

Burma Acts 1946

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THE BURMA PATENTS AND DESIGNS (EMERGENCY
PROVISIONS) ACT, 1946.

[BURMA ACT No. I OF 1946.]

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 ;

AND WHEREAS by Proclamation, dated the tenth day of December 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

26 Geo. 5,
c. 3.

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called 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 Advocate-General of Burma, the High Court of Judicature at Rangoon and the District Courts in Burma, and the Governor 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
11 of 1911

In the name of His Majesty I assent to this Act.

R. H. DORMAN-SMITH,
Governor of Burma.

RANGOON, the 1st January 1946.

G.B.C.P.O.—No. 36, H. Dept- 27-2-46—2,000—III.

Price,—One Anna.

BUILDINGS (REGULATION OF CONSTRUCTION AND
REPAIR) ACT, 1946.

[BURMA ACT NO. II OF 1946.]

WHEREAS it is expedient to make provision for regulating the erection, re-erection and repair of buildings ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

26 Geo. 5,
c. 3.

NOW THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Buildings (Regulation of Construction and Repair) Act, 1946.
Short title, commencement and application.

(2) It shall be deemed to have come into force on the 9th January 1946, and shall apply only to such towns, villages or other local areas as the Governor may from time to time, by notification, prescribe.

2. In this Act—

Definitions.

(i) "building" includes a house, hut, shed or other roofed structure for whatsoever purpose and of whatsoever material constructed, and every part thereof, but shall not include a tent or other portable and merely temporary shelter ;

(ii) "competent authority" means the person or persons appointed under section 4 of the Local Authorities (Suspension) Act, 1945, and when no such appointment has been made, the Deputy Commissioner for the area or any other authority appointed in this behalf by the Governor.

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3. The Governor, or with the approval of the Governor, the competent authority, may frame a scheme with respect to any area, whether there are any buildings thereon or not, with the general object of controlling the development of the land comprised in the area to which the scheme applies, of securing proper sanitary conditions, amenity and convenience, and of preserving existing buildings or other objects of architecture, historic or other artistic interest, and places of natural interest or beauty, and generally of protecting existing amenities.

4 Notwithstanding anything contained in any law for the time being in force in the area to which this Act applies, no person shall, except under and in conformity with the terms and conditions of any permission granted by the competent authority in this behalf—

No building may be erected without permission.

(a) erect or re-erect any building whether temporary or permanent ; or

(b) carry out repairs to any building :

Provided that nothing in this section shall apply to repairs to any building in existence at the commencement of this Act, which are necessary to make the building wind and water-tight.

Price,—Two Annas.]

5. (1) In granting any permission under section 4 for the erection, re-erection or repair of any building the competent authority may impose such conditions as it may consider necessary in the interests of public health, convenience and safety and shall have regard to and be guided by the provisions contained in any scheme framed in pursuance of section 3 of this Act.

(2) In the absence of any such scheme the competent authority in granting permission shall have due regard to, and be guided by the principles specified in, section 3 in respect of the framing of a scheme.

6. (1) The Governor may make rules to carry out the objects of this Act.
Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for and regulate the following matters, namely :—

- (a) the framing of a scheme by the competent authority ;
- (b) rendering compulsory a notice to the competent authority of intention to erect, re-erect or repair any building ;
- (c) the information and plans, specifications and particulars to be submitted with applications for the approval of sites and for permission to erect or re-erect any building ;
- (d) the height of the buildings, whether absolute or relative to the width of streets ;
- (e) the level and width of the foundation, the level of the lowest floor or plinth and the stability of the structure ;
- (f) the height above the ground and the number of storeys of which any building may consist ;
- (g) the free passage or way in front of buildings ;
- (h) the ventilation and drainage of buildings ;
- (i) the materials to be used and method of construction ;
- (j) specifying the parts or portions of building sites on which no building shall be erected ;
- (k) the number, position, materials and methods of construction of fire places, smoke-escapes, chimneys, staircases, water-closets, closet accommodation, latrines, urinals, privies, sewers, sewerage connections, ventilating pipes, cess-pools, traps, sinks, sullage ways, water connections, wells and drains in buildings, and
- (l) the conditions which may be imposed generally by the competent authority in granting permission for the erection re-erection or repair of any building.

7. (1) Where any building is begun, erected, re-erected or repaired in contravention of any of the provisions of this Act or of any rules made thereunder or of any of the terms and conditions of a permit issued under section 4, the competent authority may—

- Demolition, removal, etc., of building erected in contravention of this Act.
- (a) order the building to be demolished by or at the expense of the person who so began, erected, re-erected or repaired it, or

(b) order such person to alter or remove the building in such manner as to the competent authority may seem fit to give effect to any scheme subsequently framed for the area.

(2) Nothing in this section shall entitle the person required to demolish, alter or remove any building to compensation for such demolition, alteration or removal.

8. If any building, wall, structure or anything fixed thereto is in a ruinous state or in any way dangerous the competent authority may, by notice in writing, require the owner or occupier thereof forthwith either to remove the same or to cause such repairs to be made therein as it considers necessary for the public safety; and if it appears to it to be necessary in order to prevent imminent danger, it shall forthwith take such steps as may be necessary to avert such danger.

Removal of buildings
in ruinous or dangerous
state.

9. Whoever contravenes any of the provisions contained in this Act or in any rules made thereunder or any of the conditions of a permit issued to him under section 4 or refuses or neglects to demolish, alter or remove any building when required to do so, shall be liable, on conviction, to a fine which may extend to five hundred rupees, and, in the case of a continuing contravention or of a continuing refusal or neglect to demolish, alter or remove any building, to a further fine of ten rupees for each day on which such contravention or refusal or neglect continues.

10. Any permission granted under this Act for the erection, re-erection or repair of any building does not constitute any admission by the competent authority that the person to whom the permit is granted has any title to or any rights to the possession of the land whereon the building is constructed or the building, as the case may be; nor shall such permission be evidence of any such title or right.

Permission not
evidence of title to
building or land.

In the name of His Majesty I assent to this Act.

R. H. DORMAN-SMITH,
Governor of Burma.

RANGOON, the 9th January 1946.

THE LOCAL AUTHORITIES (SUSPENSION) ACT, 1946.

[BURMA ACT NO. III OF 1946.]

WHEREAS in the present circumstances it is impracticable to hold elections for the constitution of local authorities in British Burma, and as a consequence thereof it is expedient to suspend such authorities and to make provision for carrying on their functions until such time as elections can be held ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ; 26 Geo. 5
c. 3.

NOW THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Local Authorities (Suspension) Act, 1946.
Short title, commencement and duration. (2) It shall come into force on such date as the Governor may, by notification, appoint, and shall remain in force until the Governor shall, by notification, declare it to be no longer in force.

2. In this Act—

Definitions. (a) "local authority" means a municipal committee, town committee, district council, circle board, school board or hospital committee constituted under the provisions of the Municipal Act or the Rural Self-Government Act and includes any other committee or person or body of persons notified by the Governor in this behalf ;

(b) "prescribed" means prescribed by rules made under this Act.

3. (1) Notwithstanding anything contained in the Municipal Act or the Rural Self-Government Act, or in any other law for the time being in force, the Governor may, by notification, assume to himself all the rights, privileges, duties, powers and functions vested in or exercisable by any local authority under any law relating thereto.
Suspension of local authorities.

(2) On the issue of such notification the following consequences shall ensue, namely :—

(a) all rights, privileges, duties, powers and functions previously vested in or exercisable by such local authority shall cease and terminate ;

(b) all members of such local authority shall be deemed to have vacated their offices as such ; and

(c) all properties, whether movable or immovable, previously vested in any such local authority shall become vested in the Crown.

Price,—Two Annas.]

4. Notwithstanding anything contained in the Municipal Act or the Rural Self-Government Act or in any other law for the time being in force, the Governor may, by notification, invest such person or persons as he thinks fit with all or any of the rights, privileges, duties, powers and functions which were previously vested in or exercisable by any local authority.

5. A notification under sub-section (1) of section 3 or section 4 may be issued with reference to each local authority separately or with reference to a local number of local authorities or any number of them.

6. Upon an appointment being made under the provisions of section 4 the Governor may, by the same or a subsequent notification, direct that such of the properties as have become vested in the Crown under the provisions of clause (c) of sub-section (2) of section 3 as may be specified in the notification shall, subject to such conditions, if any, as the Governor may deem fit to impose, vest in the person or persons appointed under section 4, and shall, together with all other property which may hereafter become similarly vested in such person or persons, be held in trust and administered by such person or persons for the same purposes as those for which such properties would have been utilized had this Act not been passed:

Burma
III, 1945. *Provided that* nothing in this Act shall affect the operation of the Local Authorities (Miscellaneous Provisions) Act, 1945, or shall be deemed to transfer any of the funds vested in the person or persons appointed under that Act to the person or persons appointed under section 4, unless otherwise directed by order of the Governor.

7. The person or persons appointed under section 4 shall exercise and discharge the duties, powers and functions, imposed upon or vested in him or them, subject to such conditions and restrictions as may be prescribed, and if more than one such person is appointed, in exercising and discharging such duties, powers and functions, they may act jointly or severally.

8. Subject to the control of the Governor, the person or persons appointed under section 4 shall have authority to appoint such officers and servants as may be considered necessary for the effective discharge of the duties, powers and functions imposed upon or vested in such person or persons, and, subject to the provisions of this Act, the provisions of the Municipal Act or the Rural Self-Government Act, and the rules made thereunder, whichever of these Acts may be relevant, shall apply to any officer or servant so appointed.

9. Notwithstanding anything contained in the Municipal Act or the Rural Self-Government Act, the person or persons appointed under section 4 may, subject to the control of the Governor, adopt such procedure as may be deemed practicable for the due exercise and discharge of the duties, powers and functions imposed upon or vested in such person or persons.

10. No suit or other legal proceeding shall lie against any person in respect of anything which is, in good faith done or intended to be done under the provisions of this Act.
Ear to legal proceedings.

11. Nothing in this Act shall be construed as an acceptance by Government of any liability on behalf of or towards any local authority ; but nothing in this Act shall prevent any person from establishing in a Court of law any right which he claims against a local authority.
Saving.

12. (1) The Governor may make rules for carrying out the objects of this Act.
Power of Governor to make rules.

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

- (a) the manner in which and the conditions subject to which any assets, property or funds vested in the person or persons appointed under section 4 shall be utilized ;
- (b) the conditions, if any, subject to which any funds vested in the person or persons appointed under the Local Authorities (Miscellaneous Provisions) Act, 1945, shall be transferred to the person or persons appointed under section 4 ; xiv/46
- (c) the manner in which and the conditions subject to which the person or persons appointed under section 4 shall have, exercise and discharge the rights, privileges, duties, powers and functions vested in him or them,
- (d) the manner in which accounts shall be kept and periodical statements of receipts and disbursements submitted to the Governor ;
- (e) the manner in which any such accounts shall be examined and audited ; and
- (f) the conditions subject to which officers and servants may be appointed by the person or persons appointed under section 4.

THE SUPPRESSION OF BROTHELS (AMENDMENT)
ACT, 1946.

[BURMA ACT NO. IV OF 1946.]

WHEREAS it is expedient to amend the Suppression of Brothels Act, 1921. Burma H. 1921.

AND WHEREAS by Proclamation dated the 10th day of December 1942 the Governor of Burma has assumed to himself all the powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof; 26 Geo. 5 c. 2

NOW THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. This Act may be called the Suppression of Brothels (Amendment) Act, 1946.
Short Title.

2. For section 2 of the Suppression of Brothels Act, hereinafter Amendment of referred to as the said Act, the following shall be substituted, namely :—
section 2, Burma II, 1921.

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

‘ brothel ’ means any house, room or place which the occupier or person in charge thereof allows to be used by any other person for the purposes of prostitution ;

‘ venereal disease ’ means syphilis, gonorrhœa, or soft chancre otherwise called soft sore ; and

‘ appointed doctor ’ means any doctor appointed by the Governor for the purposes of this Act.”

3. For section 4 of the said Act, the following shall be substituted, Amendment of namely :—
section 4, Burma II, 1921.

“ 4. (1) Any person who in any street or public place or place of public resort, or within sight of and in such manner as to be seen or heard from any street or public place, whether from within any house or building or not—

(a) by words, gestures, wilful and indecent exposure of her person or otherwise attracts or endeavours to attract attention for the purpose of prostitution ; or

(b) solicits or molests any person for the purposes of prostitution ;

shall for first offence be punished with imprisonment which may extend to three months or with fine which may extend to one hundred rupees and for a subsequent offence with imprisonment which may extend to six months, or with fine which may extend to two hundred rupees.

(2) Notwithstanding anything contained in section 65 of the Penal Code, imprisonment in default of fine imposed under sub-section (1) may extend to three months in the case of a first offence, and to six months in the case of a subsequent offence.

4. In section 11 of the said Act, the expression “ one year ” and the expression “ one thousand rupee ” shall be substituted for the expression “ three months ” and the expression “ five hundred rupees ” respectively.
Amendment of section 11, Burma II, 1921.

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5. In section 12 of the said Act, the expression "two years" shall be substituted for the expression "one year".
Amendment of section 12, Burma 11, 1921.

6. After section 12 of the said Act, the following shall be inserted, namely:—
Insertion of new section 12 (A).

- " 12 (A). (1) When any person is convicted under section 4 of this Act, the Magistrate shall order her to submit to examination by an appointed doctor.
- (2) If, on such examination it is discovered that such person is suffering from venereal disease, she—
- (a) shall submit to treatment by the appointed doctor and observe the directions given by the doctor, and
 - (b) shall not discontinue the treatment until she is certified by the doctor to be incapable of transmitting any venereal infection.
- (3) When the person convicted is a minor, it shall be the duty of the parents or person having the custody of the minor to ensure that the minor complies with the order of the Magistrate passed under sub-section (1), and provisions and sub-section (2).
- (4) Any person who disobeys the order of a Magistrate made under sub-section (1) or contravenes any provisions of sub-section (2) or sub-section (3) shall be punished with imprisonment which may extend to one year, or with a fine which may extend to one thousand rupees, or with both."

THE RANGOON CITY CIVIL COURT (AMENDMENT)
ACT, 1946.

[BURMA ACT NO. V OF 1946.]

WHEREAS it is expedient to amend the Rangoon City Civil Court Act ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1945, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

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1. This Act may be called the Rangoon City Civil Court (Amendment) Act, 1946.
Short title.

2. Sub-section (1) of section 27 of the Rangoon City Civil Court Act shall be *omitted*.
Deletion of sub-section (1) of section 27.

BUILDINGS (REGULATION OF CONSTRUCTION AND
REPAIR) (AMENDMENT) ACT, 1946.

[BURMA ACT NO. VI OF 1946.]

WHEREAS it is expedient to amend the Buildings (Regulation of Construction and Repair) Act, 1946 :

Burma
Act II
of 1946.

AND WHEREAS by Proclamation, dated the tenth day of December 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

26 Geo. 5,
c. 3.

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. This Act may be called the Buildings (Regulation of Construction and Repair) (Amendment) Act, 1946.
Short title.

2. In sub-section (ii) of section 2 of the Buildings (Regulation of Construction and Repair) Act, 1946, the figures "1946" shall be substituted for the figures "1945" appearing after the word "Act."

Substitution of
figures 1946 for 1945
Burma Act II, 1946.

THE COURTS (EMERGENCY PROVISIONS) (AMENDMENT)
ACT, 1946.

[BURMA ACT NO. VII OF 1946.]

WHEREAS it is expedient to amend the Courts (Emergency Provisions) Act, 1943 ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Courts (Emergency Provisions) (Amendment) Act, 1946

(2) It shall come into force at once.

2. For sub section (2) of section 1 of the Courts (Emergency Provisions) Act, 1943, the following sub-section shall be substituted :—

“(2) It shall come into force at once and shall remain in force up to and including the 30th day of April, 1947.”

THE EMERGENCY PROVISIONS (AMENDMENT) ACT, 1946.]

[BURMA ACT NO. VIII OF 1946.]

WHEREAS it is expedient to amend the Emergency Provisions Act, 1943 ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Emergency Provisions (Amendment) Act, 1946.

(2) It shall come into force at once.

2. For sub-section (2) of section 1 of the Emergency Provisions Act, 1943, the following sub-section shall be substituted :—

"(2) It shall come into force at once and shall remain in force up to and including the 30th day of April, 1947. "

THE SPECIAL JUDGES ACT, 1946.

[BURMA ACT NO. IX OF 1946.]

WHEREAS it is expedient to provide for the appointment of Special Judges for the trial of offences and to define their jurisdiction and powers ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted as follows :—

1. (1) This Act may be called the Special Judges Act, 1946.

Short title and duration.

(2) It shall remain in force until the Governor, by notification, declares it to be no longer in force, and such notification may declare it to be no longer in force throughout the whole of British Burma or throughout any local area or local areas specified in the notification.

2. In this Act—

(a) " Code " means the Code of Criminal Procedure ;
(b) " High Court " means the High Court of Judicature at Rangoon ;
(c) the expression " Special Judge " includes " Special Judges " in areas where more than one Special Judge is appointed to exercise powers under this Act.

Interpretation.

3. (1) All Sessions Judges and Additional Sessions Judges appointed under section 9 of the Code, shall, by virtue of their office, be Special Judges.

(2) The Governor may appoint any other person qualified under sub-section (5) to be a Special Judge and may define the territorial limits of the jurisdiction of such Special Judge.

(3) A Special Judge may be appointed for the trial of a particular accused person or persons, and the Governor may direct that for the trial of any person or persons two or more Special Judges shall sit together as a Bench.

(4) The place of sitting of a Special Judge appointed to a Sessions division shall be decided by the Sessions Judge.

(5) Any person who has for at least two years exercised the powers of a Magistrate of the first class, or is an Advocate of the High Court or a Pleader of the Higher Grade of at least five years' standing, may be appointed a Special Judge.

4. (1) A Special Judge may try any offence punishable under any law for the time being in force, and may pass any sentence which is authorized by law.

Powers of Special Judges.

(2) A Special Judge may take cognizance of an offence in any of the modes prescribed by sub-section (1) of section 190 of the Code, and the provisions of section 191 of the Code shall not be applicable to proceedings before a Special Judge.

5. (1) A Special Judge may take cognizance of offences without the accused being committed for trial, and in trying accused persons shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates :

Procedure of Special Judges.

Provided that a Special Judge may refuse to summon any witness if satisfied that the evidence of such witness will not be material, and

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shall not be bound to adjourn a trial for any purpose whatsoever, unless such adjournment is, in his opinion, necessary in the interests of justice.

(2) Sections 337, 339 and 339A of the Code of Criminal Procedure shall apply to trials before a Special Judge, with the following modifications :—

- (i) in sub-section (1) of section 337, *after* the words " any Magistrate of the first class " the words " or a Special Judge " shall be *inserted* ;
- (ii) in sub-section (1A) of section 337, *after* the word " Magistrate ", occurring in two places, the words " or Special Judge " shall be *inserted* ;
- (iii) in sub-section (2) of section 337, *after* the word " Magistrate " the words " or Special Judge " shall be *inserted* ;
- (iv) to sub-section (2A) of section 337, the following proviso shall be *added*, namely :—

" Provided that the Magistrate may, if he thinks fit, send the accused for trial before a Special Judge " ;

- (v) in clause (b) of sub-section (1) of section 339A, *after* the word " Magistrate " the words " or a Special Judge " shall be *inserted* ;

- (vi) in sub-section (2) of section 339A, *after* the words " the Magistrate " the words " or the Special Judge " shall be *inserted*.

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6. (1) The provisions of Chapter XXVII of the Code shall apply to sentences of death passed by a Special Judge as if the sentence were a sentence passed by a Court of Session.

Confirmation, Appeal
and Revision.

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(2) Any person convicted on a trial held by a Special Judge may appeal to the High Court :

Provided that the provisions of sections 412 and 413 of the Code shall apply to such appeals as if the person had been convicted by a Court of Session.

(3) The proceedings of Special Judges shall be subject to revision by the High Court or the Sessions Judge, and the provisions of sections 435 to 442, inclusive, of the Code shall apply to such revisions.

7. Save as otherwise provided in this Act, the provisions of the Code and of any other law for the time being in force shall, to such extent as they may be applicable, apply to trials before a Special Judge and to all matters connected with or arising from such trials

Application of the
Code and other laws.

8. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act, and the powers conferred on the High Court by section 491 of the Code shall not be exercised in respect of any person arrested or committed to or detained in custody under this Act.

Bar to legal pro-
ceedings.

9. The Special Judges Act, 1943, is hereby repealed :

Provided that any trial or other proceeding instituted and pending under the said Act when this Act comes into force shall be deemed to have been instituted under this Act and shall be continued as if it had been so instituted.

Repeal of Burma Act X
of 1943.

THE BURMA MEDICAL (TEMPORARY AMENDMENT)
ACT, 1946.

[BURMA ACT NO. X OF 1946.]

WHEREAS it is expedient to amend the Burma Medical Act, 1915,
for certain purpose ;

AND WHEREAS by Proclamation, dated the tenth day of December
1947, the Governor of Burma has assumed to himself all powers vested
in or under the Government of Burma Act, 1935, in the Legislature or
either Chamber thereof :

NOW, THEREFORE, in exercise of the said powers, it is hereby
enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Burma Medical (Temporary
Short title and Amendment) Act, 1946.
extent.

(2) It shall remain in force until the Governor by notification
declares it to be no longer in force.

2. For clauses (b), (c), (d) and (e) of section 3 (2) of the Burma
Amendment of section Medical Act, 1915, the following shall be sub-
3 (2) (b), (c), (d) and (e) stituted temporarily for the period during which
of the Burma Medical this Act remains in force,—
Act.

- " (b) one member to be nominated by the Administrative
Officer, University of Rangoon ;
- (c) three members to be nominated by the Governor from
medical practitioners registered under the Medical Acts ;
- (d) three members to be nominated by the Governor from
registered practitioners who are graduates or licentiates
in medicine or surgery of the University of Rangoon,
Bombay, Calcutta, Madras, Allahabad or Lahore ;
- (e) three members to be nominated by the Governor from
among other registered medical practitioners.

**THE UNITED STATES FORCES (EXEMPTION FROM LOCAL
TAXATION) ACT, 1946.**

[BURMA ACT NO. XI OF 1946.] -

WHEREAS it is expedient to exempt the members of armed forces and establishments connected therewith of the United States of America and their properties from payment of certain local taxes in British Burma;

AND WHEREAS by Proclamation, dated the tenth day of December 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof;

26 Geo.
5, c. 3.

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows:—

1. (1) This Act may be called the United States Forces (Exemption from Local Taxation) Act, 1946.
Short title and duration.

(2) It shall remain in force until the Governor, by notification, declares that it shall no longer be in force.

2. In this Act, "local authority" means a Municipal Committee, Cantonment Board, District Council or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund.
Definition of local authority.

3. Notwithstanding anything contained in any enactment for the time being in force, no taxes imposed by a local authority shall, except as provided in this Act, be payable by any naval, military or air force, or any establishment directly connected with any such armed forces, maintained in British Burma by the United States of America, in respect of—
Exemption of property and goods belonging to United States forces from taxes imposed by local authorities.

(a) any immovable property in the possession or occupation of, or
(b) any goods the property of, or consigned or under transport for ultimate delivery to, or
(c) any animal, bicycle, motor bicycle, motor car, vessel, vehicle, aircraft or apparatus maintained by and for the purposes of, such force or establishment.

4. Notwithstanding anything contained in any enactment for the time being in force, no such tax as is mentioned in section 3 shall, except as provided in this Act, be payable by any member of a naval, military or air force, or any member of an establishment directly connected with any such armed force, maintained in British Burma by the United States of America, in respect of any building occupied by him, or in respect of any horse, bicycle, motor bicycle, motor car or other means of conveyance maintained by him in his capacity as a
Exemption of property and goods in the possession of a member of the United States forces in his capacity as such member.

member of such force or establishment and under authority from a person exercising authority in such force or establishment, or by way of a tax on persons or a requirement to take out a licence for practising a profession, trade or calling.

5. Nothing in sections 3 and 4 shall be deemed to exempt any person from payment of any tax or the part thereof which is imposed to cover the cost of specific services rendered by the local authority imposing the tax.

6. If any question arises whether, or as to the extent to which, any tax is payable as having been imposed to cover the cost of specific services rendered by the local authority imposing the tax, or whether in the circumstances of any case a particular tax is payable, the decision of the Governor thereon shall be final.

THE PRESENT WAR TERMINATION
(DEFINITION) ACT, 1946.

[BURMA ACT NO. XII OF 1946.]

WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof :

NOW, THEREFORE, in exercise of the said powers it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Present War Termination (Definition) Act, 1946.

(2) It shall extend to the whole of British Burma.

(3) It shall come into force at once.

2. The Governor may declare what day is to be treated as the date of the termination of the present war, and the present war shall be treated as being terminated on the date so declared for the purposes of any provision in any Act, Proclamation, or Regulation for the time being in force in Burma, and, except, where the context otherwise requires, of any provision in any contract or instrument referring, expressly or impliedly, to the present war.

THE LOCAL AUTHORITIES (MISCELLANEOUS
PROVISIONS) (REPEAL) ACT, 1946.

[BURMA ACT NO. XIII OF 1946.]

WHEREAS it is expedient to repeal the Local Authorities (Miscellaneous Provisions) Act, 1945 ;

AND WHEREAS by Proclamation, dated the tenth day of December 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. This Act may be called the Local Authorities (Miscellaneous Provisions) (Repeal) Act, 1946.
Short Title.
2. The Local Authorities (Miscellaneous Provisions) Act, 1945, is hereby repealed.
Repeal of Burma Act No. III of 1945.

THE LOCAL AUTHORITIES (SUSPENSION)
(AMENDMENT) ACT, 1946.

[BURMA ACT NO. XIV OF 1946.]

WHEREAS it is expedient to amend the Local Authorities (Suspension) Act, 1946 ;

AND WHEREAS by Proclamation, dated the tenth day of December 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. This Act may be called the Local Authorities (Suspension) (Amendment) Act, 1946.
Short Title.

2. The proviso to section 6 of the Local Authorities (Suspension) Act, 1946, hereinafter called the said Act, shall be *deleted*.
Deletion of proviso to section 6.

3. For clause (b) of sub-section (2) of section 12 of the said Act, the following clause shall be *substituted* :—
Amendment of clause (b) of section 12 (2).

“(b) the manner in which pre-evacuation assets and liabilities of Local Authorities will be assessed, utilised or absorbed.”

THE LANDS DISPUTES (SUMMARY JURISDICTION)
(AMENDMENT) ACT, 1946.

[BURMA ACT NO. XV OF 1946.]

WHEREAS it is expedient to amend the Lands Disputes (Summary Jurisdiction) Act, 1945 (Burma XXII of 1945) ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935 (26 Geo. 5, c. 3), in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. *Short Title.*—This Act may be called the Lands Disputes (Summary Jurisdiction) (Amendment) Act, 1946.

2. *Amendment of section 9, Burma XXII, 1945.*—In section 9 of the Lands Disputes (Summary Jurisdiction) Act, the following words and brackets *shall be omitted*, namely :—

“(which period shall not in any case exceed seven days from the receipt of the notice).”

THE CITY OF RANGOON MUNICIPAL (AMENDMENT)
ACT, 1946.

(BURMA ACT NO. XVI OF 1946.)

WHEREAS it is expedient to amend the City of Rangoon Municipal Act, 1922, for the purpose of providing for the jurisdiction of the Rangoon City Civil Court in respect of matters specially provided for under the said Act ; Burma VI^a.
1922.

AND WHEREAS by Proclamation dated the tenth day of December 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the City of Rangoon Municipal
(Amendment) Act, 1946.
Short title and
commencement.

(2) It shall come into force forthwith.

2. In the Sections in the City of Rangoon Municipal Act, 1922,
Amendment. and in the Rules framed thereunder, wherever the
words "Small Cause Court" occur the words
"City Civil Court" shall be substituted.

THE COURTS (EMERGENCY PROVISIONS) (SECOND
AMENDMENT) ACT, 1946.

[BURMA ACT NO. XVII OF 1946.]

WHEREAS it is expedient further to amend the Courts (Emergency Provisions) Act, 1943 ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Courts (Emergency Provisions) (Second Amendment) Act, 1946.

(2) It shall come into force at once.

2. Sections 2, 3, 4, 8, 15 and 16 and clauses (a), (b), (c), (d), (e) and (f) of section 14 of the Courts (Emergency Provisions) Act, 1943, including the Schedule thereto shall be *deleted*.

**THE EMERGENCY PROVISIONS (SECOND AMENDMENT)
ACT, 1946.**

[BURMA ACT NO. XVIII. OF 1946.]

WHEREAS it is expedient further to amend the Emergency Provisions Act, 1943 ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

Now, THEREFORE, in exercise of the said powers it is hereby enacted by the Governor of Burma as follows : -

1. (1) This Act may be called the Emergency Provisions (Second Amendment) Act, 1946.

(2) It shall come into force at once.

2. Sections 4 and 5 of the Emergency Provisions Act, 1943, shall be *deleted*.

INCOME-TAX PROCEEDINGS VALIDATING ACT, 1946.

[BURMA ACT No. XIX OF 1946.]

WHEREAS it is necessary to establish the validity of certain appointments as Income-tax Officer of and certain proceedings under the Burma Income-tax Act taken by persons designated as Assistant Income-tax Officers ;

AND WHEREAS by a Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Income-tax Proceedings
Short title, extent and Validating Act, 1946.
commencement.

(2) It extends to the whole of British Burma.

(3) It shall come into force at once.

2. Where, whether before or after the commencement of this Act, any person designated as Assistant Income-tax Officer has been appointed to be or to discharge the functions of an Income-tax Officer for any of the purposes of the Burma Income-tax Act, and where, whether before or after the commencement of this Act, a person designated as Assistant Income-tax Officer appointed to be or to discharge the functions of an Income-tax Officer, has given or served any notice or taken any action whatsoever under the said Act for the purpose of or in connection with the making of an Assessment under the said Act, such person shall be deemed to be and always to have been validly appointed as an Income-tax Officer for the purposes of the said Act, and no notice purporting to have been given or served by such person as an Income-tax Officer shall be called in question merely on the ground of any irregularity or defect in the manner of his appointment as an Income-tax Officer.

**THE RANGOON DEVELOPMENT TRUST (AMENDMENT)
ACT, 1946.**

[BURMA ACT NO. XX OF 1946.]

WHEREAS it is expedient to amend the Rangoon Development Trust Act, 1920 ; Burma Act V,
1920.

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Rangoon Development Trust
Short title and (Amendment) Act, 1946.
commencement.

(2) It shall be deemed to have come into force with effect from the first day of February, 1946.

2. In section 19 of the Rangoon Development Trust Act, 1920, a
Amendment. colon (:) shall be *substituted* for the full stop (.)
at the end thereof, and thereafter the following
shall be *inserted* as a proviso thereto :—

“ Provided that no fees shall be payable to officials or persons who receive their pay directly or indirectly from Government funds.”

THE TENANCY ACT, 1946.

[BURMA ACT NO. XXI OF 1946.]

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

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof; 26 Geo. 5,
c. 3.

NOW, THEREFORE, by and with the advice of the Legislative Council appointed by him under the Proclamation, dated the seventeenth day of October, 1945, and in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows:—

CHAPTER I.

PRELIMINARY.

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 Burma, and the remaining provisions of this Act shall extend to such areas as the Governor may from time to time, by notification, appoint.

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
Exemptions from operation of Act.

(b) any person who holds land directly under the Crown; 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 Governor may, by notification, declare that in any locality, to be specified in the notification, or in respect of land or 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 context,—
Definitions.

(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

Price,—Annas 4.]

(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 Governor 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;

“Revenue Officer” means any person whom the Governor 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 Myoók 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 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 Governor 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;
- (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 Governor 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 Governor.

(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 Governor 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.

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

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.

8. 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.

Liberty of applicant to withdraw.

9. 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.

Duration of order determining standard rent.

10. (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 or 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.
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.

Powers and duties of Rent Settlement Officers.
(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 Governor 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 Governor 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.

14. Notwithstanding anything contained in this Chapter, the Governor 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.

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

CHAPTER III.

CHARGES OF LANDLORDS, LABOURERS AND OWNERS OF CATTLE.

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.

Charges on produce.

(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.

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.

18. (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.

(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.

(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 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.

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.

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

Mode of execution
of warrant of attach-
ment.

- (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.

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.

Duration of attach-
ment.

(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.

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.

Saving of *wunsa* and
seed grain from attach-
ment.

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.

Sale of attached pro-
duce by agreement and
transfer 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.

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

Matters to be taken into consideration, in estimating compensation.

- (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.

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.

Limitation for claims for compensation.

CHAPTER V.

RESTRICTIONS ON THE DISPOSAL OF TENANCIES.

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:

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

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.

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:—

Termination of tenancy by landlord.

- (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.

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.

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

(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.

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:

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

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.

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:

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

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 Governor 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 ejection, 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 ejection of the tenant may be set off against any sum payable under the provisions of sub-section (1).

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.

Determination of amount of compensation and recovery thereof.

(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.

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
Commissioner 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.

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.

Bar to jurisdiction
of civil Courts.

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.

Power to require
statements on oath.

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.

Exclusion of opera-
tion of section 91,
Evidence Act, in
certain matters.

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

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

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.

Contracting out of
Act prohibited.

71. (1) The Governor may make rules to carry out the purposes of this Act.

Power to make rules.

(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;
- (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.

72. The Tenancy Act, 1939, is hereby repealed.

Repeal.
Bur. X, 1939.

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.

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.

55. Whoever, fraudulently or dishonestly,—

• Penalty for fraudulently or dishonestly causing attachment of produce.

(a) causes produce or crops to be attached under section 20 by representing that he has a charge thereon or

(b) removes the produce from the tenancy before the charges on it have been satisfied or before adequate provision for such satisfaction has been made,

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.

56. Any person who wilfully disobeys an order of ejectment passed under this Act shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both.

Penalty for disobeying order of ejectment.

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.

Penalty for improper termination of tenancy by landlord.

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.

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.

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.

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.

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

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 this agent duly authorized in that behalf.

Representation of party.

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

THE BURMA VOLUNTEER AIR FORCE (DISCIPLINE)
(AMENDMENT) ACT, 1946.

[BURMA ACT NO. XXII OF 1946.]

WHEREAS it is expedient to amend the Burma Volunteer Air Force (Discipline) Act, 1941, for certain purpose ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

26 Geo. 5,
c. 3.

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Burma Volunteer Air Force (Discipline) (Amendment) Act, 1946.

(2) It shall come into force at once.

2. After section 6 of the Burma Volunteer Air Force (Discipline) Act, 1941, hereinafter referred as the said Act, the following shall be inserted as section 6A thereof :—

“ 6A. Notwithstanding anything contained in this Act or in the Schedule thereto except where the Governor otherwise directs, the provisions of the Air Force Act (7 & 8 Geo. V. c. 51) as may from time to time be amended shall apply to the members of the Burma Volunteer Air Force who are attached to or doing duty, whether outside or within Burma, with a body or portion of the regular, reserve or auxiliary air force raised in Great Britain in respect of matters relating to or connected with discipline, trial and punishment as if they were members of such regular, reserve or auxiliary air force and as if they had been enrolled under the Air Force Act.”

3. In the Schedule to the said Act, between the expression “ In section 190 (5) the words ‘ and includes an air force schoolmaster when not a warrant officer ’ are omitted ” and the expression “ Section 190 (21) is omitted ”, the following expression shall be inserted :—

“ For clause (7) of section 190 the following shall be substituted :—

‘ (7) The expression ‘ superior officer ’ when used in relation to a person subject to this Act, includes a warrant officer and a non-commissioned officer ; and as regards persons placed under his orders, an officer, a warrant officer or non-commissioned officer of any of His Majesty’s naval, military or air forces.’ ”

B.B.C.P.O.—No. 67, Home Dept., 1st 8-46—2,000—II.

Price,—One Anna.]

**THE TANTABIN INCIDENT ENQUIRY COMMITTEE
ACT, 1946.**

[BURMA ACT No. XXIII OF 1946.]

WHEREAS it is necessary that the Tantabin Incident Enquiry Committee should have powers to enforce attendance of witnesses and generally to compel the production of evidence ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Tantabin Incident Enquiry Committee Act, 1946.

(2) It shall remain in force until the Governor, by notification, declares it to be no longer in force.

(3) It shall extend to the whole of British Burma.

2. "The Tantabin Incident Enquiry Committee" means the Committee that has been appointed by the Governor of Burma by a resolution in the Home and Judicial Department, dated the 25th of June 1946.

3. The Tantabin Incident Enquiry Committee shall without prejudice to any other powers have the powers which are vested in a Court under the Code of Civil Procedure in respect of the following matters :—

- (a) discovery and inspection,
- (b) enforcing the attendance of witnesses and requiring the deposit of their expenses,
- (c) compelling the production of documents and impounding the same,
- (d) examining witnesses on oath,
- (e) granting adjournments,
- (f) reception of evidence taken on affidavits, and
- (g) issuing commissions for the examination of witnesses,

and may summon and examine *Suo motu* any person whose evidence appears to them to be material ; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure.

4. For the purposes of enforcing the attendance of witnesses, the local limits of the Committee's jurisdiction shall be the limits of British Burma.

G.B.C.P.O.—No. 68, Home Dept., 22-8-46—2,000—II.

[Price,—One Anna.]

THE LANDS DISPUTES (SUMMARY JURISDICTION) (SECOND AMENDMENT) ACT, 1946.

[BURMA ACT NO. XXIV OF 1946.]

WHEREAS it is expedient further to amend the Lands Disputes (Summary Jurisdiction) Act, 1945, (Burma XXII of 1945) ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

26 Geo.
5, c. 3.

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. This Act may be called the Lands Disputes (Summary Jurisdiction) (Second Amendment) Act, 1946.
Short Title.

2. In sub-section (1) of section 13 of the Lands Disputes (Summary Jurisdiction) Act, *for* the word " pays " wherever it occurs the words " undertakes to pay " shall be substituted ; and at the end of the sub-section a colon shall be substituted for the full stop and the following words shall be added after it :—

Amendment of
section 13, Burma
XXII, 1945.

" provided that no person shall be deemed to be in occupation of land for the purpose of this sub-section who has entered on any agricultural land which at the time of his entry was actually occupied by any other agriculturist who was actually cultivating or preparing to cultivate the said land unless he shall first have obtained the permission of the said agriculturist to make such entry."

THE CURRENCY NOTES ACT, 1946.

[BURMA ACT NO. XXV OF 1946.]

WHEREAS it is necessary to make provision regarding the currency of Burma ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

26 Geo. I
c. 7.

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted as follows :—

Short title,
commence-
ment and
duration.

1. (1) This Act may be called the Currency Notes Act, 1946.
- (2) It shall be deemed to have come into force with effect from the sixteenth day of October, 1945.
- (3) It shall continue in force until such date as the Governor may, by notification, declare it to be no longer in force.

Interpre-
tation.

2. In this Act—
 - (1) " the Bank " means the Reserve Bank of India ;
 - (2) " Burma notes " means—
 - (i) The Burma bank notes and the overprinted currency notes of the Government of India, for the issue of which by the Bank provision was, prior to the making of the India and Burma (Burma Monetary Arrangements) (Amendment) Order, 1946, made in paragraph 6 of Part II of the India and Burma (Burma Monetary Arrangements) Order, 1937, and
 - (ii) India notes overprinted with the inscription " MILITARY ADMINISTRATION OF BURMA LEGAL TENDER IN BURMA ONLY ", issued by or under the authority of the British Military Administration of Burma or by or under the authority of the Governor.
 - (3) " India notes " means currency notes of the Government of India and bank notes of the Bank, other than Burma notes ;
 - (4) " legal tender ", in relation to a note, means legal tender in payment or on account for the amount expressed therein.

Management of and
liability for the
currency.

3. (1) Subject to the provisions of paragraphs 10 and 14 of Part II of the India and Burma (Burma Monetary Arrangements) Order, 1937, the Governor shall manage the currency of British Burma and shall have the sole right to issue currency notes and bank notes in British Burma, and may, in exercise of this right, issue India notes overprinted with the inscription " MILITARY ADMINISTRATION OF BURMA LEGAL TENDER IN BURMA ONLY. "

(2) Notwithstanding anything to the contrary contained in any other law, all Burma notes issued by the Governor under sub-section (1) or issued by or under the authority of the British Military Administration of Burma shall be the liability of the Governor, and neither the Bank nor the Government of India shall be liable to pay the value of any such Burma notes except in the capacity of agents of the Governor.

Price,—One anna.]

4. (1) No person in Burma other than the Governor shall draw accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis, or notes payable to bearer on demand of any such person :

Prohibition of bills payable to bearer on demand.

Provided that cheques or drafts, including hundis, payable to bearer on demand or otherwise may be drawn on a person's account with a banker, shroff, or agent.

(2) Any person contravening the provisions of sub-section (1) shall be punishable with fine which may extend to the amount of the bill, hundi, note or engagement in respect of which the offence is committed ; but no prosecution under this sub-section shall be instituted save with the sanction of the Governor.

5. (1) Burma notes with the exception of notes of Rs. 1,000 and Rs. 10,000 denomination and India notes shall be legal tender in British Burma :

Burma notes and India notes to be legal tender.

Provided that the Governor may, by notification, declare that, with effect from such date as may be specified in the notification, any series of Burma notes or India notes of any denomination shall cease to be legal tender save in such circumstances as may be specified in the notification :

Provided also that India notes which have ceased in India to be legal tender save at an office or agency of the Bank shall not be legal tender in British Burma save at an office or agency of the Bank.

(2) The Governor shall not re-issue Burma notes which are torn, defaced or excessively soiled.

6. The Governor may, by order in writing, authorize the Bank to exercise and perform all or any of his duties, powers or functions under this Act other than the duties, powers or functions specified in sections 1 (3), 4 (2) and 7 (2) and the proviso to section 5 (1) and may for such services pay to the Bank such remuneration as may be agreed upon between Bank and Governor of Burma.

Governor may appoint Bank as agent.

7. (1) Notwithstanding anything to the contrary contained in any other law, no person shall of right be entitled to recover from the Bank or the Government of Burma the value of any lost, stolen, mutilated or imperfect Burma note or India note.

Lost, stolen or mutilated notes.

(2) Without prejudice to the foregoing provision, the Governor may prescribe the circumstances in which, and the conditions and limitations subject to which, the value of lost, stolen, mutilated or imperfect Burma notes may be refunded as of grace.

8. Nothing in this Act shall affect any of the provisions of the India and Burma (Burma Monetary Arrangements) Order, 1937, as subsequently amended.

Saving.

**THE SANCTION FOR PROSECUTION (WAR-TIMES
OFFENCES) ACT, 1946.**

[BURMA ACT No. XXVI OF 1946.]

WHEREAS it is expedient that prosecutions in respect of criminal offences alleged to have been committed during the war between Great Britain and Japan shall not now be instituted without sanction ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

26 Ge
c. 3.

Now, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. That this Act may be called the Sanction for Prosecution (War-Times Offences) Act, 1946.

Short Title.

2. Notwithstanding anything contained in the Code of Criminal Procedure or in any other law for the time being in force, no Court shall take cognizance, either on complaint or on a police report or otherwise, of any offence alleged to have been committed in British Burma between the eighth day of December, 1941, and the fifth day of May, 1945, both days inclusive, without the prior sanction of the Governor in his discretion.

Sanction for
prosecutions.

3. Nothing in this Act shall apply to proceedings brought in a civil Court.

Saving of civil
proceedings.

**THE BURMA NOTES (PAYMENT RESTRICTION)
ACT, 1946.**

[BURMA ACT NO. XXVII OF 1946.]

WHEREAS it is expedient to make temporary provision in respect of payment of certain Burma notes for the issue of which provisions were made in the India and Burma (Burma Monetary Arrangements) Order, 1937, as subsequently amended;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof;

NOW, THEREFORE, in exercise of the said powers it is hereby enacted as follows:—

1. (1) This Act may be called the Burma Notes (Payment Restriction) Act, 1946.

(2) It shall come into force at once.

2. In this Act unless the context otherwise requires,—

(a) “Burma notes” shall have the same meaning as in the India and Burma (Burma Monetary Arrangements) Order, 1937.

3. Notwithstanding anything contained in any notification rule or law to the contrary, no person shall, except on such terms and conditions as may be specified by rules made under this Act, be entitled to recover from the Government the value of Burma notes of the denomination of Rs. 1,000 or Rs. 10,000.

4. The Governor may, by notification, make rules for the purpose of giving effect to the provisions of section 3 hereof.

THE BURMA LEGISLATURE (REMOVAL
DISQUALIFICATIONS) ACT, 1946.

[BURMA ACT NO. XXVIII OF 1946.]

WHEREAS the Governor of Burma has constituted a Legislative Council and an Executive Council to be associated with him in the exercise of his functions ;

AND WHEREAS it is expedient to remove certain disqualifications of members of the said Councils ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

26 Geo. 5, c. 3.

NOW, THEREFORE, in exercise of the said powers it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Burma Legislature (Removal of Disqualifications) Act, 1946.
Short title and commencement.

(2) It shall come into force on such date as the Governor may, by notification, declare in that behalf.

2. In this Act, "Council" means the Legislative Council as well as the Executive Council constituted by the Governor under the Proclamation, dated the 17th October 1945.
Definition.

3. A person shall not be disqualified from being chosen as a member of either Chamber of the Legislature by reason only of the fact that as a member of the Council he holds or has held any office of profit under the Crown.
Removal of disqualification of members of the Legislative Council and Executive Council.

4. This Act shall remain in force until such date as the Governor may, by notification, declare to be the date on which this Act is to come to an end and shall then expire, except with regard to anything done or omitted to be done under this Act.

G.B.C.P.O.—No. 81, Home Dept., 21-10-46—1,500—II.

Price,—One anna.]

THE COMPANIES (WAR-TIME PROVISIONS)
(AMENDMENT) ACT, 1946.

[BURMA ACT No. XXIX OF 1946.]

WHEREAS it is expedient to amend the Companies (War-Time Provisions) Act, 1945, for certain purposes ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act shall be called the Companies (War-Time Provisions) (Amendment) Act, 1946.

(2) It shall come into force on such date as the Governor may, by notification, appoint.

2. After section 27 of the Companies (War-Time Provisions) Act, 1945, the following *shall be inserted* as section 27A thereof :—

“ 27A. (1) Any company which was, prior to the 31st day of December, 1941, registered under the law in Burma and which, after the aforesaid date, was subsequently registered in the United Kingdom, or India, or in any British Dominion or Colony or in any British Protectorate or in any Territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom, may apply to the Registrar appointed under the Burma Companies Act for the re-registration of the company under the Burma Companies Act ; and where any such company is re-registered in accordance with the provisions hereof, such company shall, for the purposes of the Burma Companies Act, be deemed to have been duly registered from the date on which it was originally registered in Burma prior to its registration in the United Kingdom or India, or in any British Dominion or Colony or any British Protectorate or in any Territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom, as the case may be.

(2) The Governor may prescribe the circumstances and conditions under which the re-registration of a company may be effected, and where the circumstances or conditions have been so prescribed, the re-registration shall be made only when such conditions and circumstances are properly conformed to.”

THE INDIAN COURTS (BURMA JURISDICTION)
ACT, 1946.

[BURMA ACT NO. XXX OF 1946.]

WHEREAS it is expedient to repeal the Indian Courts (Burma Jurisdiction) Act, 1943, as being no longer necessary;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof;

26 Geo. 5,
c. 3.

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows:—

1. This Act may be called the Indian Courts (Burma Jurisdiction) Repealing Act, 1946

Short title.

2. The Indian Courts (Burma Jurisdiction) Act (Burma Act No. VI of 1943) is hereby repealed.

3. _____
4. _____
5. _____

xxxiv/47

THE ADVANCES TO CULTIVATORS (RECOVERY) ACT, 1946.

[BURMA ACT NO. XXXI OF 1946.]

WHEREAS the British Military Administration, Burma, has issued certain advances to cultivators under its Proclamation No. 15 of 1945. and that Administration has now ceased to exist ;

WHEREAS it is expedient to make provision for the recovery by the Government of Burma of those advances from persons from whom repayment is due under the British Military Administration Proclamation aforesaid ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Advances to Cultivators (Recovery) Act, 1946.

(2) It shall remain in force until the Governor, by notification, declares it to be no longer in force.

2. (1) All cultivators in any one group to whom advances are made under the British Military Administration Proclamation No. 15 of 1945 shall be jointly and severally liable for the repayment to the Government of Burma on the date prescribed by the said Proclamation of the total amount so advanced to them together with all interest due thereon in accordance with the terms under which the advance is given :

Provided that the Deputy Commissioner in charge of the district may, in lieu of repayment in cash, direct that repayment shall be made in kind at such place and on such date as he may determine after the harvest of the main crop of the village-tract immediately following the making of the said advances :

Provided also that where the Deputy Commissioner in charge of the district is satisfied that because of the failure of crop or other sufficient cause hardship will be caused by immediate recovery such recovery may be postponed by him up to and including the 15th May 1947 subject to interest being charged at the prescribed rate for the extended period.

(2) Where repayment is in kind the value thereof shall be fixed in accordance with the market rate current in the District on the date fixed for repayment.

3. In the event of default in repayment, the amount due may be recovered from any one or more of the persons jointly liable therefor under section 2 as if it were an arrear of Land Revenue.

4. A statement showing the amount of the advances made to individual cultivators and signed or marked by each of them, or by the cultivator's wife or adult child on his behalf, and by the officer making the advances shall be conclusive evidence of the amounts so advanced and the total thereof shall be conclusive evidence of the principal amount for the repayment to which the cultivators named therein are jointly and severally liable.

G.B.C.P.O.—No. 129, Home Dept., 19-12-46—2,000—II.

Price,—One anna]

THE RANGOON PORT (AMENDMENT) ACT, 1946.

[BURMA ACT No. XXXII OF 1946.]

WHEREAS it is expedient to amend the Rangoon Port Act, 1905 ;

Burma IV,
1905.

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

26, Geo. 5,
c. 3.

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. This Act may be called the Rangoon Port (Amendment) Act, 1946.
Short title.

2. Sub-section (2) of section 82 of the Rangoon Port Act, 1905, shall be deleted.

Suspension of sub-
section (2) and amend-
ment of sub-section (6)
of section 82.

3. In sub-section (6) of section 82 of the Rangoon Port Act, 1905, for the words " three months " between the words " At least " and the words " before issuing ", the words " one month " shall be substituted.

**THE STATE AID TO INDUSTRIES (AMENDMENT)
ACT, 1946.**

[BURMA ACT No. XXXIII OF 1946.

WHEREAS it is expedient to amend the State Aid to Industries Act, 1939, for certain purpose ;

Burma Act
XXIII 1939.

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

26 Geo. 5,
c. 3.

Now, THEREFORE, in exercise of the said powers it is hereby enacted by the Governor of Burma as follows :—

1. This Act may be called the State Aid to Industries (Amendment) Act, 1946.

Short Title.

2. For item (viii) of section 2 of the State Aid to Industries Act, 1939, the following shall be substituted :—

“(viii) ‘Minister’ means the Minister in charge of Industry and Labour or the Member of the Governor’s Executive Council in charge of Industry and Labour.”

THE URBAN RENT CONTROL ACT, 1946.

[BURMA ACT No. XXXIV OF 1946.]

WHEREAS the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action by making provision for restricting rents of premises in urban areas and for other matters incidental to or connected with the purpose aforesaid ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers it is hereby enacted by the Governor of Burma as follows : — 26 Geo.
c. 3.

1. (1) This Act may be called the Urban Rent Control Act, 1946.

Short title, extent and duration.

(2) Subject to the provisions of section 3 it shall extend to all urban areas in Burma.

(3) The Act shall come into force at once and it shall be in force for a period of five years :

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—
Definitions.

(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, 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 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 ;

Price,—Annas 0.4.0.]

- (ii) any land let separately for the purposes of being used principally for business or trade ;
- (e) "prescribed" means prescribed by rules made under this Act ;
- (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 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 Governor 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 per annum 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 ;
- (h) "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 and any other area that may be notified as a town under the Towns Act, 1907 as amended from time to time,

3. (1) The Governor 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 Governor 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 Governor shall by notification declare to be primarily intended for the accommodation of travellers.

4. The Governor 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 on any fresh notice on any subsequent tenant.

10. (1) 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 like 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.

(2) For the purpose of setting off against rents due the cost of repairs of a temporary nature carried out by a tenant shall not be taken into account ; but 50 per cent of the cost of permanent repairs shall be permitted to be set off.

11. 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—

Cases in which orders of ejectment may be made.

- (a) any rent lawfully due from the tenant which accrued after the resumption of civil government on the conclusion of the hostilities with Japan has not been paid to the landlord or deposited with the Controller 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 under 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.

12. (1) In any area or in respect of any class of premises to which the Governor 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 the purpose of residence, 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, thereupon 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, 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 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 condition 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.

14. (1) At the time of the application, or the making or giving of any order or any decree, for the recovery of possession of any premises or for the ejection of a tenant therefrom 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, the Court may, except in a case in which either clause (b) of section 11 or clause (b) of section 13 (1) applies, adjourn the application or stay or suspend execution of any such order or postpone the date of delivery of possession for such period or periods and subject to any conditions in regard to payment by the person against whom the application or order

Power of Court to rescind order in certain cases.

or decree has been made of arrears of rent or *mesne* profits or otherwise as the Court thinks fit, and if such conditions are complied with, the Court may, if it thinks fit, discharge or rescind any such order or decree.

(2) The Court shall take action of the kind permitted by sub-section (1) in any case where it is satisfied that the person against whom the application, order or decree has been made or given is unable to obtain suitable alternative accommodation and the premises to which the application, order or decree refers are in the opinion of the Court required *bona fide* as a residence by such person or his family.

15. An appeal on law and on fact shall lie to the High Court of Appeal to High Court. judicature at Rangoon from any decree or order made by any Judge of the City Civil Court of Rangoon, or any judge of district courts outside Rangoon in any suit for the recovery of possession of any premises to which this Act applies.

16. No Civil Court shall accept a plaint in any suit for the recovery of rent in respect of any premises to which this Act may apply, unless a certificate issued by the Controller certifying the standard rent of the premises has been attached to the plaint.

Courts debarred from accepting plaints without Controller's certificate.

17. (1) Where any sum as 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.

Rent which should not have been paid may be recovered.

(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 Code of Criminal Procedure in like manner as if it were a fine, and the balance of any rent so recovered shall after deduction of the costs of recovery be paid to the tenant.

Mode of recovery of over-payments by tenants.

(2) In a proceeding under section (1), on the production of a certificate from the Controller certifying the standard rent of the premises, the Magistrate shall presume, until the contrary is proved, that the standard rent of the premises was as certified in the certificate.

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 may fix the standard rent 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 sublet 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 1930, 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 commencement of this Act :

Provided that —

- (i) under clause (d) the standard rent shall 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 1939 or the rent at which they were let on the first day of September 1934 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.

(3) Before exercising any of the powers conferred on him by this Act the Controller shall give notice of his intention to the landlord and tenant, 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.

(4) All orders of the Controller passed under this Act shall be in writing, 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 Governor may by rule prescribe.

(5) 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 Governor may prescribe. Such copy shall be admissible in evidence in any Court to prove the order of the Controller.

20. For the purpose of any enquiry 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 9 a.m. and 6 p.m. :

Provided that no building use¹ for human occupation shall be so entered without the consent of the occupier, unless 24 hours 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—
Power to require information and to summon witnesses.

- (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 as such time and at such place 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.

22 (1) If the decision of the Controller fixing the standard rent for any premises 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 Governor if the premises are situated in any urban area in which the Act is in force.
Reference to the Chief Judge, City Civil Court of Rangoon or to other Judge from decision of the Controller.

(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.

final.

(5) 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 Controllor, 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 Controllor 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. Nothing in this Act shall permit the tenant against whom a legal order or decree to vacate and give up the premises to the landlord has been made or given, 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.

(two thousand) or with both.

28. Whoever in any case in which an order or decree for the recovery of any premises is prohibited under section 11 with the previous written consent of the Controller or save for the purpose of effecting repairs or complying with any municipal requisition wilfully disturbs any easement annexed to any premises, the standard rent of which has been fixed, or removes, destroys or renders unserviceable anything provided for permanent use therewith, or discontinues any supply or service comprised in such rent 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 of which the standard rent has been fixed 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 and within six months from the date of the commission of the alleged offence with the previous sanction of the Controller.

30. The Governor may prescribe the amount of court-fee payable in respect of a suit for ejectment or possession of houses, land and gardens, and where such court-fee is prescribed, the court-fee in respect of such suit shall, notwithstanding anything contained in the Court-fee Act, be payable in accordance with the amount so prescribed.

31. (1) The Governor may by notification in the *Gazette* make rules 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 settling of costs and fees.

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.

[BURMA ACT NO. XXXV OF 1946.]

WHEREAS it is expedient further to amend the Forest Act, 1902 (Burma IV of 1902) ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. This Act may be called the Forest (Amendment) Act, 1946.

Short Title.

2. In sub-section (1) of section 62 of the Forest Act, for the words " of a rank not inferior to that of a Forest Ranger and in receipt of a monthly salary amounting to at least one hundred rupees,—" the following shall be substituted :—

" in charge of a range or ranges,—".

Repealed by
xviii/47

[BURMA ACT NO. XXXVI OF 1946.]

WHEREAS it is expedient further to amend the Burma Income-tax Act to give effect to certain recommendations made by the Revenue Reconstruction Committee, to set right certain defects in the Act, and to provide for the collection of the tax on certain classes of income by instalments ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935 (26 Geo. 5, c. 3), in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Burma Income-tax (Amendment) Act, 1946.

(2) It shall come into force on the first day of October, 1946.

2. In the Burma Income-tax Act,—

(1) *For* sub-section (1) of section 2 the following *shall be substituted* :—

“(1) ‘agricultural income’ means—

(a) any income from land which is used for agricultural purposes, and is either assessed to land revenue in British Burma or subject to a local rate assessed and collected by officers of Government as such, derived by—

(i) agriculture, or

(ii) the performance by a cultivator of any process ordinarily employed by a cultivator to render the produce raised by him fit to be taken to market, or

(iii) the sale by a cultivator of the produce raised by him in respect of which no process has been performed other than a process of the nature described in sub-clause (ii) ;

(b) any income derived from any building owned and occupied by the cultivator of any land, with respect to which or the produce of which, any operation mentioned in sub-clauses (ii) and (iii) of clause (a) is carried on :

Provided that the building is on or in the immediate vicinity of the land, and is a building which the cultivator by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other out-building :

Provided further, that nothing in the definition in this sub-section shall include any rent or revenue in money, kind or service receivable by a landlord on account

Price,—Annas 0-4-0.]

(2) After sub-section (6) of section 2 the following sub-section shall be inserted, the existing sub-section (6A) being re-numbered as (6AA):—

“(6A) ‘earned income’ means any income of an assessee not being a company—

- (a) which is chargeable under the head ‘Salaries’; or
- (b) which is chargeable under the head ‘Professional earnings’, or
- (c) which is chargeable under the head ‘Business’, where the business is carried on by the assessee and, in the case of a firm, which is a share of its profits belonging to a partner actively engaged in the conduct of the business; or
- (d) which is chargeable under the head ‘Other Sources’ if it is immediately derived from personal exertion or represents a pension or superannuation or other allowance given to the assessee in respect of his past services or the past services of any deceased person;

and includes any such income which, though it is the income of another person, is included in the assessee's income under the provisions of this Act, but does not include any such income which is exempt from tax under sub-section (2) of section 14 [other than a share of the profits of a registered firm for the purpose of a refund under sub-section (2) of section 48], or under a notification issued under section 60.”

(3) In sub-section (11) of section 2, (i) after the word “means” the words “in respect of any separate source of income, profits and gains” shall be inserted, (ii) for the proviso to clause (a) of this sub-section the following shall be substituted:—

“Provided that where an assessee has once been assessed in respect of a particular source of income, profits and gains, he shall not in respect of that source exercise this option so as to vary the meaning of the expression ‘previous year’ as then applicable to him except with the consent of the Income-tax Officer and upon such conditions as the Income-tax Officer may think fit; or”

and (iii) after clause (b) the word “or” shall be added and the following shall be inserted as clause (c):—

“(c) where a business or profession has been newly set up in the financial year preceding the year for which assessment is to be made, the period from the date of the setting up of the business or profession to the 30th day of September next following or to the last day of the period determined under clause (b), or, if the accounts of the assessee are made up to some other date than the 30th day of September and

or profession to such other date :

Provided that when such other date does not fall between the setting up of the business or profession and the next following 30th day of September, it shall be deemed that there is no previous year,; and when the assessee is a partner in a firm, 'previous year' in respect of his share of the income, profits and gains of the firm means the previous year as determined for the assessment of the income, profits and gains of the firm ;"

(4) In section 3 for the words "association of individuals" the words "association of persons" *shall be substituted*.

(5) For sub-section (2) of section 4 the following *shall be substituted* :—

"(2) Income, profits and gains accruing or arising without British Burma to a person resident in British Burma shall be deemed to have accrued or arisen in British Burma, and if they accrue or arise directly or indirectly through or from any business connection in British Burma, or through or from any property in British Burma, or through or from any asset or source of income in British Burma shall be deemed to be income, profits and gains of the year in which they so accrued or arose ; and if they do not accrue or arise through or from any such business connection, property, asset or source of income, be deemed to be income, profits and gains of the year in which they are received in or brought into British Burma, notwithstanding the fact that they did not accrue or arise in that year, unless the income has been included in the total income of a person resident in British Burma in accordance with the provisions of sub-section (4) of section 48, in which case it shall be deemed to be income, profits and gains of the year in which it accrued or arose :

Provided that nothing contained in this sub-section shall apply to any income, profits or gains so accruing or arising prior to the 1st day of April 1933 :

Provided further that nothing in this sub-section shall apply to income from agriculture arising or accruing in a State in Burma from land for which any annual payment in money or in kind is made to the State.

Explanation 1.—Income, profits or gains accruing or arising without British Burma shall not be deemed to be received or brought into British Burma within the meaning of this sub-section by reason only of the fact that they are taken into account in a balance sheet prepared in British Burma.

paid if it is earned in British Burma."

(6) In sub-section (5) of section 5 the words "Commissioners of Income-tax" *shall be deleted*.

(7) In sub-section (1) of section 7, (i) the words "received by him" *shall be deleted*; (ii) for the words "which are paid by or on behalf of Government" the words "which are due to him from, whether paid or not, or are paid by or on behalf of, the Crown" *shall be substituted* and (iii) the words "by or on behalf of" in the second place where they occur *shall be deleted*, and in the proviso to this sub-section for the words "under the authority of Government from the salary of any individual" the words "from the salary payable by or on behalf of the Crown to any individual, being a sum deducted in accordance with the conditions of his service" *shall be substituted*.

(8) In sub-section (2) of section 7 for the words "by Government" the words "by or on behalf of the Crown" *shall be substituted*.

(9) For section 9 the following *shall be substituted* :—

" 9. (1) *Property*.—The tax shall be payable by an assessee under the head 'Property' in respect of the *bona-fide* annual value of property consisting of any buildings or lands of which he is the owner (other than such portions of such property as he may occupy for the purposes of his business), or in respect of which he is entitled to receive any rent or revenue in money, kind or service, subject to the following allowances, namely :—

- (i) where the property is in the occupation of the assessee, or where it is let to a tenant and the assessee has undertaken to bear the cost of repairs, the amount paid on account thereof by the assessee;
- (ii) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the amount by which such value exceeds the rent paid by the tenant up to but not exceeding the amount expended by the tenant for *bona-fide* repairs to the property;
- (iii) the amount of any premium paid to ensure against risk of damage to or loss of the property or any crops to be raised or cattle to be reared therein;
- (iv) where the property is subject to a mortgage, or other capital charge, the amount of any interest on such mortgage or charge; where the property is subject to a ground rent, the amount of such ground rent; where the property has been acquired

- ment Loans Act or the Agriculturists' Loans Act, the amount of any interest thereon actually paid by him in respect of the property ;
- (v) any sums paid on account of land revenue in respect of the property ;
 - (vi) in respect of collection charges, a sum not exceeding the prescribed maximum ;
 - (vii) in respect of vacancies, such sum as the Income-tax Officer may determine, having regard to the circumstances of the case :

Provided that the aggregate of the allowances made under this sub-section shall in no case exceed the annual value.

(2) For the purposes of this section—

- (i) the expression 'tenant' shall be deemed to include a sub-tenant ;
- (ii) the expression 'annual value' shall be deemed to mean, in the case of buildings and land appurtenant thereto not being land used for agricultural purposes, the sum for which the property might reasonably be expected to let from year to year, and, in the case of other lands, including lands used for agricultural purposes, the sum realised on account of rent or revenue in money, kind or service after making the deduction of the sums actually paid by the assessee in respect of the land from which such rents are derived as follows, namely :—
 - (a) as rent to a superior landlord ;
 - (b) for any local rate or cess ;
 - (c) in respect of the maintenance of any irrigation or protective work constructed for the benefit of the land but not situated thereon ; and
 - (d) any other expenditure of the assessee, not being in the nature of capital expenditure or personal expenditure, and not being an allowance to be made from annual value under sub-section (1), laid out wholly and exclusively for the purpose of deriving such rent from such land :

Provided that in the case of buildings and land appurtenant thereto where the property is in the occupation of the assessee for the purposes of his own residence such sum shall, for the purposes of this section, be deemed not to exceed 10 per cent of the total income of the assessee."

- (10) In clause (.) of sub-section (2) of section 14 for the words "association of individuals" the words "association of persons" shall be substituted.

portion, if any, of the earned income included in his total income as is directed by the Act of the Legislature fixing the rate or rates of tax for any year to be deducted in making an assessment for that year, and for the purposes of determining the rates at which income-tax (but not super-tax) is payable by the assessee for that year his income shall be deemed to be the total income reduced by the said portion."

(12) At the end of sub-section (1) of section 16 the following words *shall be inserted* :—

" and any sum exempted under section 15A shall also be included, except for the purpose of determining the rates at which income-tax (but not super-tax) is payable by the assessee to whom the exemption is given."

(13) For section 17 the following *shall be substituted* :—

" 17. *Determination of tax payable where portion of total income is exempt.*—(1) Where there is included in the total income of an assessee any income exempted from tax by or under the provisions of this Act, the income-tax excluding super-tax payable by the assessee shall be an amount bearing to the total amount of income-tax excluding super-tax which would have been payable on the total income had no part of it been exempted the same proportion as the unexempted portion of the total income bears to the total income.

(2) Where the amount of the total income of any assessee is deemed to be the total income reduced under the provisions of section 15A by an allowance for earned income, the expression 'total income' in this section shall, for the purpose of determining the amount of income-tax (but not super-tax) payable by the assessee, be deemed to refer to his total income so reduced."

(14) In section 18—

(i) in sub-section (2) for the words " but not super-tax " the words " and super-tax " *shall be substituted*, and for the words " at the rate applicable to the estimated income of the assessee under this head " the words " at a rate representing the average of the rates applicable to the estimated total income of the assessee under this head " *shall be substituted*.

(ii) in sub-section (2a) for the word " Government " the words " the Crown " *shall be substituted*; and

(iii) in sub-section (6) the words " or as the Financial Commissioner directs " *shall be deleted*.

10A. *Advance payment of tax.*—(1) (a) In the case of income in respect of which provision is not made under section 18 for deduction of income-tax at the time of payment, the Income-tax Officer may, on or after the 1st day of October in any financial year, by order in writing, require an assessee to pay quarterly to the credit of the Government of Burma on the 15th day of December, 15th day of March, 15th day of June and 15th day of September in that year respectively an amount equal to one-quarter of the income-tax and super-tax payable on so much of such income as is included in his total income of the latest previous year commencing on or after the 1st day of October 1944 in respect of which he has been assessed, if his total income exceeded Rs. 7,000. Such income-tax and super-tax shall be calculated at the rates in force for the financial year in which he is required to pay the tax, and shall bear to the total amount of income-tax and super-tax so calculated on the said total income the same proportion as the amount of such inclusions bears to his total income :

Provided that, where the previous year of the assessee in respect of any source of income ends after the 30th day of June and before the 31st day of October, the order in writing issued by the Income-tax Officer requiring the payment of income-tax and super-tax on that source of income shall substitute for the four quarterly payments hereinbefore specified, three payments of equal amount to be made on the 15th day of March, the 15th day of June and 15th day of September, respectively :

Provided further that, if after the making of an order by the Income-tax Officer and before the 15th day of August of the financial year an assessment of the assessee is completed in respect of a previous year, later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring the assessee to pay in one instalment on the specified date, or in equal instalments on the specified dates if more than one, falling after the date of the amended order, the tax computed on the revised basis as reduced by the amount, if any, paid in accordance with the original order ; but if the amount already paid exceeds the tax determined on the revised basis, the excess shall be refunded.

(b) If the notice of demand issued under section 29 in pursuance of the order under clause (a) of this sub-section is served after any of the dates on which the instalments specified therein are payable, the tax shall be payable in equal instalments on each of such of these dates as fall after the date of service of

- (2) If an assessee who is required to pay tax by an order under sub-section (1) estimates, at any time before the last instalment is due, that the part of his income to which that sub-section applies for the period which would be the previous year for an assessment for the year next following is less than the income on which he is required to pay tax and accordingly wishes to pay an amount less than the amount which he is so required to pay, he may send to the Income-tax Officer an estimate of the tax payable by him, calculated in the manner laid down in sub-section (1), on that part of his income for such period, and shall pay such amount as accords with his estimate in equal instalments on suc^l. of the dates specified in sub-section (1) (a) as have not expired, or in one sum if only the last of such dates has not expired :

Provided that, the assessee may send a revised estimate of the tax payable by him before any one of the dates specified in sub-section (1) (a) and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments.

- (3) Any person who has not hitherto been assessed in respect of the income of a previous year commencing on or after the 1st day of October 1944 shall, before the 15th day of September in each financial year, if his total income of the period which would be the previous year for an assessment for the financial year next following is likely to exceed seven thousand rupees, send to the Income-tax Officer an estimate of the tax payable by him on that part of his income to which the provisions of section 18 do not apply of the said previous year calculated in the manner laid down in sub-section (1), and shall pay the amount, on such of the dates specified in that sub-section as have not expired, by instalments which may be revised according to the proviso to sub-section (2) :

Provided that, where his total income includes agricultural rents he shall, before the 15th day of June in each financial year, send to the Income-tax Officer an estimate of the tax payable by him on such rents for the said previous year calculated in the manner laid down in sub-section (1) and shall pay the amount of such tax on the 15th day of June in one sum, and the balance (if any) of the estimated tax payable by him aforesaid in accordance with the foregoing provisions of this sub-section.

- (4) Where the income to which sub-section (1), (2) or (3) applies, includes income from agricultural rents or any income of the nature of commission which is

Before any of the deferred payments of tax become due, he may defer payment of tax on such inclusions to the date on which such income would be normally received or adjusted and if he does so he shall communicate to the Income-tax Officer the date to which such payment is deferred :

Provided that, if the tax of which the payment is deferred is not paid within 15 days of the date on which such income or part thereof is received or adjusted by the payer in the assessee's account, the tax shall be payable with six per cent simple interest per annum from the date of such receipt or adjustment to the date of payment of the tax.

- (5) The Government shall pay on any amount paid under this section simple interest at the rate of 2 per cent per annum from the date of payment to the date of the assessment (hereinafter called the "regular assessment"), made under section 23 of the income, profits and gains of the previous year for an assessment for the year next following the year in which the amount was payable :

Provided that, on any portion of such amount which is refunded under the foregoing provisions of this section interest shall be payable only up to the date on which the refund was made.

- (6) Where in any year an assessee has paid tax under sub-section (2) or sub-section (3) on the basis of his own estimate, and the tax so paid is less than eighty per cent of the tax determined on the basis of the regular assessment, so far as such tax relates to income to which the provisions of section 18 do not apply, and so far as it is not due to variations in the rates of tax made by the Finance Act enacted for the year for which the regular assessment is made, simple interest at the rates of six per cent per annum from the 1st day of July in the financial year in which the tax was paid, up to the date of the said regular assessment, shall be payable by the assessee upon the amount by which the tax so paid falls short of the said eighty per cent :

Provided that, where, as a result of an appeal under section 31 or section 32 or of a review under section 33 or of a reference to a Board of Referees under section 33A or to the High Court under section 66, the amount on which interest was payable under this sub-section has been reduced the interest shall be reduced accordingly, and the excess interest paid, if any, shall be refunded together with the amount of income-tax that is refundable :

Provided further that, where a business or profession is newly set up and is assessable on the income, profits

(7) Where, on making the regular assessment, the Income-tax Officer finds that any assessee has—

- (a) under sub-section (2) or sub-section (3) underestimated the tax payable by him and thereby reduced the amount payable in any of the first three instalments, or
- (b) under sub-section (4) wrongly deferred the payment of tax on a part of his income,

he may direct that the assessee shall pay simple interest at the rate of six per cent per annum in the case referred to in clause (a) for the period during which the payment was deficient on the difference between the amount paid in each such instalment and the amount which should have been paid having regard to the aggregate tax actually paid under this section during the year, and in the case referred to in clause (b) for the period during which the payment of tax was wrongly deferred on the amount of which the payment was so deferred :

Provided that, for the purposes of this sub-section, any instalment due before the expiry of six months from the commencement of the previous year in respect of which it is to be paid, shall be deemed to have become due fifteen days after the expiry of the said six months.

(8) Where on making the regular assessment, the Income-tax Officer finds that no payment of tax has been made in accordance with the foregoing provisions of this section, interest calculated in the manner laid down in sub-section (6) shall be added to the tax as determined on the basis of the regular assessment.

(9) If the Income-tax Officer, in the course of any proceedings in connection with the regular assessment, is satisfied that any assessee—

- (a) has furnished under sub-section (2) or sub-section (3) estimates of the tax payable by him which he knew or had reason to believe to be untrue, or
- (b) has without reasonable cause failed to comply with the provisions of sub-section (3),

the assessee shall be deemed, in the case referred to in clause (a) to have deliberately furnished inaccurate particulars of his income, and in the case referred to in clause (b), to have failed to furnish the return of his total income ; and the provisions of section 28, so far as may be, shall apply accordingly :

Provided that the amount of penalty leviable shall, in the case referred to in clause (a) be a sum not exceeding the amount by which the tax actually paid during

the tax determined on the basis of the regular assessment, as modified in the manner provided in sub-section (6), whichever is the less, and, in the case referred to in clause (b), be a sum not exceeding the said eighty per cent.

- (10) (a) If an assessee does not pay on the specified dates any instalment of tax that he is required to pay under sub-section (1) and does not, before the date on which any such instalment as is not paid becomes due, send under sub-section (2) an estimate or a revised estimate of the tax payable by him, he shall be deemed to be an assessee in default in respect of such instalment or instalments.
- (b) If any assessee has sent under sub-section (2) or sub-section (3) an estimate or a revised estimate of the tax payable by him, but does not pay any instalment in accordance therewith on the date or dates specified in sub-section (1), he shall be deemed to be an assessee in default in respect of such instalment or instalments:

Provided that the assessee shall not, under clause (a) or (b), be deemed to be in default in respect of any amount of which the payment is deferred under sub-section (4) until after the date communicated by him to the Income-tax Officer under that sub-section.

- (11) Any sum other than a penalty or interest paid by or recovered from an assessee in pursuance of the provisions of this section shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the financial year next following the year in which it was payable, and credit therefore shall be given to the assessee in the regular assessment.
- (12) (a) The tax shall not be payable by an assessee in respect of any sum of interest which he receives under sub-section (3) and such sum shall not be included in computing his total income.
- (b) In computing the total income of an assessee no allowance shall be made for any interest payable by him under sub-sections (4), (6) or (7).
- (16) For section 19 the following shall be substituted:—
 "19. *Payment in other cases.*—Any tax which has not been deducted in accordance with the provisions of section 18 shall be payable by the assessee direct."
- (17) In clause (c) of section 21 after the word "Income-tax" the words "and super-tax" shall be inserted.

person whose total income during the previous year exceeded the maximum amount which is not chargeable to income-tax to furnish, within such period not being less than sixty days as may be specified in the notice, a return in the prescribed form, and verified in the prescribed manner, setting forth along with such other particulars as may be required by the notice, his total income during that year :

Provided that the Income-tax Officer may in his discretion extend the date for the delivery of the return in the case of any person or class of persons.

- (2) In the case of any person whose total income is, in the Income-tax Officer's opinion, of such an amount as to render such person liable to income-tax, the Income-tax Officer may serve a notice upon him, requiring him to furnish, within such period, not being less than thirty days as may be specified in the notice, a return in the prescribed form, and verified in the prescribed manner setting forth, along with such other particulars as may be provided for in the notice, his total income during the previous year :

Provided that the Income-tax Officer may, in his discretion, extend the date for the delivery of the return.

- (3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2), or having furnished a return under either of those sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

- (4) The Income-tax Officer may serve on any person who has made a return under sub-section (1) or upon whom a notice has been served under sub-section (2) a notice requiring him, on a date to be therein specified, to produce, or cause to be produced, such accounts or documents as the Income-tax Officer may require :

Provided that the Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year."

- (19) In sub-section (4) of section 23—

- (i) for the words beginning with "If the principal officer" and ending with "as the case may be" the words "If any person fails to make the return required by any notice given under sub-section (2) of section 22 and has not made a return or a revised return under sub-section (3) of the same section" shall be substituted ;

cancel its registration" the words "in the case of a firm may refuse to register it or may cancel its registration if it is already registered" *shall be substituted.*

(20) In sub-section (1) and in clause (i) of sub-section (4) of section 23A *for* the words "association of individuals" the words "association of persons" *shall be substituted.*

(21) *For* sub-sections (2) and (3) of section 24B the following *shall be substituted :—*

"(2) Where a person dies before the giving of the notice referred to in sub-section (1) of section 22, or before he is served with a notice under sub-section (2) of section 22 or section 34, as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub-section (2) of section 22 or under section 34, as the case may be, comply therewith, and the Income-tax Officer may proceed to assess the total income of the deceased person as if such executor, administrator or other legal representative were the assessee.

(3) Where a person dies, without having furnished a return which he has been required to furnish under the provisions of section 22, or having furnished a return which the Income-tax Officer has reason to believe to be incorrect or incomplete, the Income-tax Officer may make an assessment of the total income of such person and determine the tax payable by him on the basis of such assessment, and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived, require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might under the provisions of sections 22 and 23 have required from the deceased person."

(22) In section 25—

(i) in sub-section (1) the words "on which income-tax was not at any time charged under the provisions of the Indian Income-tax Act, 1918" *shall be deleted*;

(ii) sub-section (3) *shall be deleted*; and

(iii) the existing sub-section (4) *shall be renumbered* as sub-section (3), and in sub-section (3) as renumbered the words, brackets and figure "or sub-section (3)" *shall be deleted.*

(23) In section 28—

(i) *for* sub-section (1) the following *shall be substituted :—*

"(1) If the Income-tax Officer, the Assistant Commissioner or the Commissioner, in the course of any

to furnish by notice given under sub-section (1) or sub-section (2) of section 22 or section 34, or has, without reasonable cause, failed to furnish it within the time allowed and in the manner required by such notice, or

- (b) has without reasonable cause failed to comply with a notice under sub-section (4) of section 22 or sub-section (2) of section 23, or
- (c) has concealed the particulars of his income or deliberately furnished inaccurate particulars of such income,

he may direct that such person shall pay by way of penalty, in the case referred to in clause (a), in addition to the amount of the income-tax and super-tax, if any, payable by him, a sum not exceeding that amount, and in the cases referred to in clauses (b) and (c), in addition to any tax payable by him, a sum not exceeding the amount of the income-tax and super-tax, if any, which would have been avoided if the income as returned by such person had been accepted as the correct income :

Provided that—

- (a) no penalty for failure to furnish the return of his total income shall be imposed on an assessee whose total income is less than three thousand five hundred rupees, unless he has been served with a notice under sub-section (2) of section 22 ;
 - (b) where a person has failed to comply with a notice under sub-section (2) of section 22 or section 34 and proves that he has no income liable to tax, the penalty imposable under this sub-section shall be a penalty not exceeding twenty-five rupees ;
 - (c) no penalty shall be imposed under this sub-section upon any person assessable under section 42 as the agent of a person not resident in British Burma for failure to furnish the return required under section 22 unless a notice under sub-section (2) of that section or under section 34 has been served on him " and
- (ii) in sub-section (2) for the words " in addition to the income-tax payable by him " the words " in addition to the income-tax and super-tax, if any, payable by him " *shall be substituted* ; and for the words " not exceeding the amount of income-tax " the words " not exceeding the amount of income-tax and super-tax " *shall be substituted*.
- (24) In section 29 before the word and figures " section 23 " the words and figures " section 18A or " *shall be inserted*.

following *shall be substituted* :—

“ or objecting to the cancellation by an Income-tax Officer of the registration of a firm under sub-section (4) of section 23 or to a refusal to register a firm under sub-section (4) of section 23 or section 26A.”

(26) For clause (3) of section 38 the following *shall be substituted* :—

“ (3) require any person whom he has reason to believe to be engaged in a business or profession to furnish him with a return containing particulars of the location and style of the principal place wherein he carries on the business or profession and of any branches thereof, the names and addresses of his partners, if any, in such business or profession and the extent of his own share and the shares of all such partners in the profits of the business or profession and any branches thereof.”

(27) In sub-section (1) of section 42—

(i) before the words “ profits or gains ” the word “ income ” *shall be inserted*, and

(ii) for the words “ or property in British Burma ” the words “ in British Burma, or through or from any property in British Burma, or through or from any asset or source of income in British Burma, or through or from any money lent out on interest and brought into British Burma in cash or in kind ” *shall be substituted*.

(28) In section 44c for the words “ in any year ” the words “ in the year ” *shall be substituted*.

(29) In section 46—

(i) in sub-section (5) the words “ or as the Financial Commissioner directs ” *shall be deleted*; and

(ii) in sub-section (7) for the words “ the year ” the words “ the financial year ” *shall be substituted*, and at the end of the sub-section, the following proviso *shall be inserted* :—

“ Provided that where the sum payable is allowed to be paid by instalments the period of one year herein referred to shall be reckoned from the date on which the last of such instalments was due.”

(30) In section 47 before the words, brackets and figures “ sub-section (2) of section 25 ” the words, brackets, figures and letter “ sub-section (9) of section 18A ” *shall be inserted*, and after the words, brackets and figures “ or sub-section (1) of section 46 ” the following *shall be inserted* :—

“ and any interest payable under the provisions of sub-sections (4), (6), (7), or (8) of section 18A,”

- his total income" the words "a rate representing the average of the rates applicable to his total income" shall be substituted;
- (ii) in sub-section (2) for the words "the rate of income-tax applicable to his total income" the words "the rate representing the average of the rates applicable to his total income" shall be substituted;
 - (iii) in sub-section (3) for the words "the rate of income-tax applicable to his total income" the words "the rate representing the average of the rates applicable to his total income" shall be substituted; and
 - (iv) in sub-section (4) after the words "total income" includes "the words "in the case of any person resident in British Burma all income, profits and gains in respect of which he is entitled to a refund of part or the whole of the tax on the amount thereof, and" shall be inserted.
- (32) In sub-section (1) of section 49 for the words "that year" the words "the corresponding year" shall be substituted.
- (33) In clause (c) of section 51 before the word and figures "section 22" the words, brackets and figure "sub-section (2) of" shall be inserted.
- (34) In section 55 for the words "association of individuals" the words "association of persons" shall be substituted.
- (35) In section 56 before the words "subject to the provisions of this Chapter" the words, figures and letter "Except in cases to which section 15A applies and" shall be inserted, and for the words "association of individuals" the words "association of persons" shall be substituted.
- (36) In section 58—
- (i) in sub-section (1) after the words and figures "and sections 15" the figures and letter "15A" shall be inserted, and the figures "17", "19" and "21", shall be deleted; and
 - (ii) in sub-section (2) after the word "sub-sections" the figures, letter and brackets "(2), (2A)" shall be inserted.
- (37) For section 161 the following shall be substituted :—
- " 61. *Appearance by authorized representative*—(1) Any assessee, who is entitled or required to attend before any Income-tax authority in connection with any proceeding under this Act otherwise than when required under section 37 to attend personally for examination on oath or affirmation, may attend by a person authorized by him in writing in this behalf, being a relative of or a person regularly employed by the assessee, or a lawyer or an accountant or an Income-tax practitioner, and not being disqualified by or under sub-section (3).

other regular dealings ;

(ii) 'lawyer' means a *Barrister-at-Law* or Solicitor or any other person entitled to plead in any Court of law in British Burma ;

(iii) 'accountant' means a registered accountant enrolled on the Register of Accountants maintained by the Governor under the Burma Auditor's Certificates Rules, 1939, or a member of an association of accountants recognized in this behalf by the Governor ;

(iv) 'Income-tax practitioner' means—

(a) any person who, before the 1st day of October, 1946, attended before an Income-tax authority on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee ;

(b) any person who has passed any accountancy examination recognized in this behalf by the Financial Commissioner ; or

(c) any person who has acquired such qualifications as the Financial Commissioner may prescribe for this purpose.

(3) No person who has been dismissed from Government service after the 1st day of October 1946 shall be qualified to represent an assessee under sub-section (1) ; and if any lawyer or registered accountant is found guilty of misconduct in connection with any income-tax proceedings by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner of Income-tax, the Commissioner of Income-tax may direct that he shall be thenceforward disqualified to represent an assessee under sub-section (1) :

Provided that—

(a) no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard,

(b) any person against whom such direction is made may, within one month of the making of the direction, appeal to the Financial Commissioner to have the direction cancelled, and

(c) no such direction shall take effect until one month from the making thereof or, when an appeal is preferred, until the disposal of the appeal."

(38) In sub-section (2) of section 67 for the words "association of individuals" the words "association of persons" shall be substituted.

for the second time, the words "business or profession" *shall be substituted*; and for the words "his principal place of business" the words "the principal place of his business or profession" *shall be substituted*; and

- (ii) to sub-section (3) the following further proviso *shall be added* :—

"Provided further that the place of assessment shall not be called in question by an assessee if he has made a return in response to the notice under sub-section (1) of section 22 and has stated therein the principal place where he carries on his business or profession, or if he has not made such a return shall not be called in question after the expiry of the time allowed by the notice under sub-section (2) of section 22 or under section 34 for the making of a return :

Provided further that if the place of assessment is called in question by an assessee the Income-tax Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under this sub-section before assessment is made."

[BURMA ACT NO. XXXVII OF 1946.]

WHEREAS it is expedient to amend the Burma Tariff Act, 1934 (Act No. XXXII of 1934), for certain purposes ;

AND WHEREAS by a Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

Now, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Burma Tariff (Amendment) Act, 1946.

Short title, commencement and extent.

- (2) It shall come into force with effect from the 1st October 1946.

- (3) It shall extend to the whole of British Burma.

2. Sub-section (1) of section 4 of the Burma Tariff Act, 1934, shall be deleted.

Amendments of Burma Tariff Act.

3. In sub-section (2) of section 4 of the said Act, the words " of this section and " shall be deleted.

4. Section 11 of the said Act shall be deleted.

5. For the first Schedule of the said Act, the Schedule annexed to this Act shall be substituted.

Under section 3 of the Provisional Collection of Taxes Act, (Act XVI of 1931) the Governor hereby declares that it is expedient in the public interest that this Act shall have immediate effect.

[BURMA ACT No. XXXVIII OF 1946.]

An Act further to amend the Burma Stamp Act.

WHEREAS it is expedient to amend the Burma Stamp Act to make an addition to the public revenues of Burma and for that purpose to revise the scales of stamp duty on certain Articles in Schedule I of the said Act ;

AND WHEREAS by a Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935 (26 Geo. 5, c. 3) in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Burma Stamp (Amendment) Act, 1946.

(2) It extends to the whole of British Burma.

(3) It shall come into force on the 1st November 1946.

2. For Articles 1, 2 (b), 4, 5 (a) and (b), 7 (a) and (b), 8 (b), 9, 10 (c) 12 (a), (b), (c) and (d), 13 (a), 14, 15, 17, 18 (a), (b), (c) and (d), 19, 20, 22, 23, 24, 25, 28, 36, 38, 40 (c), 42, 46, 47B (1) (i) and (ii), 47C (a), (b) and proviso, 47CC, 47D, 48, 49 (a) (i), (ii) and (iii), 52, 53, 54, 55 (b), 57 (b) and 60 of Schedule I, the following shall be *substituted*, namely :—

Description of Instrument.	Proper Stamp-duty.
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession; provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	Two annas.
2. (b) in any other case ...	Fifteen rupees.
4. AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	Three rupees.

Price,—Annas 0-3-0.]

Exemptions.

ffidavit or declaration in writing when made—

(a) as a condition of enrolment under the Indian Army Act, 1911, or the Burma Army Act ;

(b) for the immediate purpose of being filed or used in any Court or before the officer of any Court ; or

(c) or the sole purpose of enabling any person to receive any pension or charitable allowance.

(a) if relating to the sale of a bill of exchange ;

Six annas.

(b) if relating to the sale of a Government security or share in an incorporated company or other body corporate ;

Subject to a maximum of thirty rupees, three annas for every Rs 10,000 or part thereof of the value of the security or share.

APPOINTMENT IN EXECUTION OF A POWER, where made by any writing not being a will—

(a) of trustees

Twenty-five rupees.

(b) of property, movable or immovable.

Forty rupees.

(b) in any other case

Ten rupees.

1. APPRENTICESHIP-DEED—including every writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employment, not being ARTICLES OF CLERKSHIP (No. 11).

Ten rupees.

Exemption.

struments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of any public charity.

2. (c) Where the nominal share capital exceeds Rs. 1,00,000.

One hundred and fifty rupees.

not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—

- (a) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000 ;
 (b) where it exceeds Rs. 1,000 and does not exceed Rs. 1,500 ;
 (c) where it exceeds Rs. 1,500 and does not exceed Rs. 2,000 ;
 (d) for every additional Rs. 500 or part thereof in excess of Rs. 2,000.

One rupee for each Rs. 100 or part thereof subject to a minimum of two rupees eight annas.

Fifteen rupees.

Twenty rupees.

Two rupees subject to a maximum of rupees one hundred.

	If drawn singly.	If drawn in set of two, for each part of the set.	If drawn in set of three, for each part of the set
	Rs. A. P.	Rs. A. P.	Rs. A. P.
13. (a) where payable otherwise than on demand but not more than one year after date or sight—			
if the amount of the bill or note does not exceed Rs. 200.	0 6 0	0 4 0	0 2 0
if it exceeds Rs. 200 and does not exceed Rs. 400.	0 12 0	0 6 0	0 4 0
if it exceeds Rs. 400 and does not exceed Rs. 600.	1 2 0	0 10 0	0 6 0
if it exceeds Rs. 600 and does not exceed Rs. 800.	1 8 0	0 12 0	0 8 0
if it exceeds Rs. 800 and does not exceed Rs. 1,000.	1 14 0	1 0 0	0 10 0
if it exceeds Rs. 1,000 and does not exceed Rs. 1,200.	2 4 0	1 2 0	0 12 0
if it exceeds Rs. 1,200 and does not exceed Rs. 1,600.	3 0 0	1 8 0	1 0 0
if it exceeds Rs. 1,600 and does not exceed Rs. 2,500.	4 8 0	2 4 0	1 8 0
if it exceeds Rs. 2,500 and does not exceed Rs. 5,000.	9 0 0	4 8 0	3 0 0
if it exceeds Rs. 5,000 and does not exceed Rs. 7,500.	13 8 0	6 12 0	4 8 0
if it exceeds Rs. 7,500 and does not exceed Rs. 10,000.	18 0 0	9 0 0	6 0 0
if it exceeds Rs. 10,000 and does not exceed Rs. 15,000.	27 0 0	13 8 0	9 0 0
if it exceeds Rs. 15,000 and does not exceed Rs. 20,000.	36 0 0	18 0 0	12 0 0
if it exceeds Rs. 20,000 and does not exceed Rs. 25,000.	45 0 0	22 8 0	15 0 0
if it exceeds Rs. 25,000 and does not exceed Rs. 30,000.	54 0 0	27 0 0	18 0 0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.	18 0 0	9 0 0	6 0 0

Exemptions.

Bill of lading when the goods therein described are received at a place within the limits of any port as defined under the Ports Act, and are to be delivered at another place within the limits of the same port.

Bill of lading when executed out of British Burma and relating to property to be delivered in British Burma.

BOND [as defined by section 2 (5)] not being a DEBENTURE (No. 27) and not being otherwise provided for by this Act, or by the Court Fees Act, 1870,—

- where the amount or value secured does not exceed Rs. 10.
- where it exceeds Rs. 10 and does not exceed Rs. 50.
- where it exceeds Rs. 50 and does not exceed Rs. 100.
- where it exceeds Rs. 100 and does not exceed Rs. 200.
- where it exceeds Rs. 200 and does not exceed Rs. 300.
- where it exceeds Rs. 300 and does not exceed Rs. 400.
- where it exceeds Rs. 400 and does not exceed Rs. 500.
- where it exceeds Rs. 500 and does not exceed Rs. 600.
- where it exceeds Rs. 600 and does not exceed Rs. 700.
- where it exceeds Rs. 700 and does not exceed Rs. 800.
- where it exceeds Rs. 800 and does not exceed Rs. 900.
- where it exceeds Rs. 900 and does not exceed Rs. 1,000.
- and for every Rs. 500 or part thereof in excess of Rs. 1,000.

Exemption.

Bond, when executed by—

Any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.

7. CANCELLATION—Instrument of (including any instrument by which any instrument previously executed is cancelled) if attested and not otherwise provided for.

IV D.—If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.

Three annas.

Six annas.

Twelve annas.

One rupee twelve annas.

Three rupees.

Four rupees.

Five rupees.

Six rupees.

Seven rupees.

Eight rupees.

Nine rupees.

Ten rupees.

Five rupees.

Ten rupees.

of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue Officer—

- | | |
|---|--|
| (a) where the purchase-money does not exceed Rs. 10; | Eight annas. |
| (b) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25; | Twelve annas. |
| (c) where the purchase-money exceeds Rs. 25 but does not exceed Rs. 50; | One rupee. |
| (d) in any other case ... | The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase-money only. |

19. CERTIFICATE OR OTHER DOCUMENT, evidencing the right or title of the holder thereof, of any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body.

Four annas.

20. CHARTER-PARTY, that is to say, any instrument (except an agreement for the hire of a tug steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.

Three rupees.

22. COMPOSITION-DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license for the benefit of his creditors.

Twenty rupees.

23. CONVEYANCE [as defined by section 2 (10)], not being a TRANSFER charged or exempted under No. 62—

- | | |
|---|------------------------|
| where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50. | Twelve annas. |
| where it exceeds Rs. 50 but does not exceed Rs. 100. | One rupee eight annas. |
| where it exceeds Rs. 100 but does not exceed Rs. 200. | Three rupees. |
| where it exceeds Rs. 200 but does not exceed Rs. 300. | Five rupees. |
| where it exceeds Rs. 300 but does not exceed Rs. 400. | Eight rupees. |

where it exceeds Rs. 400 but does not exceed Rs. 500.	Ten rupees.
where it exceeds Rs. 500 but does not exceed Rs. 600.	Twelve rupees.
where it exceeds Rs. 600 but does not exceed Rs. 700.	Fourteen rupees.
where it exceeds Rs. 700 but does not exceed Rs. 800.	Sixteen rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900.	Eighteen rupees.
where it exceeds Rs. 900 but does not exceed Rs. 1,000.	Twenty rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Ten rupees.
<i>Exemption.</i>	
Instrument of copyright made under the Burma Copyright Act, 1914.	
COPY OR EXTRACT certified to be true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(i) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee ;	One rupee eight annas.
(ii) in any other case ...	Three rupees.
<i>Exemptions.</i>	
Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purposes. Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths or burials.	
COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid—	
(a) if the duty, with which the original instrument is chargeable does not exceed one rupee ;	The same duty as is payable on the original.
(b) in any other case ...	Three rupees.
<i>Exemption.</i>	
Counterpart of any lease granted to a cultivator when such lease is exempted from duty.	

28. DELIVERY ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.	Two annas.
36. LETTER OF ALLOTMENT OF SHARES in any company or proposed company or in respect of any loan to be raised by any company or proposed company.	Four annas.
38. LETTER OF LICENSE, that is to say, any agreement between a debtor and his creditors, that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Fifteen rupees.
40. (c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose, where the principal or primary security is duly stamped— for every sum secured not exceeding Rs. 1,000; and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Twelve annas. Twelve annas.
42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a PROTEST (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	Three rupees.
46. PARTNERSHIP— A. INSTRUMENT OF— (a) where the capital of the partnership does not exceed Rs. 500; (b) in any other case ... B. DISSOLUTION OF ... "PAWN OR PLEDGE—See Agreement relating to deposit of Title-Deeds, Pawn or Pledge (No. 6)".	Seven rupees eight annas. Thirty rupees. Fifteen Rupees.

CLASSES OF INSURANCE, not elsewhere included in this Article, covering goods, merchandise, personal effects, crops, and other property against loss or damage—

(1) in respect of an original policy—

- (i) when the sum insured does not exceed Rs. 5,000.
- (ii) in any other case ...

One rupee.

Two rupees.

2. ACCIDENT AND SICKNESS-INSURANCE—

- (a) against railway accident valid for a single journey only.

Two annas.

Exemption.

When issued to a passenger travelling by the intermediate or the third class in any railway.

- (b) in any other case—for the maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs. 1,000 and also where such amount exceeds Rs. 1,000 or part thereof.

Four annas.

Provided that in case of a policy of insurance against death by accident, when the annual premium payable does not exceed Rs. 2-8 per Rs. 1,000 the duty on such instrument shall be two annas for every Rs. 1,000 or part thereof of the maximum amount which may become payable under it.

CC. INSURANCE BY WAY OF INDEMNITY against liability to pay damages on account of accidents to workmen employed by or under the insurer or against liability to pay compensation under the Workmen's Compensation Act, 1923, for every Rs. 100 or part thereof payable as premium.

Two annas.

LIFE INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR, except such a RE-INSURANCE as is described in Division E of this article—

- (i) for every sum insured not exceeding Rs. 250.
- (ii) for every sum insured exceeding Rs. 250 but not exceeding Rs. 500.
- (iii) for every sum insured exceeding Rs. 500 but not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof in excess of Rs. 1,000.

If drawn singly.		If drawn in duplicate, for each part.
Four annas	...	Two annas.
Eight annas	...	Four annas.
Twelve annas	...	Six annas.

Policies of life-insurance granted in accordance with the rules for Postal Life Insurance.

48. POWER-OF-ATTORNEY [as defined by section 2 (21)] not being a PROXY (No. 52)—

- (a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents ;
- (b) when required in suits or proceedings under the Rangoon Small Cause Court Act, 1920 ;
- (c) when authorizing one person or more to act in a single transaction other than the case mentioned in clause (a) ;
- (d) when authorizing not more than five persons to act jointly and severally in more than one transaction or generally ;
- (e) when authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally ;
- (f) when given for consideration and authorizing the attorney to sell any immoveable property ;
- (g) in any other case ...

One rupee eight annas.

One rupee eight annas.

Three rupees.

Fifteen rupees.

Thirty rupees.

The same duty as a CONVEYANCE (No. 23) for the amount of the consideration.

Three rupees for each person authorized.

Explanation.—For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.

N.B.—The term "registration" includes every operation incidental to registration under the Registration Act, 1908.

49. PROMISSORY NOTE [as defined by section 2 (22)]—

- (a) when payable on demand—
 - (i) when the amount or value does not exceed Rs. 250 ;
 - (ii) when the amount or value exceeds Rs. 250 but does not exceed Rs. 1,000.
 - (iii) in any other case

Two annas.

Four annas.

Eight annas.

52. PROXY empowering any person to vote at any one election of the members of a district or local board or of a body of Municipal Commissioners, or at any one meeting of (a) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable, (b) a local authority, or (c) proprietors, members or contributors, to the funds of any institution.

Four annas.

twenty rupees.

Exemption.

RECEIPT—

- (a) endorsed on or contained in any instrument duly stamped or any instrument exempted under the proviso to section 3 (instruments executed on behalf of the Government) or any cheque or bill of exchange payable on demand acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal-money, interest or annuity, or other periodical payment thereby secured ;
- (b) for any payment of money without consideration ;
- (c) for any payment of rent by a cultivator on account of land assessed to Government revenue ;
- (d) for pay or allowances by non-commissioned officers, soldiers or airmen of His Majesty's Military or Air Forces, when serving in such capacity, or by mounted police constables ;
- (e) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer, soldier or airman of any of the said forces, and serving in such capacity ;
- (f) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers, soldiers or airmen and not serving the Government in any other capacity ;
- (g) given by a headman for land-revenue or taxes collected by him ;
- (h) given for money or securities for money deposited in the hands of any banker, to be accounted for ;

Provided that the same is not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for :

Provided also, that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of, or in any incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security.

as also POLICY OF INSURANCE [No. 47 B(2)].

4. RECONVEYANCE of mortgaged property or instrument of extinguishment of a mortgage.

Subject to a maximum of five rupees the same duty as a conveyance (No. 23) for the amount of the consideration for the mortgage.

5. (b) in any other case

Twelve rupees eight annas.

7. (b) in any other case

Twelve rupees eight annas.

9. SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel.

Two annas.

[BURMA ACT NO. XXXIX OF 1946.]

An Act further to amend the Burma Court Fees Act.

WHEREAS it is expedient to amend the Burma Court Fees Act to make an addition to the public revenues of Burma and for that purpose to revise the scales of stamp duty on certain Articles in Schedules I and II of the said Act,

AND WHEREAS by a Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935 (26 Geo. 5, c. 3) in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Burma Court Fees (Amendment) Act, 1946.

(2) It extends to the whole of British Burma.

(3) It shall come into force on the 1st November 1946.

2. For the fees chargeable under numbers 1, 6, 7, 8 (b), 9, 11, 12 and 14 of Schedule I, the following *shall be substituted*, namely :—

Number.		Proper fee.
1. Plaint written statement pleading a set off or counter claim or memorandum of appeal (not otherwise provided for in this Act) or of cross-objection presented to any Civil or Revenue Court except those mentioned in section 3.	When the amount of value of the subject-matter in dispute does not exceed five rupees.	Eight annas.
	When such amount or value exceeds five rupees, for every five rupees or part thereof in excess of five rupees, up to one hundred rupees.	Eight annas.
	When such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees.	One rupee.
	When such amount or value exceeds one thousand rupees, for every one hundred rupees, or part thereof, in excess of one thousand rupees, up to five thousand rupees.	Seven rupees and eight annas.
	When such amount or value exceeds five thousand rupees, for every two hundred and fifty rupees, or part thereof, in excess of five thousand rupees, up to ten thousand rupees.	Fifteen rupees.

Price,—Two annas.]

1. Plaintiff written statement pleading a set off or counter claim or memorandum of appeal (not otherwise provided for in this Act) or of cross-objection presented to any Civil or Revenue Court except those mentioned in section 3.— <i>concl'd.</i>	When such amount or value exceeds ten thousand rupees, for every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees. When such amount or value exceeds twenty thousand rupees, for every one thousand rupees, or part thereof, in excess of twenty thousand rupees, up to thirty thousand rupees. When such amount or value exceeds thirty thousand rupees, for every two thousand rupees, or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees. When such amount or value exceeds fifty thousand rupees, for every five thousand rupees, or part thereof, in excess of fifty thousand rupees. Provided that the maximum fee leviable on a plaintiff or memorandum of appeal shall be five thousand rupees.	Twenty-two rupees and eight annas. Thirty rupees. Thirty rupees. Thirty-seven rupees and eight annas.
6. Copy or translation of a judgment or order not being, or having the force of a decree.	When such judgment or order is passed by any Civil Court other than the High Court, or by the presiding officer of any Revenue Court or office or by any other Judicial or Executive authority— (a) If the amount or value of the subject-matter is fifty or less than fifty rupees. (b) If such amount or value exceeds fifty rupees.	Eight annas. One rupee.
7. Copy of a decree or order having the force of a decree.	When such judgment or order is passed by the High Court. When such decree or order is made by any Civil Court other than the High Court, or by any Revenue Court— (a) If the amount or value of the subject-matter of the suit wherein such decree or order is made is fifty or less than fifty rupees. (b) If such amount or value exceeds fifty rupees.	Two rupees. One rupee. Two rupees.
8. Copy of any document liable to stamp-duty under the Burma Stamp Act, when left by any party to a suit or proceeding in place of the original withdrawn.	When such decree or order is made by the High Court. (b) In any other case	Eight rupees. One rupee.

9. Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act, or copy of any account, statement, report or the like, taken out of any civil or criminal or revenue Court or Office, or from the office of any chief officer charged with the executive administration of a Division.	For every three hundred and sixty words or fraction of three hundred and sixty words.	One rupee.
11. Probate of a will or letters of administration with or without will annexed.	<p>When the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees, but does not exceed ten thousand rupees.</p> <p>When such amount or value exceeds ten thousand rupees, but does not exceed fifty thousand rupees.</p> <p>When such amount or value exceeds fifty thousand rupees.</p> <p>Provided that when, after the grant of a succession certificate in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.</p>	<p>Three <i>per centum</i> on such amount or value.</p> <p>Four <i>per centum</i> on such amount or value.</p> <p>Five <i>per centum</i> on such amount or value.</p>
12. Succession certificate.	In any case ...	<p>Three <i>per centum</i> on the amount or value of any debt or security specified in the certificate and five <i>per centum</i> on the amount or value of any debt or security to which the certificate is extended.</p> <p>NOTE.—(1) The amount of a debt is its amount including interest on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained.</p>

12. Succession certificate — <i>concl.</i>		(2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act and where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for so far as such value can be ascertained.
14. Application to the High Court for the exercise of its revisional jurisdiction.	When the amount or value of the subject-matter in dispute does not exceed twenty-five rupees. When such amount or value exceeds twenty-five rupees.	Three rupees. The fee leviable on a memorandum of appeal.

3. For the fees chargeable under numbers 1 (a), 1 (b), 1 (c), 1 (d), 1 A, 2, 3 (a), 3 (b), 5, 6, 7, 10 (a), 10 (b), 10 (c), 11 (a), 11 (b), 12, 14, 17, 18, 19, 20 and 21 of Schedule II, the following *shall be substituted*, namely :—

Number.		Proper fee.
1. Application or petition	(a) When presented to any officer of the Customs or Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings ;	Two annas.

1. Application
petition—concl'd.

or when presented to any officer of land-revenue by any person holding temporarily settled land under direct engagement with Government, and when the subject-matter of the application or petition relates exclusively to such engagement ;
or when presented to any Municipal Commissioner under any Act for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement ;
or when presented to any civil Court other than a principal civil Court of original jurisdiction, or to any Court of Small Causes or to a Collector or other Officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than fifty rupees ;
or when presented to any civil, criminal or revenue Court, or to any Board or executive officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or officer, or of any other document on record in such Court or office.
(b) When containing a complaint or charge of any offence other than an offence for which Police officers may, under the Code of Criminal Procedure, arrest without warrant, and presented to any criminal Court ;
or when presented to a civil, criminal or revenue Court, or to a Collector, or any Revenue-Officer having jurisdiction equal or subordinate to a Collector, or to any Magistrate in his executive capacity, and not otherwise provided for by this Act ;
or to deposit in Court revenue or rent ;
or for determination by a Court of the amount of compensation to be paid by a landlord to his tenant ;
or when containing a request for the issue or renewal of a licence under the rules made under the Petroleum Act.
(c) When presented to the Financial Commissioner or Chief Executive Authority or a Commissioner.
(d) When presented to the High Court.

Twelve annas.

One rupee and eight annas.

Three rupees.

1. Application to any Civil Court that records may be called for from another Court	when the Court grants the application and is of opinion that the transmission of such records involves the use of the post.	One rupee and eight annas in addition to any fee levied on the application under clause (a), clause (b) or clause (d) of Article I of this Schedule.
2. Application for leave to sue as a pauper.	.....	Twelve annas.
3. Application for leave to appeal as a pauper.	(a) When presented to a District Court. (b) When presented to a Commissioner or the High Court.	One rupee and eight annas. Three rupees.
5. Plaint or memorandum of appeal in a suit to establish or disprove a right of occupancy.	.....	Twelve annas.
5. Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, or the Code of Civil Procedure, and not otherwise provided for by this Act.	.....	Twelve annas.
7. Undertaking under section 49 of the Burma Divorce Act.	.....	Twelve annas.
10. Authority to plead or act for another person.	When presented for the conduct of any one case— (a) to any Civil or Criminal Court other than the High Court, or to any Revenue Court, or to any Collector or Magistrate, or other Executive Officer, except such as are mentioned in clause (b) and (c) of this number, (b) to a Commissioner of Revenue, or Customs, or to any officer charged with the executive administration of a division, not being the Chief Revenue or Executive Authority, (c) to the High Court, Financial Commissioner or other Chief Executive Authority.	Twelve annas. One rupee and eight annas. Three rupees.

[illegible]

3. Application under Schedule II of the Code of Civil Procedure.	.....	Fifteen rupees.
9. Agreement in writing stating a question for the opinion of the Court under the Code of Civil Procedure.	.....	Fifteen rupees.
10. Every petitioner under the Burma Divorce Act, except petitions under section 44 of the same Act, and every memorandum of appeal under section 55 of the same Act.	.....	Thirty rupees.
1. Plaint or memorandum of appeal under the Parsi Marriage and Divorce Act.	.....	Thirty rupees.

4. The words "out the figure head" in section 30 *shall be deleted*.

[BURMA ACT NO. XL OF 1946.]

WHEREAS it is expedient to fix rates of income-tax and super-tax, to fix the duty on salt manufactured in or imported into British Burma, to fix maximum rates of postage under the Burma Post Office Act, to increase the duty of excise on motor spirit, sugar, liquor and matches and to increase the rates of tax on betting;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Burma Finance Act, 1946.

(2) It shall come into force on the first day of October 1946.

2. *Definition of "accounting year".*—In this Act, the expression "accounting year" means the period commencing on the first day of October 1946 and ending with the thirtieth day of September 1947.

3. *Rates at which income-tax and super-tax are to be levied.*—

(1) There shall be levied for the year beginning on the first day of October 1946—

(a) income-tax at the rates specified in Part I of Schedule I of the Burma Finance Act, 1945, and

(b) super-tax for the purposes of section 55 of the Burma Income-tax Act, at the rates specified in Part II of Schedule I of the Burma Finance Act, 1945.

(2) In making any assessment, deduction or refund of tax for the year beginning on the first day of October, 1946, there shall be deducted for the purposes of section 15A of the Burma Income-tax Act an amount equal to one-tenth of the earned income included in his total income, but not exceeding in any case two thousand rupees, reduced in the case of a partner in a firm by the amount of the allowance for earned income deducted in making an assessment on the firm which is applicable to his share in the firm's profits.

(3) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Burma Income-tax Act, the expression "earned income" has the meaning assigned to it in clause (6A) of section 2 of the said Act and the expression "association of individuals" appearing in Schedule I of the Finance Act, 1945, shall be deemed to include an "association of persons".

3A. *Salaries paid in arrears.*—For the purpose of making deductions of income-tax and super-tax under sub-section (2) of section 18 of the Burma Income-tax Act on or after the first day of

Price,—One anna.]

from the estimated income of the assessee for the year in which the said income was received; and the income so excluded shall be deemed for all purposes of the Burma Income-tax Act to be income received in the year in which the income was due, and income-tax and super-tax thereon shall be deducted at source at the rates in force in the year in which such income shall be deemed by reason of the provisions of this section to have been received.

4. *Duty on salt manufactured in or imported into British Burma.*—The provisions of section 7 of the Burma Salt Act shall, in so far as they enable the Governor to impose by a notification issued under that section a duty on salt manufactured in or imported by land into British Burma, be construed as if for the accounting year they imposed such duty at the rate of rupees seven per 100 viss equivalent to 360 pounds avoirdupois of salt manufactured in or imported by land into British Burma, and such duty shall, for the purpose of the said Act, be deemed to have been imposed by notification made under that section.

5. *Additional duty on imported salt.*—For the accounting year there shall be levied and collected, in addition to any duty of customs imposed by or under any law for the time being in force, an additional duty of customs on salt imported into any port in British Burma as follows :—

Salt imported from countries other than British India.	15 per centum of the customs duty.
Salt imported from British India ...	7½ per centum of the customs duty.

6. *Fixation of postal rates.*—For the accounting year, the Schedule II to the Burma Finance Act, 1945, shall be inserted in the Burma Post Office Act as the first Schedule to that Act.

7. *Duty on motor spirit.*—Notwithstanding anything contained in sub-section (1) of section 3 of the Motor Spirit (Duties) Act or in any other law for the time being in force, for the accounting year the duty on motor spirit shall be levied at the rate of fifteen annas per Imperial gallon.

8. *Duty on sugar.*—Notwithstanding anything contained in clauses (i) and (ii) of sub-section (2) of section 3 of the Sugar (Excise Duty) Act, for the accounting year, the duty on *khandsari* sugar shall be levied at the rate of two rupees per cwt. and the duty on all other sugar except palmyra sugar shall be levied at the rate of three rupees per cwt.

9. *Duty on liquor.*—Notwithstanding anything contained in sections 24 and 25 of the Burma Excise Act, for the accounting year the excise duty on beer manufactured in a brewery in Burma, on foreign spirit manufactured in a distillery in Burma including rum issued to Officers Commanding for the use of persons serving in the Regular Forces stationed in Burma for which a special rate is prescribed, and on rectified spirit manufactured in a distillery in Burma and issued to manufacturing chemists in Burma for the purpose of manufacturing tinctures and other spirituous medicinal preparations

1917, as amended to date.

10. *Duty on matches.*—Notwithstanding anything contained in section 3 of the Matches (Excise Duty) Act, 1934, and in clause 42 of the Matches (Excise Duty) Order, 1934, for the accounting year the excise duty on matches shall be levied at double the rates prescribed in section 4 of the said Act.

11. *Betting Tax.*—(1) Notwithstanding anything contained in sub-section (1) of section 4 of the Betting Tax Act or in any other law for the time being in force, for the accounting year the tax on all sums paid as bets into any totalizator at any race meeting shall be levied at the rate of ten *per centum* of such sum.

(2) Notwithstanding anything contained in sub-section (2) of section 4 of the Betting Tax Act or any other law for the time being in force, for the accounting year a tax of ten *per centum* of the amount of the bet shall be levied upon every bet made with a book-maker at any race meeting.

It is hereby declared that it is expedient in the public interest that the provisions of clauses 7, 8, 9 and 10 of this Act shall have immediate effect under the Provisional Collection of Taxes Act (Act XVI of 1931).

[BURMA ACT NO. XLI OF 1946.]

WHEREAS it is necessary to validate certain orders, judgments and sentences passed or made by the Subdivisional Officers and Township Officers in certain circumstances ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

Now, THEREFORE, in exercise of the said powers it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Emergency (Validating) Act, 1946.

(2) It shall come into force at once.

2. Notwithstanding anything contained in the Emergency Provisions (Second Amendment) Act, 1946, or any other law for the time being in force, every order, judgment and sentence made or passed by a Subdivisional Officer or Township Officer in any criminal proceeding or trial arising out of an offence which he, before the commencement of this Act, took or purported to take cognizance of under the provisions of section 4 of the Emergency Provisions Act, 1943, shall be deemed to be and always to have been validly passed or made as if the Emergency Provisions (Second Amendment) Act, 1946, had not been enacted in so far as such criminal proceeding or trial is concerned.

WHEREAS it is expedient to further amend the Burma Medical Act ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

Now, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Burma Medical (Amendment) Act, 1946.
Short title and extent.

(2) It shall remain in force until the Governor by Notification declares it to be no longer in force.

2. In the Schedule to the Burma Medical Act, as amended by Burma Act V of 1927, *add* the following as item 5 immediately below the existing item 4 and *renumber* existing item 5 as item 6 :—

“ 5. Every person who has been granted a licence by the State Medical Board established during the period of the enemy occupation of Burma in the years 1942 to 1945.”

[BURMA ACT NO. XLIII OF 1946.]

WHEREAS it is expedient to amend the provisions of the Burma Finance Act, 1946 (No. XL of 1946), in respect of the tax levied on bets made with book-makers ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or made under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) *Short title and commencement.*—This Act may be called the Burma Finance (Amendment) Act, 1946.

(2) It shall come into force at once.

2. For sub-section (2) of section 11 of the Burma Finance Act, 1946 (No. XL of 1946), the following *shall be substituted*, namely :—

"(2) notwithstanding anything contained in sub-section (2) of section 4 of the Betting Tax Act or any other law for the time being in force, for the remainder of the accounting year, a tax of ten per centum shall be levied on the stake money and on the winnings of every successful bet made with a book-maker at any race meeting."

[BURMA ACT No. XLIV OF 1946.]

WHEREAS it is expedient to amend the Land and Revenue Act 1876 (Act II of 1876);

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Land and Revenue (Amendment) Act, 1946.

(2) It shall come into force at once.

2. The following explanation shall be added to section 7 of the Land and Revenue Act, 1876, after Explanation 1 .—

“Explanation 1A.—Where, by reason of circumstances arising out of the war any person has been compelled to relinquish possession of any culturable land at any time during the period commencing on the 8th day of December 1941 and ending with such date as may be prescribed by the Governor, by Notification, in this behalf, but, who since the cessation of hostilities has regained possession of such culturable land as in the meantime has not been occupied by any other person, he shall be deemed to have been in continuous possession of such land and he may add the period of relinquishment, for the purpose of computing, to the period prescribed in this section.”

3. The following proviso shall be inserted immediately below the first sentence of section 13 of the said Act :—

“Provided that in computing the twelve years period during which such application may be made, the period beginning from the 1st day of January 1942 to the 31st day of December 1945, shall be disregarded.”

and Coinage of British Burma ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted as follows :—

PART I.

Preliminary.

1. (i) This Act may be called the Currency and Coinage Act, 1946.
Short Title and Extent.

(ii) It shall come into force on such date as the Governor may, by notification, appoint, and different dates may be appointed for different parts or sections of the Act.

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

- (a) "Agent" means the agent appointed by the Board in pursuance of this Act ;
- (b) "Bank" means any person lawfully carrying on the business of banking in Burma ;
- (c) "Board" means the Burma Currency Board constituted under this Act ;
- (d) "Burma notes" means Burma notes of denominations of Rs. 100 or less issued under the India and Burma (Burma Monetary Arrangements) Order, 1937, British Military Administration notes issued under Currency Proclamation No. 6 of 1945 and notes issued under the Currency Notes Act, 1946 ;
- (e) "Coin" means any coin other than "India coin" issued by the Board under the provisions of this Act which has not been withdrawn from circulation by notification under this Act ;
- (f) "Currency notes" means notes issued by the Board under the provisions of this Act which have not been withdrawn from circulation by notification under this Act ;
- (g) "Deface", with its grammatical variations and cognate expressions, includes clipping, filing, stamping, or such other alteration of the surface or shape of a coin as is readily distinguishable from the effects of reasonable wear ;
- (h) "Financial year" means the year ending on the 30th day of September ;
- (i) "Fund" means the Burma Currency Fund established under this Act ;

price,—Annas 0-3-0.]

- (k) "India notes" means currency notes of the Government of India, (other than Government of India one rupee notes) and bank notes of the Reserve Bank of India other than Burma notes ;
- (l) "Joint Monetary Arrangements" means the India and Burma (Burma Monetary Arrangements) Order, 1937, as amended by the India and Burma (Burma Monetary Arrangements) (Amendment) Order, 1946, and the India and Burma (Burma Monetary Arrangements) (Second Amendment) Order, 1946 ;
- (m) "Legal Tender", in relation to a note, means legal tender in payment or on account for the amount expressed therein ;
- (n) "Prescribed" in Schedule four means prescribed by the Indian Coinage Act, 1906, as in force immediately before the separation of Burma from India, or by the rules in force thereunder ;
- (o) "Standard weight" means the weight specified for any coin.

3. There shall be constituted for British Burma a Board to be called the Burma Currency Board. It shall be a body corporate and may sue, and be sued, in the name of the Burma Currency Board.

Constitution of the Burma Currency Board.

4. The Board shall be appointed by the Governor and shall consist of the following five members, namely :—

Composition of the Burma Currency Board.

- (a) a Chairman, to be nominated by the Governor ;

- (b) two members who shall be persons born and domiciled within the dominions of His Majesty in Burma, of parents habitually resident in Burma, and not established there for temporary purposes only, nominated by the Governor ;
- (c) one who shall be nominated by the Secretary of State for Burma ; and
- (d) one who shall be nominated by the Governor of the Bank of England.

5. The Board shall have its main office and branch offices in such places as may be prescribed by the Governor. It may also appoint an agent or agents in Burma or elsewhere and may delegate to such agent or agents such of its powers as it may consider necessary.

Situation of Board's main Office and appointment of Agents.

6. (1) When a member's office is vacated, the Governor shall appoint a person, nominated as such member was nominated to fill the vacancy.

Terms of office, casual vacancy and absence of members of the Currency Board.

(3) The Governor may appoint a person to act during the temporary absence of any member (other than the chairman) as a member of the Board in his place. A person so appointed shall be nominated in the same way as the member for whom he acts and shall during the temporary absence of that member exercise all the functions of that member.

(4) The chairman and other members of the Board shall be paid such remuneration and allowances as the Governor may from time to time determine.

(5) The chairman or any other member of the Board may at any time resign his office by letter addressed to the Governor.

7. Three members of the Board shall form a quorum at all meetings.
Quorum.

8. The Board shall have power to do all lawful things incidental or conducive to the exercise of the powers and duties conferred upon it by this Act.
Power of the Currency Board.

9. (1) Notwithstanding anything contained in sub-section (2) of this section the Board may employ such officers and other staff for the due performance of duties and pay them such salaries and allowances as it may deem fit.
Employment of officers and staff by the Board.

(2) The Board may arrange with the Government to employ on the work of the Board on such terms as the Governor may approve, either generally or specially, such officers and servants in the service of the Crown in Burma as may be necessary and such officers and servants shall, while engaged in the work of the Board, continue to be subject to all such terms, conditions of service, general orders, public service and pension regulations as are applicable to persons in the service of the Crown in Burma.

PART II.

Burma Monetary Unit, Transactions involving Payment of Money, Issue and Redemption of Currency by Currency Board.

10. (1) The standard unit of monetary value in Burma shall be the Burma rupee.

(2) The Burma rupee shall be divided into sixteen annas.
Standard Unit of monetary value.

11. Every contract, sale, payment, bill, note, instrument and security for money and every transaction, dealing, matter and thing whatsoever relating to money or involving the payment of money or the liability to pay money, shall in the absence of any expressed agreement to the contrary be deemed to be made, executed, entered into, done and had in Burma according to the standard monetary unit of Burma.
All transactions involving money payment must be made by Burma Standard money.

other denominations as may be determined by the Governor, by notification, under this Act.

13. (1) Currency notes issued under this Act shall be of such form and design and be printed from such plates and on such paper and be authenticated in such manner as the Board may, with the approval of the Governor, from time to time determine.

Form of Currency notes.

(2) The plates shall be prepared and kept and the notes printed in accordance with such conditions as the Board may, from time to time, determine.

14. (1) The Board may, subject to the provisions of this Act, cause to be made and issued coins of the denominations specified in the second schedule and of such other denominations as may be determined by the Governor, by notification, under this Act.

Denomination of coins.

(2) The standard weight and composition of such coins and the amount of remedy or variation from standard weight and composition shall be as specified in such notifications as may be issued by the Governor from time to time.

15. (1) The Board shall issue on demand at its Office or Offices in Burma to any person who makes demand in that behalf currency notes or at its option coin equivalent to the value of the sums in sterling lodged by the said person with the Board in London. The Board shall pay on demand to any person who makes demand in that behalf sterling for immediate delivery in London equivalent to the value of currency notes or coin deposited by the said person with its Office or Offices in Burma : such issues or receipts of currency notes or coin against the receipt or payment of sterling shall be at a rate of one shilling and six pence for one Burma rupee :

Obligation of Board to issue and redeem Burma Currency in exchange for sterling.

Provided that—

- (i) no person shall be entitled to lodge with the Board or its agent or agents, as the case may be, less than such minimum sum as from time to time may be determined by the Board with the approval of the Governor for the purpose of obtaining currency notes or coin or sterling as the case may be ;
- (ii) the Board shall be entitled to charge and levy from any person obtaining currency notes, coin or sterling under the provisions of this Section a commission at such rate or rates, not exceeding one-half of one per cent, as it may determine from time to time and, in addition, it may recover the cost of any telegram or telegrams sent in connection with any transfer as above described ; and
- (iii) no person shall be entitled to receive currency in Burma or payment in London unless the Board is satisfied that payment of sterling has been made in London or equivalent currency tendered in Burma as the case may be.

16. (1) Subject to the provisions of sub-section (2) of this Section
Legal tender character of notes. currency notes shall be legal tender at any place in British Burma in payment or on account for the amount expressed therein.

(2) On the recommendation of the Board, the Governor may by notification declare that, with effect from such date as may be specified in the notification, any series of currency notes of any denomination shall cease to be legal tender save at an office or agency of the Board.

(3) Burma notes shall continue to be legal tender in British Burma for the payment of money to the amount expressed in such note for such period or periods as the Governor may after consultation with the Board by notification determine; thereafter such notes shall on demand be exchanged by the Board for currency notes of an equivalent value at such place or places and for such further period or periods as may be determined by notification by the Governor.

(4) If the Governor after consultation with the Board should consider it desirable that India notes should be legal tender in British Burma the Governor may by notification declare that such notes shall be legal tender for such period or periods as he may by notification determine.

17. (1) Coin issued under this Act shall (provided that such coin has not been illegally dealt with) be legal tender in British Burma for payment of the amounts specified in the third schedule.
Coins legal tender in Burma.

(2) India coin shall continue to be legal tender in British Burma to such extent and for such period or periods as the Governor may, after consultation with the Board, by notification determine and the Board may for such period or periods issue or re-issue India coin. Thereafter such India coin shall continue to be exchanged for coin or currency notes of an equivalent value at such place or places and for such further period or periods as may be determined by notification by the Governor.

18. (1) Notwithstanding anything contained in any other law for the time being in force, no person shall of right be entitled to recover from the Board the value of any lost, stolen, mutilated or imperfect Burma note or currency note.
Currency Board and lost, stolen, mutilated or imperfect notes.

(2) The circumstances in which and the conditions and limitations subject to which the value of lost, stolen, mutilated or imperfect Burma notes or currency notes may be refunded as of grace shall be within the absolute discretion of the Board.

19. (1) No person in Burma other than the Board shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money, on the bills, hundis, or notes payable to bearer on demand of
Currency Board and issue of demand bills and promissory notes.

any person contravening the provisions of the last preceding sub section shall be punishable with fine which may extend to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed ; but no prosecution under this sub-section shall be instituted except on complaint made by the Board.

20. (1) The Board shall in exchange for coin or India coin which is for the time being legal tender in British Burma, presented to it at its Office or Offices in Burma supply currency notes of equivalent face value.

(2) The Board shall, in exchange for currency notes which are for the time being legal tender, supply coin (or in its discretion India coin which is for the time being legal tender in British Burma) of equivalent face value, provided that the Governor at the request of the Board may by notification release the Board from its obligation to supply coin under this sub-section and the next succeeding sub-section for such period or periods as may be specified in the notification.

(3) The Board shall in exchange for Burma notes or India notes issue currency notes or supply coin (or in its discretion India coin which is for the time being legal tender in British Burma) of equivalent face value at such place or places and for such period or periods as the Governor by notification may determine.

21. (1) The Governor may by notification under this Act prescribe the circumstances in which coin issued under or circulating by virtue of this Act shall be deemed to have been illegally dealt with for the purposes of this Act and the procedure to be adopted in regard hereto.

(2) The provisions of the fourth schedule shall apply to India coin.

PART III.

Establishment of Burma Currency Fund—Powers and Functions of the Currency Board in relation to the Fund—Accounts.

22. There shall be established a fund to be known as the Burma Currency Fund which shall be vested in the Board and managed by the Board.

23. (1) The Government of Burma shall cause to be transferred to the Fund—

- (a) any sums received from His Majesty's Treasury as cover for Burma notes ;
- (b) any sums received from the Secretary of State for Burma as cover for Burma notes ;
- (c) sums received from time to time by the Government of Burma consequent upon the termination of the Joint Monetary Arrangements and the withdrawal of India

(2) There shall also be paid into the Fund—

all sterling received in exchange for currency notes or coin issued or re-issued under the provisions of this Act otherwise than in exchange for currency notes or coin already issued or in exchange for India notes or Burma notes or India coin under the provisions of this Act.

(3) The Board may have re-minted or may sell as metal any coin received or held by it and shall pay into the Fund the proceeds of any such transaction.

24. (1) There shall be charged upon the Fund —

- Charge on the Fund.
- (a) all sterling paid out in exchange for currency notes or Burma notes or coin under the provisions of this Act ;
 - (b) the purchase price of silver or other metal purchased for the minting of coins ;
 - (c) any special payment for the transaction of business relating to the currency and coinage issues under this Act which the Board with the Governor's approval may consider should properly be charged to the Fund instead of to the Income Account established under Section 28.

(2) If at the end of any financial year the Board is satisfied that the value of the Fund, as ascertained under Section 29, is in excess of the Board's requirements for covering its liabilities in respect of Burma notes, currency notes and coin in circulation, together with provision against depreciation in the value of the investments of the Fund, and any provision for foreseeable expenditure made under sub-section (3) (i) of Section 28 the Board may, with the approval of the Governor, transfer to the general revenues of Burma the whole or part of such excess. Provided that no such transfer from the Fund shall be made unless the value of the Fund exceeds the total of the Burma notes, currency notes and coin in circulation.

25. (1) The Board shall hold such amount of the Fund in liquid

Assets of the Currency Board in the United Kingdom.

form in London as it shall from time to time with the approval of the Governor determine. Such liquid portion of the Fund may be held in cash or on deposit in such bank or banks in the United Kingdom as the Board may determine or in British Government Treasury Bills or in such other short-dated British Government securities as the Board may determine.

(2) The Board may hold in the Fund securities denominated in Burmese currency and issued by the Government of Burma to a total nominal amount of ten crores of Burma rupees.

(3) The Board shall invest the remainder of the Fund in such sterling securities of the Government of the United Kingdom or of the Government of any other part of the British dominions (other than the Government of Burma) or in sterling securities guaranteed by such Governments as the Board may from time to time determine.

borrow on the security of any of the investments. of the Board such sums as may be necessary for meeting any of the payments so falling due.

27. The Governor may advance to the Board from the general revenues of Burma, the preliminary expenses incurred in the preparation, transport and issue of currency notes and coin. All sums so received shall be repaid from the Income Account (as hereinafter provided) to the general revenues of Burma together with interest thereon at such rate as the Governor may determine.

Advance to the Board for preliminary expenses from general revenues of Burma.

28. (1) The Board shall establish an account (hereinafter referred to as the Income Account) into which shall be paid—
Income Account of the Board.

- (a) all dividends, interest or other revenue derived from the investments of the Fund or from the employment in any other manner of the monies of the Fund;
- (b) all commissions or costs charged and levied in terms of proviso (ii) to sub-section (1) of Section 15;
- (c) all other receipts of the Board which by this Act are not required to be paid to the Fund.

(2) (a) There shall be charged upon the said account all outgoings and expenses of the Board and its agents which by this Act are not chargeable on the Fund.

(b) If at the end of any financial year there is a deficiency in the Income Account, such deficiency shall be met from the general revenues of Burma.

(c) Any balance subsisting on the said account at the end of each financial year after making all payments provided for in paragraph (a) of this sub-section shall be applied to the repayment to the general revenue of Burma of any sum received in accordance with Section 27 and paragraph (b) of this sub-section.

(3) If after the completion of the transactions set out in sub-sections (1) and (2) of this Section there remains a surplus on the Income Account,—

- (i) the Board shall pay such surplus into the Fund until it is satisfied that the assets of the Fund are sufficient to cover the liabilities of the Board in respect of Burma notes, currency notes and coin in circulation together with provision against depreciation in the value of the Board's investments and such provision for any foreseeable expenditure chargeable to the Fund under sub-section (1) (c) of Section 24 as may be agreed with the Governor;

- (ii) after satisfying the requirements of paragraph (i) of this sub-section any remaining balance on the Income Account shall be paid to the general revenues of Burma.

26, of—

- (a) the amount of liquid monies of the Fund,
- (b) the value at current market price at the date of valuation of—
 - (i) the investments of the Fund,
 - (ii) any silver or other metal held by or on behalf of the Board,
- (c) the realisable value at market prices at the date of valuation (allowing for the cost of realisation) of the metal content of—
 - (i) coin held by the Board (including India coin temporarily held),
 - (ii) coin in circulation.

30. The Board shall keep such books of account and other books and records as may be proper in relation to its business. Such books of account and other books and records shall be in such form as the Board may from time to time determine.

31. The Board shall submit its accounts for audit by such person or authority as the Governor may appoint and such person or authority shall have access to such books, records and documents of the Board as shall be necessary for the purpose of such audit.

32. The Board shall publish monthly in the gazette an abstract showing as at the last day of the preceding month—

Monthly Statement in Gazette of Coins and Currencies in circulation.

- (i) the amount of currency notes in circulation ;
- (ii) the amount of coin in circulation ;
- (iii) an estimate of the amount of Burma notes in circulation ;
- (iv) an estimate of India coin in circulation.

33. The Board shall publish an annual report on its transactions during the financial year together with a statement of accounts and balance sheet as at the end of the year.

34. Notwithstanding anything contained in the Burma Income-tax Act or in any other enactment for the time being in force relating to income-tax or super-tax, the Board shall not be liable to pay income-tax or super-tax on any of its income, profits or gains.

Exemption of the Board from Income-tax.

35. The Board shall not be liable to pay stamp duty under the Burma Stamp Act in respect of Currency Notes issued under the provisions of this Act.

Exemption of Currency Notes from Stamp Duty.

36. No suit or other proceeding shall lie against any person in respect of anything in good faith done, or intended to be done, under or in pursuance of the provisions of this Act.

Bar of Suits.

37. The Governor may make rules prescribing—

Power to make Rules. (a) anything which by this Act is to be prescribed ;

(b) all other matters and things which are necessary or convenient to be prescribed for giving full effect to this Act.

38. The laws specified in the fifth schedule are hereby repealed to the extent set out in the second column of the said schedule ; and notwithstanding such repeal, anything done and any action taken in exercise of any powers conferred by or under the said Acts shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act.

Repeals.

FIRST SCHEDULE.

(See Section 12.)

Denomination of Currency Notes.

1. One rupee currency note.
2. Five rupee currency note.
3. Ten rupee currency note.
4. Hundred rupee currency note.

SECOND SCHEDULE.

(See Section 14.)

Denomination of Coins.

1. A rupee.
2. A half rupee, or eight-anna piece.
3. A quarter-rupee or four-anna piece.
4. An eighth of a rupee or two-anna piece.
5. A one-anna piece.
6. A half-anna piece.
7. A pice, or quarter-anna.
8. A pie or one-third of a pice or one-twelfth of an anna.

THIRD SCHEDULE.

[See Section 17 (1).]

Legal Tender of Coins.

Denomination of coin.	Amount for which such coins are legal tender.
A rupee	One rupee or any sum exceeding one rupee.
A half-rupee or eight-anna piece.	Half-rupee or any sum not exceeding one rupee.
A quarter-rupee or four-anna piece.	Quarter rupee or any sum not exceeding one rupee.
An eighth of a rupee or two-anna piece.	Eighth of a rupee or any sum not exceeding one rupee.
A one-anna piece	One-sixteenth of a rupee or any sum not exceeding one rupee.
A half-anna piece	One-thirtysecond of a rupee or any sum not exceeding one rupee.
A pice or quarter-anna	One-sixtyfourth of a rupee or any sum not exceeding one rupee.
A pie or one-third of a pice or one-twelfth of an anna.	One-hundred and ninetysecond of a rupee or any sum not exceeding one rupee.

FOURTH SCHEDULE.

[See Section 21 (2).]

Coinage, Powers and Procedure regarding Cutting of Defaced and Counterfeit Coins.

1. Where any silver coin which has been coined and issued under the authority of the Governor-General of India or the Governor-General of India in Council is tendered to any person authorised by the Governor to act under this section, and such person has reason to believe that the coin—

- (a) has been diminished in weight so as to be more than such percentage below standard weight as may be prescribed as the limit of reasonable wear, or
- (b) has been defaced,
- he shall, by himself or another, cut or break the coin.

2. A person cutting or breaking coin under the provisions of sub-section (a) of section 1 of this schedule shall observe the following procedure, namely :—

- (a) if the coin has been diminished in weight so as to be more than such percentage below standard weight as may be prescribed as the limit of reasonable wear, but not more than such further percentage as may be prescribed in this behalf, he shall either return the pieces to the person tendering the coin, or, if such person so requests, shall receive and pay for the coin at such rates as may be prescribed in this behalf; and

- (b) if the coin has been diminished in weight so as to be more than such further percentage below standard weight so prescribed as aforesaid, he shall return the pieces to the person tendering the coin, who shall bear the loss caused by such cutting or breaking.

3. A person cutting or breaking coin under the provisions of sub-section (b) of section 1 of this schedule shall observe the following procedure, namely :—

- (a) if such person has reason to believe that the coin has been fraudulently defaced, he shall return the pieces to the person tendering the coin, who shall bear the loss caused by such cutting or breaking ;
- (b) if such person has not reason to believe that the coin has been fraudulently defaced, he shall receive and pay for the coin at its nominal value.

Explanation.—For the purposes of this section a coin which there is reason to believe has been defaced by sweating shall be deemed to have been fraudulently defaced.

4. If a coin is liable to be cut or broken under the provisions of both sub-section (a) and sub-section (b) of section 1 of this schedule, the person cutting or breaking the coin shall deal with it,—

Procedure in regard to coin which is liable to be cut under both sub-section (a) and sub-section (b) of section 1 of this schedule.

- (a) if he has reason to believe that the coin has been fraudulently defaced, under sub-section (a) of section 3 of this schedule, and

(b) in other cases under section 2 of this schedule.

5. Where any silver or nickel coin purporting to be coined or issued under the authority of the Governor-General of India or the Governor-General of India in Council is tendered to any person authorised by the Governor to act under this section, and such person has reason to believe that the coin is counterfeit, he shall by himself or by another cut or break the coin, and may at his discretion either return the pieces to the tenderer, who shall bear the loss caused by such cutting or breaking, or in the case of silver coin receive and pay for the coin according to the value of the silver bullion contained in it.

Power to certain persons to cut counterfeit silver or nickel coin and procedure in regard to coin so cut.

FIFTH SCHEDULE.

(See Section 38.)

Acts repealed.

Title of Act.	Extent of repeal.
The Burma Coinage Act (India Act III of 1906).	The whole Act.
The Currency Act, 1940 (Burma Act XVI of 1940).	The whole Act.
The Currency Notes Act, 1946 (Burma Act XXV of 1946).	The whole Act.

THE BURMA TARIFF (SECOND AMENDMENT) ACT, 1946.

[BURMA ACT NO. XLVI OF 1946.]

WHEREAS it is expedient further to amend the Burma Tariff Act, 1934 (Act No. XXXII of 1934) for certain purposes ;

AND WHEREAS by a Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

26 Geo. 5,
c. 3.

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows : —

1. (1) This Act may be called the Burma Tariff (Second Amendment) Act, 1946.
Short title, commencement and extent.

(2) It shall come into force with effect from the 26th September 1946.

(3) It shall extend to the whole of British Burma.

2. The following amendments shall be made to the First Schedule of the Burma Tariff Act as substituted by the Amendments to First Schedule of Burma Tariff (Amendment) Act, 1946, (Burma Tariff Act, Act No. XXXVII of 1946), namely :—

(i) In item 17 of the First Schedule *add* the word "fresh" *after* the words "all sorts".

(ii) In items 38 and 81 of the First Schedule, *for* the words and figure "50 per cent *ad valorem*" *substitute* the words and figure "60 per cent *ad valorem*".

(iii) In item 93 of the First Schedule, *for* the words "Paper, all sorts, not otherwise specified" *substitute* the words "Paper ; articles made of paper and papier mache ; paste board, mill board, carboard and strawboard, all sorts, not otherwise specified".

(iv) In item 169 of the First Schedule, *for* the words and figures "Rs. 50 per ton" and "Rs. 46-8 per ton" *substitute* the words "The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place".

THE WAR-TIME CRIMES (EXEMPTION) ACT, 1946.

[BURMA ACT No. XLVII of 1946.]

WHEREAS it is expedient to indemnify certain persons in respect of acts and things done or purported to have been done in the course of their duty and in certain other circumstances ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows:—

1. (1) This Act may be called the War-Time Crimes (Exemption) Act, 1946.

(2) It shall come into force at once.

2. In this Act—

“period intervening” means either the period commencing with the cessation of the British Administration and ending with the establishment of the new administration under the Japanese Military Authority in the area concerned, or the period commencing with the cessation of the Burmese Administration set up during the Japanese military occupation of Burma and ending with the establishment of the British Military Administration in the area concerned, as the case may be.

3. No suit, prosecution or other legal proceedings whatsoever, whether civil or criminal, shall be instituted in, or entertained or heard by, any Court or Tribunal for or in respect of any act or thing done during the period intervening if done in good faith, and done or purported to have been done—

- (i) in the defence of person or property,
- (ii) under the order of any organization or committee which was formed or constituted in any place in Burma during the period intervening for the purpose of preserving peace or maintaining law and order in the locality in which it was formed or constituted, or
- (iii) under the authority of, or the powers invested by, such organization or committee.

4. No suit, prosecution or other legal proceeding whatsoever, whether civil or criminal, shall be instituted in, or entertained or heard by, any Court or Tribunal for or in respect of any act or thing if done in good faith, and done or purported to have been done by a person who was a member of, or attached to the Burma Independent Army, Burma Defence Arm, Burmese Army, or Patriotic Burmese Forces—

- (i) in the course of his duty as a member of or a follower of such Army or Force,

Price,—One anna.]

- (ii) under the order or direction of a superior officer of such Army or Forces, or
- (iii) for the purpose of maintaining law and order, or securing the public safety or safety of such Army or Forces, or maintaining supplies and services essential to the life of the community,—
where such act or thing was done,
 - (a) between the 8th day of December, 1941 and the 5th day of May, 1945 in Burma other than in the areas comprised in the Tenasserim Division, or
 - (b) between the 8th day of December, 1941 and the 1st day of January, 1946 in the areas comprised in the Tenasserim Division.

5. (1) Where any person has been sentenced for any act or thing done or purported to be done in the circumstances specified in section 3 or section 4, the remaining portion of the sentence passed upon him, if unexpired, shall be remitted, and he shall be set free.

(2) For the purpose of this section, the decision of the Governor on the question whether any person was a member of or attached to the Burma Independent Army, Burma Defence Army, Burmese Army or Patriotic Burmese Forces, or whether he was sentenced for or in respect of any act or thing done in the circumstances specified in section 3 or section 4, shall be conclusive.

6. No criminal proceeding whatsoever shall be instituted, entertained or heard by any Court or Tribunal against any person in respect of any offence committed by him under section 143, section 144, section 145, section 147, section 148, section 150 or section 153, or under any other section of the Penal Code when it is read with section 149 of the Penal Code, where such offence was committed during the intervening period in Burma.

THE PREVENTION OF CRUELTY TO ANIMALS (AMENDMENT) ACT, 1946.

[BURMA ACT No. XLVIII OF 1946.]

WHEREAS it is expedient to amend the Prevention of Cruelty to Animals Act to provide for the return on security to their owners of animals brought to infirmaries ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all the powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. This Act may be called the Prevention of Cruelty to Animals (Amendment) Act, 1946.
Short title.

2. To sub-section (1) of section 14 of the Prevention of Cruelty to Animals Act, the following proviso *shall be added*,
Addition of proviso to section 14 (1). namely :—

“ Provided that an animal sent to an infirmary may, if the veterinary officer so thinks fit, be returned to the owner thereof on the owner furnishing reasonable security in cash, to such amount, if any, as the veterinary officer may determine, to produce the animal at the infirmary for the examination and treatment as and when required to do so. ”

THE MONTHLY LEASES (TERMINATION) ACT, 1946.

[BURMA ACT NO. XLIX OF 1946.]

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 ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the 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.

3. In this Act,—

- Definition. (a) " enemy " means any State or Sovereign of a State which is at war with His Majesty ;
(b) " lease " includes a sub-lease ; and
(c) " lessee " includes a " sub-lessee ".

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.

5. On the determination of a lease under the provisions of this Act, the following consequences shall ensue :—
Consequences ensuing on termination.

- (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 (q) 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.

G.B.C.P.O.—No. 162, Home Dept., 6-2-1947—1,500—II.

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THE POLITICAL PENSIONS (REPEALING) ACT, 1946.

[BURMA ACT NO. L OF 1946.]

5. WHEREAS it is expedient to repeal the Political Pensions Act and the Political Pensions (Amendment) Act ;

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AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

Now, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows :—

1. (1) This Act may be called the Political Pensions (Repealing) Act, 1946.
Short title and commencement.

(2) It shall be deemed to have come into force with effect from the tenth day of December, 1942.

2. The Political Pensions Act and the Political Pensions (Amendment) Act are hereby repealed.

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