrations.*

(a) A negotiable instrument, dated 29th January 1940, is made payable at one month after date. The instrument is at maturity on the third day after the 28th February 1940.

(b) A negotiable instrument, dated 30th August 1940, is made payable three months after date. The instrument is at maturity on the 3rd December 1940.

(c) A promissory note or bill of exchange, dated 31st August 1940, is made payable three months after date. The instrument is at maturity on the 3rd December 1940.

**24.** In calculating the date at which a promissory note or bill of exchange made payable a certain number of days after date or after sight or after a certain event is at maturity, the day of the date, or of presentment for acceptance or sight, or of protest for non-acceptance, or on which the event happens, shall be excluded.

**25.** When the day on which a promissory note or bill of exchange is at maturity is a public holiday, the instrument shall be deemed to be due on the next preceding business day.

<sup>1</sup> *Explanation.*—The expression "public holiday" includes Sundays and any other day declared by the President of the Union, by notification, to be a public holiday.

<sup>1</sup> Substituted by Act XXV, 1951.

## CHAPTER III.

## PARTIES TO NOTES, BILLS AND CHEQUES.

**26.** Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, indorsement, delivery and negotiation of a promissory note, bill of exchange or cheque. Capacity to make, etc., promissory notes, etc.

A minor may draw, indorse, deliver and negotiate such instrument so as to bind all parties except himself. Minor.

Nothing herein contained shall be deemed to empower a corporation to make, indorse or accept such instruments except in cases in which, under the law for the time being in force, they are so empowered.

**27.** Every person capable of binding himself or of being bound, as mentioned in section 26, may so bind himself or be bound by a duly authorized agent acting in his name. Agency.

A general authority to transact business and to receive and discharge debts does not confer upon an agent the power of accepting or indorsing bills of exchange so as to bind his principal.

An authority to draw bills of exchange does not of itself import an authority to indorse.

**28.** An agent who signs his name to a promissory note, bill of exchange or cheque without indicating thereon that he signs as agent, or that he does not intend thereby to incur personal responsibility, is liable personally on the instrument, except to those who induced him to sign upon the belief that the principal only would be held liable. Liability of agent signing.

**29.** A legal representative of a deceased person who signs his name to a promissory note, bill of exchange or cheque is liable personally thereon unless he expressly limits his liability to the extent of the assets received by him as such. Liability of legal representative signing.

**30.** The drawer of a bill of exchange or cheque is bound, in case of dishonour by the drawee or acceptor thereof, to compensate the holder, provided due notice of dishonour has been given to, or received by, the drawer as hereinafter provided. Liability of drawer.

**31.** The drawee of a cheque having sufficient funds of the drawer in his hands properly applicable to the payment of such cheque must pay the cheque when duly required so to do, and, in default of such payment, must compensate the drawer for any loss or damage caused by such default. Liability of drawee of cheque.

**32.** In the absence of a contract to the contrary, the maker of a promissory note and the acceptor before maturity of a bill of exchange are bound to pay the amount thereof at maturity according to the apparent tenor of the note or Liability of maker of note and acceptor of bill.



acceptance respectively, and the acceptor of a bill of exchange at or after maturity is bound to pay the amount thereof to the holder on demand.

In default of such payment as aforesaid, such maker or acceptor is bound to compensate any party to the note or bill for any loss or damage sustained by him and caused by such default.

Only drawee  
can be  
acceptor  
except in  
need or for  
honour.

33. No person except the drawee of a bill of exchange, or all or some of several drawees, or a person named therein as a drawee in case of need, or an acceptor for honour, can bind himself by an acceptance.

Acceptance  
by several  
drawees not  
partners.

34. Where there are several drawees of a bill of exchange who are not partners, each of them can accept it for himself, but none of them can accept it for another without his authority.

Liability of  
indorser.

35. In the absence of a contract to the contrary, whoever indorses and delivers a negotiable instrument before maturity, without in such indorsement expressly excluding or making conditional his own liability, is bound thereby to every subsequent holder, in case of dishonour by the drawee, acceptor or maker, to compensate such holder for any loss or damage caused to him by such dishonour, provided due notice of dishonour has been given to, or received by, such indorser as hereinafter provided

Every indorser after dishonour is liable as upon an instrument payable on demand.

Liability of  
prior parties  
to holder in  
due course.

36. Every prior party to a negotiable instrument is liable thereon to a holder in due course until the instrument is duly satisfied.

Maker,  
drawer  
and acceptor,  
principals.

37. The maker of a promissory note or cheque, the drawer of a bill of exchange until acceptance, and the acceptor are, in the absence of a contract to the contrary, respectively liable thereon as principal debtors, and the other parties thereto are liable thereon as sureties for the maker, drawer or acceptor, as the case may be.

Prior party  
a principal  
in respect of  
each subse-  
quent party.

38. As between the parties so liable as sureties, each prior party is, in the absence of a contract to the contrary, also liable thereon as a principal debtor in respect of each subsequent party.

#### *Illustration.*

*A* draws a bill payable to his own order on *B* who accepts. *A* afterwards indorses the bill to *C*, *C* to *D*, and *D* to *E*. As between *E* and *B*, *B* is the principal debtor, and *A*, *C* and *D* are his sureties. As between *E* and *A*, *A* is the principal debtor, and *C* and *D* are his sureties. As between *E* and *C*, *C* is the principal debtor and *D* is his surety.

Suretyship.

39. When the holder of an accepted bill of exchange enters into any contract with the acceptor which, under section 134 or 135 of the Contract Act, would discharge the other parties, the holder may expressly reserve his right to charge the other parties, and in such case they are not discharged.

40. When the holder of a negotiable instrument, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity.

Discharge of indorser's liability.

*Illustration.*

*A* is the holder of a bill of exchange made payable to the order of *B*, which contains the following indorsements in blank:—

First indorsement, "*B*."

Second indorsement, "Peter Williams."

Third indorsement, "Wright & Co."

Fourth indorsement, "John Rozario."

This bill *A* puts in suit against John Rozario and strikes out, without John Rozario's consent, the indorsements by Peter Williams and Wright & Co. *A* is not entitled to recover anything from John Rozario.

41. An acceptor of a bill of exchange already indorsed is not relieved from liability by reason that such indorsement is forged, if he knew or had reason to believe the indorsement to be forged when he accepted the bill.

Acceptor bound although indorsement forged.

42. An acceptor of a bill of exchange drawn in a fictitious name and payable to the drawer's order is not, by reason that such name is fictitious, relieved from liability to any holder in due course claiming under an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

Acceptance of bill drawn in fictitious name.

43. A negotiable instrument made, drawn, accepted, indorsed or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction. But if any such party has transferred the instrument, with or without indorsement, to a holder for consideration, such holder, and every subsequent holder deriving title from him, may recover the amount due on such instrument from the transferor for consideration or any prior party thereto.

Negotiable instrument made, etc., without consideration.

*Exception I.*—No party for whose accommodation a negotiable instrument has been made, drawn, accepted or indorsed can, if he have paid the amount thereof, recover thereon such amount from any person who became a party to such instrument for his accommodation.

*Exception II.*—No party to the instrument who has induced any other party to make, draw, accept, indorse or transfer the same to him for a consideration which he has failed to pay or perform in full shall recover thereon an amount exceeding the value of the consideration (if any) which he has actually paid or performed.

44. When the consideration for which a person signed a promissory note, bill of exchange or cheque consisted of money, and was originally absent in part or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

Partial absence or failure of money-consideration.

**Explanation.**—The drawer of a bill of exchange stands in immediate relation with the acceptor. The maker of a promissory note, bill of exchange or cheque stands in immediate relation with the payee, and the indorser with his indorsee. Other signers may by agreement stand in immediate relation with a holder.

*Illustration.*

*A draws a bill on B for Rs. 500 payable to the order of A. B accepts the bill, but subsequently dishonours it by non-payment. A sues B on the bill. B proves that it was accepted for value as to Rs. 400, and as an accommodation to the plaintiff as to the residue. A can only recover Rs. 400.*

Partial failure of consideration not consisting of money.

**45.** Where a part of the consideration for which a person signed a promissory note, bill of exchange or cheque, though not consisting of money, is ascertainable in money without collateral enquiry, and there has been a failure of that part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

Holder's right to duplicate of lost bill.

**45A.** Where a bill of exchange has been lost before it is over-due, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so.

## CHAPTER IV

### OF NEGOTIATION.

Delivery.

**46.** The making, acceptance or indorsement of a promissory note, bill of exchange or cheque is completed by delivery, actual or constructive.

As between parties standing in immediate relation, delivery to be effectual must be made by the party making, accepting or indorsing the instrument or by a person authorized by him in that behalf.

As between such parties and any holder of the instrument other than a holder in due course, it may be shown that the instrument was delivered conditionally or for a special purpose only, and not for the purpose of transferring absolutely the property therein.

A promissory note, bill of exchange or cheque payable to bearer is negotiable by the delivery thereof.

A promissory note, bill of exchange or cheque payable to order is negotiable by the holder by indorsement and delivery thereof.

Negotiation by delivery.

**47.** Subject to the provisions of section 58, a promissory note, bill of exchange or cheque payable to bearer is negotiable by delivery thereof.

**Exception.**—A promissory note, bill of exchange or cheque delivered on condition that it is not to take effect except in a certain event is not negotiable

(except in the hands of a holder for value without notice of the condition) unless such event happens.

*Illustrations.*

(a) *A*, the holder of a negotiable instrument payable to bearer, delivers it to *B*'s agent to keep for *B*. The instrument has been negotiated.

(b) *A*, the holder of a negotiable instrument payable to bearer, which is in the hands of *A*'s banker, who is at the time the banker of *B*, directs the banker to transfer the instrument to *B*'s credit in the banker's account with *B*. The banker does so, and accordingly now possesses the instrument as *B*'s agent. The instrument has been negotiated, and *B* has become the holder of it.

48. Subject to the provisions of section 58, a promissory note, bill of exchange or cheque payable to order is negotiable by the holder by indorsement and delivery thereof. Negotiation by indorsement.

49. The holder of a negotiable instrument indorsed in blank may, without signing his own name, by writing above the indorser's signature a direction to pay to any other person as indorsee, convert the indorsement in blank into an indorsement in full; and the holder does not thereby incur the responsibility of an indorser. Conversion of indorsement in blank into indorsement in full.

50. The indorsement of a negotiable instrument followed by delivery transfers to the indorsee the property therein with the right of further negotiation; but the indorsement may, by express words, restrict or exclude such right, or may merely constitute the indorsee an agent to indorse the instrument or to receive its contents for the indorser, or for some other specified person. Effect of indorsement.

*Illustrations.*

*B* signs the following indorsements on different negotiable instruments payable to bearer:—

- (a) "Pay the contents to *C* only."
- (b) "Pay *C* for my use."
- (c) "Pay *C* or order for the account of *B*."
- (d) "The within must be credited to *C*."

These indorsements exclude the right of further negotiation by *C*.

- (e) "Pay *C*."
- (f) "Pay *C* value in account with the Oriental Bank."
- (g) "Pay the contents to *C*, being part of the consideration in a certain deed of assignment executed by *C* to the indorser and others."

These indorsements do not exclude the right of further negotiation by *C*.

51. Every sole maker, drawer, payee or indorsee, or all of several joint makers, drawers, payees or indorsees, of a negotiable instrument may, if the negotiability of such instrument has not been restricted or excluded as mentioned in section 50, indorse and negotiate the same. Who may negotiate.

*Explanation.*—Nothing in this section enables a maker or drawer to indorse or negotiate an instrument, unless he is in lawful possession or is holder thereof, or enables a payee or indorsee to indorse or negotiate an instrument unless he is holder thereof.

*Illustration.*

A bill is drawn payable to *A* or order. *A* indorses it to *B*, the indorsement not containing the words "or order" or any equivalent words. *B* may negotiate the instrument.

Indorser  
who  
excludes his  
own liability  
or makes it  
conditional.

52. The indorser of a negotiable instrument may, by express words in the indorsement, exclude his own liability thereon, or make such liability or the right of the indorsee to receive the amount due thereon depend upon the happening of a specified event, although such event may never happen.

Where an indorser so excludes his liability and afterwards becomes the holder of the instrument, all intermediate indorsers are liable to him.

*Illustrations.*

(a) The indorser of a negotiable instrument signs his name, adding the words—  
"Without recourse."

Upon this indorsement he incurs no liability.

(b) *A* is the payee and holder of a negotiable instrument. Excluding personal liability by an indorsement "without recourse," he transfers the instrument to *B*, and *B* indorses it to *C*, who indorses it to *A*. *A* is not only reinstated in his former rights, but has the rights of an indorsee against *B* and *C*.

Holder  
deriving title  
from holder  
in due  
course.

Instrument  
indorsed in  
blank.

Conversion  
of indorse-  
ment in  
blank into  
indorsement  
in full.

Indorsement  
for part of  
sum due.

Legal repre-  
sentative  
cannot by  
delivery only  
negotiate  
instrument  
indorsed by  
deceased.

Instrument  
obtained by  
unlawful  
means or for  
unlawful  
considera-  
tion.

53. A holder of a negotiable instrument who derives title from a holder in due course has the rights thereon of that holder in due course.

54. Subject to the provisions hereinafter contained as to crossed cheques, a negotiable instrument indorsed in blank is payable to the bearer thereof even although originally payable to order.

55. If a negotiable instrument, after having been indorsed in blank, is indorsed in full, the amount of it cannot be claimed from the indorser in full except by the person to whom it has been indorsed in full, or by one who derives title through such person.

56. No writing on a negotiable instrument is valid for the purpose of negotiation if such writing purports to transfer only a part of the amount appearing to be due on the instrument, but, where such amount has been partly paid, a note to that effect may be indorsed on the instrument, which may then be negotiated for the balance.

57. The legal representative of a deceased person cannot negotiate by delivery only a promissory note, bill of exchange or cheque payable to order and indorsed by the deceased but not delivered.

58. When a negotiable instrument has been lost or has been obtained from any maker, acceptor or holder thereof by means of an offence or fraud, or for an unlawful consideration, no possessor or indorsee who claims through the person who found or so obtained the instrument is entitled to receive the amount due thereon from such maker, acceptor, or holder, or from any party prior to such holder, unless such possessor or indorsee is, or some person through whom he claims was, a holder thereof in due course.

**59.** The holder of a negotiable instrument, who has acquired it after dishonour, whether by non-acceptance or non-payment, with notice thereof, or after maturity, has only, as against the other parties, the rights thereon of his transferor :

Instrument acquired after dishonour or when overdue.

Provided that any person who, in good faith and for consideration, becomes the holder, after maturity, of a promissory note or bill of exchange made, drawn or accepted without consideration, for the purpose of enabling some party thereto to raise money thereon, may recover the amount of the note or bill from any prior party.

Accommodation note or bill.

#### *Illustration.*

The acceptor of a bill of exchange, when he accepted it, deposited with the drawer certain goods as a collateral security for the payment of the bill, with power to the drawer to sell the goods and apply the proceeds in discharge of the bill if it were not paid at maturity. The bill not having been paid at maturity, the drawer sold the goods and retained the proceeds but indorsed the bill to A. A's title is subject to the same objection as the drawer's title.

**60.** A negotiable instrument may be negotiated (except by the maker, drawee or acceptor after maturity) until payment or satisfaction thereof by the maker, drawee or acceptor at or after maturity, but not after such payment or satisfaction.

Instrument negotiable till payment or satisfaction.

## CHAPTER V.

### OF PRESENTMENT.

**61.** A bill of exchange payable after sight must, if no time or place is specified therein for presentment, be presented to the drawee thereof for acceptance, if he can, after reasonable search, be found, by a person entitled to demand acceptance within a reasonable time after it is drawn, and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

Presentment for acceptance.

If the drawee cannot, after reasonable search, be found, the bill is dishonoured.

If the bill is directed to the drawee at a particular place, it must be presented at that place ; and, if at the due date for presentment he cannot, after reasonable search, be found there, the bill is dishonoured.

Where authorized by agreement or usage, a presentment through the post office by means of a registered letter is sufficient.

**62.** A promissory note, payable at a certain period after sight, must be presented to the maker thereof for sight (if he can, after reasonable search, be found) by a person entitled to demand payment, within a reasonable time after it is made and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

Presentment of promissory note for sight.

**63.** The holder must, if so required by the drawee of a bill of exchange presented to him for acceptance, allow the drawee forty-eight hours (exclusive of public holidays) to consider whether he will accept it.

Drawee's time for deliberation.

Presentment  
for payment.

**64.** Promissory notes, bills of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof, respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder.

Where authorized by agreement or usage, a presentment through the post office by means of a registered letter is sufficient.

*Exception.*—Where a promissory note is payable on demand and is not payable at a specified place, no presentment is necessary in order to charge the maker thereof.

Hours for  
presentment.

**65.** Presentment for payment must be made during the usual hours of business, and, if at a banker's, within banking hours.

Presentment  
for payment  
of instrument  
payable after  
date or sight.

**66.** A promissory note or bill of exchange made payable at a specified period after date or sight thereof must be presented for payment at maturity.

Presentment  
for payment  
of promissory  
note payable  
by instal-  
ments.

**67.** A promissory note payable by instalments must be presented for payment on the third day after the date fixed for payment of each instalment; and non-payment on such presentment has the same effect as non-payment of a note at maturity.

Presentment  
for payment  
of instrument  
payable at  
specified  
place and not  
elsewhere.

**68.** A promissory note, bill of exchange or cheque made, drawn or accepted payable at a specified place and not elsewhere must, in order to charge any party thereto, be presented for payment at that place.

Instrument  
payable at  
specified  
place.

**69.** A promissory note or bill of exchange made, drawn or accepted payable at a specified place must, in order to charge the maker or drawer thereof, be presented for payment at that place.

Presentment  
where no ex-  
clusive place  
specified.

**70.** A promissory note or bill of exchange not made payable as mentioned in sections 68 and 69 must be presented for payment at the place of business (if any), or at the usual residence, of the maker, drawee or acceptor thereof, as the case may be.

Presentment  
when maker,  
etc., has no  
known place  
of business  
or residence.

**71.** If the maker, drawee or acceptor of a negotiable instrument has no known place of business or fixed residence, and no place is specified in the instrument for presentment for acceptance or payment, such presentment may be made to him in person wherever he can be found.

Presentment  
of cheque  
to charge  
drawer

**72.** Subject to the provisions of section 84, a cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn before the relation between the drawer and his banker has been altered to the prejudice of the drawer.

- 73.** A cheque must, in order to charge any person except the drawer, be presented within a reasonable time after delivery thereof by such person. Presentment of cheque to charge any other person.
- 74.** Subject to the provisions of section 31, a negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder. Presentment of instrument payable on demand.
- 75.** Presentment for acceptance or payment may be made to the duly authorized agent of the drawee, maker, or acceptor, as the case may be, or, where the drawee, maker or acceptor has died, to his legal representative, or, where he has been declared an insolvent, to his assignee. Presentment by or to agent, representative of deceased or assignee of insolvent.
- 75A.** Delay in presentment for acceptance or payment is excused if the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made within a reasonable time. Excuse for delay in presentment for acceptance or payment.
- 76.** No presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases :— When presentment unnecessary.
- (a) if the maker, drawee or acceptor intentionally prevents the presentment of the instrument, or,
    - if the instrument being payable at his place of business, he closes such place on a business day during the usual business hours, or,
    - if the instrument being payable at some other specified place, neither he nor any person authorized to pay it attends at such place during the usual business hours, or,
    - if the instrument not being payable at any specified place, he cannot after due search be found ;
  - (b) as against any party sought to be charged therewith, if he has engaged to pay notwithstanding non-presentment ;
  - (c) as against any party if, after maturity, with knowledge that the instrument has not been presented—
    - he makes a part payment on account of the amount due on the instrument, or promises to pay the amount due thereon in whole or in part,
    - or otherwise waives his right to take advantage of any default in presentment for payment ;
  - (d) as against the drawer, if the drawer could not suffer damage from the want of such presentment.
- 77.** When a bill of exchange accepted payable at a specified bank has been duly presented there for payment and dishonoured, if the banker so negligently or improperly keeps, deals with or delivers back such bill as to cause loss to the holder, he must compensate the holder for such loss. Liability of banker for negligently dealing with bill presented for payment.



## CHAPTER VI.

## OF PAYMENT AND INTEREST.

To whom  
payment  
should be  
made.

**78.** Subject to the provisions of section 82, clause (c), payment of the amount due on a promissory note, bill of exchange or cheque must, in order to discharge the maker or acceptor, be made to the holder of the instrument.

Interest  
when rate  
specified.

**79.** When interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified, on the amount of the principal money due thereon, from the date of the instrument, until tender or realization of such amount, or until such date after the institution of a suit to recover such amount as the Court directs.

Interest  
when no rate  
specified.

**80.** When no rate of interest is specified in the instrument, interest on the amount due thereon shall, notwithstanding any agreement relating to interest between any parties to the instrument, be calculated at the rate of six per centum per annum from the date at which the same ought to have been paid by the party charged until tender or realization of the amount due thereon, or until such date after the institution of a suit to recover such amount as the Court directs.

*Explanation.*—When the party charged is the indorser of an instrument dishonoured by non-payment, he is liable to pay interest only from the time that he receives notice of the dishonour.

Delivery of  
instrument  
on payment,  
or indemnity  
in case of  
loss.

**81.** Any person liable to pay, and called upon by the holder thereof to pay the amount due on a promissory note, bill of exchange or cheque is before payment entitled to have it shown, and is on payment entitled to have it delivered up, to him, or, if the instrument is lost or cannot be produced, to be indemnified against any further claim thereon against him.

## CHAPTER VII.

## OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES.

Discharge  
from liabi-  
lity—

**82.** The maker, acceptor or indorser respectively of a negotiable instrument is discharged from liability thereon—

by cancella-  
tion ;

(a) to a holder thereof who cancels such acceptor's or indorser's name with intent to discharge him, and to all parties claiming under such holder ;

by release ;

(b) to a holder thereof who otherwise discharges such maker, acceptor or indorser, and to all parties deriving title under such holder after notice of such discharge ;

by payment.

(c) to all parties thereto, if the instrument is payable to bearer, or has been indorsed in blank, and such maker, acceptor or indorser makes payment in due course of the amount due thereon,

**83.** If the holder of a bill of exchange allows the drawee more than forty-eight hours, exclusive of public holidays, to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder.

Discharge by allowing drawee more than forty-eight hour to accept.

**84. (1)** Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or person on whose account it is drawn had the right, at the time when presentment ought to have been made, as between himself and the banker, to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of the banker to a larger amount than he would have been if such cheque had been paid.

When cheque not duly presented and drawer damaged thereby.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.

(3) The holder of the cheque as to which such drawer or person is so discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge and entitled to recover the amount from him.

#### *Illustrations.*

(a) A draws a cheque for Rs. 1,000, and, when the cheque ought to be presented, has funds at the bank to meet it. The bank fails before the cheque is presented. The drawer is discharged, but the holder can prove against the bank for the amount of the cheque.

(b) A draws a cheque at Mandalay on a bank in Rangoon. The bank fails before the cheque could be presented in ordinary course. A is not discharged, for he has not suffered actual damage through any delay in presenting the cheque.

**85. (1)** Where a cheque payable to order purports to be endorsed by or on behalf of the payee, the drawee is discharged by payment in due course.

Cheque payable to order or bearer.

(2) Where a cheque is originally expressed to be payable to bearer, the drawee is discharged by payment in due course to the bearer thereof, notwithstanding any endorsement whether in full or in blank appearing thereon, and notwithstanding that any such endorsement purports to restrict or exclude further negotiation.

**85A.** Where any draft, that is, an order to pay money, drawn by one office of a bank upon another office of the same bank for a sum of money payable to order on demand, purports to be endorsed by or on behalf of the payee, the bank is discharged by payment in due course.

Drafts drawn by one branch of a bank on another payable to order.

**86.** If the holder of a bill of exchange acquiesces in a qualified acceptance, or one limited to part of the sum mentioned in the bill, or which substitutes a different place or time for payment, or which, where the drawees are not partners, is not signed by all the drawees, all previous parties whose consent is not obtained to such acceptance are discharged as against the holder and those claiming under him, unless on notice given by the holder they assent to such acceptance.

Parties not consenting discharged by qualified or limited acceptance.

*Explanation.*—An acceptance is qualified—

- (a) where it is conditional, declaring the payment to be dependent on the happening of an event therein stated ;
- (b) where it undertakes the payment of part only of the sum ordered to be paid ;
- (c) where, no place of payment being specified on the order, it undertakes the payment at a specified place, and not otherwise or elsewhere ; or where, a place of payment being specified in the order, it undertakes the payment at some other place and not otherwise or elsewhere ;
- (d) where it undertakes the payment at a time other than that at which under the order it would be legally due.

Effect of material alteration.

**87.** Any material alteration of a negotiable instrument renders the same void as against any one who is a party thereto at the time of making such alteration and does not consent thereto, unless it was made in order to carry out the common intention of the original parties ;

Alteration by indorsee.

and any such alteration, if made by an indorsee, discharges his indorser from all liability to him in respect of the consideration thereof.

The provisions of this section are subject to those of sections 20, 49, 86 and 125.

Acceptor or indorser bound notwithstanding previous alteration.

**88.** An acceptor or indorser of a negotiable instrument is bound by his acceptance or indorsement notwithstanding any previous alteration of the instrument.

Payment of instrument on which alteration is not apparent.

**89.** Where a promissory note, bill of exchange or cheque has been materially altered but does not appear to have been so altered,

or where a cheque is presented for payment which does not at the time of presentation appear to be crossed or to have had a crossing which has been obliterated.

payment thereof by a person or banker liable to pay, and paying the same according to the apparent tenor thereof at the time of payment and otherwise in due course, shall discharge such person or banker from all liability thereon ; and such payment shall not be questioned by reason of the instrument having been altered or the cheque crossed.

Extinguishment of rights of action on bill in acceptor's hands.

**90.** If a bill of exchange which has been negotiated is, at or after maturity, held by the acceptor in his own right, all rights of action thereon are extinguished.

## CHAPTER VIII.

## OF NOTICE OF DISHONOUR.

**91.** A bill of exchange is said to be dishonoured by non-acceptance when the drawee, or one of several drawees not being partners, makes default in acceptance upon being duly required to accept the bill, or where presentment is excused and the bill is not accepted. Dishonour by non-acceptance.

Where the drawee is incompetent to contract, or the acceptance is qualified, the bill may be treated as dishonoured.

**92.** A promissory note, bill of exchange or cheque is said to be dishonoured by non-payment when the maker of the note, acceptor of the bill or drawee of the cheque makes default in payment upon being duly required to pay the same. Dishonour by non-payment.

**93.** When a promissory note, bill of exchange or cheque is dishonoured by non-acceptance or non-payment, the holder thereof, or some party thereto who remains liable thereon, must give notice that the instrument has been so dishonoured to all other parties whom the holder seeks to make severally liable thereon, and to some one of several parties whom he seeks to make jointly liable thereon. By and to whom notice should be given.

Nothing in this section renders it necessary to give notice to the maker of the dishonoured promissory note or the drawee or acceptor of the dishonoured bill of exchange or cheque.

**94.** Notice of dishonour may be given to a duly authorized agent of the person to whom it is required to be given, or, where he has died, to his legal representative, or, where he has been declared an insolvent, to his assignee; may be oral or written; may, if written, be sent by post; and may be in any form; but it must inform the party to whom it is given, either in express terms or by reasonable intendment, that the instrument has been dishonoured, and in what way, and that he will be held liable thereon; and it must be given within a reasonable time after dishonour, at the place of business or (in case such party has no place of business) at the residence of the party for whom it is intended. Mode in which notice may be given.

If the notice is duly directed and sent by post and miscarries, such miscarriage does not render the notice invalid.

**95.** Any party receiving notice of dishonour must, in order to render any prior party liable to himself, give notice of dishonour to such party within a reasonable time, unless such party otherwise receives due notice as provided by section 93. Party receiving must transmit notice of dishonour.

**96.** When the instrument is deposited with an agent for presentment, the agent is entitled to the same time to give notice to his principal as if he were the holder giving notice of dishonour, and the principal is entitled to a further like period to give notice of dishonour. Agent for presentment.

When party  
to whom  
notice given  
is dead.

**97.** When the party to whom notice of dishonour is despatched is dead, but the party despatching the notice is ignorant of his death, the notice is sufficient.

When notice  
of dishonour  
is unneces-  
sary.

**98.** No notice of dishonour is necessary—

- (a) when it is dispensed with by the party entitled thereto ;
- (b) in order to charge the drawer when he has countermanded payment ;
- (c) when the party charged could not suffer damage for want of notice ;
- (d) when the party entitled to notice cannot after due search be found ;  
or the party bound to give notice is, for any other reason, unable without any fault of his own to give it ;
- (e) to charge the drawers when the acceptor is also a drawer ;
- (f) in the case of a promissory note which is not negotiable ;
- (g) when the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument.

## CHAPTER IX.

### OF NOTING AND PROTEST.

Noting.

**99.** When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may cause such dishonour to be noted by a notary public upon the instrument, or upon a paper attached thereto, or partly upon each.

Such note must be made within a reasonable time after dishonour, and must specify the date of dishonour, the reason, if any, assigned for such dishonour, or, if the instrument has not been expressly dishonoured, the reason why the holder treats it as dishonoured, and the notary's charges.

Protest.

**100.** When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may, within a reasonable time, cause such dishonour to be noted and certified by a notary public. Such certificate is called a protest.

Protest for  
better secu-  
rity.

When the acceptor of a bill of exchange has become insolvent, or his credit has been publicly impeached, before the maturity of the bill, the holder may, within a reasonable time, cause a notary public to demand better security of the acceptor, and on its being refused may, within a reasonable time, cause such facts to be noted and certified as aforesaid. Such certificate is called a protest for better security.

Content's of  
protest.

**101.** A protest under section 100 must contain—

- (a) either the instrument itself, or a literal transcript of the instrument and of everything written or printed thereupon ;
- (b) the name of the person for whom and against whom the instrument has been protested ;
- (c) a statement that payment or acceptance, or better security, as the case may be, has been demanded of such person by the notary

- public; the terms of his answer, if any, or a statement that he gave no answer or that he could not be found;
- (d) when the note or bill has been dishonoured, the place and time of dishonour, and, when better security has been refused, the place and time of refusal;
  - (e) the subscription of the notary public making the protest;
  - (f) in the event of an acceptance for honour or of a payment for honour, the name of the person by whom, of the person for whom, and the manner in which, such acceptance or payment was offered and effected.

A notary public may make the demand mentioned in clause (e) of this section either in person or by his clerk or, where authorized by agreement or usage, by registered letter.

**102.** When a promissory note or bill of exchange is required by law to be protested, notice of such protest must be given instead of notice of dishonour, in the same manner and subject to the same conditions; but the notice may be given by the notary public who makes the protest.

Notice of protest.

**103.** All bills of exchange drawn payable at some other place than the place mentioned as the residence of the drawee, and which are dishonoured by non-acceptance, may, without further presentment to the drawee, be protested for non-payment in the place specified for payment, unless paid before or at maturity.

Protest for non-payment after dishonour by non-acceptance.

**104.** Foreign bills of exchange must be protested for dishonour when such protest is required by the law of the place where they are drawn.

Protest of foreign bills.

**104A.** For the purposes of this Act, where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding; and the formal protest may be extended at any time thereafter as of the date of the noting.

When noting equivalent to protest.

## CHAPTER X.

### OF REASONABLE TIME.

**105.** In determining what is a reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to similar instruments; and, in calculating such time, public holidays shall be excluded.

Reasonable time.

**106.** If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time if it is despatched by the next post or on the day next after the day of dishonour.

Reasonable time of giving notice of dishonour.

If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

Reasonable  
time for  
transmitting  
such notice.

**107.** A party receiving notice of dishonour, who seeks to enforce his right against a prior party, transmits the notice within a reasonable time if he transmits it within the same time after its receipt as he would have had to give notice if he had been the holder.

## CHAPTER XI.

### OF ACCEPTANCE AND PAYMENT FOR HONOUR AND REFERENCE IN CASE OF NEED.

Acceptance  
for honour.

**108.** When a bill of exchange has been noted or protested for non-acceptance or for better security, any person not being a party already liable thereon may, with the consent of the holder, by writing on the bill, accept the same for the honour of any party thereto.

How accept-  
ance for  
honour must  
be made.

**109.** A person desiring to accept for honour must, by writing on the bill under his hand, declare that he accepts under protest the protested bill for the honour of the drawer or of a particular indorser whom he names, or generally for honour.

Acceptance  
not specify-  
ing for  
whose  
honour it is  
made.  
Liability of  
acceptor for  
honour.

**110.** Where the acceptance does not express for whose honour it is made, it shall be deemed to be made for the honour of the drawer.

**111.** An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill if the drawee do not; and such party and all prior parties are liable in their respective capacities to compensate the acceptor for honour for all loss or damage sustained by him in consequence of such acceptance.

But an acceptor for honour is not liable to the holder of the bill unless it is presented, or (in case the address given by such acceptor on the bill is a place other than the place where the bill is made payable) forwarded for presentment, not later than the day next after the day of its maturity.

When accep-  
tor for  
honour may  
be charged.

**112.** An acceptor for honour cannot be charged unless the bill has at its maturity been presented to the drawee for payment, and has been dishonoured by him, and noted or protested for such dishonour.

Payment for  
honour.

**113.** When a bill of exchange has been noted or protested for non-payment, any person may pay the same for the honour of any party liable to pay the same, provided that the person so paying or his agent in that behalf has previously declared before a notary public the party for whose honour he pays, and that such declaration has been recorded by such notary public.

**114.** Any person so paying is entitled to all the rights in respect of the bill of the holder at the time of such payment, and may recover from the party for whose honour he pays all sums so paid, with interest thereon and with all expenses properly incurred in making such payment.

Rights of payer for honour.

**115.** Where a drawee in case of need is named in a bill of exchange, or in any indorsement thereon, the bill is not dishonoured until it has been dishonoured by such drawee.

Drawee in case of need.

**116.** A drawee in case of need may accept and pay the bill of exchange without previous protest.

Acceptance and payment without protest.

## CHAPTER XII.

### OF COMPENSATION.

**117.** The compensation payable in case of dishonour of a promissory note, bill of exchange or cheque, by any party liable to the holder or any indorsee, shall be determined by the following rules:—

Rules as to compensation.

- (a) the holder is entitled to the amount due upon the instrument, together with the expenses properly incurred in presenting, noting and protesting it;
- (b) when the person charged resides at a place different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places;
- (c) an indorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at six per centum per annum from the date of payment until tender or realization thereof, together with all expenses caused by the dishonour and payment;
- (d) when the person charged and such indorser reside at different places, the indorser is entitled to receive such sum at the current rate of exchange between the two places;
- (e) the party entitled to compensation may draw a bill upon the party liable to compensate him, payable at sight or on demand, for the amount due to him, together with all expenses properly incurred by him. Such bill must be accompanied by the instrument dishonoured and the protest thereof (if any). If such bill is dishonoured, the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill.

## CHAPTER XIII.

### SPECIAL RULES OF EVIDENCE.

**118.** Until the contrary is proved, the following presumptions shall be made:—

Presumptions as to negotiable instruments—of consideration;

- (a) that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been



**124.** Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

Cheque  
crossed  
specially.

**125.** Where a cheque is uncrossed, the holder may cross it generally or specially.

Crossing  
after issue.

Where a cheque is crossed generally, the holder may cross it specially.

Where a cheque is crossed generally or specially, the holder may add the words "not negotiable".

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent for collection.

**126.** Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

Payment of  
cheque  
crossed  
generally.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection.

Payment of  
cheque  
crossed  
specially.

**127.** Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

Payment of  
cheque  
crossed  
specially  
more than  
once.

**128.** Where the banker on whom a crossed cheque is drawn has paid the same in due course, the banker paying the cheque, and (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all respects, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.

Payment in  
due course  
of crossed  
cheque.

**129.** Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially otherwise than to the banker to whom the same is crossed, or his agent for collection being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

Payment of  
crossed  
cheque out of  
due course.

**130.** A person taking a cheque crossed generally or specially, bearing in either case the words "not negotiable," shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had.

Cheque bear-  
ing "not  
negotiable".

**131.** A banker who has in good faith and without negligence received payment for a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment.

Non-liability  
of banker  
receiving  
payment of  
cheque.

*Explanation.*—A banker receives payment of a crossed cheque for a customer within the meaning of this section notwithstanding that he credits his customer's account with the amount of the cheque before receiving payment thereof.

## CHAPTER XV.

### OF BILLS IN SETS.

Set of bills.

**132.** Bills of exchange may be drawn in parts, each part being numbered and containing a provision that it shall continue payable only so long as the others remain unpaid. All the parts together make a set; but the whole set constitutes only one bill, and is extinguished when one of the parts, if a separate bill, would be extinguished.

*Exception.*—When a person accepts or indorses different parts of the bill in favour of different persons, he and the subsequent indorsers of each part are liable on such part as if it were a separate bill.

Holder of first acquired part entitled to all.

**133.** As between holders in due course of different parts of the same set he who first acquired title to his part is entitled to the other parts and the money represented by the bill.

## CHAPTER XVI.

### OF INTERNATIONAL LAW.

Law governing liability of maker, acceptor or indorser of foreign instrument.

**134.** In the absence of a contrast to the contrary, the liability of the maker or drawer of a foreign promissory note, bill of exchange or cheque is regulated in all essential matters by the law of the place where he made the instrument, and the respective liabilities of the acceptor and indorser by the law of the place where the instrument is made payable.

#### *Illustration.*

A bill of exchange was drawn by *A* in California, where the rate of interest is 25 per cent. and accepted by *B*, payable in Washington, where the rate of interest is 6 per cent. The bill is indorsed in the Union of Burma, and is dishonoured. An action on the bill is brought against *B* in the Union of Burma. He is liable to pay interest at the rate of 6 per cent. only; but, if *A* is charged as drawer, *A* is liable to pay interest at the rate of 25 per cent.

Law of place of payment governs dishonour.

**135.** Where a promissory note, bill of exchange or cheque is made payable in a different place from that in which it is made or indorsed, the law of the place where it is made payable determines what constitutes dishonour and what notice of dishonour is sufficient.

#### *Illustration.*

A bill of exchange drawn and indorsed in the Union of Burma, but accepted payable in France, is dishonoured. The indorsee causes it to be protested for such dishonour, and gives notice thereof in accordance with the law of France, though not in accordance with the rules herein contained in respect of bills which are not foreign. The notice is sufficient.

Instrument made, etc., out of the Union of Burma, but in accor-

**136.** If a negotiable instrument is made, drawn, accepted or indorsed out of the Union of Burma, but in accordance with the law of the Union of Burma, the circumstance that any agreement evidenced by such instrument is invalid according to the law of the country wherein it was entered into does

not invalidate any subsequent acceptance or indorsement made thereon in the Union of Burma. dance with its law.

137. The law of any foreign country regarding promissory notes, bills of exchange and cheques shall be presumed to be the same as that of the Union of Burma, unless and until the contrary is proved. Presumption as to foreign law.

## CHAPTER XVII.

### NOTARIES PUBLIC.

138. The President of the Union may, from time to time, by notification in the Gazette, appoint any person, by name or by virtue of his office, to be a notary public under this Act and to exercise his functions as such within any local area, and may, by like notification, remove from office any notary public appointed under this Act. Power to appoint notaries public.

139. The President of the Union may, from time to time, by notification in the Gazette, make rules consistent with this Act for the guidance and control of notaries public appointed under this Act, and may by such rules (among other matters) fix the fees payable to such notaries. Power to make rules for notaries public.

## THE LIABILITIES (WAR-TIME ADJUSTMENT) ACT, 1945.\*

[BURMA ACT XIX, 1945.] (1st November, 1945.)

WHEREAS it is expedient to confer on Courts certain powers in relation to remedies in respect of the non-payment of money and the non-performance of obligations, and to provide for the adjustment and settlement of the affairs of persons financially affected by reason of war circumstances ;

\* \* \* \* \*

It is hereby enacted as follows :—

### PART I.

#### PRELIMINARY.

1. (1) This Act may be called the Liabilities (War-time Adjustment) Act, 1945. Short title, commencement and duration.

<sup>1</sup> (2) It shall come into force in any local area on such date as the President of the Union may, by notification, appoint in this behalf and different dates may be appointed for different parts of this Act and for different areas.

(3) It shall remain in force until the President of the Union, by notification, declares it to be no longer in force.

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

(i) “business” includes trade or profession and also the goodwill acquired by a person engaged in a trade or profession ;

\* Published in Home Dept. Notification No. 140, dated the 5th October 1945.

<sup>1</sup> This Act came into force in the whole of Burma on 1st November 1945, see *Burma Gazette*, 1946, Part I, page 76.

- (ii) "the Court" means the District Court, or any other Court designated by the High Court by rules made under section 8, within the local limits of whose jurisdiction the debtor ordinarily resides or carries on business or personally works for gain, or, in the case of proceedings relating to immovable property, within the local limits of whose jurisdiction the property or any part thereof is situate :

Provided that, within the local limits of ordinary original jurisdiction of the High Court, the High Court shall be the Court ;

- (iii) "debtor" includes a mortgagor and a partnership, and in relation to any scheme of arrangement under Part III means the person or partnership to whose affairs the scheme relates ;
- (iv) "war circumstances" means circumstances directly or indirectly attributable to any war in which His Britannic Majesty may be or has been engaged after the first day of September, 1939.

## PART II.

### RESTRICTIONS ON EXECUTION AND OTHER REMEDIES.

Restriction  
on execution  
of money  
decrees.

3. Save as provided by this Act, no person shall be entitled, except with the leave of the Court, to execute or otherwise enforce any decree or order of any Court (whether made before or after the commencement of this Act) for the payment or recovery of money :

Provided that, nothing in this section shall apply to—

- (a) any decree for the recovery of damages for tort ;
- (b) any decree or order for the recovery of a debt which has become due by virtue of a contract made after the commencement of this Act ;
- (c) any decree or order under which any sum of money is recoverable in respect of costs ;
- (d) any order for maintenance ;
- (e) any order made in any criminal proceeding or in any proceeding for the recovery of a penalty in respect of any contravention of, or failure to comply with, the provisions of any enactment for the time being in force.

Restriction  
on realisation  
of security.

4. (1) Notwithstanding anything contained in any other law for the time being in force, no person shall, save as provided by this Act, be entitled, except with the leave of the Court, for the purpose of realising or enforcing his security in any manner or for any other purpose whatsoever, to exercise any remedy which is available to him under any such law or to execute any decree or order of any Court against any property of the judgment-debtor :

Provided that nothing in this section shall apply to any remedy or proceeding available in consequence of any default in the payment of a debt,

or the performance of an obligation, being a debt or obligation arising by virtue of a contract made after the commencement of this Act :

Provided further, that nothing in this section shall affect the operation of the Land Alienation Act, the Burma Land Purchase Act or the Lands Disputes (Summary Jurisdiction) Act, 1945.

(2) Where an application is made under sub-section (1) by the mortgagee of any immovable property for leave to exercise against the property any right or remedy arising out of the mortgage, the Court may, for the purposes of the application, treat any person appearing to the Court to be affected by the exercise of the right or remedy as if he were the mortgagor and may grant relief accordingly, and all persons appearing to be so affected shall be made parties to the application.

5. If, on an application for such leave as is required under section 3 or section 4 for the exercise of any of the rights and remedies mentioned in those sections, the Court is of opinion that the person liable to satisfy the decree or order is unable immediately to do so by reason of war circumstances, the Court may refuse leave for the exercise of that right or remedy or give leave therefor subject to such terms, restrictions and conditions as the Court thinks fit.

Procedure on application for leave to execute decree or order.

6. Where an insolvency petition has been presented against any debtor and the debtor proves to the satisfaction of the Court having jurisdiction in respect of the petition that his inability to pay his debts is due to war circumstances, the Court may at any time stay the proceedings under the petition for such time and subject to such conditions as the Court thinks fit.

Court may stay insolvency proceedings against any debtor.

7. (1) Where at any stage of a proceeding under this part the Court is satisfied, by affidavit or otherwise, that the debtor has, with intent to obstruct or delay the execution of any decree or order passed against him, taken advantage of the provisions of this part, and

Attachment of property where application is *mala fide*.

- (a) is about to dispose of the whole or any part of his property, or
- (b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Court, or
- (c) in the case of a secured debt, has failed to take proper steps for the preservation of the security, the Court may by order (which may be made *ex-parte*) direct the debtor, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the same, or such portion thereof as may be sufficient to satisfy the decree or order, or to appear and show cause why he should not furnish such security. The Court may also by the same order direct the attachment of the whole or any portion of any property of the debtor, or may appoint a receiver of such property.

(2) Where the debtor fails to show cause why he should not furnish security or fails to furnish the security required within the time fixed by the Court, the Court may order that the said property, or such portion thereof as appears sufficient to satisfy the decree or order, shall be attached, or, if the property has already been attached by an order under sub-section (1), may continue the attachment.

(3) Where the debtor shows cause to the satisfaction of the Court or furnishes the required security and any property of the debtor has been attached under sub-section (1) the Court shall order the attachment to be withdrawn or make such other order as it thinks fit.

(4) Where the Court passes an order under sub-section (2), all proceedings under this part shall be deemed to have terminated, and execution of any decree or order against the debtor may be taken out and prosecuted in accordance with the provisions of the Code of Civil Procedure or of any other law for the time being in force relating to execution.

Procedure.

8. The High Court may make rules designating the Courts, other than the District Courts, which shall have jurisdiction under this part, prescribing the manner in which applications shall be made, and generally for regulating the conduct of proceedings under this part.

### PART III.

#### ADJUSTMENT OF LIABILITIES.

Debtor may apply to Court for a scheme of arrangement.

9. Any debtor who is in financial difficulties owing to war circumstances may apply to the Courts for the settlement of an equitable and reasonable scheme of arrangement with his creditors and, in particular, such a scheme of arrangement as will enable him, if he carries on a business, to preserve that business.

Procedure for effecting scheme of arrangement.

10. (1) On an application under section 9 the Court shall cause notice thereof to be served on all the creditors of the debtor who have debts provable in insolvency, and

- (a) if the debtor and all such creditors assent to a scheme, the Court shall approve the scheme ;
- (b) when no scheme to which the debtor and all such creditors assent can be effected, the Court may approve any scheme which appears to it to be equitable and reasonable and to which the debtor and a majority in number and in value of the said creditors assent.

(2) A scheme approved under sub-section (1) shall, subject to the following provisions of this part, be binding on the debtor and on all creditors on whom notice was served under sub-section (1) :

Provided that where any of the said creditors has a debt which would be entitled to be paid in priority under any law relating to insolvency if the debtor were adjudged insolvent, a scheme of arrangement shall not be approved

unless that creditor assents thereto or the scheme secures the payment of the debt with the like degree of priority.

11. A scheme of arrangement approved under this part may provide for the composition of debts, the postponement of payment of debts, the assignment or charging of any property of the debtor in favour of the creditors, and the management or disposal of the debtor's business, if any, or any other part of his property, and may, with the assent of the other parties thereto, vary the terms of any lease, mortgage or contract to which the debtor is a party.

What a scheme of arrangement may provide for.

12. Where it appears that a scheme of arrangement approved under this part is not binding on any creditor by reason of the fact that he was not given notice of the application under section 9 as required by sub-section (1) of section 10, that creditor, or any creditor who is bound by the scheme, may apply to the Court to extend the scheme, with such variations as may be necessary, to the creditor not bound thereby, or to revoke the scheme, and the Court may, if it thinks fit, extend or revoke the scheme accordingly.

Extention or modification of scheme where creditor not served with notice.

13. Any creditor who has not assented to a scheme approved under clause (b) of sub-section (1) of section 10 may appeal to the High Court against the approval thereof on the ground that it contravenes the provisions of this part or that it is inequitable or unreasonable, and the High Court may on such appeal vary or revoke the scheme but without prejudice to the validity of anything done in the meantime.

Appeal against scheme.

14. Any scheme of arrangement approved under this part may be enforced by the Court on the application of the debtor or of any creditor bound thereby, and any disobedience of an order of the Court made on any such application shall be deemed to be a contempt of Court and shall be punishable accordingly.

Enforcement of scheme.

15. If the debtor fails to comply with an approved scheme, or if it appears to the Court that the scheme cannot for any sufficient reason proceed without undue delay or without injustice to the creditors or to the debtor, or that the debtor is guilty of any act or omission which would constitute an offence under this Act or has in any respect failed to act in complete good faith towards his creditors, the Court may, if it thinks fit, on the application of any creditor bound by the scheme or, if the ground is injustice to the debtor, on his application, revoke the scheme but without prejudice to the validity of anything done in the meantime.

Revocation of scheme.

16. The revocation of an approved scheme by the Court or the High Court shall be without prejudice to the making of a new scheme of arrangement, and the Court or the High Court, as the case may be, may give such directions as it may think fit with respect to the making of a new scheme.

Revocation not to affect new scheme.

17. (1) The High Court may make rules for carrying into effect the provisions of this part.

Power of High Court to make rules.

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

- (a) for the form and contents of an application by a debtor under section 9 ;
- (b) for the giving of notice to creditors under sub-section (1) of section 10 and the form and contents of such notices ;
- (c) for the manner of proof of debts and the method of valuing securities, debts and liabilities, including future and contingent liabilities ;
- (d) for the fees to be paid on applications and in connection with proceedings on applications ;
- (e) generally, for the procedure to be adopted in the approval of schemes of arrangement.

#### PART IV.

##### MISCELLANEOUS.

False statement or omission by debtor.

**18.** If any debtor knowingly makes any false statement, or omits to state any material fact, for the purpose of securing the assent of the creditors to a scheme of arrangement under this Act or the exercise in favour of the debtor of any power of the Court he shall be liable on conviction to imprisonment for a term which may extend to two years, or to a fine which may extend to two thousand rupees, or to both.

Fraudulently disposing of property after approval of scheme.

**19.** If any debtor, after the approval of a scheme of arrangement, fraudulently sells, removes or disposes of any part of his property he shall be liable on conviction to imprisonment for a term which may extend to two years, or to a fine which may extend to two thousand rupees, or to both.

Exemption from stamp duty in respect of certain instruments.

**20.** Where a scheme of arrangement is approved under this Act, every deed, conveyance, assignment or other instrument relating solely to property which was the property of the debtor on the date of the approval of the scheme and which after the execution of the instrument, is or remains his property or the property of a trustee appointed for the purposes of the scheme, shall be exempt from stamp duty.

Government to be bound by this Act.

**21.** This Act shall, subject to such exemptions and modifications as may be prescribed by the President of the Union, by notification in this behalf, apply in relation to debts and liabilities due to or incurred towards the Government, property in which the Government has an interest, leases, mortgages and contracts entered into with the Government, proceedings by the Government, and the exercise of remedies by the Government, in the same manner as it applies to subjects :

Provided that nothing in this section shall be taken as affecting the prosecution of any criminal proceeding.



# THE MONEY LENDERS ACT.

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# THE MONEY LENDERS ACT.

[BURMA ACT XXVII, 1945.] (2nd November, 1945.)

WHEREAS it is expedient to provide for the registration and control of money-lenders in the Union of Burma ;

\* \* \* \* \*

It is hereby enacted as follows :—

## CHAPTER I.

### PRELIMINARY.

1. (1) This Act may be called the Money-Lenders Act, 1945.

Short title,  
extent and  
commence-  
ment.

(2) It shall extend only to such local areas and shall come into force in such areas on such dates as the President of the Union may, by notification, direct, and the President of the Union may, by the notification extending this Act to any local area, direct that any section or part thereof shall not be in force in such local area.<sup>1</sup>

Definitions.

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

- (1) “bank” means a banking company as defined in section 277F of the Burma Companies Act, whether incorporated in or outside the Union of Burma ;
- (2) “company” means a company as defined in the Burma Companies Act, or incorporated under an Act of Parliament of the United Kingdom of Great Britain and Ireland or of the legislature of a British possession or by a Royal Charter or Letters Patent ;
- (3) “co-operative society” means a society registered under the Co-operative Societies Act ;
- (4) “interest” means rate of interest and includes the return to be made in money, kind or otherwise over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise ;
- (5) “loan” means an advance, whether of money or in kind, at interest and includes—
  - (i) any transaction which is in substance a loan ;
  - (ii) a *sabape* transaction or transaction of a like nature by which money is advanced during or before a cultivating season and

<sup>1</sup> Sections 1, 2 and 3, sub-section (1) of section 11, sub-section (1) of section 11, sections 12, 13, 14, 15, 16, 17 (in so far as it relates to the provisions contained in sub-section (1) of section 15) and section 19 came into force in the whole of Burma on 2nd November 1945. See Commerce and Supplies Dept. Notification No. 13, dated 2nd November 1945 (*Burma Gazette*, 1946, Part I, page 288.)

The provisions of those sections which have not been brought into force in the above notification came into force in the whole of Mergui District and in the whole of Upper Chindwin and Lower Chindwin Districts with effect from 1st April 1948.—[See Ministry of Agriculture and Forests, Notification No. 122, dated 18th March 1948 (*Burma Gazette*, 1948, Part I, page 343) ; and in the whole of the Katha District with effect from 15th August 1948—[See Ministry of Agriculture and Forests, Notification No. 220, dated 31st July 1948 (*Burma Gazette*, 1948, Part I, page 680)].

whereby the debtor agrees to return at or after harvest a stated quantity of paddy or other produce exceeding or likely to exceed in value the sum advanced ; and

- (iii) a transaction in which money, goods, grain or other produce is advanced and whereby the debtor undertakes to deliver on a subsequent date a quantity of produce exceeding or likely to exceed in value the money, goods or produce advanced :

Provided that it shall not include—

- (a) a deposit of money or other property in a post office savings bank or with any bank or a company or co-operative society or with an employer as security by his employee ;
- (b) a loan to or by, or a deposit with any society or association registered under the Societies Registration Act or under any other law relating to public, religious or charitable objects ;
- (c) a loan taken or advanced by Government or by any local authority in the Union of Burma ;
- (d) a loan advanced by a co-operative society, insurance company or provident insurance society ;
- <sup>1</sup> (e) a loan advanced by the Union Bank of Burma or by a bank which the President of the Union has, by notification, exempted ;
- (f) a loan advanced by a trader to another trader in the ordinary course of business and in accordance with trade usage ;
- (g) an advance made to a trader on the basis of a negotiable instrument as defined in the Negotiable Instruments Act other than a promissory note ;
- (h) an advance in money or in kind by a land-lord to his tenant to meet the expenses of cultivation or by a cultivator to his labourers against wages payable at harvest.

*Explanation 1.*—A bond bearing interest executed in respect of goods taken on credit, but not for the purpose of sale by the borrower, is a loan.

*Explanation 2.*—A supply of goods on a contract of hire-purchase is not a loan.

- (6) “ money-lender ” means a person who carries on the business of advancing loans as defined in this Act and shall include his legal representatives and successors-in-interest whether by inheritance, assignment or otherwise :

Provided that nothing in this definition shall apply to—

- (a) a person who is the legal representative or is by inheritance the successor-in-interest of a deceased<sup>1</sup> money-lender together with all his rights and liabilities, if such person only winds up the estate of such money-lender and does not advance any fresh loans ; or

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

- (b) a person who from the date on which this Act comes into force merely winds up his money-lending business and does not advance any fresh loans ;
- (7) "prescribed" means prescribed by this Act or by rules made under this Act ;
- (8) "principal" means in relation to a loan the amount in money or in kind actually lent to the borrower ;
- (9) "Registrar" means a Registrar appointed under the Registration Act ;
- (10) "secured loan" means a loan which is secured by a mortgage, charge or lien on any property, movable or immovable ;
- (11) "Sub-Registrar" means a Sub-Registrar appointed under the Registration Act ;
- (12) "trader" means a person who, in the ordinary course of business, buys and sells goods or other property, whether movable or immovable, and includes—  
     a wholesale or a retail merchant,  
     a commission agent,  
     a broker,  
     a manufacturer,  
     a contractor, and  
     a factory owner,  
 but does not include a person who sells only his own agricultural produce or cattle, or buys agricultural produce or cattle for his own use ;
- (13) "unsecured loan" means any loan other than a secured loan.

Power to  
exempt any  
class of  
money-  
lenders from  
this Act.

3. The President of the Union may, by notification, exempt any money-lender or money-lenders, or any class or classes of money-lenders, as may be specified in the notification, from the operation of all or any of the provisions of this Act.

## CHAPTER II.

### REGISTRATION OF MONEY-LENDERS.

Register  
of money-  
lenders.

4. Every Registrar shall maintain a register of money-lenders in such form and containing such particulars as may be prescribed.

Registration  
of money-  
lenders and  
registration  
certificates.

5. (1) Every money-lender shall, within three months from the commencement of this Act in any local area, register himself under this Act.

(2) Every application for registration shall be in the prescribed form and shall be stamped for the prescribed fee, and shall state—

- (a) the name and address of the applicant ;  
 (b) the name and style under which he carries on or desires to carry on business as a money-lender ;

- (c) the address of his principal place of business and the branches thereof, if any, and particulars of the district or districts in which he carries on or desires to carry on his business ; and
  - (d) such other particulars as may be prescribed.
- (3) The application for registration shall be made—
- (a) to the Registrar at Rangoon if the money-lender intends to carry on his business in more than one district or in the whole of the Union of Burma ;
  - (b) to the Registrar or Sub-Registrar of a district if the money-lender intends to carry on his business within the limits of that district only.
- (4) The Sub-Registrar shall, on receipt of such application, forward the same to the Registrar of the district.
- (5) The Registrar shall, where the application has been properly presented, make the necessary entries in the register maintained by him under section 4 and issue a registration certificate to the money-lender in such form as may be prescribed.
- (6) On the expiration of the certificate by efflux of time under section 6, or on the money-lender ceasing to carry on business, or on the removal from the register of the name of the money-lender under section 18, the money-lender shall forthwith deliver up his certificate to the Registrar, who shall cancel the same.

6. (1) A registration made and certificate issued under the provisions of section 5 shall remain in force for a period of three years from the date of registration.

Duration  
and renewal  
of registra-  
tion.

(2) On the expiration of the period for which the registration is in force under sub-section (1), the name of and particulars relating to the money-lender shall be deleted from the register and the money-lender shall cease to carry on business, unless in the meantime the money-lender has applied under sub-section (3) for renewal of registration.

(3) At any time within thirty days prior to the date on which his registration will expire, a money-lender may, and shall if he intends to continue in business, apply for renewal of registration, and the provisions of sub-sections (2), (3), (4) and (5) of section 5 shall apply to such application :

Provided that it shall not be necessary to make fresh entries in the register of money-lenders on the renewal of the registration, but a note of the date of renewal of the registration shall be made therein.

(4) The period for which a renewed registration shall remain in force shall be three years from the date of expiration of the previous registration.

### CHAPTER III.

#### REGULATION OF ACCOUNTS OF MONEY-LENDERS.

7. (1) Every money-lender shall, in respect of every loan advanced by him after the commencement of this Act and every transaction made by him

Duty of  
money-  
lender to

maintain  
accounts and  
to give  
receipts.

after the commencement of this Act relating to a loan advanced by him before the commencement of this Act,—

- (a) regularly record and maintain, or cause to be recorded or maintained, an account showing for each debtor,
  - (i) the date and terms of the loan, the amount advanced, the rate of interest charged and the articles pledged, if any, and
  - (ii) the amount of every payment received by the money-lender in respect of the loan and the date of such payment ;
- (b) give to the debtor, or his agent, a receipt for every sum paid by, or on behalf of, the debtor, duly signed by him or his agent and, where necessary, stamped at the time of such payment ;
- (c) supply the debtor, or his agent, within thirty days of the date of the loan, with a true copy of the entries recorded under sub-clause (i) of clause (a) ;
- (d) supply the debtor or his agent, at intervals of not more than twelve months, with a statement of account signed by him or his agent, showing the amount that is outstanding against such debtor on account of the principal and interest on the date the statement of account was made, and the amount of every payment received by the money-lender in respect of the loan, and the date of such payment, during the period to which the statement relates ;
- (e) give the debtor a receipt signed by him or his agent for every article pledged with a general description of such article, and the amount for which it is pledged ; and
- (f) return to the debtor as soon as the loan is repaid in full every document whereby the debtor or any other person became liable for the re-payment of the loan and all securities therefor.

(2) A person to whom a copy of entries under clause (c) of sub-section (1) or a statement of account under clause (d) of sub-section (1) has been supplied shall not be deemed to have admitted the correctness of such entries or statement of account by reason only that he has not objected to the correctness thereof.

(3) A copy of entries in an account or of a statement of account supplied under sub-section (1) shall be written in such language as may be prescribed and no charge shall be made for supplying a copy thereof to the debtor.

Inspection  
of accounts  
maintained  
by money-  
lenders.

8. Every money-lender shall produce all books of account maintained by him in respect of his money-lending business for inspection by such persons and in such manner as may be prescribed :

Provided that no inspection of such accounts shall be made without the sanction of the Registrar.

## CHAPTER IV.

## SUITS AND EXECUTION OF DECREES.

9. Notwithstanding anything contained in any other law for the time being in force, no Court shall pass a decree on a suit by a money-lender for the recovery of a loan, or for the enforcement of any security taken in respect of a loan, or an order on an application by a money-lender for the execution of a decree relating to a loan or to any security in respect of a loan, unless the money-lender is registered under this Act and the registration is in force.

Bar to decrees and orders on suits and applications by unregistered money-lenders.

10. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, or in any contract, no Court shall, in any suit or proceeding in respect of a loan advanced after the commencement of this Act, pass a decree in respect of interest at rates exceeding twelve per centum per annum in the case of a secured loan and eighteen per centum per annum in the case of an unsecured loan.

Maximum rates at which interest may be decreed.

(2) A copy of every judgment or order of a Court whereby, in consequence of the provisions of sub-section (1), the rate of interest recoverable on a loan is reduced shall be transmitted to the Registrar by the Court.

11. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, or in any contract, an agreement for the payment of compound interest on loans advanced after the commencement of this Act shall be void in so far as it provides, directly or indirectly, for the payment of compound interest :

Agreements for payment of compound interest void.

Provided that the President of the Union may, by notification, and subject to such conditions as he may impose exempt any class of loans from the provisions of this section.

(2) A copy of every judgment or order of a Court whereby, in consequence of the provisions of sub-section (1), compound interest is disallowed shall be transmitted to the Registrar by the Court.

12. Notwithstanding anything to the contrary contained in any other law for the time being in force, or in any contract, no Court shall, in respect of a loan advanced before or after the commencement of this Act, pass a decree for a sum greater than the principal of the original loan and arrears of interest which, together with any interest already paid, exceeds the amount of such principal.

Maximum amount which may be decreed in suit on loan.

13. In any suit or proceeding, whether filed before or after the commencement of this Act, in respect of a loan advanced before the commencement of this Act, or in any appeal or proceeding in revision arising out of such suit or proceeding, the Court may exercise any of the following powers, namely :—

Power of Court to re-open certain transactions.

- (a) re-open the transaction, take an account between the parties, and relieve the debtor of all liability in respect of any interest in excess of twelve per centum simple per annum in the case of a secured loan and eighteen per centum simple per annum in the case of an unsecured loan ;

- (b) notwithstanding any agreement purporting to close previous dealings and to create a new obligation, re-open any account already taken between the parties and relieve the debtor of all liability in respect of any interest in excess of twelve per centum simple per annum in the case of a secured loan and eighteen per centum simple per annum in the case of an unsecured loan ;
- (c) set aside, either wholly or in part, or revise or alter any security given or agreement made in respect of any loan and, if the creditor has parted with the security, order him to indemnify the debtor in such manner and to such extent as it may deem just :

Provided that in the exercise of these powers the Court shall not—

- (i) re-open any agreement purporting to close previous dealings and to create a new obligation which has been entered into by the parties, or persons through whom they claim, more than six years before the institution of such suit ; or
- (ii) do anything which affects any decree of a Court in a previous suit :

Provided further that, if anything has been paid or allowed in respect of any liability for interest in excess of twelve per centum simple per annum in the case of a secured loan and eighteen per centum simple per annum in the case of an unsecured loan, nothing in clause (a) or clause (b) shall be deemed to require the creditor to repay any amount so paid or allowed in excess or to reduce the amount of the principal of the loan.

## CHAPTER V.

### MISCELLANEOUS.

Right to  
deposit in  
Court money  
due on loan.

14. (1) Where a debtor tenders any sum to a money-lender or his agent in payment of any interest or principal of a loan and the money-lender or his agent refuses to receive the sum tendered, the debtor may deposit the amount so tendered, in any Court in which the money-lender might have instituted a suit for the recovery of such interest or loan, to the account of the money-lender.

(2) The Court shall thereupon issue notice of the deposit to the money-lender.

(3) The money-lender may, within three years after the date of the service upon him of the notice issued under sub-section (2), apply to the Court for the sum deposited to be paid to him.

(4) If no application is made within the period specified in sub-section (3), the amount deposited shall be disposed of in the prescribed manner.

(5) Upon receipt of an application under sub-section (3) the Court may order the sum deposited to be paid to the applicant upon such terms and subject to such conditions as it may specify.

(6) The deposit made under sub-section (1) shall operate as satisfaction for the amount so deposited in the same manner and to the same extent as if such amount had been received by the money-lender in whose favour the deposit was made on the date of such deposit.



15. (1) No creditor shall take from a debtor or intending debtor any note, bond, security or promise to pay, which does not state the actual amount in words of the loan, the terms of the loan, the date of execution of the document, the rate of interest charged and the time, if any, within which the principal is stipulated to be repaid in full, or which states any of such particulars incorrectly; nor shall any creditor take from any debtor or intending debtor any instrument in which any of the above particulars is left blank to be filled up at a subsequent date.

Documents with blanks or incorrect entries.

(2) Notwithstanding anything contained in any law for the time being in force, any such note, bond, security, promise, or document shall be void.

16. (1) Whoever molests, or abets the molestation of, a debtor for the purpose of recovering or attempting to recover a debt shall be punishable, on conviction, with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for molestation.

*Explanation.*—A person who with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing—

- (a) obstructs or uses violence to or intimidates such other person, or
- (b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or
- (c) loiters or does any similar act at or near a house, building, or place where such other person resides, stays, works or carries on business or happens to be,

shall be deemed to molest such other person :

Provided that a person who attends at or goes near such house, building or place for the purpose only of making a formal demand for repayment of a loan or of enquiring about the property of the debtor or his whereabouts shall not be deemed to molest.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, an offence under this section shall be cognizable and bailable :

Provided that no arrest shall be made for an offence under this section except—

- (a) by an officer-in-charge of a police-station or a police officer not below the rank of sub-inspector, or
- (b) on a warrant issued by a Magistrate.

17. Whoever contravenes the provisions of sub-section (1) or sub-section (6) of section 5, or of sub-section (2) of section 6, or of sub-section (1) or sub-section (3) of section 7, or of section 8, or of sub-section (1) of section 15 or abets the contravention of any of the aforesaid provisions, shall be punishable in the case of—

General provision regarding penalties.

- (i) a first offence, with fine which may extend to two hundred rupees,
- (ii) a second offence, with fine which may extend to five hundred rupees, and

- (iii) a third or subsequent offence, with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Removal of  
name from  
register.

**18. (1)** The Registrar may remove from the register of money-lenders the name of any money-lender who, after the commencement of this Act,—

- (i) has been found guilty of an offence under section 16 or section 17, or
- (ii) has made loans at rates of interest in excess of the maximum rates prescribed by section 10, or
- (iii) has made loans carrying compound interest, except as permitted under the proviso to section 11.

(2) Before the name of a money-lender is removed from the register under sub-section (1) he shall be given by the Registrar a reasonable opportunity of showing cause why his name should not be so removed.

(3) Any money-lender whose name has been removed from the register by the Registrar under sub-section (1) may, within thirty days of the service on him of a copy of the order of the Registrar, appeal against the order to the President of the Union and the decision of the President of the Union thereon shall be final.

Service of  
notices.

**19.** All processes, notices and orders required to be served on a money-lender shall be deemed to be duly served if left at or sent by registered post to the address given by the money-lender in his application for registration.

Rule making  
power.

**20. (1)** The President of the Union may make rules<sup>1</sup> for carrying out the purposes of this Act.

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

- (a) the form of register under section 4 and the particulars to be contained in such register ;
- (b) the form of and the further particulars to be contained in an application for registration under section 5 ;
- (c) the fee to be paid on an application for registration under section 5 ;
- (d) the form of registration certificate under section 5 ;
- (e) the language or languages to be used in making copies of entries and statements of account under sub-section (3) of section 7 ;
- (f) the manner in which accounts shall be made available for inspection under section 8, and the persons who may carry out such inspections ; and
- (g) the manner in which deposits made under section 14 shall be disposed of.

**21.**

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<sup>1</sup> For such rules, see *Burma Gazette*, 1946, Part I, page 289.

<sup>2</sup> Omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

## THE ACCRUAL OF INTEREST (WAR-TIME ADJUSTMENT) ACT, 1947.\*

[BURMA ACT XI, 1947.] (25th February, 1947.)

WHEREAS it is expedient to make equitable adjustment of claims of interest accrued during war period ;

\* \* \* \*

It is hereby enacted as follows :—

1. (1) This Act may be called the Accrual of Interest (War-Time Adjustment) Act, 1947.

(2) It shall extend to the whole of the Union of Burma.

(3) It shall come into force at once.

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

(1) “interest” means rate of interest and includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise ;

(2) “loan” means a loan whether of money or in kind, and includes any transaction which is, in the opinion of the Court, in substance a loan.

3. Notwithstanding anything contained in any other law for the time being in force, or in any contract of loan or mortgage deed, no interest shall accrue or be payable upon any loan or mortgage other than usufructuary mortgage, made in Burma before the 5th day of May, 1942, for or in respect of the period which falls within the 8th day of December, 1941, and the date<sup>1</sup> on which the provisions of section 7 of the Courts (Emergency Provisions) Act, 1943, cease to operate or are repealed.

## THE AGRICULTURAL DEBTS MORATORIUM ACT, 1947.<sup>2</sup>

[BURMA ACT XXIV, 1947.] (7th May, 1947.)

WHEREAS it is expedient to proclaim a moratorium in respect of agricultural debts contracted before the resumption of the civil Government in British Burma :

\* \* \* \*

It is hereby enacted as follows :—

1. (1) This Act may be called the Agricultural Debts Moratorium Act, 1947.

(2) It shall extend to the whole of the Union of Burma.

Short title,  
extent and  
commence-  
ment.

\* Published in *Burma Gazette*, 1947, Part I, page 110.

<sup>1</sup> The provisions of section 7 of the Courts (Emergency Provisions) Act, 1943, continued to be in force up to and until the 31st day of March 1947. See section 3, Burma Act II, 1947.

<sup>2</sup> Published in *Burma Gazette*, 1947, Part I, page 279.

(3) It shall come into force at once :

Provided that the provisions of section 3 shall remain in force for a period of six months only.

Definitions.

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

- (a) "agriculture" includes horticulture and the use of land for any purpose of husbandry ;
- (b) "debt" means any liability owing to a creditor by a debtor, in cash or kind, secured or unsecured, and includes any sum of money payable under a decree or order of a civil Court or otherwise, whether due or not due, but shall not include arrears of wages, rent payable on agricultural lands, land-revenue or anything recoverable as an arrear of land-revenue or any money for the recovery of which a suit is barred by limitation ;
- (c) "agricultural debtor" means any person who at the commencement of this Act earns his livelihood mainly by agriculture or who is engaged in cultivation of land as his principal means of subsistence and owes a debt ;
- (d) "creditor" means a person to whom a debt is owing.

3. Notwithstanding anything contained in any other law for the time being in force, or in any contract of loan or mortgage deed, a moratorium is hereby proclaimed in respect of all debts contracted by an agricultural debtor before the 16th day of October 1945 :

Provided that nothing contained in this Act shall be deemed to revive any debt which is barred by limitation of time prior to the commencement of this Act.

Provided also that nothing contained in this Act shall be deemed to prevent the interest accruing on any debt during the period of the moratorium which is not barred by limitation of time prior to the commencement of this Act:

4. All creditors to whom such debts are owed by agricultural debtors shall, within six months from the commencement of this Act, register the following particulars with the Deputy Commissioners of the districts where an agricultural debtor resides, namely,—

- (a) the place where the agricultural debtor resides ; and
- (b) the amount and particulars of his claim against such agricultural debtor.

5. Notwithstanding anything contained in any other law for the time being in force, no civil Court shall entertain any suit in respect of any such debts owed by an agricultural debtor if the creditor fails to register in the manner prescribed under section 4, within the period fixed therefor.

## THE BURMA AGRICULTURISTS' DEBT RELIEF ACT.

[BURMA ACT LXXII, 1947.] (19th November, 1947.)

It is hereby enacted as follows :—

1. (1) This Act may be called the Burma Agriculturists' Debt Relief Act, 1947. Short title,  
extent and  
commence-  
ment.

(2) It shall come into force on such date<sup>1</sup> as the President of the Union may, by notification, direct in this behalf.

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

- (a) "agriculture" includes horticulture and the use of land for any purpose of husbandry ;
- (b) "Board" means a Debt Settlement Board constituted under this Act ;
- (c) "creditor" means a person to whom a debt is owing but does not include a co-operative society ;
- (d) "debt" means any liability owing to a creditor, in cash or kind, secured or unsecured, and includes any sum of money payable under a decree or order of a civil Court or otherwise, whether due or not due, but shall not include arrears of wages, land-revenue or anything recoverable as an arrear of land-revenue or any money for the recovery of which a suit is barred by limitation ;
- (e) "debtor" means an agriculturist—
  - (1) who is engaged in the cultivation of land with his own hands as his principal means of subsistence, or
  - (2) who satisfies the following conditions, namely—
    - (i) that he superintends personally and throughout the working periods of the year the actual cultivation of the land, and
    - (ii) that he derives the major part of his income either from such superintendence or from the cultivation of land with his own hands or jointly from such superintendence and such cultivation ; and whose debts exceed Rs. 100, [and shall include his legal representatives and successors-in-interest whether by inheritance, assignment or otherwise ; ]<sup>2</sup>
- (f) "prescribed" means prescribed by rules made under this Act.

3. (1) The President of the Union may, by notification, establish a Debt Settlement Board for any district or part of a district, and such Board shall consist of not less than three and not more than five members including the Chairman who shall be a person holding or having held an office not Establish-  
ment of  
Debt Settle-  
ment Board.

<sup>1</sup> This Act came into force in the whole of Burma on 19th November 1947, See *Burma Gazette*, 1947, Part I, page 764.

<sup>2</sup> Inserted by Act VIII, 1954.

lower in rank than that of [ a Township Judge or Township Officer or a Lower Grade Pleader.]<sup>1</sup>

(2) The President of the Union may, by notification, cancel the appointment of the Chairman or any member of a Board and dissolve any Board.

(3) The Chairman and every member of a Board shall be appointed for a term not exceeding three years.

(4) Every member including the Chairman shall, on the expiration of the period for which he has been appointed, be eligible for re-appointment for a further term not exceeding three years, but no member or Chairman, whose appointment has been cancelled under the provision of sub-section (2), shall be eligible for re-appointment.

(5) A Board shall have such quorum as may be prescribed.

(6) Where the Chairman and members of a Board are unable to agree, the opinion of the majority shall prevail. Where the Board is equally divided, the Chairman shall have a casting vote.

(7) If at any time the Chairman of a Board is temporarily prevented from discharging his duties, he may nominate any member thereof to act for him during his temporary absence and such member shall, while so acting, have the same powers as the Chairman.

Application  
for settle-  
ment be-  
tween debtor  
and his cre-  
ditors.

4. A debtor may apply to the Board established for the local area within which the debtor ordinarily resides for compulsory scaling down of his debt with his creditor or creditors :

Provided that if the debtor's debts exceed ten thousand rupees the application shall be dismissed.

<sup>2</sup>4A. (1) Notwithstanding anything contained elsewhere in this Act, the President of the Union may, pending the establishment of a Board under sub-section (1) of section 3 in any district or part of a district, authorize the Deputy Commissioner or any Subdivisional Officer or Township Officer to receive applications for scaling down of debts presented to him by the debtors residing in the local limits of his jurisdiction ; and the provisions of sections 5, 6 and 7 shall apply to such applications.

(2) For the purposes of section 26 and section 28, an application made by a debtor to the Deputy Commissioner, Subdivisional Officer or Township Officer under sub-section (1) shall be deemed to be an application made to a Board under section 4.

Verification  
of applica-  
tion.

5. (1) Every application to the Board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure for signing and verifying plaints.

(2) If a person makes any statement in a verification mentioned in sub-section (1) or in sub-section (1) of section 9, which is false and which he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed an offence under section 177 of the Penal Code.

<sup>1</sup> Substituted by Act XXXIX, 1953.

<sup>2</sup> Inserted by Act XIV, 1951.

6. Every application presented by a debtor to a Board shall contain the following particulars, namely—

Particulars to be stated in application.

- (a) a statement that he owes a debt ;
- (b) the place where he resides ;
- (c) the amount and particulars of all claims against him, including arrears of wages, land-revenue or anything recoverable as an arrear of land-revenue and any money for the recovery of which a suit is barred by limitation, together with the names and residences of his creditors so far as they are known to, or can by the exercise of reasonable care and diligence be ascertained by him ;
- (d) the amount and particulars of all his property, including all claims due to him together with a specification of the value of such property not consisting of money, and the place or places at which any such property is to be found, and details of any mortgage, lien or charge subsisting thereon ; and
- (e) a declaration that all his debts and properties have been included in the application.

7. The application shall be returned to the applicant if it does not comply with any of the requirements mentioned in sections 5 and 6 for amendment failing which the application shall be rejected.

The rejection of an application under this section shall not preclude the applicant from making a fresh application.

8. An application under section 4 may be dismissed by the Board at any stage of the proceedings,—

Dismissal of application.

- (a) if, for reasons to be stated in writing, the Board does not consider it desirable or practicable to effect a scaling down of debts ; or
- (b) if, in the opinion of the Board, the applicant fails to pursue his application with due diligence ; or
- (c) if the application includes a claim which, in the opinion of the Board, is collusive and intended to defraud any creditor.

9. (1) On receipt of an application under section 4, the Board shall, unless it rejects the application under section 7, examine the debtor and if it is, in the opinion of the Board, desirable to attempt to scale down his debt, the Board shall pass an order fixing a date and place for hearing of the application.

Procedure on application and notice calling upon creditors to submit statement of debts.

(2) The Board shall issue a notice which shall be served or published in the manner prescribed calling upon every creditor of the debtor to submit a statement of debts owing to such creditor by the debtor. Such statement shall be submitted to the Board in writing within one month from the date of service or publication of the notice as the case may be and shall be signed and

verified in the manner prescribed by the Code of Civil Procedure for signing and verifying plaints :

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it may extend the period for the submission of his statement of the debt owing to him.

(3) Every debt of which a statement is not submitted to the Board in compliance with the provisions of sub-section (2) shall be deemed for all purposes to have been duly discharged :

Provided that if a creditor proves to the satisfaction of the Board that the notice was not served on him or that he has no knowledge of the publication thereof, or that for some other sufficient reasons he was unable to submit the statement, the Board may revive the debt.

Procedure on  
submission  
of statement  
of debts.

10. (1) Every creditor submitting a statement of the debts owing to him in compliance with a notice issued under sub-section (2) of section 9 shall furnish, along with such statement, full particulars of all such debts and shall at the same time produce all documents, including all entries in books of accounts, on which he relies to support his claims, together with a true copy of every such document.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document, which is in the possession or under the control of the creditor, is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any person claiming under him for the recovery of the debt :

Provided that the Board or Court shall have power to excuse for sufficient reasons any default or delay in producing the document and to grant reasonable time for producing the same in any proceeding pending before it.

Board to  
scale down  
debt.

11. (1) The Board shall call upon the debtor and each creditor respectively to explain his case regarding each debt and shall scale it down as provided under sections 13 and 14.

(2) If there is a dispute as to the existence or amount of debt owing to any creditor or the assets of any debtor, the Board may decide the matter after taking such evidence as may be adduced by all the parties concerned and such decision shall be binding on all the parties in all proceedings before the Board :

Provided that the decree of a civil Court relating to a debt shall, subject to the provisions of sections 13 and 14, be conclusive evidence as to the existence and amount of such debt.

(3) The Board shall prepare a complete schedule of the creditors and of the assets and liabilities of the debtor.



12. (1) Subject to the provisions of sections 132 and 133 of the Code of Civil Procedure and to rules made under this Act, the Board shall have power to summon any person whose attendance it considers necessary either to be examined as a party or to give evidence as a witness or to produce any document for the purpose of any inquiry under this Act.

Power of Board to require attendance of persons and production of documents and to receive evidence.

(2) Any party or person present may be required by the Board to give evidence or to produce any document in his possession or power then and there or within such time as the Board may direct.

13. Subject to the provisions of the Accrual of Interest (War-Time Adjustment) Act, 1947, the Board shall scale down the debts incurred before the 1st October 1941 in the manner mentioned hereunder, namely—

Provision for debts incurred before 1st October 1941.

- (1) all interest outstanding on the 1st October 1946, in favour of any creditor of an agriculturist whether the same be payable under law, custom or contract or under a decree of Court and whether the debt or other obligation has ripened into a decree or not shall be deemed to be discharged, and only the principal or such portion thereof as may be outstanding shall be deemed to be the amount repayable by the agriculturist on that date ;
- (2) where an agriculturist has paid to any creditor twice the amount of the principal whether by way of principal or interest or both, such debt including the principal, shall be deemed to be wholly discharged ;
- (3) where the sums repaid by way of principal or interest or both fall short of twice the amount of the principal, such amount only as would make up such shortage, or the principal amount or such portion of the principal amount as is outstanding, whichever is smaller, shall be repayable :

Provided that nothing contained in sub-sections (1), (2) and (3) shall be deemed to require the creditor to refund any sum which has been paid to him, or to increase the liability of a debtor to pay any sum in excess of the amount which would have been payable by him if this Act had not been passed.

*Explanation.*—Where a debt has been renewed or included in a fresh document in favour of the same creditor, the principal originally advanced by the creditor together with such sums, if any, as have been subsequently advanced as principal shall alone be treated as the principal sum repayable by the agriculturist under this section.

14. Subject to the provisions of the Accrual of Interest (War-Time Adjustment) Act, 1947, the Board shall scale down the debts incurred on or after the 1st October 1941 in the manner mentioned hereunder, namely—

Provision for debts incurred after 1st October 1941.

interest shall be calculated up to the commencement of this Act at the rate applicable to the debt under the law, custom, contract or decree of Court under which it arises or at  $6\frac{1}{4}$  per cent per annum simple interest whichever is less and credit shall be given for all sums paid towards interest, and only such amount as

is found outstanding, if any, for interest thus calculated shall be deemed payable together with the principal amount or such portion of it as is due :

Provided that any part of the debt which is found to be a renewal of a prior debt shall be deemed to be a debt contracted on the date on which such prior debt was incurred, and if such debt had been contracted prior to the 1st October 1914, shall be dealt with under the provisions of section 13 :

Provided also that nothing herein contained shall be deemed to require the creditor to refund any sum which has been paid to him or to increase the liability of the debtor to pay any sum in excess of the amount which would have been payable by him if this Act had not been passed.

Order and  
its effect.

15. (1) An order for the scaling down of debts shall be in writing, and it shall state, subject to the provisions contained in sections 17 and 18, the amounts payable to creditors and the manner in which, the assets from which and the times at which they are to be paid. Such order shall be read and explained to the parties concerned and shall be authenticated by the Board.

(2) The order made under sub-section (1) shall take effect as if it were a decree of a civil Court at the place where the debt concerned was incurred and be executable as such and such order shall, subject to the provisions of sub-section (3) hereof and section 24, be final :

Provided that no such order shall be executed in any Court without the sanction of the Board.

(3) If, after an order is made under sub-section (1), any debt is revived by the Board under sub-section (3) of section 9, the Board shall make a fresh order.

16. Where an order is made in respect of any debt which is secured by a mortgage, lien or charge on any immovable property of a debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable under the order in respect of such debt until such amount has been paid or discharged.

17. A debtor shall be liable to pay the amount due in accordance with the order made by the Board under sub-section (1) of section 15 ; and the Board shall, upon application made by a creditor, accord sanction to the execution of its order in a civil Court of competent jurisdiction, if a debtor defaults in paying such amounts within such time as may be prescribed :

Provided that no debtor shall be liable, before the 1st January 1956,<sup>1</sup> to pay any debt incurred by him prior to the commencement of this Act and scaled down under the provisions of this Act :

Provided also that where a debtor is unable to find the creditor and pay the amount due in accordance with the order he may deposit such amount with the Registrar of the District Court and such deposit shall be conclusive

<sup>1</sup> Substituted by Act XXII, 1952.

evidence that an offer of payment has been made by the debtor in accordance with the order.

**18.** All debts incurred by an agriculturist before the commencement of this Act and scaled down under the provisions of this Act shall, from the 1st January 1956,<sup>1</sup> carry interest on the principal amount set out in the order scaling down the debts, in so far as any sum remains payable thereunder, at the rate previously applicable under law, custom, contract or otherwise; and no interest shall be payable on such principal amount in respect of the period commencing from the date on which this Act comes into force to the 31st December 1955 :<sup>1</sup>

Rate of interest payable by agriculturists on old loans.

Provided that the interest shall not in any case exceed  $6\frac{1}{4}$  per cent per annum simple interest, that is to say, one pie per rupee per mensem simple interest, or one anna per rupee per annum simple interest.

**19.** In any proceeding for settlement of a debt, the Board shall scale down all interest due on any debt incurred by an agriculturist after the commencement of this Act, so as not to exceed a sum calculated at  $6\frac{1}{4}$  per cent per annum, simple interest, that is to say, one pie per rupee per mensem simple interest, or one anna per rupee per annum simple interest :

Rate of interest payable by agriculturists on new loans.

Provided that the President of the Union may, by notification in the Gazette, alter and fix any other rate of interest from time to time.

**20.** No civil Court shall entertain any suit or application for execution of a decree in respect of—

Bar of suit.

- (i) any matter pending before a Board ; or
- (ii) the validity of any procedure or the legality of any order made under this Act ; or
- (iii) the recovery of any debt payable under an order made under sub-section (1) of section 15 save as provided under section 17 ; or
- (iv) the recovery of any debt which has been deemed to have been duly discharged under sub-section (3) of section 9.

**21.** Every transfer of property made with intent to defeat or delay the creditors of the debtor, before or after an application has been made to a Board under section 4 and until the order under sub-section (1) of section 15 in respect of such application has ceased to subsist, shall be voidable by the order of the Board on the application of any creditor so defeated or delayed.

Avoidance of certain transfers of debtor's property.

**22.** Any alienation of land made with the sanction of the Board in pursuance of or to carry out an order made under sub-section (1) of section 15 shall, subject to the provision of the Land Alienation Act, not be considered as fraudulent preference under the law of insolvency nor shall such alienation be voidable under section 53 of the Transfer of Property Act.

Alienation of land when not fraudulent preference.

<sup>1</sup> Substituted by Act XXII, 1952.

Bar of appeal  
or revision.

23. No appeal or application for revision shall lie against any order passed by a Board :

Provided that the President of the Union may call for any proceeding of any Board, or alter any order passed by any Board, where it appears to be illegal or perverse.

24. The Board may, on application either by a debtor or a creditor made within 30 days of the passing of an order or on its own motion at any time, review an order passed by it and pass such other order in reference thereto as it thinks fit :

Provided that no order shall be varied or reversed unless notice has been given to all persons interested to appear and be heard.

Appearance  
of party  
before Board  
by agent or  
legal practi-  
tioner.

25. In any proceedings before a Board any party may appear in person or be permitted to appear by an agent authorized in writing or by a legal practitioner on his behalf.

Stay of  
pending suit  
or proceed-  
ing.

26. Where an application has been made to a Board under section 4, any suit, appeal or other proceedings then pending before a civil Court in respect of any debt for the settlement of which the application has been made, shall be stayed until the Board has rejected or dismissed the application.

Submission  
of reports by  
Board re-  
garding sums  
due to  
Government.

27. Where in the course of an enquiry into an application made under section 4 a Board finds that there is any sum owing by the debtor to Government on account of loans advanced under the Agriculturists Loans Act or the Land Improvement Loans Act, or otherwise, the Board shall report this fact to the Collector.

Allowance of  
time for  
limitation.

28. In calculating the period of limitation for any suit filed in, or proceedings before, a civil Court for the recovery of a debt which was the subject of any proceedings under this Act, the time during which such proceedings continued as well as the time taken for obtaining a certified copy of the order of the Board shall be excluded.

Members of  
a Board  
deemed to be  
public  
servants.

29. The members of a Board shall be deemed to be public servants within the meaning of the Penal Code.

Bar to legal  
proceedings.

30. No suit or other proceeding shall lie against any member of the Board for any act in good faith done or intended to be done under this Act.

Power to  
make rules.

31. (1) The President of the Union may make rules <sup>1</sup> to carry out all or any purposes of this Act and not inconsistent therewith.

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<sup>1</sup> For such rules, see *Burma Gazette*, 1948, Part I, page 1068.

(2) In particular, and without prejudice to the generality of the foregoing power, he shall have power to make rules---

- (a) prescribing the constitution of and quorum for and procedure before a Board ;
- (b) prescribing the manner in which notices shall be issued and served or published under sub-section (1) of section 9 ;
- (c) prescribing the charges to be made by the Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid ;
- (d) prescribing the records to be kept and the returns to be made by a Board ;
- (e) prescribing the allowances, if any, to be paid to the Chairman and members of a Board and to the staff, if any, employed by the Board ;
- (f) regulating the powers of a Board to summon parties and witnesses under section 12 and the grant of expenses to witnesses.

သံအရာရှိများနှင့် ကောင်စစ်အရာရှိများ (ကျမ်းသစ္စာများနှင့် အခကြေးငွေများ) အက်ဥပဒေ။

[၁၉၅၄ ခုနှစ်၊ အက်ဥပဒေအမှတ် ၁၉။]

အောက်ပါအတိုင်း အက်ဥပဒေအဖြစ် ပြဋ္ဌာန်းလိုက်သည်။

၁။ ။ (၁) ဤအက်ဥပဒေကို ၁၉၅၄ ခုနှစ်၊ သံအရာရှိများနှင့် ကောင်စစ်အရာရှိများ (ကျမ်းသစ္စာများနှင့် အခကြေးငွေများ) အက်ဥပဒေဟုခေါ်ရမည်။

(၂) ဤအက်ဥပဒေသည်၊ နိုင်ငံတော်သမ္မတက အမိန့်ကြော်ငြာစာ ထုတ်ပြန်ကြော်ငြာ၍ သတ်မှတ်သည့်နေ့ရက်တွင် အာဏာတည်ရမည်။

၂။ ။ ဤအက်ဥပဒေတွင် ရှေ့နောက်စကားတို့၏အဓိပ္ပါယ်ကိုထောက်ထားရန်မလိုလျှင်—

(က) “ ကောင်စစ်အရာရှိ ” ဆိုသည်တွင် ကောင်စစ်ဝန်ချုပ်၊ ကောင်စစ်ဝန်၊ ဒုတိယကောင်စစ်ဝန်၊ ကောင်စစ် ကိုယ်စားလှယ်၊ ယာယီအမှုဆောင် ကောင်စစ်ဝန်တို့ပါဝင်သည့်ပြင်၊ ထိုကောင်စစ်ဝန်ချုပ်၊ ကောင်စစ်ဝန်၊ ဒုတိယကောင်စစ်ဝန်၊ ကောင်စစ်ကိုယ်စားလှယ်တဦး၏ တာဝန်ဝတ်တရားများကို ဆောင်ရွက်ရန် အာဏာလွှဲအပ်ခြင်းခံရသော အခြားပုဂ္ဂိုလ်လည်း ပါဝင်သည်။ ထို့ပြင်

(ခ) “ သံအရာရှိ ” ဆိုသည်မှာ၊ သံအမတ်ကြီး၊ သံတမန်၊ သံအမတ်၊ တာဝန်ခံသံမှူးကိုသော်၎င်း၊ သံကြီးရုံး၏ သို့တည်းမဟုတ် သံရုံး၏အတွင်းဝန်ကိုသော်၎င်း ဆိုလိုသည်။

၃။ ။ (၁) သံအရာရှိ၊ သို့တည်းမဟုတ် ကောင်စစ်အရာရှိ အသီးသီးသည် မိမိအလုပ်ဝတ်တရား ဆောင်ရွက်ရာ တိုင်းတပါးတွင်ဖြစ်စေ၊ အရပ်တပါးတွင်ဖြစ်စေ ကျမ်းသစ္စာကို၎င်း၊ ကျမ်းကျိန်လွှာကို၎င်း ပေးနိုင်သည်။ ထို့ပြင် ပြည်ထောင်စုမြန်မာနိုင်ငံအတွင်း နိုတြီအရာရှိဆောင်ရွက်နိုင်သော မည်သည့်နိုတြီ စွဲကုမဆို ဆောင်ရွက်နိုင်သည်။ အဆိုပါပုဂ္ဂိုလ်ကဖြစ်စေ၊ အဆိုပါပုဂ္ဂိုလ်၏ရှေ့၌ဖြစ်စေ ပေးသည့်ကျမ်းသစ္စာ၊ ကျမ်းကျိန်လွှာ အသီးသီးသည်၎င်း၊ ဆောင်ရွက်သည့် နိုတြီ

ကိစ္စအသီးသီးသည်၎င်း၊ ပြည်ထောင်စုမြန်မာနိုင်ငံအတွင်း မည်သည့်ဒေသ၌မဆို၊ ဥပဒေအရအာဏာပိုင်တဦးဦးကဖြစ်စေ၊ ထိုအာဏာပိုင်၏ရှေ့ဖြစ်စေ နည်းလမ်းတကျ ပေးဘိသကဲ့သို့၊ သို့တည်းမဟုတ် ဆောင်ရွက်ဘိသကဲ့သို့ အကျိုးသက်ရောက်ရမည်။

(၂) ဤအက်ဥပဒေအရ ကျမ်းသစ္စာပေးရန် အာဏာရရှိသူ တဦးဦးကဖြစ်စေ၊ ထိုသူ၏ရှေ့ဖြစ်စေ ပေးသည့်ကျမ်းသစ္စာ၊ သို့တည်းမဟုတ် ကျမ်းကျိန်လွှာဖြစ်ကြောင်း၊ သို့တည်းမဟုတ် ဆောင်ရွက်သည့် ခိုကြိုကိစ္စဖြစ်ကြောင်း သက်သေခံအဖြစ်ဖြင့်၊ ထိုသူ၏တံဆိပ်နှင့် လက်မှတ်စွဲကပ်သည့်၊ သို့တည်းမဟုတ် ရိုက်နှိပ်သည့်၊ သို့တည်းမဟုတ် ရေးထိုးသည့် သဘောသက်ရောက်သော မည်သည့်စာတမ်းအမှတ်အသားမဆို၊ ထိုတံဆိပ်သည်၊ သို့တည်းမဟုတ် ထိုလက်မှတ်သည်၊ ထိုသူ၏တံဆိပ်၊ သို့တည်းမဟုတ် လက်မှတ်ဖြစ်ကြောင်းကိုသော်၎င်း၊ ထိုသူ၏ရာထူးနှင့် စပ်လျဉ်း၍သော်၎င်း သက်သေထင်ရှားမပြုဘဲ သက်သေခံဝင်ရမည်။

၄။ ။မည်သူမဆို၊ ဤအက်ဥပဒေပါ ပြဌာန်းချက်များနှင့်အညီ ကျိန်ဆိုသည့်၊ သို့တည်းမဟုတ် ပြုသည့်ကျမ်းသစ္စာတွင်၊ သို့တည်းမဟုတ် ကျမ်းကျိန်လွှာတွင် မဟုတ်မမှန်ကျိန်ဆိုလျှင်၊ ထိုသူကို၊ သုံးနှစ်ထိ ထောင်ဒဏ်စီရင်ရမည်ပြင်၊ ငွေဒဏ်လည်းစီရင်နိုင်သည်။

၅။ ။မည်သူမဆို၊ ဤအက်ဥပဒေအရ ကျမ်းသစ္စာပေးရန် အာဏာရရှိသူ၏တံဆိပ်ကို ဖြစ်စေ၊ လက်မှတ်ကိုဖြစ်စေ လိမ်လည်တုပ်လျှင်၊ သို့တည်းမဟုတ် အတုပြုလျှင်၊ သို့တည်းမဟုတ် လိမ်လည်လှည့်ဖြားလိုသောသဘောဖြင့် ပြောင်းလဲလျှင်သော်၎င်း၊ ဤသို့လိမ်လည်တုပ်ထားသည့်၊ သို့တည်းမဟုတ် အတုပြုထားသည့်၊ သို့တည်းမဟုတ် လိမ်လည်လှည့်ဖြားလိုသော သဘောဖြင့် ပြောင်းလဲထားသည့်တံဆိပ်ဖြစ်စေ၊ လက်မှတ်ဖြစ်စေ ပါရှိသောကျန်းကျိန်လွှာကို လိမ်လည်တုပ်ထားသည့်၊ သို့တည်းမဟုတ် အတုပြုထားသည့်၊ သို့တည်းမဟုတ် လိမ်လည်လှည့်ဖြားလိုသောသဘောဖြင့် ပြောင်းလဲထားသည့်တံဆိပ်၊ သို့တည်းမဟုတ် လက်မှတ်ဖြစ်ကြောင်းသိလျက်နှင့် သက်သေခံအဖြစ် တင်ပြလျှင်သော်၎င်း၊ အခြားနည်းဖြင့် အသုံးပြုလျှင်သော်၎င်း ထိုသူကို သုံးနှစ်ထိထောင်ဒဏ်စီရင်ရမည်ပြင်၊ ငွေဒဏ်လည်းစီရင်နိုင်သည်။

၆။ ။ဤအက်ဥပဒေအရ၊ ပြစ်မှုတခုခုကိုကျူးလွန်လျှင်၊ ထိုပြစ်မှုကျူးလွန်သည့်ဟူ၍ဆိုခြင်း ခံရသူအား ဖမ်းဆီးရာ၊ သို့တည်းမဟုတ် အချုပ်ချထားရာ ပြည်ထောင်စုနိုင်ငံအတွင်း မည်သည့်ဒေသ၌မဆို၊ ကိုပြစ်မှုကို အဆိုပါဒေသ၌ ကျူးလွန်ဘိသကဲ့သို့၊ စုံစမ်းခြင်း၊ အရေးယူဆောင်ရွက်ခြင်း၊ စစ်ဆေးစီရင်ခြင်း၊ ပြစ်ဒဏ်စီရင်ခြင်းပြုနိုင်သည်။

၇။ ။(၁) နိုင်ငံတော်သမတသည်၊ ဤအက်ဥပဒေပါ ကိစ္စများကို ဆောင်ရွက်ရန်အလို့ငှါ၊ နည်းဥပဒေများပြုနိုင်သည်။

(၂) အထက်ပါအာဏာ၏ ယေဘုယျသဘောကို မထိခိုက်စေဘဲ၊ အထူးအားဖြင့် အဆိုပါနည်းဥပဒေများသည်—

- (က) ဤအက်ဥပဒေအရ စည်းကြပ်နိုင်သည့် အခကြေးငွေနှုန်းကို၎င်း၊ အဆိုပါအခကြေးငွေများ စည်းကြပ်ရန်၊ ကောက်ခံရန်၊ စာရင်းတင်သွင်းရန်နှင့် သုံးစွဲရန် နည်းလမ်းကို၎င်း ပြဌာန်းနိုင်သည်။
- (ခ) သံအရာရှိအား၊ သို့တည်းမဟုတ် ကောင်စစ်အရာရှိအား ဤအက်ဥပဒေအရ အပ်နှံထားသည့် တာဝန်ဝတ်တရားများဆောင်ရွက်ရသည့်အတွက် အခပေးရန်လိုလျှင်၊ ထိုအခကိုပြဌာန်းနိုင်သည်။
- (ဂ) ဤအက်ဥပဒေနှင့်အညီထားရှိရမည့်မှတ်ပုံစာရင်းများနှင့် ပြုလုပ်ရမည့်အစီရင်ခံစာရင်းများကို ပြဌာန်းနိုင်သည်။ ထို့ပြင်
- (ဃ) အခကြေးငွေနှုန်းစာရင်းများ ထုတ်ပြန်ဝေငှရန် နည်းလမ်းကိုပြဌာန်းနိုင်သည်။

# PART XXI.—INCORPOREAL RIGHTS (GOOD- WILL AND TRADE MARKS, COPYRIGHT, PATENTS AND DESIGNS).

အပိုင်း ၂၁။ ။ ဝတ္ထုအထည်ခြံမရှိသည့်အခွင့်အရေး  
များ (ဆက်ခံလုပ်ကိုင်ပိုင်ခွင့်နှင့် ကုန်မှတ်တံဆိပ်  
များ၊ စာမူပိုင်မူပိုင်ခွင့်နှင့် ကုန်ပုံစံများ) ဆိုင်ရာ။

## THE BURMA COPYRIGHT ACT.

[INDIA ACT III, 1914.] (24th February, 1914.)

### CHAPTER I.

Extent.

#### PRELIMINARY.

<sup>1</sup> 1. The Copyright Act as set out in the First Schedule and with the Definitions, modifications set out herein shall apply to the Union of Burma.

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

- (1) “ the Copyright Act ” means the Act of [Parliament of the United Kingdom of Great Britain and Ireland]<sup>2</sup> entitled the Copyright Act, 1911 ; and
- (2) words and expressions defined in the Copyright Act have the same meanings as in that Act.

1 & 2 Geo.  
5, c. 46.

### CHAPTER II.

#### CONSTRUCTION AND MODIFICATION OF THE COPYRIGHT ACT.

3. In the application to the Union of Burma of the Copyright Act (a copy of which Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, is set out in the First Schedule), the following modifications shall be made, namely :—

Application  
of Copyright  
Act to the  
Union of  
Burma with  
adaptations.

- (1) the powers of the Board of Trade under section 3 shall, in the case of works first published in the Union of Burma, be exercised by the President of the Union ;
- (2) the powers of the Board of Trade under section 19 shall, as regards records, perforated rolls and other contrivances, the original plate of which was made in the Union of Burma, be exercised by the President of the Union ; and the confirmation of [Parliament of the United Kingdom of Great Britain and Ireland]<sup>2</sup> shall not be necessary to the exercise of any of these powers ;

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

<sup>2</sup> Substituted by the same Order

- (3) the references in section 19, sub-section (4), and in section 24, sub-section (1), to arbitration shall be read as references to arbitration in accordance with the law for the time being in force in that part of the Union of Burma in which the dispute occurs ;
- (4) as regards works the authors whereof were at the time of the making of the works resident in the Union of Burma, and as regards works first published in the Union of Burma, the reference in section 22 to the Patents and Designs Act, 1907, shall be construed as a reference to [the Burma Patents and Designs Act, 1945.]<sup>1</sup> and the reference in the said section to section 86 of the Patents and Designs Act, 1907, shall be construed as a reference to [section 91]<sup>1</sup> of [the Burma Patents and Designs Act, 1945];<sup>1</sup>
- (5) as regards works first published in the Union of Burma, the reference in section 24, sub-section (1), proviso (a), to the London Gazette and two London newspapers shall be construed as a reference to the Gazette and two newspapers published in the Union of Burma ; and the reference in proviso (b) of the same sub-section of the same section to the 26th day of July, 1910, shall, as regards works the authors whereof were at the time of the making of the works resident in the Union of Burma, and as regards works first published in the Union of Burma, be construed as a reference to the 30th day of October, 1912.

7 Edw. VII,  
c. 29.

7 Edw. VII,  
c. 29.

Modification  
of copyright  
as regards  
translations  
of works  
first publish-  
ed in the  
Union of  
Burma.

4. (1) In the case of works first published in the Union of Burma, copyright shall be subject to this limitation that the sole right to produce, reproduce, perform or publish a translation of the work shall subsist only for a period of ten years from the date of the first publication of the work :

Provided that if within the said period the author, or any person to whom he has granted permission so to do, publishes a translation of any such work in any language, copyright in such work as regards the sole right to produce, reproduce, perform or publish a translation in that language shall not be subject to the limitation prescribed in this sub-section.

(2) For the purposes of sub-section (1) the expression "author" includes the legal representative of a deceased author.

Musical  
works made  
by residents  
of, or first  
published in,  
the Union of  
Burma.

5. In the application of the Copyright Act to musical works the authors whereof were at the time of the making of the works resident in the Union of Burma, or to musical works first published in the Union of Buama, the term "musical work" shall, save as otherwise expressly provided by the Copyright Act, mean "any combination of melody and harmony, or either of them, which has been reduced to writing."

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



6. (1) Copies made out of the Union of Burma of any work in which copyright subsists which if made in the Union of Burma would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Chief Customs officer, as defined in the Sea Customs Act, that he is desirous that such copies should not be imported into the Union of Burma, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be prohibited imports within the meaning of section 18 of the Sea Customs Act. Importation of copies.

(2) Before detaining any such copies, or taking any further proceedings with a view to the confiscation thereof, such Chief Customs officer, or any other officer appointed by the Chief Customs authority in this behalf, may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself, in accordance with these regulations, that the copies are such as are prohibited by this section to be imported.

(3) The President of the Union may, by notification in the Gazette, make regulations, either general or special, respecting the detention and confiscation of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and confiscation ; and may, by such regulations, determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) Such regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant re-imbursing the Government all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention. [ \* \* \* \* ]<sup>1</sup>

(6) This section shall have effect as the necessary modification of section 14 of the Copyright Act.

### CHAPTER III.

#### PENALTIES.

7. If any person knowingly—

- (a) makes for sale or hire any infringing copy of a work in which copyright subsists ; or
- (b) sells or lets for hire, or by way of trade exposes or offers for sale or hire, any infringing copy of any such work ; or
- (c) distributes infringing copies of any such work, either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright ; or
- (d) by way of trade exhibits in public any infringing copy of any such work ; or

Offences in respect of infringing copies.

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

(e) imports for sale or hire into the Union of Burma any infringing  
| copy of any such work ;

he shall be punishable with fine which may extend to twenty rupees for every copy dealt with in contravention of this section, but not exceeding five hundred rupees in respect of the same transaction.

Possession of  
plates for  
purpose of  
making  
infringing  
copies.

8. If any person knowingly makes, or has in his possession, any plate for the purpose of making infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be punishable with fine which may extend to five hundred rupees.

Punishment  
on second  
conviction.

9. If any person, after having been previously convicted of an offence punishable under section 7 or section 8, is subsequently convicted of an offence punishable under either of these sections, he shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

Power of  
Court to  
dispose of  
infringing  
copies or  
plates for  
purpose of  
making  
infringing  
copies.

10. (1) The Court before which any offence under this Chapter is tried may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purpose of making infringing copies, be destroyed or delivered up to the owner of the copyright, or otherwise dealt with as the Court may think fit.

(2) Any person affected by an order under sub-section (1) may, within thirty days of the date of such order, appeal to the Court to which appeals from the Court making the order ordinarily lie ; and such appellate Court may direct that execution of the order be stayed pending consideration of the appeal.

Cognizance  
of offences.

11. No Court inferior to that of a Magistrate of the first class shall try any offence against this Act.

Saving in  
case of in-  
fringement  
by construc-  
tion of  
building.

12. The provisions of this Chapter shall not apply to any case to which section 9 of the Copyright Act, regarding the restrictions on remedies in the case of a work of architecture, applies.

## CHAPTER IV

### MISCELLANEOUS.

Courts  
having civil  
jurisdiction  
regarding in-  
fringement  
of copyright.

13. Every suit or other civil proceeding regarding infringement of copyright shall be instituted and tried in the High Court or the Court of the District Judge.

14. \* \* \* \*

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

## THE FIRST SCHEDULE.

## PORTIONS OF THE COPYRIGHT ACT APPLICABLE TO THE UNION OF BURMA.

(See *Section 3.*)

## COPYRIGHT ACT, 1911.

[1 &amp; 2 GEO. 5, CH. 46.]

## ARRANGEMENT OF SECTIONS.

## PART I.

## IMPERIAL COPYRIGHT.

*Rights.**Sections,*

1. Copyright.
2. Infringement of copyright.
3. Term of copyright.
4. Compulsory licences,
5. Ownership of copyright, etc.

*Civil Remedies.*

6. Civil remedies for infringement of copyright.
  7. Rights of owner against persons possessing or dealing with infringing copies, etc.
  8. Exemption of innocent infringer from liability to pay damages, etc.
  9. Restriction on remedies in the case of architecture.
  10. Limitation of actions.
- \*            \*            \*            \*

*Importation of Copies.*

14. Importation of copies.

*Delivery of Books to Government.*

15. Delivery of copies to Government and other persons.

*Special Provisions as to certain Works.*

16. Works of joint authors.
17. Posthumous works.
18. Provisions as to Government publications.
19. Provisions as to mechanical instruments.
20. Provision as to political speeches.
21. Provisions as to photographs.
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## Sections.

23. Works of foreign authors first published in the Union of Burma.

24. Existing works.

25.—30. \* \* \* \*

## PART III.

## SUPPLEMENTAL PROVISIONS.

31. Abrogation of common law rights.

32. Provisions as to Orders in Council.

33—34. \* \* \* \*

35. Interpretation.

36.—37. \* \* \* \*

## SCHEDULES.

## CHAPTER 46.

*An Act to amend and consolidate the Law relating to Copyright.*

[16th December, 1911.]

\* \* \* \*

## PART I.

## IMPERIAL COPYRIGHT.

*Rights.*

Copyright.

11. (1) Subject to the provisions of this Act, copyright shall subsist for the term hereinafter mentioned in every original literary, dramatic, musical and artistic work, if—

(a) in the case of a published work, the work was first published within the Union of Burma ; and

(b) in the case of an unpublished work, the author was at the date of the making of the work a citizen of the Union or resident within the Union of Burma ;

but in no other works, except so far as the protection conferred by this Act is extended by notification by the President of the Union to foreign countries.

(2) For the purposes of this Act, “ copyright ” means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public ; if the work is unpublished, to publish the work or any substantial part thereof ; and shall include the sole right—

(a) to produce, reproduce, perform, or publish any translation of the work ;

(b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work ;

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

- (c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise ;
- (d) in the case of a literary, dramatic or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered ;

and to authorize any such acts as aforesaid.

(3) For the purposes of this Act, publication, in relation to any work, means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or the construction of an architectural work of art, but for the purposes of this provision, the issue of photographs and engravings of works of sculpture and architectural works of art shall not be deemed to be publication of such works.

2. (1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright : Provided that the following acts shall not constitute an infringement of copyright :—

Infringe-  
ment of  
copyright.

- (i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary :
- (ii) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work, provided that he does not thereby repeat or imitate the main design of that work :
- (iii) The making or publishing of paintings, drawings, engravings or photographs of a work of sculpture or artistic craftsmanship, if permanently situate in a public place or building or the making or publishing of paintings, drawings, engravings or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art :
- (iv) The publication in a collection, mainly composed of non-copyright matter, *bona fide* intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists : Provided that not more than two of such passages from works by the same author are published by the same publisher within five years, and that the source from which such passages are taken is acknowledged :
- (v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture

at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer ; but nothing in this paragraph shall affect the provisions in paragraph (i) as to newspaper summaries :

- (vi) The reading or recitation in public by one person of any reasonable extract from any published work.

(2) Copyright in a work shall also be deemed to be infringed by any person who—

- (a) sells or lets for hire, or by way of trade exposes or offers for sale or hire, or
- (b) distributes either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright, or
- (c) by way of trade exhibits in public, or
- (d) imports for sale or hire [\* \* \* \* \*]<sup>1</sup>,

any work which to his knowledge infringes copyright or would infringe copyright if it had been made within the Union of Burma in or into which the sale or hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place.

(3) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.

Term of  
copyright.

3. The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death :

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act, thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of the ten per cent. on the price at which he publishes the work ; and, for the purposes of this proviso, the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

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

4. If, at any time after the death of the author of a literary, dramatic or musical work which has been published or performed in public, a complaint is made to [the Supreme Court]<sup>1</sup> that the owner of the copyright in the work has refused to republish or to allow the republication of the work or has refused to allow the performance in public of the work, and that by reason of such refusal the work is withheld from the public, the owner of the copyright may be ordered to grant a licence to reproduce the work or perform the work in public, as the case may be, on such terms and subject to such conditions as [the Supreme Court]<sup>1</sup> may think fit.

Compulsory  
licences.

5. (1) Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein :

Ownership  
of copyright,  
etc

Provided that—

- (a) where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright ;
- (b) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical.

(2) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to limitations, [to the Government],<sup>1</sup> and either for the whole term of the copyright or for any part thereof, and may grant any interest in the right by licence, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorized agent :

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein made by him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal

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

representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

(3) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee, as respects the rights so assigned, and the assignor, as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of the copyright, and the provisions of this Act shall have effect accordingly.

#### *Civil Remedies.*

Civil remedies for infringement of copyright.

6. (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

(2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the Court.

(3) In any action for infringement of copyright in any work, the work shall be presumed to be a work in which copyright subsists and the plaintiff shall be presumed to be the owner of the copyright, unless the defendant puts in issue the existence of the copyright, or as the case may be, the title of the plaintiff, and where any such question is in issue, then—

(a) if a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work ;

(b) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of copyright therein.

Rights of owner against persons possessing or dealing with infringing copies, etc.

7. All infringing copies of any work in which copyright subsists, or of any substantial part thereof, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of the possession thereof or in respect of the conversion thereof.

Exemption of innocent infringer

8. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be



entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves that at the date of the infringement he was not aware, and had not reasonable ground for suspecting, that copyright subsisted in the work.

from liability to pay damages, etc.

9. (1) Where the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction or interdict to restrain the construction of such building or structure or to order its demolition.

Restriction on remedies in the case of architecture.

(2) Such of the other provisions of this Act as provide that an infringing copy of a work shall be deemed to be the property of the owner of the copyright, or as impose summary penalties, shall not apply in any case to which this section applies.

10. An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement.

Limitation of actions.

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#### *Importation of Copies.*

14. (1) Copies made out of the United Kingdom of any work in which copyright subsists which if made in the United Kingdom would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Commissioners of Customs and Excise that he is desirous that such copies should not be imported into the United Kingdom, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be included in the table of prohibitions and restrictions contained in section 42 of the Customs Consolidation Act, 1876, and that section shall apply accordingly.

Importation of copies.

(2) Before detaining any such copies or taking any further proceedings with a view to the forfeiture thereof under the law relating to the Customs, the Commissioners of Customs and Excise may require the regulations under this section, whether as to information, conditions, or other matters, to be complied with, and may satisfy themselves in accordance with those regulations that the copies are such as are prohibited by this section to be imported.

(3) The Commissioners of Customs and Excise may make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) The regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant reimbursing the Commissioners of Customs and Excise all expenses and damages incurred in respect of any detention made on his information and of any proceedings consequent on such detention; and may provide for notices under any enactment repealed by this Act being treated as notices given under this section:

(6) The foregoing provisions of this section shall have effect as if they were part of the Customs Consolidation Act, 1876: Provided that, notwithstanding anything in that Act, the Isle of Man shall not be treated as part of the United Kingdom for the purposes of this section.

39 & 40  
Vict., c. 36.

(7) This section shall, with the necessary modifications, apply to the importation into a British possession to which this Act extends of copies of works made out of that possession.

*Delivery of Books to Government.*

Delivery of  
copies to  
Government  
and other  
persons.

15. (1) The publisher of every book published in the [Union of Burma]<sup>1</sup> shall, within one month after the publication, deliver, at his own expense, a copy of the book to the [Government]<sup>1</sup>, who shall give a written receipt for it.

(2) He shall also, if written demand is made before the expiration of twelve months after publication, deliver within one month after receipt of that written demand or, if the demand was made before publication, within one month after publication, [to some person named in the demand one or more copies of the book but so as not to exceed five in number in any case].<sup>1</sup> In the case of an encyclopaedia, newspaper, review, magazine, or work published in a series of numbers or parts, the written demand may include all numbers or parts of the work which may be subsequently published.

(3) The copy delivered to the [Government]<sup>1</sup> shall be a copy of the whole book with all maps and illustrations belonging thereto finished and coloured in the same manner as the best copies of the book are published, and shall be bound, sewed, or stitched together, and on the best paper on which the book is printed.

(4) The copy delivered [in pursuance of sub-section (2)]<sup>1</sup> shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

<sup>2</sup> (5) \* \* \* \*

(6) If a publisher fails to comply with this section, he shall be liable on summary conviction to a fine not exceeding five pounds and the value of the book, and the fine shall be paid to the trustees or authority to whom the book ought to have been delivered.

(7) For the purposes of this section, the expression "book" includes every part or division of a book, pamphlet, sheet of letter-press, sheet of music, map, plan, chart or table separately published, but shall not include any second or subsequent edition of a book unless such edition contains additions of alterations either in the letter-press or in the maps, prints, or other engravings belonging thereto.

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

<sup>2</sup> Omitted by the same Order.

*Special Provisions as to certain Works.*

16. (1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter, and in the provisions of this Act with respect to the grant of compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

Works of  
joint  
authors.

(2) Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if the other author or authors had been the sole author or authors thereof :

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.

(3) For the purposes of this Act, " a work of joint authorship " means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.

(4) Where a married woman and her husband are joint authors of a work the interest of such married woman therein shall be her separate property.

17. (1) In the case of a literary, dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author, or in the case of a work of joint authorship at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public nor, in the case of a lecture, been delivered in public, before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the proviso to section 3 of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

Posthumous  
works.

(2) The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author and the manuscript is of a work which has not been published nor performed in public nor delivered in public, shall be *prima facie* proof of the copyright being with the owner of the manuscript.

18. Without prejudice to any rights or privileges of the Government where any work has, whether before or after the commencement of this Act, been prepared by or published by or under the direction or control of [\* - \*]<sup>1</sup> any Government department, the copyright in the work shall, subject to any

Provisions  
as to Go-  
vernment  
publications.

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

agreement with the author, belong to the [Government,]<sup>1</sup> and in such case shall continue for a period of fifty years from the date of the first publication of the work.

Provisions  
as to mecha-  
nical instru-  
ments.

19. (1) Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical works, but the term of copyright shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the [Union of Burma if it has established a place of business within the Union.]<sup>1</sup>

(2) It shall not be deemed to be an infringement of copyright in any musical work for any person to make, [within the Union of Burma],<sup>1</sup> records, perforated rolls or other contrivances by means of which the work may be mechanically performed, if such person proves—

- (a) that such contrivances have previously been made by, or with the consent or acquiescence of, the owner of the copyright in the work ; and
- (b) that he has given the prescribed notice of his intention to make the contrivances, and has paid in the prescribed manner to, or for the benefit of, the owner of the copyright in the work royalties in respect of all such contrivances sold by him, calculated at the rate hereinafter mentioned :

Provided that—

- (i) nothing in this provision shall authorize any alterations in, or omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question ; and
  - (ii) for the purposes of this provision, a musical work shall be deemed to include any words so closely associated therewith as to form part of the same work, but shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced.
- (3) The rate at which such royalties as aforesaid are to be calculated shall—
- (a) in the case of contrivances sold within two years after the commencement of this Act by the person making the same, be two and one-half per cent., and

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

- (b) in the case of contrivances sold as aforesaid after the expiration of that period, be five per cent.,

on the ordinary retail selling price of the contrivance calculated in the prescribed manner, so however that the royalty payable in respect of a contrivance shall in no case be less than a half-penny for each separate musical work in which copyright subsists reproduced thereon, and, where the royalty calculated as aforesaid includes a fraction of a farthing, such fraction shall be reckoned as a farthing :

Provided that if, at any time after the expiration of seven years from the commencement of this Act, it appears to the Board of Trade that such rate as aforesaid is no longer equitable, the Board of Trade may, after holding a public inquiry, make an order either decreasing or increasing that rate to such extent as under the circumstances may seem just, but any order so made shall be provisional only and shall not have any effect unless and until confirmed by Parliament ; but where an order revising the rate has been so made and confirmed, no further revision shall be made before the expiration of fourteen years from the date of the last revision.

(4) If any such contrivance is made reproducing two or more different works in which copyright subsists and the owners of the copyright therein are different persons, the sums payable by way of royalties under this section shall be apportioned amongst the several owners of the copyright in such proportions as, failing agreement, may be determined by arbitration.

(5) When any such contrivances by means of which a musical work may be mechanically performed have been made, then, for the purposes of this section, the owner of the copyright in the work shall, in relation to any person who makes the prescribed inquiries, be deemed to have given his consent to the making of such contrivances if he fails to reply to such inquiries within the prescribed time.

(6) For the purposes of this section, the Board of Trade may make regulations prescribing anything which under this section is to be prescribed, and prescribing the mode in which notices are to be given and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, and any such regulations may, if the Board think fit, include regulations requiring payment in advance or otherwise securing the payment of royalties.

(7) In the case of musical works published before the commencement of this Act, the foregoing provisions shall have effect subject to the following modifications and additions :—

- (a) The conditions as to the previous making by, or with the consent or acquiescence of the owner of the copyright in the work, and the restrictions as to alterations in or omissions from the work shall not apply :
- (b) The rate of two and one-half per cent. shall be substituted for the rate of five per cent. as the rate at which royalties are to be calculated, but no royalties shall be payable in respect of

contrivances sold before the 1st day of July, 1913, if contrivances reproducing the same work had been lawfully made, or placed on sale, [within the Union of Burma]<sup>1</sup> before the 1st day of July, 1910 :

- (c) Notwithstanding any assignment made before the passing of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or authorizing the making of, contrivances by means of which the work may be mechanically performed shall belong to the author or his legal personal representatives and not to the assignees, and the royalties aforesaid shall be payable to, and for the benefit of, the author of the work or his legal personal representatives :
- (d) The saving contained in this Act of the rights and interests arising from, or in connection with, action taken before the commencement of this Act shall not be construed as authorizing any person who has made contrivances by means of which the work may be mechanically performed to sell any such contrivances, whether made before or after the passing of this Act, except on the terms and subject to the conditions laid down in this section :

<sup>2</sup> (e) \* \* \* \*

(8) Notwithstanding anything in this Act, where a record, perforated roll, or other contrivance by means of which sounds may be mechanically reproduced has been made before the commencement of this Act, copyright shall, as from the commencement of this Act, subsist therein in like manner and for the like term as if this Act had been in force at the date of the making of the original plate from which the contrivance was directly or indirectly derived :

Provided that—

- (i) the person who, at the commencement of this Act, is the owner of such original plate shall be the first owner of such copyright ; and
- (ii) nothing in this provision shall be construed as conferring copyright in any such contrivance if the making thereof would have infringed copyright in some other such contrivance, if this provision had been in force at the time of the making of the first-mentioned contrivance.

Provision as  
to political  
speeches.

20. Notwithstanding anything in this Act, it shall not be an infringement of copyright in an address of a political nature delivered at a public meeting to publish a report thereof in a newspaper.

Provisions  
as to photo-  
graphs.

21. The term for which copyright shall subsist in photographs shall be fifty years from making of the original negative from which the photograph as directly or indirectly derived, and the person who was owner of such negative at the time when such negative was made shall be deemed to be the author of

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

<sup>2</sup> Omitted *ibid.*

the work, and, where such owner is a body corporate the body corporate shall be deemed for the purposes of this Act to reside within [the Union of Burma if it has established a place of business within the Union]<sup>1</sup>.

22. (1) This Act shall not apply to designs capable of being registered under the Patents and Designs Act, 1907, except designs which, though capable of being so registered, are not used or intended to be used as models of patterns to be multiplied by any industrial process. Provisions as to designs.

(2) General rules under section 86 of the Patents and Designs Act, 1907, may be made for determining the conditions under which a design shall be deemed to be used for such purposes as aforesaid.

23. If it appears to the President that a foreign country does not give, or has not undertaken to give, adequate protection to the works of Burman authors it shall be lawful for the President, by notification, to direct that such of the provisions of this Act as confer copyright on works first published within the Union shall not apply to works published after such date as may be specified in the notification, the authors whereof are subjects or citizens of such foreign country and thereupon those provisions shall not apply to such works. Works of foreign authors first published in the Union of Burma.

24. (1) Where any person is immediately before the commencement of this Act entitled to any such right in any work as is specified in the first column of the First Schedule to this Act, or to any interest in such a right, he shall, as from that date, be entitled to the substituted right set forth in the second column of that schedule, or to the same interest in such a substituted right, and to no other right or interest, and such substituted right shall subsist for the term for which it would have subsisted if this Act had been in force at the date when the work was made and the work had been one entitled to copyright thereunder : Existing works.

Provided that—

(a) if the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has, before that date, assigned the right or granted any interest therein for the whole term of the right, then at the date when, but for the passing of this Act, the right would have expired the substituted right conferred by this section shall, in the absence of express agreement, pass to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine : but the person who immediately before the date at which the right would have so expired was the owner of the right or interest shall be entitled at his option either—

(i) on giving such notice as hereinafter mentioned, to an assignment of the right or the grant of a similar interest therein for the

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

<sup>1</sup> 7 Edw. 7, c. 29.

7 Edw. 7, c. 29.

remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration ; or

- (ii) without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore, subject to the payment, if demanded by the author within three years after the date at which the right would have so expired, of such royalties to the author as, failing agreement, may be determined by arbitration, or, where the work is incorporated in a collective work and the owner of the right or interest is the proprietor of that collective work, without any such payment ;

The notice above referred to must be given not more than one year nor less than six months before the date at which the right would have so expired, and must be sent by registered post to the author, or, if he cannot with reasonable diligence be found, advertised in the London Gazette and in two London newspapers ;

- (b) where any person has, before the 26th day of July, 1910, taken any action whereby he has incurred any expenditure or liability in connection with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the passing of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connection with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

(2) For the purposes of this section, the expression " author " includes the legal personal representatives of a deceased author.

(3) Subject to the provisions of section 19, sub-sections (7) and (8), and of section 33 of this Act, copyright shall not subsist in any work made before the commencement of this Act, otherwise than under, and in accordance with, the provisions of this section.

125-30. \* \* \* \*

### PART III.

#### SUPPLEMENTAL PROVISIONS.

Abrogation  
of common  
law rights.

31. No person shall be entitled to copyright or any similar right in any literary, dramatic, musical or artistic work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act, or of any other statutory enactment for the time being in force, but nothing in this

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



section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

132-34. \* \* \* \*

35. (1) In this Act, unless the context otherwise requires,—

- “literary work” includes maps, charts, plans, tables, and compilations ;
- “dramatic work” includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character ;
- “artistic work” includes works of painting, drawing, sculpture and artistic craftsmanship, and architectural works of art and engravings and photographs ;
- “work of sculpture” includes casts and models ;
- “architectural work of art” means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, provided that the protection afforded by this Act shall be confined to the artistic character and design and shall not extend to processes or methods of construction ;
- “engravings” include etchings, lithographs, wood-cuts, prints, and other similar works, not being photographs ;
- “photograph” includes photo-lithograph and any work produced by any process analogous to photography ;
- “cinematograph” includes any work produced by any process analogous to cinematography ;
- “collective work” means—
  - (a) an encyclopædia, dictionary, year book, or similar work ;
  - (b) a newspaper, review, magazine, or similar periodical ; and
  - (c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated ;
- “infringing,” when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation made or imported in contravention of the provisions of this Act ;
- “performance” means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument ;
- “delivery,” in relation to a lecture, includes delivery by means of any mechanical instrument ;
- “plate” includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing

Interpre-  
tation

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

or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made ;

“ lecture ” includes address, speech, and sermon ;

1 \* \* \* \*

(2) For the purposes of this Act (other than those relating to infringements of copyright), a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public, or delivered in public, without the consent or acquiescence of the author, his executors, administrators or assigns.

(3) For the purposes of this Act, a work shall be deemed to be first published within the [Union of Burma],<sup>2</sup> notwithstanding that it has been published simultaneously in some other place, unless the publication in [the said Union]<sup>2</sup> is colourable only and is not intended to satisfy the reasonable requirements of the public, and a work shall be deemed to be published simultaneously in two places if the time between the publication in one such place and the publication in the other place does not exceed fourteen days, or such longer period as may, for the time being, be fixed by [notification by the President of the Union].<sup>2</sup>

(4) Where, in the case of an unpublished work, the making of a work has extended over a considerable period, the conditions of this Act conferring copyright shall be deemed to have been complied with if the author was, during any substantial part of that period, a British subject or a resident within the [Union of Burma].<sup>2</sup>

(5) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in the [Union of Burma]<sup>2</sup> if he is domiciled [within the Union].<sup>2</sup>

<sup>1</sup> 36-37. \* \* \* \*

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

<sup>2</sup> Substituted by the same Order.

## SCHEDULES.

## FIRST SCHEDULE.

(Section 24.)

## EXISTING RIGHTS.

| Existing Right.                                                        | Substituted Right.                                                                                                       |
|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| (a) <i>In the case of Works other than Dramatic and Musical Works.</i> |                                                                                                                          |
| Copyright ...                                                          | Copyright as defined by this Act.*                                                                                       |
| (b) <i>In the case of Musical and Dramatic Works.</i>                  |                                                                                                                          |
| Both copyright and performing right ...                                | Copyright as defined by this Act.*                                                                                       |
| Copyright, but not performing right ...                                | Copyright as defined by this Act, except the sole right to perform the work or any substantial part thereof in public.   |
| Performing right, but not copyright ...                                | The sole right to perform the work in public but none of the other rights comprised in copyright as defined by this Act. |

\* In the case of an essay, article, or portion forming part of and first published in a review, magazine or other periodical or work of a like nature, the right shall be subject to any right of publishing the essay, article or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have become entitled under section eighteen of the Copyright Act, 1842.

For the purposes of this Schedule the following expressions, where used in the first column thereof, have the following meanings :—

“Copyright,” in the case of a work which according to the law in force immediately before the commencement of this Act has not been published before that date and statutory copyright wherein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work ;

“Performing right,” in the case of a work which has not been performed in public before the commencement of this Act, includes the right at common law (if any) to restrain the performance thereof in public.

## SECOND SCHEDULE.

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93. Reciprocal arrangements with His Britannic Majesty's possessions or with India or Pakistan or any State in India or Pakistan.

94-95. \* \* \* \* \*

*Schedule.***THE BURMA PATENTS AND DESIGNS ACT, 1945.\***

[BURMA ACT V, 1945.]

WHEREAS it is expedient to make legislative provision for the protection of inventions and designs ;

\* \* \* \* \*

It is hereby enacted as follows :—

**PRELIMINARY.**

1. (1) This Act may be called the Burma Patents and Designs Act, 1945. Short title and commencement.

(2) It shall come into force on such date as the President of the Union may, by notification, direct.

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

- (1) "article" means (as respects designs) any article of manufacture and any substance, artificial or natural, or partly artificial and partly natural ;
- (2) "Controller" means the Controller of Patents and Designs appointed under this Act ;
- (3) "copyright" means the exclusive right to apply a design to any article in any class in which the design is registered ;
- (4) "design" means only the features of shape, configuration, pattern or ornament applied to any article by any industrial

\* Published in Commerce and Supplies Department Notification No. 8, dated the 3rd August, 1945, and republished in *Burma Gazette*, 1946, Part I, page 136. This Act has not yet been brought into force.

process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction, or anything which is in substance a mere mechanical device, and does not include any trade mark, as defined in section 478, or property mark, as defined in section 479, of the Penal Code;

- (5) "District Court" includes the High Court in the exercise of its ordinary original civil jurisdiction;
- (6) "High Court" means the [High Court]<sup>1</sup>;
- (7) "invention" means any manner of new manufacture and includes an improvement and an alleged invention;
- (8) "legal representative" means a person who in law represents the estate of a deceased person;
- (9) "manufacture" includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture;
- (10) "patent" means a patent granted under the provisions of this Act;
- (11) "patentee" means the person for the time being entered on the register of patents kept under this Act as the grantee or proprietor of the patent;
- (12) "prescribed" means prescribed by rules under this Act;
- (13) "proprietor of a new or original design"—
  - (a) where the author of the design, for good consideration, executes the work for some other person, means the person for whom the design is so executed, and
  - (b) where any person acquires the design or the right to apply the design to any article, either exclusively of any other person or otherwise, means, in the respect and to the extent in and to which the design or right is so acquired, the person by whom the design or right is so acquired, and
  - (c) in any other case, means the author of the design; and where the property in, or the right to apply, the design has devolved from the original proprietor upon any other person, includes that other person.

## PART I.

### PATENTS.

#### *Application for and Grant of Patent.*

Application.

3. (1) An application for a patent may be made by any person whether he is a [citizen of the Union]<sup>1</sup> or not, and whether alone or jointly with any other person.

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



(2) The application shall be made in the prescribed form, and shall be left at the Patent Office in the prescribed manner.

(3) The application shall contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application one at least of the applicants, claims to be the true and first inventor or the legal representative or assign of such inventor and for which he desires to obtain a patent, and shall be accompanied by either a provisional or complete specification and by the prescribed fee.

(4) Where the true and first inventor is not a party to the application, the application shall contain a statement of his name, and such particulars for his identification as may be prescribed, and the applicant must show that he is the legal representative or assign of such inventor.

4. (1) A provisional specification must describe the nature of the invention. Specifica-  
tions.

(2) A complete specification must particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed.

(3) A specification, whether provisional or complete, must commence with the title, and in the case of a complete specification must end with a distinct statement, of the inventions claimed.

(4) Where the Controller deems it desirable, he may require that suitable drawings shall be supplied at any time before the acceptance of the application, and such drawings shall be deemed to form part of the complete specification.

(5) If in any particular case the Controller considers that an application should be further supplemented by a model or sample of anything illustrating the invention or alleged to constitute an invention, such model or sample as he may require shall be furnished before the acceptance of the application, but such model or sample shall not be deemed to form part of the specification.

(6) The Controller may, where the application was accompanied by a specification purporting to be a complete specification, if the applicant so requests, treat the specification as a provisional specification and proceed with the application accordingly.

5. (1) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within nine months from the date of the application : Time for  
leaving  
complete  
specification.

Provided that the said nine months shall be extended to such period, not exceeding ten months from the date of the application, as may be specified in a request made by the applicant to the Controller, if the request is made and the prescribed fee is paid within the period so specified.

(2) If the complete specification is not left within the period allowable under sub-section (1), the application shall be deemed to be abandoned at the expiration of ten months from the date thereof.

Provisional  
protection.

6. An invention may, during the period between the date of an application for a patent therefor and the date of sealing a patent on that application, be used and published without prejudice to that patent, and such protection from the consequences of use and publication is in this Act, referred to as provisional protection.

*Explanation.*—In this section, the expression “date of an application for a patent” means, as respects an application which is post-dated or ante-dated under this Act, the date to which the application is so post-dated or ante-dated and means, as respects any other application, the date on which it is actually made.

Proceedings  
upon  
application.

7. (1) The Controller shall refer to an Examiner every application in respect of which a complete specification has been filed and if satisfied on the report of the Examiner that,

- (a) the nature of the invention or the manner in which it is to be performed is not particularly described and ascertained in the complete specification, or
- (b) the application, specification and drawings have not been prepared in the prescribed manner, or
- (c) the title of the specification does not sufficiently indicate the subject-matter of the invention, or
- (d) the statement of claim does not sufficiently define the invention, or
- (e) where a complete specification has been left after a provisional specification, the invention particularly described in the complete specification is not substantially the same as that which is described in the provisional specification, or
- (f) the invention as described and claimed is *prima facie* not a manner of new manufacture or improvement, or
- (g) the specification relates to more than one invention, or
- (h) in the case of an application claiming priority under section 93, the specification describes and claims an invention substantially larger than or substantially different from the invention disclosed in the specification filed with the application made outside the Union of Burma by virtue of which priority is claimed, or
- (i) in the case of an application for a patent of addition under section 19, the invention described and claimed in the specification is not an improvement or modification of that described and claimed in the original specification,

he may refuse to accept the application, or require that the application, specification or drawings be amended before he proceeds with the application ; and in the latter case the application shall, if the Controller so directs, bear date as from the time when the requirement is complied with :

Provided that, when a specification comprises more than one invention, the application shall, if the Controller or the applicant so requires, be restricted to one invention and the other inventions may be made the subject-matter of

fresh applications ; and any such fresh application shall be proceeded with as a substantive application, but the Controller may, in his discretion, direct that any such fresh application made before the acceptance of the original application shall bear the date of the original application or such later date as he may fix, and the fresh application shall be deemed, for the purposes of this Act, to have been made on the date which it bears in accordance with such direction :

Provided further that where a complete specification is left after a provisional specification, the Controller may, if the applicant so requests, cancel the provisional specification and direct that the application shall be deemed to have been made on the date on which the complete specification was left, and proceed with the application accordingly.

(2) If the Controller considers, at any time before the acceptance of an application, that the invention claimed therein has been wholly or in part claimed in a specification published on or after the date which the patent applied for would bear if granted, appertaining to an application for a patent which if granted will be of prior date to the patent applied for, he may require that the applicant's specification may be amended by the insertion of a reference to such other specification, by way of notice to the public.

(3) Where the Controller refuses to accept an application or requires an amendment or the insertion of a reference the applicant may appeal from his decision to the President of the Union.

(4) The investigations required by this section shall not be held in any way to guarantee the validity of any patent, and no liability shall be incurred by the President of the Union or any officer by reason of, or in connection with, any such investigation, or any proceeding consequent thereon.

(5) Unless an application is accepted within eighteen months from the date of the application, the application shall (except where an appeal has been lodged) be deemed to have been refused: Provided that where, before or within three months after the expiration of the said period of eighteen months, a request is made to the Controller for an extension of time the application shall, on payment of the prescribed fee, be continued for any period so requested not exceeding in all three months from the expiration of the said period of eighteen months.

8. On the acceptance of an application the Controller shall give notice thereof to the applicant and shall advertise the acceptance in the manner prescribed ; and the application and specifications with the drawings (if any) shall be open to public inspection.

Advertise-  
ment on  
acceptance of  
application.

9. After the acceptance of an application and until the date of sealing a patent in respect thereof, or the expiration of the time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the application :

Effect of  
acceptance  
of applica-  
tion.

Provided that the applicant shall not be entitled to institute any proceedings for infringement until the patent has been sealed.

Opposition  
to grant of  
Patent.

10. (1) Any person may, on payment of the prescribed fee, at any time within ninety days from the date of the advertisement of the acceptance of an application, give notice at the Patent Office of opposition to the grant of the patent on any of the following grounds, namely—

- (a) that the applicant obtained the invention from him, or from a person of whom he is the legal representative or assign ; or
- (b) that the invention has been claimed in any specification filed in the Union of Burma which is or will be of prior date to the patent, the grant of which is opposed ; or
- (c) that the nature of the invention or the manner in which it is to be performed is not sufficiently or fairly described and ascertained in the specifications ; or
- (d) that the invention has been publicly used in any part of the Union of Burma or has been made publicly known in any part of the Union of Burma ; or
- (e) that the complete specification describes or claims an invention other than that described in the provisional specification, and that such other invention either forms the subject of an application made by the opponent for a patent which if granted would bear a date in the interval between the date of the application and the leaving of the complete specification, or has been made available to the public by publication in any document published in the Union of Burma in that interval ; but on no other ground.

(2) Where such notice is given, the Controller shall give notice of the opposition to the applicant, and shall, on the expiration of the period of ninety days mentioned in sub-section (1), after hearing the applicant and the opponent, if desirous of being heard, decide on the case.

(3) The decision of the Controller shall be subject to appeal to the President of the Union.

Grant and  
sealing of  
Patent.

11. (1) If there is no opposition, or, in the case of opposition, if the determination is in favour of the grant of a patent, a patent shall, on payment of the prescribed fee, be granted, subject to such conditions (if any) as the President of the Union thinks expedient, to the applicant, or in the case of a joint application to the applicants jointly, and the Controller shall cause the patent to be sealed with the seal of the Patent Office.

(2) Notwithstanding anything contained in sub-section (1), where—

- (a) an applicant has agreed in writing that on the grant to him of a patent he will assign it to another party or to a joint applicant and refuses to proceed with the application, or
- (b) disputes arise between joint applicants as to proceeding with an application,

the Controller, if he is satisfied of the existence of such agreement or that any joint applicant or applicants ought to be allowed to proceed alone, may

direct that such other party or joint applicant or applicants may proceed with the application accordingly and may grant a patent to him or them, as the case may be :

Provided that—

- (i) the Controller shall not give any such direction until every party interested has had an opportunity of being heard by him, and
- (ii) an appeal from any such direction shall lie to the President of the Union.

(3) A patent shall be sealed as soon as may be, and not after the expiration of twenty-four months from the date of application :

Provided that—

- (a) where the Controller has allowed extension of the time within which an application may be accepted, a further extension of four months after the said twenty-four months shall be allowed for the sealing of the patent ;
- (b) where the sealing is delayed by an appeal to the President of the Union or by opposition to the grant of the patent or by any proceedings taken for obtaining a direction of the Controller under the provisions of sub-section (2), the patent may be sealed at such time as the Controller may direct ;
- (c) where the patent is granted to the legal representative of an applicant who has died before the expiration of the time which would otherwise be allowed for sealing the patent, the patent may be sealed at any time within twelve months after the date of his death or at such later time as the Controller may think fit ;
- (d) where for any reason a patent cannot be sealed within the period allowed by any of the foregoing provisions of this section, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions, be extended to the extent applied for but not exceeding three months.

12. Except as otherwise expressly provided by this Act, a patent shall be dated and sealed as of the date of the application : Provided that no proceedings shall be taken in respect of an infringement committed before the advertisement of the acceptance of the application.

Date of  
Patent.

13. (1) A patent sealed with the seal of the Patent Office, shall, subject to the other provisions of this Act, confer on the patentee the exclusive privilege of making, selling and using the invention throughout the Union of Burma and of authorizing others so to do.

Effect, extent  
and form of  
Patent.

(2) Every patent shall be in the prescribed form with such modifications, if any, as the circumstances of the case may require, and shall be granted for one invention only, but the specification may contain more than one claim, and it shall not be competent for any person in a suit or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention,

Fraudulent  
applications  
for Patents.

**14. (1)** A patent granted to the true and first inventor or his legal representative or assign shall not be invalidated by an application in fraud of him or by protection obtained thereon or by any use or publication of the invention subsequent to that fraudulent application during the period of protection.

(2) Where a patent has been revoked by the High Court on the ground that it has been obtained in fraud of the true and first inventor, or where the grant of a patent has been refused by the Controller under section 10 on the ground stated in clause (a) of sub-section (1) of that section, the Controller may, on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Act, grant to him a patent for the whole or any part of the invention, and the patent so granted shall bear the same date as the patent so revoked or, in the case of a patent the grant of which has been refused, the same date as would have been borne by the patent if it had been granted : Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted.

Single Patent  
for cognate  
inventions.

**15. (1)** Where the same applicant has put in two or more provisional specifications for inventions which are cognate or modifications one of the other, and has obtained thereby concurrent provisional protection for the same, and the Controller is of opinion that the whole of such inventions are such as to constitute a single invention and may properly be included in one patent, he may allow one complete specification in respect of the whole of such applications and grant a single patent thereon.

(2) Such patent shall bear the date of the earliest of such applications, but in considering the validity of the same, and in determining other questions under this Act, the Court or the Controller, as the case may be, shall have regard to the respective dates of the provisional specifications relating to the several matters claimed in the complete specification.

#### *Term of Patent.*

Term of  
Patent.

**16. (1)** The term limited in every patent for the duration thereof shall save as otherwise expressly provided by this Act, be sixteen years from it, date.

(2) A patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to pay the prescribed fees within the prescribed times :

Provided that where the patentee, before, or within three months after, the expiration of the time for payment, applies to the Controller for an extension of time, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived, as the case may be, for any period so applied for not exceeding in all three months from the expiration of the time for payment.

(3) If any proceeding is taken in respect of an infringement of the patent committed after a failure to pay any fee within the prescribed time, an

before any enlargement thereof, the Court before which the proceeding is taken may, if it thinks fit, refuse to award any damages in respect of such infringement.

India II,  
1911.

Burma VI,  
1939,

India II,  
1911.

17. Notwithstanding anything to the contrary in this Act, any right to or interest in any patent acquired or continued in the Union of Burma under the Indian Patents and Designs Act, 1911, read with the India and Burma (Transitory Provisions) Order, 1937, and the Burma Patents and Designs Act, 1939, as subsequently amended or continued, shall continue to be valid in the Union of Burma throughout the whole period of the validity of the patent in India or Pakistan, including such extension (if any) as may be granted under the provisions of section 15 of the Indian Patents and Designs Act, 1911.

Protection of  
Patents  
registered  
before the  
commence-  
ment of this  
Act.

18. (1) A patentee may present a petition to the President of the Union praying that his patent may be extended for a further term; such petition shall be left at the Patent Office at least six months before the time limited for the expiration of the patent and shall be accompanied by the prescribed fee and must be advertised by the petitioner within the prescribed time and in the prescribed manner.

Extension of  
term of  
Patent.

(2) Any person may, within such time as may be prescribed and on payment of the prescribed fee, give notice to the Controller of objection to the extension.

(3) Where a petition is presented under sub-section (1) the President of the Union may, as he thinks fit, dispose of the petition himself or refer it to the High Court for decision.

(4) If the petition be referred to the High Court, on the hearing of such petition under this section, the patentee and any person who has given notice under sub-section (2) of objection shall be made parties to the proceeding, and the Controller shall be entitled to appear and be heard.

(5) The President of the Union or the High Court, as the case may be, shall in considering the petition have regard to the nature and merits of the invention in relation to the public, to the profits made on the patent, and to all the circumstances of the case.

(6) If it appears to the President of the Union or to the High Court, as the case may be, that the patent has not been sufficiently remunerative, the President of the Union or the High Court, as the case may be, may by order extend the term of the patent for a further term not exceeding five or, in exceptional cases, ten years, or may order the grant of a new patent for such term not exceeding ten years as may be specified in the order and subject to any restriction, conditions and provisions which the President of the Union or the High Court, as the case may be, may think fit: Provided that any patent so extended or granted shall, notwithstanding anything therein or in this Act, cease if the inventor fails to pay before the expiration of each year the prescribed fee.

19. (1) Where a patent for an invention has been applied for or granted and the applicant or the patentee, as the case may be, applies for a further

Patents of  
addition.

patent in respect of any improvement in or modification of the invention, he may in his application for the further patent request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired, and, if he does so, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid.

(2) Save as otherwise expressly provided by this Act, a patent of addition shall remain in force as long as the patent for the original invention remains in force, but no longer, and in respect of a patent of addition no fees shall be payable for renewal :

Provided that, if the patent for the original invention is revoked, then the patent of addition shall, if the authority by which it is revoked so orders, become an independent patent, and the fees payable and the dates when they become payable shall be determined by its date, but its duration shall not exceed the unexpired term of the patent for the original invention.

(3) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent.

Restoration  
of lapsed  
Patent.

20. (1) Where any patent has ceased owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may apply to the Controller in the prescribed manner for an order for the restoration of the patent.

(2) Every such application shall contain a statement of the circumstances which have led to the omission of the payment of the prescribed fee.

(3) If it appears from such statement that the omission was unintentional or unavoidable and that no undue delay has occurred in the making of the application, the Controller shall advertise the application in the prescribed manner, and at any time within sixty days of the date of the advertisement any person may give notice of opposition at the Patent Office.

(4) Where such notice is given the Controller shall notify the applicant thereof.

(5) After the expiration of the said period of sixty days the Controller shall hear the case and shall issue an order either restoring the patent subject to any conditions and restrictions deemed to be advisable or dismissing the application :

Provided that in every order under this section restoring a patent such provisions as may be prescribed shall be inserted for the protection of persons who may have availed themselves of the subject-matter of the patent after the patent had ceased.

(6) An appeal shall lie from the decision of the Controller under this section to the President of the Union.



21. (1) An applicant or a patentee may at any time, by request in writing left at the Patent Office and accompanied by the prescribed fee, seek leave to amend his application or specification, including drawings forming part thereof, by way of disclaimer, correction or explanation, stating the nature of, and the reasons for, the proposed amendment.

Amendment  
of applica-  
tion or speci-  
fication by  
Controller.

(2) If the application for a patent has not been accepted, the Controller shall determine whether and subject to what conditions (if any) the amendment shall be allowed.

(3) In any other case the request and the nature of the proposed amendment shall be advertised in the prescribed manner, and at any time within ninety days from the date of the advertisement any person may give notice at the Patent Office of opposition to the amendment.

(4) Where such a notice is given the Controller shall give notice of the opposition to the person making the request, and shall hear and decide the case.

(5) Where no notice of opposition is given, or the person so giving notice of opposition does not appear, the Controller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6) The decision of the Controller in either case shall be subject to an appeal to the President of the Union.

(7) No amendment shall be allowed that would make the application or specification, as amended, claim an invention substantially larger than or substantially different from, the invention claimed by the application or specification as it stood before amendment.

(8) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall be advertised in the prescribed manner, and shall in all Courts and for all purposes be deemed to form part of the application or specification.

(9) This section shall not apply when and so long as any suit for infringement or proceeding before a Court for the revocation of the patent is pending.

22. In any suit for infringement of a patent or proceeding before a Court for the revocation of a patent the Court may by order allow the patentee to amend his specification by way of disclaimer, correction or explanation in such manner, and subject to such terms as to costs, advertisement or otherwise, as the Court may think fit :

Amendment  
of specifica-  
tion by the  
Court.

Provided that no amendment shall be so allowed that would make the specification, as amended, claim an invention substantially larger than or substantially different from, the invention claimed by the specification as it stood before the amendment; and where an application for such an order is made to the Court notice of the application shall be given to the Controller, and the Controller shall have the right to appear and be heard.

23. Where an amendment of specification by way of disclaimer, correction or explanation has been allowed under this Act, no damages shall be given in any suit in respect of the use of the invention before the date of the decision

Restriction  
on recovery  
of damages.

allowing the amendment unless the patentee establishes to the satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge.

#### *Register of Patents.*

Register of  
Patents.

24. (1) There shall be kept at the Patent Office a book called the Register of Patents wherein shall be entered the names and addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licences under patents, and of amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may be prescribed.

(2) The register of patents shall be *prima facie* evidence of any matter by this Act directed or authorized to be inserted therein.

(3) Copies of deeds, licences and any other documents affecting the proprietorship in any patent or in any licence thereunder shall be supplied to the Controller in the prescribed manner for filing in the Patent Office.

#### *Government.*

Patent to  
bind the  
Government.

25. (1) Subject to the other provisions of this section, a patent shall have to all intents the like effect as against the Government as it has against a subject.

(2) The officers or authorities administering any department of the service of the Government may, by themselves or by such of their agents, contractors or others as may be authorized in writing by them, at any time after the application, and after giving notice to the applicant or patentee, make, use or exercise the invention for the service of the Government on such terms as may, either before or after the use thereof, be agreed on, with the approval of the President of the Union between such officers or authorities and the applicant or patentee, or, in default of agreement, as may be settled in the manner hereinafter provided. And the terms of any agreement or licence concluded between the applicant or patentee and any person other than such officers or authorities shall be inoperative so far as concerns the making, use or exercise of the invention for the service of the Government.

(3) Where an invention which is the subject of any patent has, before the date of the patent, been duly recorded in a document by, or tried by or on behalf of, the officers or authorities administering any department of the service of the Government (such invention not having been communicated directly or indirectly by the applicant or patentee), such officers or authorities, or such of their agents, contractors or other as may be authorized in writing by them may, after giving notice to the applicant or patentee, make, use or exercise the invention so recorded or tried for the service of the Government, free of any royalty or other payment to the applicant or patentee, notwithstanding the existence of the patent : Provided that if, in the opinion of such officers or authorities, the disclosure to the applicant or patentee, as the case may be, of the document recording the invention, or the evidence of the trial thereof would be detrimental to the public interest, such disclosure need not be made.

(4) In the event of any dispute as to the making, use or exercise of an invention under this section, or the terms therefor, or as to the existence or scope of any record or trial as aforesaid, the matter shall be referred to the High Court for decision, which shall have power to refer the whole matter or any question or issue of fact arising thereon to be tried before a special or official referee or an arbitrator upon such terms as it may direct. The Court, referee or arbitrator, as the case may be, may, with the consent of the parties, take into consideration the validity of the patent for the purposes only of the reference and for the determination of the issues between the applicant or patentee and such officers or authorities. The Court, referee or arbitrator, in settling the terms as aforesaid, shall also be entitled to take into consideration any benefit or compensation which the applicant or patentee, or any other person interested in the patent, may have received directly or indirectly from the Government or from such officers or authorities in respect of such patent: Provided that, if the inventor or patentee is a servant of the Government and the subject-matter of the invention is certified by the President of the Union to be connected with work done in the course of such service, any such dispute shall be settled by the President of the Union after hearing the applicant or patentee and any other person having an interest in the invention or patent.

(5) The right to use an invention for the services of the Government under the provisions of this section shall include the power to sell any articles made in pursuance of such right which are no longer required for the services of the Government.

(6) Nothing in this section shall affect the right of the Government or of any person deriving title directly or indirectly from the Government to sell or use any articles forfeited under any law for the time being in force relating to customs or excise.

26. (1) The inventor of any improvement in instruments or munitions of war may (either for or without valuable consideration) assign to the [State]<sup>1</sup> all the benefit of the invention and of any patent obtained or to be obtained for the invention; and the President of the Union may be a party to the assignment.

Assignment  
of Patent to  
the State.

(2) The assignment shall effectually vest the benefit of the invention and patent in the [State]<sup>1</sup> and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual, notwithstanding any want of valuable consideration, and may be enforced accordingly by or on behalf of the President of the Union.

(3) Where any such assignment has been made, the President of the Union may, at any time before the publication of the specification, certify to the Controller that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

(4) If the President of the Union so certifies, the application and specifications, with the drawings (if any), and any amendment of the

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

specification and any copies of such documents and drawings, shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the Controller in a packet sealed by authority of the President of the Union.

(5) The packet shall, until the expiration of the term during which a patent for the invention may be in force, be kept sealed by the Controller, and shall not be opened save under the authority of an order of the President of the Union.

(6) The sealed packet shall be delivered at any time during the continuance of the patent to any person authorized by the President of the Union to receive it, and shall, if returned to the Controller, be again kept sealed by him.

(7) On the expiration of the term of the patent the sealed packet shall be delivered to the President of the Union.

(8) Where the President of the Union certifies as aforesaid after an application for a patent has been left at the Patent Office but before the publication of the specification the application and specifications, with the drawings (if any), shall be forthwith placed in a packet sealed by authority of the Controller, and the packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the President of the Union.

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which a certificate has been given by the President of the Union as aforesaid.

(10) No copy of any specification or other document or drawing by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but save as otherwise provided in this section, the provisions of this Act shall apply in respect of any such invention and patent as aforesaid.

(11) The President of the Union may at any time waive the benefit of this section with respect to any particular invention, and the specifications, documents and drawings shall be thenceforth kept and dealt with in the ordinary way.

(12) The communication of any invention for any improvement in instruments or munitions of war to the President of the Union, or to any person or persons authorized by the President of the Union to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant of validity of any patent for the same.

(13) Rules may be made by the President of the Union for the purpose of ensuring secrecy with respect to patents to which this section applies, and such rules may modify any of the provisions of this Act in their application to such patents as aforesaid so far as may appear necessary for the purpose aforesaid.

#### *Compulsory Licences and Revocation.*

Compulsory  
licences and  
revocation.

27. (1) Any person interested may present a petition to the President of the Union, which shall be left at the Patent Office together with the prescribed fee, alleging that the demand for a patented article in the Union of Burma is

not being met to an adequate extent and on reasonable terms, and praying for the grant of a compulsory licence or, in the alternative, for the revocation of the patent.

(2) The President of the Union shall consider the petition, and if the parties do not come to an arrangement between themselves the President of the Union may, as he think fit, either dispose of the petition himself or refer it to the High Court for decision.

(3) The provision of sub-section (4) of section 18, prescribing the procedure to be followed in the case of references to the High Court under that section, shall apply in the case of references made to the High Court under this section.

(4) If the President of the Union is of opinion, or, where a reference has been made under sub-section (2) to the High Court, that Court finds that the demand for the patented article in the Union of Burma is not being met to an adequate extent and on reasonable terms, the patentee may be ordered to grant licences on such terms as the President of the Union or the High Court, as the case may be, may think just, or, if the President of the Union or the High Court is of opinion that the demand will not be adequately met by the grant of licences, the patent may be revoked by order of the President of the Union or the High Court : Provided that an order of revocation shall not be made before the expiration of four years from the date of the patent or if the patentee gives satisfactory reasons for his default.

(5) For the purposes of this section the demand for a patented article shall not be deemed to have been met to an adequate extent and on reasonable terms—

- (a) if by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable terms the patented article, or any parts thereof which are necessary for its efficient working or to carry on the patented process to an adequate extent or to grant licences on reasonable terms, any existing trade or industry or the establishment of any new trade or industry in the Union of Burma is unfairly prejudiced, or
- (b) if any trade or industry in the Union of Burma is unfairly prejudiced by the conditions attached by the patentee to the purchase, hire or use of the patented article or to the using or working of the patented process.

28. (1) At any time not less than four years after the date of a patent granted under this Act, any person may apply to the President of the Union for revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside the Union of Burma.

Revocation of patents worked outside the Union of Burma.

(2) The President of the Union shall consider the application and if after inquiry he is satisfied—

- (a) that the allegations contained therein are correct, and
- (b) that the applicant is prepared, and is in a position to manufacture or carry on the patented article or process in the Union of Burma and

(c) that the patentee refuses to grant a licence on reasonable terms, then, subject to the provisions of this section and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in the Union of Burma or gives satisfactory reasons why the article or process is not so manufactured or carried on, the President of the Union may make an order —

(a) revoking the patent either forthwith, or after such reasonable interval as may be specified in the order, unless in the meantime it is shown to his satisfaction that the patented article or process is manufactured or carried on within the Union of Burma to an adequate extent, or

(b) ordering the patentee to grant a licence to the applicant, which may be a licence exclusive to him or otherwise as the President of the Union may direct.

(3) No order revoking a patent or ordering the grant of a licence shall be made under sub-section (2) which is at variance with any treaty, convention, arrangement or engagement with any British possession or foreign country.

(4) The President of the Union may, on the application of the patentee, extend the time limited in any order made under clause (a) of sub-section (2) for such period not exceeding two years as he may specify in a subsequent order or revoke any order made under clause (a) of sub-section (2) or any subsequent order if sufficient cause is, in his opinion, shown by the patentee.

Effect on  
Patents  
granted  
before the  
commence-  
ment of this  
Act.

29. The provisions of sections 27 and 28 shall have the same effect in the case of rights continued by the provisions of section 17 as in the case of patents granted under this Act.

Operation  
of order  
under sec-  
tion 27 or  
section 28.

30. An order of the High Court under section 27 or of the President of the Union under section 27 or section 28, directing the grant of any licence, shall, without prejudice to any other method of enforcement operate as if it were embodied in an instrument granting a licence and executed by the patentee and all other necessary parties.

Power of  
Controller  
to revoke  
surrendered  
Patent.

31. A patentee may at any time, by giving notice in the prescribed manner to the Controller, offer to surrender his patent, and the Controller may, if after giving notice of the offer and hearing all parties who desire to be heard he thinks fit, accept the offer, and thereupon make an order for the revocation of the patent.

Revocation  
of Patent  
on public  
grounds.

32. A patent shall be deemed to be revoked if the President of the Union declares, by notification, the patent or the mode in which it is exercised to be mischievous to the State or generally prejudicial to the public.

*Legal Proceedings.*

33. (1) Revocation of a patent in whole or in part may be obtained on petition to or on a counter-claim in a suit for infringement before the High Court on all or any of the following grounds, namely—

Petition for  
revocation  
of Patent.

- (a) that the invention has been the subject of a valid prior grant of a patent in the Union of Burma ;
- (b) that the true and first inventor or his legal representative or assign was not the applicant or one of the applicants for the patent ;
- (c) that the patent was obtained in fraud of the rights of the person applying for the revocation or of any person under or through whom he claims ;
- (d) that the invention was not, at the date of the patent, a manner of new manufacture or improvement ;
- (e) that the invention does not involve any inventive step, having regard to what was known or used prior to the date of the patent ;
- (f) that the invention is of no utility ;
- (g) that the complete specification does not sufficiently and fairly describe and ascertain the nature of the invention and the manner in which the invention is to be performed ;
- (h) that the complete specification does not sufficiently and clearly ascertain the scope of the invention claimed ;
- (i) that the patent was obtained on a false suggestion or representation ;
- (j) that the primary or intended use or exercise of the invention is contrary to law ;
- (k) that the patentee has contravened, or has not complied with, the conditions contained in the patent ;
- (l) that the complete specification does not disclose the best method of performance of the invention known to the applicant for the patent at the time when the specification was left at the Patent Office.
- (m) that prior to the date of the patent, the patentee or other person (not being authorities administering any department of the service of the Government or the agents or contractors of, or any other persons authorized in that behalf by the President of the Union), secretly worked the invention on a commercial scale (and not merely by way of reasonable trial or experiment) in the Union of Burma, and thereby made direct or indirect profits in excess of such amount as the Court may in consideration of all the circumstances of the case deem reasonable ;
- (n) that the invention claimed in the complete specification is not the same as that contained in the provisional specification and that the invention claimed, so far as it is not contained in the

provisional specification, was not new at the date when the complete specification was filed :

Provided that this sub-section shall have effect in relation to the ground of revocation specified—

- (i) in clause (b), subject to the provisions of section 93, or
- (ii) in clause (d), subject to the provisions of sub-section (1) of section 14, sub-section (12) of section 26, section 45 and section 48.

(2) A petition for revocation of a patent may be presented—

- (a) by the [Attorney-General]<sup>1</sup> or any person authorized by him ; or
- (b) by any person alleging—

- (i) that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims ; or
- (ii) that he, or any person under or through whom he claims, was the true and first inventor of any invention included in the claim of the patentee ; or
- (iii) that he, or any person under or through whom he claims an interest in any trade, business or manufacture, had publicly manufactured, used or sold, within the Union of Burma, before the date of the patent, anything claimed by the patentee as his invention.

(3) The High Court may, irrespective of any provisions of the Code of Civil Procedure in this behalf, require any person other than the [Attorney-General]<sup>1</sup> or any person authorized by him, applying for the revocation of a patent to give security for the payment of all costs incurred or likely to be incurred by any person appearing to oppose the petition.

Notice of  
proceedings  
to persons  
interested.

34. (1) Notice of any petition for revocation of a patent under section 33 shall be served on all persons appearing from the register to be proprietors of that patent or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is sent by post in a registered letter directed to the person and place for the time being stated in the register.

Framing  
issue for trial  
before  
District  
Court.

35. (1) The High Court may, if it thinks fit, direct an issue for the trial, before itself or any District Court, of any question arising upon a petition to itself under section 33 and the issue shall be tried accordingly.

(2) If the issue is directed to a District Court the finding of the Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make

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



legal representative or assign or in breach of confidence : provided that such inventor or his legal representative or assign has not acquiesced in the public use of his invention, and that he applies for a patent within six months after the commencement of such use.

46. A patent shall not be held to be invalid on the ground that the complete specification claims a further or different invention to that contained in the provisional, if the invention therein claimed, so far as it is not contained in the provisional, was novel at the date when the complete specification was put in, and the applicant for the patent was the true and first inventor, or the legal representative or assign of such inventor. Disconform-  
ity.

47. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the Controller, the Controller may at any time, on payment of the prescribed fee, seal a duplicate thereof. Loss or des-  
truction of  
Patent.

48. The exhibition of an invention at an industrial or other exhibition, to which the provisions of this section have been extended by the President of the Union by notification, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention or the publication of any description thereof during or after the period of the holding of the exhibition by any person elsewhere without the privity or consent of the inventor, or the reading of a paper by an inventor before a learned society, or the publication of that paper in the society's transactions, shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention, or the validity of any patent granted on the application : provided that— Provisions as  
to exhibi-  
tions and  
readings be-  
fore learned  
societies.

(a) the exhibitor exhibiting the invention or the inventor reading the paper or authorizing the publication thereof, as the case may be, gives to the Controller previous notice in the prescribed form ; and

(b) the application for a patent is made before or within six months from the date of first exhibiting the invention or of the reading of the paper, as the case may be, or when it has not been so read, of the said publication.

49. (1) Subject to the provisions of this section, the rights of a patentee shall not be deemed to be infringed— Special  
provisions as  
to vessels,  
aircraft and  
land vehicles.

(a) by the use on board a foreign vessel of the patented invention in the body of the vessel or in the machinery, tackle, apparatus or other accessories thereof, if the vessel comes into the territorial jurisdiction waters of the Union of Burma temporarily or accidentally only, and the invention is used exclusively for the actual needs of the vessel ;

(b) by the use of patented invention in the construction or working of a foreign aircraft or land vehicle or of the accessories thereof if the aircraft or vehicle comes into the Union of Burma temporarily or accidentally only.

(2) This section shall not extend to vessels, aircraft or land vehicles of any foreign State of which the laws do not confer corresponding rights with respect to the use of inventions in vessels, aircraft and land vehicles of [\* \* \* \*] <sup>1</sup> the Union of Burma when coming into the foreign State or the territorial waters thereof.

(3) For the purposes of this section vessels and aircraft shall be deemed to be vessels and aircraft of the country in which they are registered, and land vehicles shall be deemed to be vehicles of the country within which the owners thereof are ordinarily resident.

<sup>2</sup> (4) The President of the Union may, by notification, apply this section to vessels, aircraft or land vehicles of any foreign State.

## PART II.

### DESIGN.

#### *Registration of Designs.*

Application  
for registra-  
tion of  
designs.

50. (1) The Controller may, on the application of any person claiming to be the proprietor of any new or original design not previously published in the Union of Burma register the design under this Part.

(2) The application shall be made in the prescribed form and in the prescribed manner and shall be accompanied by the prescribed fee.

(3) The same design may be registered in more than one class, and in case of doubt as to the class in which a design ought to be registered the Controller may decide the question.

(4) The Controller may, if he thinks fit, refuse to register any design presented to him for registration; but any person aggrieved by any such refusal may appeal to the President of the Union.

(5) An application which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time shall be deemed to be abandoned.

(6) A design when registered shall be registered as of the date of the application for registration.

Registration  
of designs in  
new classes.

51. Where a design has been registered in one or more classes of goods, the application of the proprietor of the design to register it in some one or

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

<sup>2</sup> Substituted by the same Order.

more other classes shall not be refused, nor shall the registration thereof be invalidated—

- (a) on the ground of the design not being a new or original design, by reason only that it was so previously registered ; or
- (b) on the ground of the design having been previously published in the Union of Burma, by reason only that it has been applied to goods of any class in which it was so previously registered :

Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from the previous registration,

52. (1) The Controller shall grant a certificate of registration to the proprietor of the design when registered.

Certificate of registration.

(2) The Controller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, furnish one or more copies of the certificate.

53. (1) There shall be kept at the Patent Office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may be prescribed.

Register of Designs.

(2) The Register of Designs shall be *prima facie* evidence of any matters by this Act directed or authorized to be entered therein.

#### *Copyright in Registered Designs.*

54. (1) When a design is registered the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration.

Copyright on registration.

(2) If before the expiration of the said five years application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller shall, on payment of the prescribed fee, extend the period of copyright for a second period of five years from the expiration of the original period of five years.

(3) If before the expiration of such second period of five years application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller may, subject to any rules under this Act, on payment of the prescribed fee, extend the period of copyright for a third period of five years from the expiration of the second period of five years.

55. (1) Before delivery on sale of any articles to which a registered design has been applied, the proprietor shall—

Requirements before delivery on sale.

- (a) if exact representations or specimens were not furnished on the application for registration, furnish to the Controller, the prescribed number of exact representations of specimens of the

design ; and, if he fails to do so, the Controller may erase his name from the register, and thereupon the copyright in the design shall cease ; and

- (b) cause each such article to be marked with the prescribed mark, or with the prescribed words or figures, denoting that the design is registered ; and, if he fails to do so, the proprietor shall not be entitled to recover any penalty or damages in respect of any infringement of his copyright in the design unless he shows that he took all proper steps to ensure the marking of the article, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of the copyright in the design.

(2) Where a representation is made to the President of the Union by or on behalf of any trade or industry that in the interests of the trade or industry it is expedient to dispense with or modify as regards any class or description of articles any of the requirements of this section as to marking, the President of the Union may, if he thinks fit, by rule under this Act dispense with or modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as he thinks fit.

Effect of  
disclosure on  
copyright.

56. The disclosure of a design by the proprietor to any other person, in such circumstances as would make it contrary to good faith for that other person to use or publish the design, and the disclosure of a design in breach of good faith by any person other than the proprietor of the design, and the acceptance of a first and confidential order for goods bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance.

Inspection of  
registered  
designs.

57. (1) During the existence of copyright in a design, or such shorter period not being less than two years from the registration of the design as may be prescribed, the design shall not be open to inspection except by the proprietor or a person authorized in writing by him or a person authorized by the Controller or by the Court, and furnishing such information as may enable the Controller to identify the design, and shall not be open to the inspection of any person except in the presence of the Controller, or of an officer acting under him, and on payment of the prescribed fee ; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof : provided that, where registration of a design is refused on the ground of identity with a design already registered, the applicant for registration shall be entitled to inspect the design so registered.

(2) After the expiration of the copyright in a design, or such shorter period as aforesaid, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

(3) Different periods may be prescribed under this section for different classes of goods.

**58.** On the request of any person furnishing such information as will enable the Controller to identify the design, and on payment of the prescribed fee, the Controller shall inform such person whether the registration still exists in respect of any design, and, if so, in respect of what classes of goods, and shall state the date of registration, and the name and address of the registered proprietor.

Information  
as to  
existence of  
copyright.

**59. (1)** Any person interested may present a petition for the cancellation of the registration of a design—

Cancellation  
of registra-  
tion.

(a) at any time after the registration of the design, to the High Court on any of the following grounds, namely—

(i) that the design has been previously registered in the Union of Burma ; or

(ii) that the design has been published in the Union of Burma prior to the date of registration ; or

(iii) that the design is not a new or original design ; or

(b) within one year from the date of registration, to the Controller on either of the grounds specified in sub-clauses (i) and (ii) of clause (a).

(2) An appeal shall lie from any order of the Controller under this section to the High Court, and the Controller may at any time refer any such petition to the High Court, and the High Court shall decide any petition so referred.

**60.** The provisions of section 25 shall apply to registered designs as if those provisions were re-enacted herein and in terms made applicable to registered designs.

Registration  
of design to  
bind the  
Government.

#### *Industrial and International Exhibitions.*

**61.** The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition, to which the provisions of this section have been extended by the President of the Union by notification, or the publication of a description of the design during the period of the holding of the exhibition, or the exhibition of the design or the article or the publication of a description of the design by any person elsewhere during or after the period of the holding of the exhibition without the privity or consent of the proprietor, shall not prevent the design from being registered or invalidate the registration thereof :

Provisions  
as to exhi-  
bitions.

Provided that—

(a) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in the prescribed form ; and

- (b) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design.

*Legal Proceedings.*

Piracy of  
registered  
design.

**62.** (1) During the existence of copyright in any design it shall not be lawful for the person—

- (a) for the purpose of sale to apply or cause to be applied to any article in any class of goods in which the design is registered the design or any fraudulent or obvious imitation thereof, except with the licence or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied ; or
- (b) to import for the purposes of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof ; or
- (c) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article in any class of goods in which the design is registered without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.

(2) If any person acts in contravention of this section, he shall be liable for every contravention—

- (a) to pay to the registered proprietor of the design a sum not exceeding five hundred rupees recoverable as a contract debt, or
- (b) if the proprietor elects to bring a suit for the recovery of damages for any such contravention, and for an injunction against the repetition thereof, to pay such damages as may be awarded and to be restrained by injunction accordingly :

Provided that the total sum recoverable in respect of any one design under clause (a) shall not exceed one thousand rupees.

(3) A suit or proceeding under sub-section (2) shall be instituted in the District Court having jurisdiction to try the suit or proceedings.

(4) When the Court makes a decree in a suit under sub-section (2), it shall send a copy of the decree to the Controller, who shall cause an entry thereof to be made in the Register of Designs.

Application  
to designs of  
certain provi-  
sions of the  
Act as to  
Patents.

**63.** The provisions of this Act with regard to certificates of the validity of a patent, and to the remedy in case of groundless threats of legal proceedings by a patentee shall apply in the case of registered designs in like manner as they apply in the case of patents, with the substitution of references to the

copyright in a design for references to a patent, and of references to the proprietor of a design for references to the patentee, and of references to the design for references to the invention.

India II,  
1911.  
Burma  
VI, 1939.

64. Notwithstanding anything to the contrary in this Act any copyright in a design acquired or continued in the Union of Burma under the Indian Patents and Designs Act, 1911 read with the India and Burma (Transitory Provisions) Order, 1937 and the Burma Patents and Designs Act, 1939, as subsequently amended or continued, shall continue to be valid in the Union of Burma for the full term of its validity in India or Pakistan.

Protection in the Union of Burma of designs registered before the commencement of this Act.

### PART III.

#### GENERAL.

##### *Patent Office and Proceedings thereat.*

65. There shall be a Controller of Patents and Designs and so many officers and clerks, with such designations and duties, as the President of the Union may from time to time determine.

Controller of Patents and Designs and his establishment.

66. (1) The President of the Union shall, for the purposes of this Act, establish at Rangoon an office which shall be called, and is in this Act referred to as, the Patent Office.

Patent Office.

(2) The Patent Office shall be under the immediate control of the Controller who shall act under the superintendence and direction of the President of the Union.

(3) There shall be a seal for the Patent Office.

(4) Any act or thing directed to be done by or to the Controller may be done by or to any officer authorized by the President of the Union in this behalf.

##### *Fees.*

67. (1) There shall be paid in respect of the grant of patents and the registration of designs, and application therefor, and in respect of other matters with relation to patents and designs under this Act, such fees as may be prescribed so however that the fees prescribed in respect of the instruments and matters mentioned in the Schedule to this Act shall not exceed those there specified.

Fees.

(2) A proceeding in respect of which a fee is payable under this Act or the rules made thereunder shall be of no effect unless the fee has been paid.

*Provisions as to Registers and other Documents in the Patent Office.*

Notice of  
trust not to  
be entered  
in registers.

68. There shall not be entered in any register kept under this Act, or be receivable by the Controller, any notice of any trust, expressed, implied or constructive.

Inspection of  
and extracts  
from  
registers.

69. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to the provisions of this Act ; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

Information  
relating to  
patents.

70. A person making a request to the Controller in the prescribed manner, as respects any patent specified in the request or as respects any application for a patent so specified, for information to be furnished to him by the Controller of any such matters as may be prescribed affecting that patent or application, shall be entitled, subject to the payment of the prescribed fee, to have information supplied to him accordingly.

Privilege of  
reports of  
or to the  
Controller.

71. Reports of or to the Controller made under this Act shall not in any case be published or be open to public inspection.

Prohibition  
of publica-  
tion of speci-  
fication,  
drawings,  
etc., where  
application  
abandoned,  
etc.

72. (1) Where an application for a patent has been abandoned or deemed to have been refused the specifications and drawing (if any), accompanying or left in connection with such application, shall not, save as otherwise expressly provided by this Act, at any time be open to public inspection or be published by the Controller.

(2) Where an application for a design has been abandoned or refused, the application and any drawings, photographs, tracings, representations or specimens left in connection with the application shall not at any time be open to public inspection or be published by the Controller.

Power of  
Controller  
to correct  
clerical  
errors.

73. The Controller may, on request in writing accompanied by the prescribed fee,

- (a) correct any clerical error in or in connection with an application for a patent or in any patent or any specification ;
- (b) correct any clerical error in the representation of a design or in the name or address of the proprietor of any patent or design or in any other matter which is entered upon the register of patents or the register of designs.

Registration  
of assign-  
ments and  
trans-  
missions.

74. (1) Where any person becomes entitled by assignment, transmission or other operation of law to a patent or to the copyright in a registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his



satisfaction, register him as the proprietor of such patent or design, and shall cause an entry of the assignment, transmission or other instrument affecting the title to be made in the prescribed manner in the register.

(2) Where any person becomes entitled as mortgagee, licensee, or otherwise to any interest in a patent or registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be, with particulars of the instrument, if any, creating such interest.

(3) The person registered as the proprietor of a patent or design shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licences as to, or otherwise deal with, the patent or design, and to give effectual receipts for any consideration for any such assignment, licence or dealing : provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other movable property.

(4) Except in the case of an application made under section 75, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-sections (1) and (2) shall not be admitted in evidence in any Court in proof of the title to a patent or to copyright in a design or to any interest therein, unless the Court, for reasons to be recorded in writing, otherwise directs.

75. (1) The Controller may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the register of patents or designs of any entry, or by any entry made in either such register without sufficient cause, or by any entry wrongly remaining on either such register, or by an error or defect in any entry in either such register, make such order for making, expunging or varying such entry as he thinks fit, and rectify the register accordingly.

Rectification  
of register.

(2) The Controller may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of a register.

(3) An appeal shall lie to the High Court from any order of the Controller under this section ; and the Controller may refer any application under this section to the High Court for decision, and the High Court shall dispose of any application so referred.

(4) Any order of the High Court rectifying a register shall direct that notice of the rectification be served on the Controller in the prescribed manner, who shall upon the receipt of such notice rectify the register accordingly.

(5) Nothing in this section shall be deemed to empower the Controller—

(a) to rectify the register of patents, or to decide any question relating to a patent, otherwise than for the purpose of correcting a

mistake of fact apparent from a reference either to the patent itself or to some order of a competent authority made under any other provision of this Act, or

- (b) to make any such order cancelling the registration of a design as is provided for in section 59.

*Powers and Duties of Controller.*

Powers of Controller in proceedings under Act.

76. Subject to any rules in this behalf, the Controller in any proceedings before him under this Act shall have the powers of a civil Court for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses, compelling the discovery and production of documents, issuing commissions for the examination of witnesses and awarding costs ; and such award shall be executable in a civil Court having jurisdiction at the place where the person against whom the costs have been awarded ordinarily resides or has his place of business as if it were a decree of that Court.

Publication of patented inventions.

77. The Controller shall issue periodically a publication of patented inventions containing such information as may be prescribed.

Exercise of discretionary power by Controller.

78. Where any discretionary power is by or under this Act given to the Controller he shall not exercise that power adversely to the applicant for a patent, or for amendment of an application or of a specification, or for registration of a design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard.

Power of Controller to take directions of President.

79. The Controller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to the President of the Union for directions in the matter.

Refusal to grant patent etc., in certain cases.

80. (1) The Controller may refuse to grant a patent for an invention, or to register a design, of which the use would, in his opinion, be contrary to law or morality.

(2) An appeal shall lie to the President of the Union from an order of the Controller under this section.

Appeals to the President.

81. (1) Where an appeal is declared by this Act to lie from the Controller to the President of the Union the appeal shall be made within two months of the date of the order passed by the Controller and shall be in writing and accompanied by the prescribed fee.

(2) In calculating the said period of two months the time (if any) occupied in granting a copy of the order appealed against shall be excluded.

(3) The President of the Union may, if he thinks fit, obtain the assistance of an expert in deciding such appeals, and the decision of the President of the Union shall be final.

*Evidence, etc.*

82. A certificate purporting to be under the hand of the Controller as to any entry, matter or thing which he is authorized by this Act, or any rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Certificate of Controller to be evidence.

83. Subject to any rules made under section 91, in any proceeding under this Act before the Controller the evidence shall be given by affidavit in the absence of directions by the Controller to the contrary; but in any case in which the Controller thinks it right so to do he may take evidence *viva voce* in lieu of or in addition to evidence by affidavit or may allow any party to be cross-examined on the contents of his affidavit.

Evidence before the Controller.

84. Printed or written copies or extracts, purporting to be certified by the Controller and sealed with the seal of the Patent Office, of or from patents, specifications and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all Courts in the Union of Burma, and in all proceedings, without further proof or production of the originals:

Evidence of documents in Patent Office.

Provided that a Court may, if it has reason to doubt the accuracy or authenticity of the copies tendered in evidence, require the production of the originals or such further proof as it considers necessary.

85. Copies of all such specifications, drawings and amendments left at the Patent Office, as become open to public inspection under the provisions of this Act, shall be transmitted, as soon as may be after printed copies thereof are available, to such authorities as the President of the Union may appoint in this behalf, and shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities and approved by the President of the Union.

Transmission of copies of specifications etc., and inspection thereof.

86. Any application, notice or other document authorized or required to be left, made or given at the Patent Office or to the Controller, or to any other person under this Act, may be sent by post.

Applications and notices by post.

87. (1) If any person is, by reason of infancy, unsoundness of mind or other disability, incapable of making any statement or doing anything required or permitted by or under this Act, the lawful guardian, committee or manager (if any) of the person subject to the disability, or if there be none, any person appointed for this purpose by a Court possessing jurisdiction in respect of his property, may make such statement or a statement as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of the person subject to the disability.

Declaration by person under disability.

(2) An appointment may be made by the Court for the purposes of this section upon the petition of any person acting on behalf of the person subject to the disability or of any other person interested in the making of the statement or the doing of the thing.

Security for costs.

88. Where a person giving notice of any opposition under this Act, or applying for the revocation of a patent, or giving notice of appeal from any decision of the Controller under this Act, neither resides nor carries on business in the Union of Burma, the Controller or the President of the Union or the Court, as the case may be, may require such person to give security for the payment of all costs incurred and likely to be incurred in the proceedings or appeal, as the case may be, and, in default of such security being given, may disallow the opposition or dismiss the application or appeal.

*Agency.*

Subscription and verification of certain documents.

89. The following documents, namely :

- (1) applications for a patent,
- (2) notices of opposition,
- (3) applications for extension of term of a patent,
- (4) applications for the restoration of lapsed patents,
- (5) applications for leave to amend,
- (6) applications for compulsory licence or revocation, and
- (7) notices of surrenders of patent.

shall be signed and verified, in the manner prescribed, by the person making such applications or giving such notices : Provided that, if such person is absent from the Union of Burma, they may be signed and verified on his behalf by an agent resident in the Union of Burma authorized by him in writing in that behalf.

Agency.

90. (1) All other applications and communications to the Controller under this Act may be signed by, and all attendances upon the Controller may be made by or through a legal practitioner or by or through an agent authorized to the satisfaction of the Controller.

(2) The Controller may, if he sees fit, require—

- (a) any such agent to be resident in the Union of Burma ;
- (b) any person not residing in the Union of Burma to employ an agent residing in the Union of Burma ;
- (c) the personal signature or presence of any applicant, opponent or other person.

*Powers, etc., of the President of the Union.*

Power of President to make rules.

91. (1) The President of the Union may make such rules as he thinks expedient, subject to the provisions of this Act,—

- (a) for regulating the practice of registration under this Act ;

- (b) for classifying goods for the purposes of designs ;
- (c) for making or requiring duplicates of specifications, drawings and other documents ;
- (d) for securing and regulating the publishing and selling of copies, at such prices and in such manner as the President of the Union thinks fit, of specifications, drawings and other documents ;
- (e) for securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office, and providing for the inspection of indexes and abridgments and other documents ;
- (f) for the levying of fees and the manner in which they may be paid ;
- (g) generally for regulating the business of the Patent Office, the conduct of proceedings before the Controller and all things by this Act placed under the direction or control of the Controller or of the President of the Union ; and
- (h) generally for the purpose of carrying into effect the provisions of this Act.

(2) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

(3) All rules made under this section shall be published in the Gazette, and on such publication shall have effect as if enacted in this Act.

#### *Offences.*

92. If any person uses on his place of business, or on any document issued by him or otherwise, the words "Patent Office", or any other words suggesting that his place of business is officially connected with, or is the Patent Office, he shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing offence, with further fine of twenty rupees for each day on which the offence is continued after conviction therefor.

Wrongful  
use of words  
"Patent  
Office".

#### *Reciprocal arrangements with the United Kingdom and India or Pakistan and other parts of His Britannic Majesty's dominions.*

193. Where it is made to appear to the President of the Union that the Legislature of any part of His Britannic Majesty's possessions or of India or Pakistan or of any State in India or Pakistan has made satisfactory provision for the protection of inventions or designs, patented or registered in the Union of Burma, the President may, by notification, direct that the provisions of this Act, with such variations or additions, if any, as may be set out in such notification, shall apply for the protection of inventions or designs patented or registered in that part of His Britannic Majesty's possessions or, in India or Pakistan or in any State in India or Pakistan as the case may be.

Reciprocal  
arrange-  
ments with  
any part of  
His Britannic  
Majesty's  
possessions  
or of India or  
Pakistan or  
of any State  
in India or  
Pakistan.

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

194-95 \*

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*Schedule.*

[See Section 67.]

*Fees.*

|                                                                                                             | Rs. |
|-------------------------------------------------------------------------------------------------------------|-----|
| On application for a patent accompanied by provisional specification ... ..                                 | 10  |
| On filing complete specification after provisional specification ...                                        | 20  |
| On application for a patent accompanied by complete specification                                           | 30  |
| For sealing a patent ... ..                                                                                 | 30  |
| 1           *           *           *           *           *                                               |     |
| Before the expiration of the 4th year from the date of the patent                                           | 50  |
| Before the expiration of the 5th year from the date of the patent                                           | 50  |
| Before the expiration of the 6th year from the date of the patent                                           | 50  |
| Before the expiration of the 7th year from the date of the patent                                           | 50  |
| Before the expiration of the 8th year from the date of the patent                                           | 100 |
| Before the expiration of the 9th year from the date of the patent                                           | 100 |
| Before the expiration of the 10th year from the date of the patent                                          | 100 |
| Before the expiration of the 11th year from the date of the patent                                          | 100 |
| Before the expiration of the 12th year from the date of the patent                                          | 150 |
| Before the expiration of the 13th year from the date of the patent                                          | 150 |
| Before the expiration of the 14th year from the date of the patent                                          | 150 |
| In respect of the 15th year from the date of the patent ...                                                 | 150 |
| Provided that the fees for two or more year may be paid in advance.                                         |     |
| On application to extend the term of a patent ... ..                                                        | 50  |
| In respect of each year of the extended term of a patent or of a new patent granted under section 19 ... .. | 150 |
| On application for registration of a design ... ..                                                          | 5   |

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

**THE BURMA PATENTS AND DESIGNS (EMERGENCY PROVISIONS)  
ACT, 1946.\***

[BURMA ACT I, 1946.] (1st July, 1941.)

WHEREAS it is expedient to make provision for the protection of inventions and designs to take effect from the expiry of the Burma Patents and Designs Act, 1939 ;

\* \* \* \* \*

It is hereby enacted as follows :—

1. (1) This Act may be called as Burma Patents and Designs (Emergency Provisions) Act, 1946.

(2) This Act shall be deemed to come into force on the 1st July 1941.

2. Until the Burma Patents and Designs Act, 1945 comes into operation, the India Patents and Designs Act, 1911, shall continue to have effect in Burma as if, notwithstanding the separation of India and Burma, Burma had continued to be a part of India, and accordingly references in that Act to the Advocate-General, the High Court and to the District Court, shall be deemed to include references to the Attorney-General of the Union of Burma, the High Court and the District Courts in the Union of Burma, and the President of the Union of Burma shall be regarded as one of the authorities to whom certain documents are to be sent under section 72 of that Act.

Burma Act  
V of 1945.  
India Act  
II of 1911.

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\* Published in *Burma Gazette*, 1946, Part I, page 56.

## CORRIGENDA

Page 1.—Section 1, marginal caption, for “Provision of” read “Provision for”.

Page 10.—Section 14, third line, for “am ending” read “amending”.

Page 32.—Section 6, clause (5), second line, for “montgage-debt” read “mortgage-debt”.

Page 123.—Section 39, third line, for “a aforesaid” read “as aforesaid”.

Page 123.—Section 42, insert a full-stop at end of section.

Page 130.—Section 70, first line, for “discretionr” read “discretion”.

Page 132.—First line, for “s ofar” read “so far”.

Page 154.—Section 42, illustration, third line, for “ause” read “a use”.

Page 163.—Second footnote, second line, for “oevery” read “to every”.

Page 164.—Section 60, fourth line from top, insert a comma between “mortgagor” and “and”.

Page 172.—Section 72, last paragraph, second line, for “th<sub>3</sub>” read “the”.

Page 174.—Section 79, illustration, second line, for the full-stop after “Rs. 10,000” substitute a comma.

Page 177.—Section 96, marginal caption, for “derposit” read “deposit”.

Page 183.—Section 112, first line, insert a comma after “clause (g)”.

Page 187.—Section 127, second paragraph, second line, insert a comma after “things”.

Page 187.—Section 127, illustration (b), second line, for “whichi s” read “which is”.

Page 188.—Section 130, sub-section (2), second line, for “procedings” read “proceedings”.

Page 188.—Section 132, marginal caption, for “actionale” read “actionable”.

Page 191.—Third footnote, second line, for the semi-colon after “8th October 1951” substitute a comma; and in fourth footnote delete the dash between “LIII” and “1948”.

Page 199.—Section 14, sub-section (1), tenth line, for “section 13 (2)” read “section 13 (1)”, and in the proviso, first line, insert a comma between “from” and “or”.

Page 210.—Section 31, sub-section (1), first line, insert a comma after “Gazette”.



Page 244.—Section 22, marginal caption, for “good” read “goods”.

Page 249.—Section 49, sub-section (2), second line, for “ien” read “lien”.

Page 257.—Section 21, last line, substitute a full-stop for the comma at end of the line.

Page 258.—Footnote, insert a comma after “1945”.

Page 261.—Section 10, sub-section (1), fifth line, insert “the” after “possession of”.

Page 261.—Section 10, sub-section (2), fifth line, for “wich” read “which”.

Page 262.—Section 16, sub-section (2), clause (d), third line, for “enforcements” read “enforcement”.

Page 272.—Negotiable Instruments Act, in the date of commencement of the Act, for “1ts March” read “1st March”.

Page 282.—Section 58, second line, for “there of” read “thereof”.

Page 287.—Section 83, marginal caption, for “hour” read “hours”.

Page 288.—Section 89, fifth line, for the full-stop after “obliterated” substitute a comma.

Page 296.—Section 134, first line, for “contrast” read “contract”.

Page 299.—Section 7, sub-section (1), clause (c), third line, for “ex-parte” read “ex parte”.

Page 300.—Section 7, sub-section (3), third line, insert a comma after “sub-section (1)”.

Page 301.—Section 12, marginal caption, for “Extention” read “Extension”.

Page 304.—Footnote, second paragraph, fifth line, for “15st August” read “15th August”.

Page 311.—Section 16, sub-section (2), second line, for “sectio nshall” read “section shall”.

Page 312.—First footnote, for “suchrules” read “such rules”.

Page 314.—Section 3, substitute a colon for the full-stop at end of first proviso.

Page 315.—Section 2, clause (e) (2) (ii), fifth line, for “shallinclude” read “shall include”; and in the same line insert a hyphen after “successors-in-in”; and in the sixth line for “terestwhether” read “terest whether”.

Page 320.—Section 14, first proviso, fourth line, for “October 1914” read “October 1941”.

Page 322.—Section 26, marginal caption, for “proceeding” read “proceeding”.

Page 325.—Sections 1 and 2, *transpose* the marginal captions “Extent” and “Definitions” to their proper places against those sections.

Page 325.—Section 2, clause (2), first line, *delete* the comma after same.”

Page 332.—Section 3, proviso, ninth line, *delete* “the” before “ten per cent.”.

Page 336.—Section 15, sub-section (7), fifth line, *for* “additions of alterations” *read* “additions or alterations”.

Page 337.—Section 18, first line, *insert* a comma after “Government”.

Page 337.—Section 18, third line, *for* “prepared by or” *read* “prepared or”.

Page 340.—Section 21, second line, *for* “fty” *read* “fifty”; and in third line, *for* “as” *read* “was”.

Page 341.—Section 24, sub-section (1), proviso (a), second line, *for* “firs tcolumn” *read* “first column”.

Page 342.—Section 24, sub-section (1), proviso (a)(ii), second paragraph, second line, *for* “that” *read* “than”.

Page 348.—Contents, against section 64, *for* “Burma” *read* “the Union of Burma”.

Page 352.—Section 6, fourth line, *insert* a comma after “is”.

Page 356.—Section 16, sub-section (1), first line, *for* “shalls” *read* “shall”; and in second line *for* “it” *read* “its” and *delete* the comma after “it”.

Page 356.—Section 16, sub-section (3), second line, *for* “an” *read* “and”.

Page 360.—Section 25, sub-section (3), sixth line, *insert* a comma after “them”.

Page 362.—Section 27, marginal caption, *for* “ICompulsory icences” *read* “Compulsory licences”.

Page 367.—Section 36, sub-section (1), third line, *for* “se s” *read* “sells”.

Page 368.—Section 43, seventh line, *for* “wa” *read* “was”, and in eighth line, *for* “no” *read* “not”.

Page 371.—Section 53, sub-section (1), last line, *for* “de igns” *read* “designs”.

Page 382.—Schedule, proviso, first line, *for* “year mays” *read* “years may”.

## အမှားပြင်ချက်များ။

စာမျက်နှာ ၈၀။ ။ပုဒ်မခွဲ(၁)၏ ဒုတိယခွဲချက်၊ စာကြောင်းရေ ၂ တွင်၊ “သိခြား”  
အစား၊ “သီးခြား” ဟု ဘတ်ပါ။

စာမျက်နှာ ၃၂၄။ ။ပုဒ်မ ၅၊ စာကြောင်းရေ ၅ တွင်၊ “ကျွန်းကျိန်” အစ-  
“ကျမ်းကျိန်” ဟု ဘတ်ပါ။

စာမျက်နှာ ၃၂၄။ ။ပုဒ်မ ၇၊ ပုဒ်မခွဲ (၂)၊ အပိုဒ် (သ) ၏ အဆုံးတွင် ပုဒ်ကြီးကို  
ထည့်သွင်းပါ။

စာမျက်နှာ ၃၂၅။ ။အပိုဒ် ၂၁ ၏ စာခေါင်းတွင်၊ “စာမူပိုင်” နှင့် “မူပိုင်ခွင့်”  
အကြား၌ ပုဒ်ကလေးကို ထည့်သွင်းပါ။