Burma Immigration (Emergency Provisions) Act, 1947

1. Short title

(1) This Act may be called the Burma Immigration (Emergency Provisions) Act, 1947.

(2) It shall come into force at once.

2. Definitions; Delegation of powers

(1) In this Act unless there is anything repugnant in the subject or context:

(a) "carrier" includes the owner or charterer of a conveyance, the agent of such owner or charterer and also the person in charge of the conveyance;

(b) "controller" means the Controller of Immigration;

(c) "conveyance" means anything used for transport from one place to another;

(d) "crew" means a person employed on or engaged in the working of a conveyance;

(e) "foreigner" means a person who is not a citizen of the Union of Burma;

(f) "immigration official" means any official of the immigration department, including a junior immigration assistant;

(g) "immigration permit" includes a certificate or pass or any other document, issued to a foreigner under this Act or the rules made thereunder, for entry into or stay in the Union of Burma;

(h) "passenger" means any person who travels in any conveyance other than members of the crew;

(i) "prescribed" means prescribed by the President of the Union or by rules made by the President of the Union.

(2) The President of the Union may authorize any officer to exercise an or all of the powers of the Controller under this Act or the rules made thereunder.

(3) The Controller may delegate any of his powers under this Act or the rules made thereunder to any immigration official.

3. Prohibition or entry without immigration permit or duly visaed passport

(1) No foreigner shall enter the Union of Burma without an immigration permit issued by the Controller or by any Official authorized to issue such permits or a valid passport duly visaed or endorsed by or on behalf of the President;

(2) No citizen of the Union of Burma shall enter the Union without a valid Union of Burma passport, or a certificate in lieu thereof, issued by a competent authority:

Provided that this section shall not apply to a person, who, in proceeding from one place in the Union of Burma to another place in the Union of Burma, traverses in the course of that journey any extra-

territorial waters.

4. Conditions for immigration permits, passport, visa and endorsements

(1) Permits and passport visas shall be subject to such conditions as may be prescribed and also to such conditions as may be set out in the permit or visa.

(2) All such conditions shall be deemed to be condition for allowing the holder of such permit or visa to enter or remain in the Union of Burma, and a breach of any of these conditions shall render the holder liable to deportation from the Union of Burma if the President of the Union so directs.

4.A. Administration of oath

Where an affidavit is required for the purpose of issuing an immigration permit, passport or visa, the Controller or such other officer as may be authorized in this behalf by the President, may administer the oath to the deponent.

5. Supply of information by the master of a ship or captain of an aircraft

(1) The carrier, landing or embarking passengers at any seaport or airport in the Union of Burma shall furnish to such person and in such manner as the President of the Union may prescribe a return giving such particulars in respect of such passengers as may be required for the time being by order of the President of the Union and such passengers shall furnish the carrier with all the information required by him for the purpose of the return.

(2) The carrier arriving in any seaport or airport in the Union of Burma shall furnish the Controller with a

(a) schedule of expected arrivals and departures of conveyances for each week;

(b) list of crew on arrival and departure;

(c) list of crew who are signed on or off;

(3) The President of the Union may by order exempt from the provisions of this section any class of passengers or voyages, or any conveyance or seaports and airports, and any such order may be withdrawn at any time at his discretion.

6. Prohibition of entry except through prescribed ports and land stations

(1) No foreigner shall enter or leave the Union of Burma by any means except at such seaport airports or land stations prescribed by the President of the Union.

(2) It shall be the duty of the carrier who brings a conveyance to any seaport or airport or land station in the Union of Burma,-

(a) to stop the conveyance at such place as may be specified by an immigration official not below the rank of an Immigration Assistant; and

(b) not to remove the conveyance until clearance is granted by an immigration official not below the rank of an Immigration Assistant.

(3) For examination of any conveyance on any official holidays or between 17.00 hours and 7.00 hours on other days, the carrier shall be liable to pay an overtime fee fixed according to the rates that may he prescribed.

7. Detention of illegal entrants

(1) The President of the Union or any such authority as may be appointed by him under his sub-section, may order any foreigner who has been convicted under an section of this Act of rules made thereunder to be deported from the Union or Burma and pending orders of deportation such foreigner may be detained in such manner as the President of the Union may direct and whilst so detained shall be deemed to be in legal custody.

(2) The President of the Union or any such authority as may be appointed by him under this sub-section, may, in lieu of prosecution, order any foreigner who contravenes any of the provisions of this Act, or the rules made thereunder, to be deported from the Union of Burma and pending orders of deportation such foreigner may be detained in such manner as the President of the Union may direct and whilst so detained shall be deemed to be in legal custody.

(3) The President of the Union or the authority competent to order deportation under sub-section (2) shall have power to adjudge, if any foreigner has in fact contravened any of the provisions of this Act, or the rules made thereunder.

(4) Any foreigner ordered to be deported under sub-section (1) or sub-section (2) may be detained by such authority and in such manner as the President of the Union may direct pending the completion of arrangements for his removal out of the Union of Burma and whilst so detained shall be deemed to be in legal custody.

(5) Any foreigner who has been detained under subsection (1) or sub-section (2) or sub-section (4) may be admitted to bail by such authority and upon such terms and conditions as may be prescribed by the President of the Union.

(6) The carrier who is responsible for the illegal entry of any against whom any order of deportation is subsequently issued under sub-section (1) or subsection (2) shall remove such foreigner from the Union of Burma.

8. Exemption

The President of the Union may exempt any person or classes of persons from any or all the provisions of the Act with or without conditions.

9. Exemption of persons in diplomatic service

Nothing in this Act shall apply to any duly accredited head of a foreign diplomatic mission or members of his household, or to members of his official staff and their families, or to any consular representative in the Union of Burma and his family.

10. Arrest without warrant

Any Immigration Officer or any Police Officer may enter any place or conveyance and arrest without warrant any person whom be may reasonably suspect of contravening or having contravened or being about to contravene any of the provisions of this Act.

11. Fees

Fees may be charged for the issue of immigration permits or passport visas at such rates as may be prescribed.

12. Detention of illegal entrants

Any foreigner who has been brought into the Union of Burma and who is not entitled to enter the Union of Burma under the provisions of this Act or the rules made thereunder shall be detained by the carrier, who shall, if required at any time by any immigration official not below the rank of Assistant Immigration officer remove him from the Union of Burma. Such detention shall be deemed to be legal custody.

13. Offences and penalties

(1) Whoever enters or attempts to enter the Union of Burma or whoever after legal entry remains or attempts to remain in Union of Burma in contravention of an of the provisions of this Act or the rules made thereunder or any of the conditions set out in any permit or visa shall be punished with imprisonment for a term not exceeding two years, or with fine, or with both.

(2) Whoever being the carrier knowingly brings or attempts to bring into the Union of Burma any person not authorized to enter the Union of Burma shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding K. 200 for every such person brought or attempted to he brought into Burma or to both.

(3) The carrier who omits to make the return required of him under section 5 (1) of this Act or who makes a return or who fails to carry out any duty laid upon him be this Act, shall be liable to imprisonment not exceeding three months or to a fine not exceeding K. 200. or to both.

(4) Any passenger refusing to give any information required by the carrier under section 5 of this Act, or who gives false information for the purpose, shall be liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding K. 200 or to both.

(5) Whoever assists or attempts to assist any person to enter the Union of Burma illegally or knowing that a foreigner is remaining in the Union of Burma in contravention of any of the provisions of this Act or the rules made there under wilfully assists or attempts to assist him to remain in the Union of Burma shall be punished with imprisonment for a term not exceeding two years, or with fine, or with both.

(6) Whoever wilfully suppresses information or gives false information to prevent the apprehension of any foreigner who has contravened any of the provisions of this Act or the rules made thereunder shall be liable on conviction to imprisonment for a term not exceeding six months or fine or to both.

(7) Whoever:

(a) impersonates or falsely represents himself to be or not to be a person to whom an immigration

permit has been issued, or

(b) makes any false statement with intent to obtain an immigration permit for himself or for any other person, or

(c) forges, alters or tampers with any immigration permit, or

(d) uses or has in his possession any forged immigration permit or any immigration permit which bears any illegal obliteration, tampering or alteration in respect of any material particulars,

shall be punished with imprisonment for a term not exceeding two years, or with fine, or with both.

13A. Burden of proof as to entry

If any question arises with reference, to this Act or rules made thereunder whether a foreign enters or remains in the Union of Burma legally, the onus of proving that he enters or remains in the Union of Burma legally shall notwithstanding anything contained in the Evidence Act, be upon such foreigner.

13B. Burden of proof as to foreigner

If any question arises with reference to this Act or rules made thereunder whether a person is or is not a foreigner, or is or is not a foreigner of a particular class, the onus of proving that such a person is not a foreigner or is not a foreigner of such particular class, as the case may be, shall notwithstanding anything contained in the Evidence Act, be upon such person.

14. Trial Court

(1) No magistrate other than a first class magistrate or a subdivisional magistrate shall try cases under this Act.

(2) The magistrate trying the case may direct any portion of the fine levied under section 13 to be paid to any person who hits contributed in any way to the arrest and conviction.

15. Duration of order of removal or deportation and punishment for breach of order

(1) Every order of deportation, made under this Act shall remain in force until it is revoked by the President of the Union or by such authority as the President of the Union may appoint in that behalf.

(2) If any foreigner against whom an order of deportation has been issued fails to comply with the order in any respect, or having left the Union of Burma re-enters the Union of Burma without the permission in writing of the President of the Union or of such authority as the President of the Union may appoint in that behalf while the order is in force, he shall be liable to imprisonment for a term which may extend to two years or fine or to both and shall, in addition to such penalty, be liable to be deported again from the Union of Burma in pursuance of the order.

(3) When security has been taken in pursuance of any of the provisions of this Act or rules made thereunder the bond shall be deemed to be a bond taken under the Criminal Procedure Code by the District Magistrate having jurisdiction in the area in respect of which the said security has been taken and the provisions of section 514 of the said Code shall apply accordingly.

16. Rule-making power

(1) The President may make rules to carry out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for:

(a) the authorities by whom passports may be visaed on behalf of the President under section 3;

(b) the conditions to which immigration permits and passport visas shall be subject;

(c) the particulars required in respect of passengers and crew under section 5;

(d) fees under section 11;

(e) the condition under which and the authority by whom bail may be granted;

(f) persons who shall be permitted to practice as writers of applications for immigration permits or passport visas and regulating the conduct of business of persons so practicing; and

(g) such after matters as may be deemed necessary for the purpose of giving effect to the provisions of the Act.

(3) The President of the Union may direct that a breach of any rule made under subjection (1) and (2) shall be punishable with imprisonment for a term which way extend to three months, or with fine which may extend to K. 200, or with both.