

HOUSING, LAND AND PROPERTY RIGHTS IN BURMA: THE CURRENT LEGAL FRAMEWORK

Prepared by

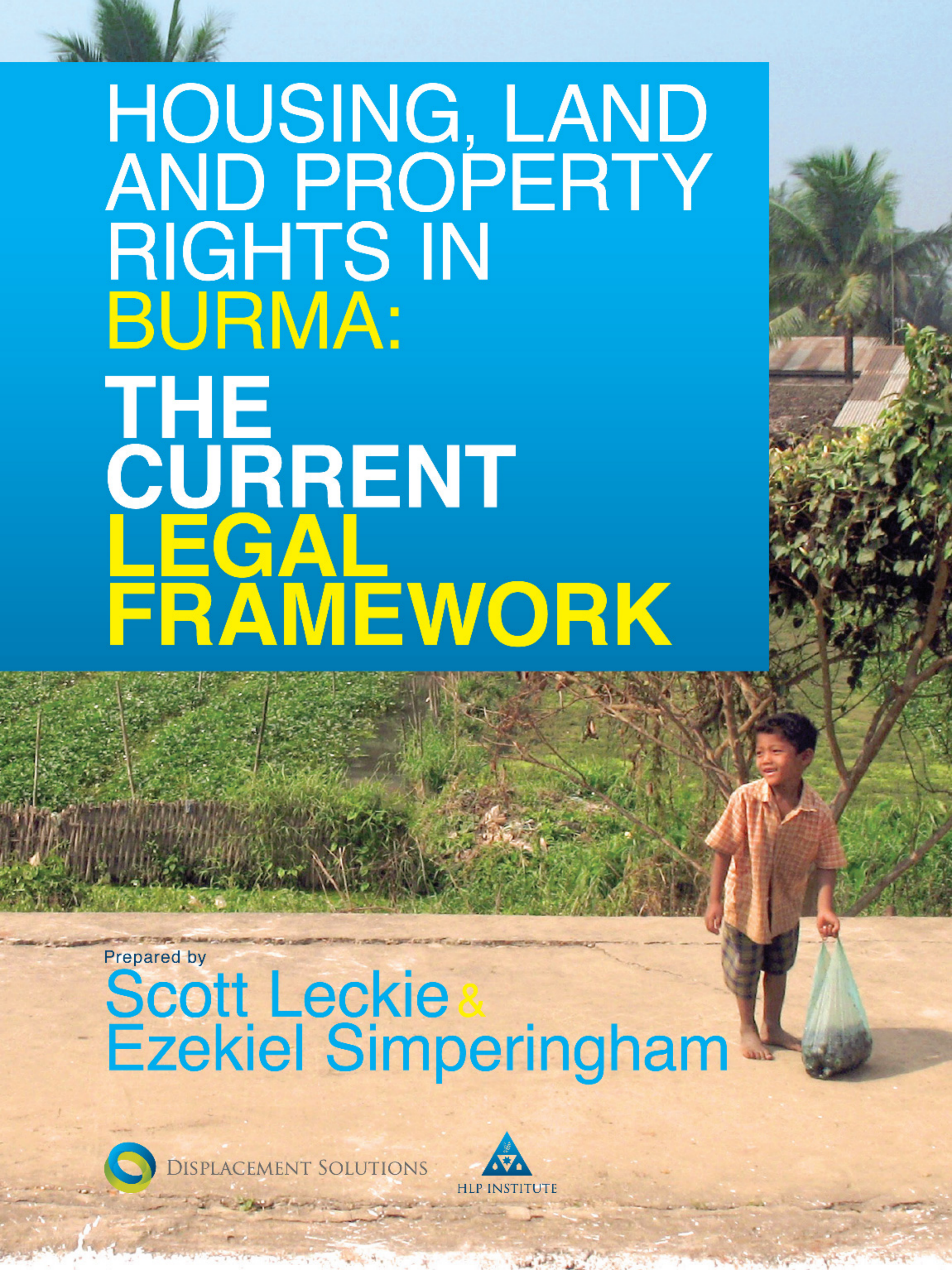
Scott Leckie &
Ezekiel Simperingham



DISPLACEMENT SOLUTIONS



HLP INSTITUTE



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DISPLACEMENT SOLUTIONS



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Edited by Scott Leckie and Ezekiel Simperingham

Displacement Solutions
HLP Institute
2009

For those who dwell in Burma

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Acknowledgements

Preparing a legal compilation is - under normal circumstances - rarely an overly onerous task; one simply visits the relevant website or law library, carries out the requisite research, and sooner or later the compilation is complete. Preparing a law book of Burmese laws, however, is an entirely different kind of exercise. With only a portion of the relevant laws available online and Burmese law books notoriously outdated and, even then, difficult to access without travelling to the country and quietly obtaining copies as if they were some sort of prohibited contraband, our quest to bring together into one volume the full Burma HLP Legal Code was anything but a straightforward undertaking. Only through various travels by ourselves and others to Rangoon, Mae Sot, Chiang Mai, Bangkok, London, Geneva and to places beyond over the period of an entire year were we able to collect and compile the volume that you now hold in your hands.

Accessing the laws that make up the Burmese HLP Code - many of which were only available in Burmese - would not have been possible without the assistance of a wide range of people and institutions, without whom this work would have perhaps never been completed. Given the nature of politics in Burma today, many of these people whose assistance was so invaluable to us cannot be named, but they know who they are and how they assisted. All we can offer all of you here is our anonymous gratitude and our hopes that we will be able to reveal your names in good time. There are also many others, primarily non-Burmese nationals, who provided additionally invaluable assistance in bringing this volume to fruition. In this light, we would like to thank, in particular, Richard Horsey, Ashley South, Stewart Manley, David Arnott and Sally Thompson. We would also like to thank Saowapha Viravong and Nicholas Cheesman at the Australian National Library, Jonathan Sims at the British Library and Ariel Golan at the ILO Library. Thank you to the many other librarians and researchers who gave their valuable time and assistance from the Cambridge University Library, the Cornell University Library, the Institute of Advanced Legal Studies Library, the Law Library of Congress, the Lincoln's Inn Library, the School of Oriental and Asian Studies and the Senate House Library. Thanks to Pom for getting us where we needed to go safely and soundly, even if the speed was a bit on the fast side from time to time, to our valued and skilled translators and printers and to those on our respective homefronts who made it all possible.

We are particularly grateful to the Foreign Ministry of the Government of Switzerland for the financial support they provided towards bringing this book to completion, in particular Pietro Lazzari.

It is our fervent hope that this unique volume will provide the foundations for greater understanding of the HLP framework as it exists today in Burma, and that it will generate discussion and debate about the ideal shape of Burma's HLP legal and political landscape in the years to come. If you have any questions or queries (or if you have copies of the few laws that we could not access, despite our best efforts), please do let us know. A book like this may have far greater utility than one might on first thought imagine, but it will be up to each and every reader to make sure that the true value and power of this work will emerge.

Scott Leckie

Ezekiel Simperingham

Foreword

Richard Horsey¹

The deplorable human rights record of Burma's military junta has been a key focus of international attention for many years. The military has ruled the country for half a century, and has presided over a collapse of the economy and of social services. At the same time, successive military regimes have perpetuated an almost feudal governance system – where the population is seen as a resource at the disposal of the rulers – that is in many respects unchanged since pre-colonial times.

A combination of deliberate abuse, a general climate of impunity, and out-dated and ineffective social policies all contribute to a fundamental absence of basic human rights in this country of 55 million people. To date, the bulk of attention has focused on important questions of political prisoners, denial of basic freedoms, forced labour, forced displacement, as well as the other abuses related to the army's brutal counter-insurgency policies.

However, there are additional types of rights abuses that are not as frequently mentioned, but that have a critical impact on the daily lives of millions of people across Burma. And it is these – housing, land and property (HLP) rights – that form the contents of this important new book.

This volume contains all of the existing housing, land and property laws in Burma, and makes a vital contribution to understanding the impact that these legal structures have on communities across the country. Being able to view the HLP legal code in its entirety for the first time reveals more clearly than ever before that supporters of democratic and governance reform within Burma need to better understand – and place greater emphasis on – HLP issues than they have to date. Understanding how these issues are dealt with in both law and practice will enable more creative thinking about Burma's HLP future, in order that the peoples of the country can most fully enjoy their legitimate housing, land and property rights.

¹ Richard Horsey is former representative of the ILO to Myanmar and currently a Fellow at the Open Society Institute.

Section 1.

*Housing, Land and Property Rights in Burma Today -
Understanding the Present and Preparing for the Future*

Scott Leckie & Ezekiel Simperingham

To many of those familiar with the dismissive attitude towards the rule of law displayed by the military regime that has controlled Burma¹ for nearly half a century, the idea of compiling a book of laws on housing, land and property (HLP) rights may appear on the surface to represent at best naiveté, and at worst, simple folly. Why, when the legislative process in Burma is viewed as largely illegitimate, the judicial process - to the extent that it functions fairly and equitably at all - acting effectively as a rubber stamp of whatever the ruling *junta* wishes - and within a State where human rights are so widely denied, would anyone take the time and trouble to put together such a considerable tome as this? Why, with the 1974 Constitution effectively suspended until the new 2008 Constitution enters into force in 2010, and when independent legal groups state that “the only law ... is what the generals from day to day decide it to be”² would anyone bother preparing a law book on HLP rights in Burma? Why, when the nature of the struggle for democracy in Burma is so tenuous would human rights organisations decide to undertake the collection of HLP laws in a country governed by a regime with an historical track record indicating that it is far less likely than most other Governments to consider ways of improving the HLP prospects of ordinary citizens?

These and many other similarly critical questions could be posed, but our reply to all such queries will be based on the same basic two-part perspective; on the one hand, in terms of addressing HLP law it makes little sense either to wait to act on HLP issues in Burma until a new regime emerges, or, on the other hand, to presume that the present regime will remain in place eternally. While the governing regime in Burma - the State Peace and Development Council (SPDC) - may well survive for several more years, history invariably reveals that most basic of all political truths, that regimes come and regimes go; the world of the past twenty years provides eloquent testimony to that. And as Governments replace one another, as political winds change direction and as long simmering or dormant pressures suddenly and often without warning erupt - be it in the former Soviet Union, Eastern Europe, South Africa, East Timor, El Salvador, Kosovo or elsewhere, what may appear wholly impossible today can suddenly become inevitable tomorrow. And so, as with all countries and all regimes, the current military apparatus now governing Burma will one day - as remarkable as it may sound today - fade into memory, and something new will replace it, though the State of Burma, of course, will remain intact.³

Of change, we can be certain. What form this transition takes, precisely which leaders will guide today's opposition into eventual power and how much additional damage will be foisted upon the people of the country before change arrives, however, remain questions no one can predict with any degree of accuracy. The people may again revolt *en masse* and actually prove to be so fearless and so large in number that they eventually take power in

1 Throughout this volume we have chosen to call Burma by its original name and to refer to the former capital of the country as Rangoon, except where the context requires otherwise.

2 Gutter, P & Sen, B.K, 2001, *Burma's State Protection Law: An Analysis of the Broadest Law in the World*, Burma Lawyers Council.

3 Importantly, the international rules of State responsibility stipulate that the change of regime does not absolve the new regime of the legal responsibilities - as a state - it may hold for abuses that occurred during the previous regime, see: International Law Commission, 2001, *Draft Articles on the Responsibility of States for Internationally Wrongful Acts*, UN Doc. A/56/10, UN Doc. A/55/10. Notwithstanding who is in power in Burma, therefore, the people of the country have a right to various forms of HLP remedies that adequately redress any HLP abuses that may have taken place.

this manner. On the other hand, China may one day switch allegiances leaving the SPDC without its key benefactor, and this single act alone could prove a catalyst of sorts and may bring about major, unpredicted changes. Perhaps even the 2008 Constitutional process will set in motion measures for change completely unexpected by the ruling elite. Indeed, the why and how of this process, of course, remains unknown, but that it will occur is ensured.

This comprehensive volume of the domestic law in Burma as it relates to all aspects of HLP rights is predicated on the certainty of change, but not solely; for the contents of this book are as valid for the current Government (and its opponents) as they will be to whatever new Government emerges. Burma, like all other nations, maintains a body of HLP laws and policies which, notwithstanding who is in power, remain the legal and regulatory framework governing HLP relations between the organs of State, the State and its citizens, and between the citizenry as a whole. These laws, in turn, proscribe the HLP functions of State and the HLP rights held by the populace. Combined with whatever international treaties, including human rights treaties, the State may have ratified, the complete body of law of the country can be viewed, analysed and critiqued. Once the HLP law is known and displayed *in toto*, informed discussion can then ensue seeking its improvement and streamlining with international standards and global best practice.

It is notable that Burma is currently party to only two of the major human rights treaties.⁴ The ability of the people of Burma to access HLP rights that flow from accession to international human rights instruments is therefore arguable.⁵ However, the focus of this book is not on the precise content and contours of the HLP rights that the people of Burma are currently entitled to as a result of the accession, or lack of accession, to relevant international treaties. Rather, the focus is on the current HLP legal code in Burma as measured against the full body of human rights law that makes up HLP rights. A key recommendation of this book is that a priority is made of Burma ratifying all of the human rights treaties that ensure HLP rights.

Until now, the HLP Legal Code of Burma has never been consolidated into a single, comprehensive work. With this compilation in place, a series of longer-term steps can now be taken which are specifically targeted at significantly improving the role of law in ensuring that everyone in Burma has sustainable access to HLP rights.

4 Burma is party only to the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.

5 A number of arguments have been made that irrespective of accession to the relevant human rights treaties, the people of Burma are entitled to the HLP rights contained in those treaties; for example The Centre on Housing Rights and Evictions (COHRE), November 2007, *Displacement and Dispossession: Forced Migration and Land Rights*, COHRE Country Report: Burma:

“Burma is not a party to the ICESCR [however] as Article 11 [the right to adequate housing] arguably has the status of customary international law it is therefore nonetheless binding. Furthermore, adopting the natural law perspective, the rights contained in the ICESCR attach to the people of Burma simply by virtue of their humanity, and regardless of the ruling junta’s failure to submit to the treaty.”

Burma has suffered from a severe absence of the rule of law since the Revolutionary Council coup of 1962. Throughout successive military governments and substantial changes to the legal system and structure, there has been a weak judiciary and minimal respect for the separation of powers doctrine. Judges are routinely dismissed, court decisions are often unavailable, due process and fair trial guarantees are routinely ignored in practice and the overall legal framework is considered to be in dire need of revamping. As Burma scholar David Steinberg has noted:

“Law under the military is conceived of not as a protection of rights, but as a means of control. The [State Law and Order Restoration Council] in July 1991 formed the Law Scrutiny Central Board to examine all existing laws deemed not in the interests of the state. By 1996 it had repealed 151 laws. But old, even colonial, laws used for early control purposes were employed selectively to enforce the state’s demands.”⁶

Law in Burma today is uncertain, vague and used primarily as a means of controlling the population and entrenching SPDC rule. The law is often inaccessible, and when applied, this is often done so inconsistently and arbitrarily.⁷ Precisely which laws are currently in force is unclear, and it is readily apparent that since the beginning of State Law and Order Restoration Council (SLORC) rule in 1988, many laws on the books have never been applied. Many existing laws are inconsistent with international standards, and Burma’s ratification of international human rights treaties remains dreadful. Andrew Huxley has stated simply, “since 1988 the Burmese state has been delegatised”.⁸ As we discovered in preparing this book, the actual texts of many laws are extremely difficult to find anywhere, in either English or Burmese, be it in journals, official gazettes and other publications, law libraries or elsewhere. This tendency to treat the very texts of laws almost as state secrets further contributes to an almost complete absence of the rule of law in Burma today.

All of this must be borne in mind in applying the laws contained in this book to the very real life HLP challenges that face the people of Burma today and that will face them in the future. As noted, the contents of this work are of direct relevance both to the current SPDC regime and to its eventual successor. And while recognising the many HLP related obligations held by the SPDC under the existing law of Burma (notwithstanding whether or not they apply these laws in practice), it is most decidedly the democratic successors to the junta to whom this book is addressed for it is they who hold the greatest promise that the HLP rights of the people of Burma will be protected. Anticipating pro-HLP rights policies by the current junta seems far too much to reasonably expect. This book seeks, above all, to promote the rule of law in Burma and, in particular, the HLP rule of law. It is guided by the simple perspective that people’s HLP rights are best served by reliance on a legal code that is consistent with basic international human rights laws, the democratic will

6 See: Steinberg, David L., 2001, *Burma: The State of Myanmar*, Georgetown University Press, Washington DC.

7 See for example: Article 19, 1996, *Burma: Beyond the Law*, “the manifest unfairness of many Burmese laws and the arbitrary manner in which they are applied is often compounded by the inaccessibility and vagueness of some of the statutory provisions”.

8 Huxley, Andrew, 1998, *The Last Fifty Years of Burmese Law: E Maung and Maung Maung*, LAWASIA.

of the populace governed and formulated on the basis of policies and regulations that have a proven track record in reversing HLP injustice and promoting HLP rights for all.

What Are HLP Rights?

The recognition of HLP rights by the United Nations began immediately following the creation of the organization itself in the 1948 Universal Declaration of Human Rights, which included both housing rights and property rights.⁹ Since then various components of the body of rights now known as housing, land and property rights have been enshrined in a series of international human rights treaties, declarations and other documents including:

- The International Covenant on Economic, Social and Cultural Rights;¹⁰
- The Convention on the Elimination of All Forms of Racial Discrimination;¹¹
- The Convention on the Rights of the Child;¹²
- The Convention on the Elimination of All Forms of Discrimination Against Women;¹³

While international human rights law widely recognises various manifestations of HLP rights,¹⁴ the International Covenant on Economic, Social and Cultural Rights (ICESCR), contains the most significant international legal source of the right to adequate housing. Article 11(1) affirms:

“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food,

9 Articles 25(1) and 17 respectively; *Universal Declaration of Human Rights*, UN Doc. G.A res. 217A (III), UN Doc. A/810 at 71 (1948).

10 *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3, Article 11(1) (entered into force 3 January 1976).

11 *International Convention on the Elimination of All Forms of Racial Discrimination*, opened for signature 21 December 1965, 660 UNTS 195, Article 5(e)(iii) (entered into force 4 January 1969).

12 *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1557 UNTS 3, Article 27(3) (entered into force 2 September 1990).

13 *Convention on the Elimination of All Forms of Discrimination against Women*, opened for signature 18 December 1979, 1249 UNTS 13, Article 14(2) (entered into force 3 September 1981).

14 There are many more international legal standards enshrining the right to housing and rights directly linked to this right, including: the *International Covenant on Civil and Political Rights* (1966), *International Convention Relating to the Status of Refugees* (1951), International Labour Organization (ILO) *Convention No. 169 Concerning Indigenous and Tribal Peoples*, International Labour Organization (ILO) *Convention No. 161 Concerning Occupational Health Services* (1985), International Labour Organization (ILO) *Convention No. 117 Concerning Social Policy (Basic Aims and Standards)* (1962), International Labour Organization (ILO) *Convention No. 110 Concerning Plantations* (1958), International Labour Organization (ILO) *Convention No. 82 Concerning Social Policy (Non-Metropolitan Territories)* (1947), *Declaration on the Right to Development* (1986), *Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, 1977 *Geneva Protocol I Additional to the Geneva Conventions of 12 August 1949*, and *Relating to the Protection of Victims of International Armed Conflicts*, 1977 *Geneva Protocol II Additional to the Geneva Conventions of 12 August 1949*, and *Concerning Non-International Armed Conflicts* (1977), *Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991*, *Statute of the International Tribunal for the Prosecution of Persons Responsible for Genocide and other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda...Between 1 January 1994 and 31 December 1994*, *Rome Statute for the Establishment of a Permanent International Criminal Court*, *Declaration on Social Progress and Development*, the *Vancouver Declaration on Human Settlements* (1976) and the *ILO Recommendation Concerning Workers' Housing* (1961). See further: Centre on Housing Rights and Evictions (COHRE), 2000, *Sources 4 "Legal Resources for Housing Rights: International and National Standards"*, Geneva.

clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance of international cooperation based on free consent.”

Beyond the contents of the ICESCR and other treaty-based sources of HLP rights, interpretive standards such as the UN Committee on Economic, Social and Cultural Rights *General Comment No. 4 on the Right to Adequate Housing* (1991),¹⁵ *General Comment No. 7 on Forced Evictions* (1997),¹⁶ *General Comment No. 15 on the Right to Water* (2005),¹⁷ *The UN Guiding Principles on the Rights of Internally Displaced Persons* (1998),¹⁸ *The UN Principles on Housing and Property Restitution for Refugees and Displaced Persons* (2005) (*the Pinheiro Principles*)¹⁹ and many others all combine to create a very considerable body of international human rights laws and standards which can be used by both Governments to successfully manage their HLP obligations and even more importantly by citizens seeking to claim their legitimate HLP rights.

These HLP rights are widely recognised throughout the ever evolving corpus of human rights law, and when we examine those rights which have a direct bearing upon the conditions in which people live in a residential context - their housing, land or property rights - it is clear that these are far more extensive than commonly assumed. In essence, HLP law constitutes a composite of the following existing rights found within international human rights law:

- ♦The right to adequate housing and rights in housing
- ♦The right to security of tenure
- ♦The right not to be arbitrarily evicted
- ♦The right to land and rights in land
- ♦The right to property and the peaceful enjoyment of possessions
- ♦The right to privacy and respect for the home
- ♦The right to HLP restitution/compensation following forced displacement
- ♦The right to freedom of movement and to choose one’s residence
- ♦The right to political participation
- ♦The right to information
- ♦The right to be free from discrimination
- ♦The right to equality of treatment and access
- ♦The right to water
- ♦The right to energy

15 UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, 13 December 1991, E/1992/23.

16 UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 7: The right to adequate: forced evictions housing (Art. 11(1) of the Covenant)*, 20 May 1997, E/1998/22.

17 UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant)*, 20 January 2003, E/C.12/2002/11.

18 UN Commission on Human Rights, *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39. Addendum: Guiding Principles on Internal Displacement*, 11 February 1998, E/CN.4/1998/53/Add.2.

19 UN Sub-Commission on the Promotion and Protection of Human Rights, *Principles on Housing and Property Restitution for Refugees and Displaced Persons*, 28 June 2005, E/CN.4/Sub.2/2005/17.

According to human rights law, HLP rights should fully inform a wide cross section of legislative, policy and practical decisions made by Governments. The degree to which these rights are woven into the contours of State law and policy will greatly affect how these decisions will be felt by individual rights-holders.

The long struggle to define the components of HLP rights and to delineate the corresponding obligations of States to secure these rights has resulted in a clear normative framework of what HLP rights mean in terms of human rights law. It is, for instance, widely agreed that States with HLP rights obligations are not necessarily required to be the primary housing providers within a society, nor are Governments necessarily required to substantively provide a house to all citizens who claim to need a dwelling in which to live. Rather, human rights laws suggest that States are expected to comply with various levels of obligations that emerge from a recognition of HLP rights that lead to the creation of conditions within a given society that are as facilitative as possible for everyone, within the shortest possible time-frame, to secure by various means, the full attributes of HLP rights. States are bound by obligations to *respect, protect, promote* and *fulfil* these rights. Human rights laws indicate that once such obligations have been formally accepted, through the ratification of an international or regional treaty or promulgation of related domestic legislation, the State must endeavour by all appropriate means to ensure everyone has access to HLP resources adequate for health, well-being and security, consistent with other human rights.²⁰

Governments must, therefore, adopt the policies, laws and programmes required, to the maximum of their available resources, to continually and progressively expand the enjoyment of these rights and simultaneously ensure in policy, legal or other terms, that no 'deliberately retrogressive measures' are taken that lead to the decline in the enjoyment of these basic rights.

Of all the HLP rights, the right to adequate housing has advanced the farthest. In 1991, the UN Committee on Economic, Social and Cultural Rights adopted *General Comment No. 4: The Right to Adequate Housing* which indicates that the following seven components form the core contents of the human right to adequate housing:²¹

- a) legal security of tenure;
- b) availability of services, materials, facilities and infrastructure;
- c) location;
- d) habitability;
- e) affordability;
- f) accessibility; and
- g) cultural adequacy.

20 See, for instance: Leckie, Scott, 2003, "Where It Matters Most: Enforcing International Housing Rights Nationally", Budlender, Geoff, "Housing Rights in South Africa" and Saule, Nelson, "Housing Rights in Brazil", all in Leckie, Scott (ed), 2003, *National Perspectives on Housing Rights*, Kluwer International Publishers, The Hague.

21 UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, 13 December 1991, E/1992/23.

General Comment No. 4 also reiterates that the right to adequate housing should not be interpreted in a narrow or restrictive sense which equates it with the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity, but that housing rights should be seen as rights to live somewhere in security, peace and dignity.²²

To achieve these housing rights, as well as corresponding land and property rights, States need to *respect* these rights by ensuring that no measures are taken which intentionally erode the legal and practical status of this right. Governments need to comprehensively review relevant legislation, refrain from actively violating these rights by strictly regulating forced evictions and ensure that the HLP sectors are free from all forms of discrimination. States must also assess national HLP conditions, and accurately calculate, using statistical and other data and indicators, the true scale of non-enjoyment of these rights, and the precise measures required for their remedy. Governments need to *protect* the rights of people by effectively preventing the denial of their rights by third parties such as landlords, property developers, social service providers and others capable of restricting these rights. To *promote* HLP rights, Governments should adopt targeted measures such as national HLP strategies that explicitly define the objectives for the development of the HLP sector, identify the resources available to meet these goals, the most cost-effective way of using them and how the responsibilities and time-frame for their implementation will be applied. Such strategies should reflect extensive and genuine consultation with, and participation by, all those affected, including groups traditionally excluded from the enjoyment of HLP rights. Finally, the obligation to *fulfil* these rights involves issues of public expenditure, the regulation of national economies and land markets, housing subsidy programmes, monitoring rent levels and other housing costs, the construction and financing of public housing, the provision of basic social services, taxation, redistributive economic measures and any other positive initiatives that are likely to result in the continually expanding enjoyment of HLP rights.

In terms of human rights law, thus, citizens and residents of every country should have direct and sustained access to the full realization of the entire spectrum of HLP rights, while Governments should take seriously their numerous obligations to *respect, protect, promote* and *fulfil* HLP rights.²³ The people of Burma, therefore - just as people everywhere - are entitled to live in a society where HLP rights are treated with the seriousness accorded them under human rights law.

At the same time, however, it must be reiterated that law alone is rarely sufficient to guarantee the enjoyment of human rights, and this maxim applies even more so to the complex, multi-layered rights and duties that emerge from the recognition of HLP rights, particularly in a country such as Burma where the rule of law is so often lacking. Be that as it may, the law is a vital ingredient in many national efforts to secure HLP rights for the entire populace. To be effective in this regard, HLP law needs to be internally consistent, conform with all relevant international standards and norms and, above all, reflect the popular will of the population.

22 *Id.*

23 See: Leckie *supra* n20.

It is difficult to point to any nation in the world today which has a flawless body of HLP legislation, as this area of law remains immense, complicated and often subject to effective policy as a means to promote its implementation. At the same time, however, there is no shortage of excellent examples of domestic law found within all types of legal systems that each in their own way support the contention that all people must be entitled to all HLP rights. The *City Statute* in Brazil,²⁴ the *Loi Besson* in France,²⁵ the *Constitution* in South Africa,²⁶ the *Urban Housing and Development Act* in the Philippines²⁷ and many, many others²⁸ can be looked to as inspirations of what is possible in an HLP legislative context when the people governed drive the legislative process from the grassroots upwards. None of these laws or any others has ever or will ever single-handedly transform a country affected by landlessness, forced evictions, discrimination and growing slums overnight into a bastion of HLP rights enjoyed by all. The size of HLP challenges and the immense land, financial and other resources involved are of such a level that a sense of HLP realism must invariably remain in place. Nevertheless, good HLP law is a vital adjunct to improved HLP rights circumstances, and when Governments awaken to this fact and work together with civil society to build legislation that reflects the popular will of the population and addresses the full range of HLP concerns, then and only then, can societies everywhere begin to experience the reality of what the promise of HLP rights means in everyday life.

Building such an HLP legal code in Burma will take time, as well as the good will and efforts of hundreds if not thousands of people dedicated to constructing an HLP legal regime which fully protects the HLP rights of all of Burma's 55 million people. Notwithstanding who is in power, HLP issues within the legislative sphere need to receive far greater attention and be prioritized to a far higher degree than has been the case since Burma's independence in 1948. One of the first steps in this process is broadening the understanding of the existing HLP Code in Burma today and then examining the successive treatment of HLP issues since 1948. Once the content and contours of the law is clear, then can we begin to consider how best to move from the present HLP reality to a far better HLP framework in the future.

The HLP Legal Code of Burma Today

This book has been prepared at a time where there is clearly far greater attention and understanding of the HLP *problematique* in Burma than ever before, even though this attention to HLP rights remains at a nascent stage. Both within the democratic opposition movement and the international community, HLP issues have come to the fore in recent years. In many ways, the tragic consequences of Cyclone *Nargis* in 2008 brought many HLP issues into sharp relief, as the manner by which the issues of land, damaged housing, disaster-induced displacement and a host of additional effects were dealt with by the SPDC

24 *Estatuto das Cidades-Lei Federal No. 10.257*, 10 July 2001 (City Statute).

25 *Law No. 90/449* (May 1990) (the *Loi Besson*).

26 *The Constitution of the Republic of South Africa* (1996).

27 *The Urban Development and Housing Act* (1992) (Republic Act No. 7279).

28 See for example: United Nations Housing Rights Programme (2002) *Housing Rights Legislation: Review of International and National Legal Instruments*, Report No. 1, Nairobi.

regime highlighted how the entire HLP sector - in areas of the country engaged in conflict, 'post-conflict', disaster and daily oppression - is used and abused by the Generals as a means of suppression and social control. But even before *Nargis*, a series of pronouncements by UN Special Rapporteurs, Under-Secretary-Generals, UN General Assembly resolutions, UNHCR, NGOs and other commentators in recent years have highlighted severe problems within the HLP sector and the need to expand attention to HLP rights.²⁹

Although most of the attention paid thus far to HLP issues in Burma concentrates on the forced displacement carried out by the regime against the various ethnic groups in the eastern part of the country,³⁰ it is now widely known that the SPDC keeps a stranglehold on all HLP sectors as part and parcel of its aim of preserving power and control. The continued ownership of virtually all land in the country by the State enables the junta to wield extraordinary degrees of power over the population. When expedient, existing HLP laws in the country such as the *Land Acquisition Act* are used to justify and bolster this control, as evidenced by the decimation of some 3,300 villages in the country by the junta since 1994 and the displacement of millions during military rule.³¹ Indeed, maintaining a tight grip on both the rules and the reality governing the control of land is seen by the regime as a central means of conveniently and simultaneously maintaining power and extracting wealth. This is not to imply that the SPDC is the only regime in Burma to have done so, and indeed, the present regime while more severe in its approach to these issues than previous regimes, is only the latest in a series of Governments in Burma, both pre and

29 For example, in November 2006 the then UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Jan Egeland, specifically urged Ibrahim Gambari, the UN Under-Secretary-General for Political Affairs to give the following message to the Myanmar Government:

"The Government should acknowledge the problem of displacement and address related concerns, in particular protection, (land) restitution and human rights concerns. The Government should permit full access to displaced persons to address the full range of their needs, including protection, human rights, health, shelter, food, etc."

See: Egeland, Jan, 7 November 2006, *ECHA key messages for your up-coming mission to Myanmar*; Note to Mr. Ibrahim Gambari, UN Under-Secretary-General for Political Affairs, from Jan Egeland, UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator. Similarly, a 2006 resolution by the UN General Assembly (UN General Assembly, 23 March 2006, *Situation of human rights in Myanmar*, A/RES/60/233):

"strongly calls upon the Government of Myanmar ... (g) To end the systematic forced displacement of persons and other causes of refugee flows to neighbouring countries, to provide the necessary protection and assistance to internally displaced persons, in cooperation with the international community, and to respect the right of refugees to voluntary, safe and dignified return monitored by appropriate international agencies in accordance with international law, including applicable international humanitarian law; ... (o) To ensure that government forces do not engage in food and land requisition or the destruction of villages."

In September 2006, HLP issues were included, for the first time, in the report by the Special Rapporteur on the situation of human rights in Myanmar, stating, inter alia, "A large-scale and effectively arbitrary land confiscation policy prevails throughout the country", see: Pinheiro, Paulo Sergio, 21 September 2006, *Situation of human rights in Myanmar: Note by the Secretary General*, UN Doc. A/61/369. Further, for example, see: COHRE, supra n5; United Nations Centre for Human Settlements (UN Habitat), 1991, *Human Settlements Sector Review - Union of Myanmar*, Nairobi; UNHCR Repatriation and Protection Unit, 1999, *Salient Legal Features about Land and Land Ownership in Myanmar: A Discussion Paper*; UNHCR Office of the Chief of Mission (Yangon, Myanmar); Quintana, Tomas Ojea, March 2009, *Report of the Special Rapporteur on the situation of human rights in Myanmar*, A/HRC/10/19 and Pinheiro, Paulo Sergio, March 2008, *Report of the Special Rapporteur on the situation of human rights in Myanmar*, A/HRC/7/18.

30 See for example: COHRE, supra n5; Human Rights Watch, 2005, *They Came and Destroyed Our Village Again: The Plight of the Internally Displaced Persons in Karen State*, Volume 17, No. 4 and Global IDP Project, 2005, *Burma: Displacement continues in one of the world's worst IDP situations*, Norwegian Refugee Council.

31 See: Pinheiro, Paulo Sergio, 27 May 2009, "Ending Burma's System of Impunity", New York Times.

post-independence which have maintained tight control over questions of land ownership, land use and land allocation.³²

Beyond the question of restricted private land ownership, the sheer scale and magnitude of HLP rights abuses in Burma today is difficult to overstate. Ordinary citizens of Burma are forced to grapple with a lengthy series of acts and omissions within the HLP sector that fall far short of both international minimum standards and, in many respects, the internal law of Burma itself. These abuses have been extensively researched and monitored for many years and a series of increasingly professional reports have been issued clearly showing the myriad of ways that the SPDC and its predecessors have used the HLP sector as a means of both subjugation of the populace and as a central tool in its quest for perpetual power.³³ These have been monitored in detail in a series of publications over the past several decades, where the following serious HLP rights violations in Burma have been carefully compiled: forced displacement due to conflict and ill planned development projects; illegal and abusive expropriation and confiscation of housing, land and property by the military for its own purposes and for sale to private commercial enterprises; forced agricultural policies and confiscation of land of those unable or unwilling to comply; mass rural landlessness and poverty; dramatic under-investment in basic social services; wanton and random destruction of property; large-scale tenure insecurity; land degradation; official disavowal of customary land relations; manipulated and incomplete land ownership records; the absence of restitution or compensation rights; forced labour and portering, abuses of the right to privacy and security of the home at the street and neighbourhood levels by the state security apparatus and many others.³⁴

That this degree of HLP abuse could be allowed to occur so frequently and over such a long time frame speaks volumes about both the legal framework and status of the rule of law in Burma. This book aims to instigate a process whereby the full HLP legislative architecture in Burma can be comprehensively assessed, analysed and ultimately reformed to a degree whereby all citizens of the country can enjoy the full protection under law of

32 Many commentators have noted the historical link between land and power in Burma; for example: "Access to and control over land and natural resources have long been central to the political economy of Myanmar...Land and natural resources issues...lie at the heart of livelihoods in Myanmar", Pinheiro, Paulo Sergio, February 2007, *Report of the Special Rapporteur on the situation of human rights in Myanmar*, UN Doc. A/HRC/14/14; also "Land is the major source of wealth and power and has been the focus of successive ruling bodies in Burma", Hudson-Rodd, 2001, *Control of Land and Life in Burma*.

33 See, for instance, COHRE, *supra* n5; Hudson-Rodd, October 2005, *Housing, Land and Property Rights in Burma*, unpublished report, Centre for Housing Rights and Evictions (COHRE), Asia & Pacific Programme, Melbourne; Shan Human Rights Foundation, 1998, *Dispossessed: Forced Relocation and Extrajudicial Killings in Shan State*, Shan Human Rights Foundation; Shan Human Rights Foundation, 2006, *Forced Relocation and Land and Property Confiscation by the Burmese Military in Shan State*, Presentation at the Closed Meeting on: Housing, Land and Property Rights in a Democratic Burma – Lessons from Countries of Transition, 24-25 August 2006, Chiang Mai, Thailand and South, Ashley, 2007, *Burma: The Changing Nature of Displacement Crises*, RSC Working Paper No. 39, University of Oxford, Refugee Studies Centre.

34 Many analyses have addressed these issues, including: Skidmore, Monique, 2004, *Karaoke Fascism: Burma and the Politics of Fear*, University of Pennsylvania Press, Philadelphia; COHRE, *supra* n5; Global IDP Project, *supra* n30; Hudson-Rodd, Nancy & Dr Myo Nyunt & Saw Thamaing Tun, Sein Htay, 2003, *The Impact of the confiscation of Land, Labor, Capital Assets and forced relocation in Burma by the military regime*, Federation of Trade Unions - Burma, National Council of Union of Burma; Thailand Burma Border Consortium, 2008, *Internal Displacement and International Law in Eastern Burma*; International Crisis Group, 2008, *Burma: After the Crackdown*, Asia Report No. 144; South, Ashley, 2007, *Burma: The Changing Nature of Displacement Crises*, RSC Working Paper No. 39, University of Oxford, Refugee Studies Centre.

their legitimate HLP rights. The goal of this volume is to facilitate greater understanding of the current content of Burmese Law as it addresses HLP concerns, leading in turn to the eventual development of an HLP legal framework which creates all of the conditions necessary to ensure that all HLP rights in full can be enjoyed by the entire population of the country.

As we mentioned in the acknowledgements above, collecting the laws found in this book was anything but a straight-forward undertaking. Many of the laws found below are not accessible in English or Burmese on any website or within available volumes of Burmese legislation. Determining which laws were in place and then which of these to include within what we refer to as the Burma HLP Legal Code required not only extensive web-based and law library research, but also journeys – sometimes rather harrowing - to Mae Sot, Bangkok, Chiang Mai, London, Geneva and Rangoon. Extensive interviews were convened with a range of Burmese lawyers, scholars and researchers, and countless hours were spent over a period of nine months accessing, translating, transcribing and analyzing scores of Burmese laws. In determining which laws to include within the volume and which to leave out, we decided that any law which had or could have a direct or indirect bearing on any element of HLP rights as defined under international human rights law would find inclusion in the volume. As a result, we have included the following 73 laws, amendments, orders and regulations that are currently in force in Burma:

- ♦The Caste Disabilities Removal Act (1850)
- ♦The Hindu Widows' Remarriage Act (1856)
- ♦The Land and Revenue Act (1879)
- ♦The Married Women's Property Act (1874)
- ♦The Specific Relief Act (1877)
- ♦The Kazis Act (1880)
- ♦The Transfer of Property Act (1882)
- ♦The Land Acquisition (Mines) Act (1885)
- ♦The Upper Burma Land and Revenue Regulation (1889)
- ♦The Partition Act (1893)
- ♦The Land Acquisition Act (1894)
- ♦The Burma Laws Act (1898)
- ♦The Lower Burma Town and Village Lands Act (1899)
- ♦The Towns Act (1907)
- ♦The Towns (Amendment) Act (1947)
- ♦The Village Act (1908)
- ♦The Village (Amendment) Act (1955)
- ♦The Village (Amendment) Act (1961)
- ♦The Embankment Act (1909)
- ♦The Code of Civil Procedure Act (1909) [Selections]
- ♦The Registration Act (1909)
- ♦The Hindu Disposition of Property Act (1916)
- ♦The Rangoon Development Trust Act (1921)
- ♦The City of Rangoon Municipal Act (1922)

- The City of Yangon Municipal (Amendment) Act (1955) (Law No IX)
- The City of Yangon Municipal (Amendment) Act (1955) (Law No XLI)
- The City of Yangon Municipal (Amendment) Act (1958)
- The City of Yangon Municipal (Amendment) Act (1960)
- The City of Yangon Municipal (Amendment) Act (1961)
- The City of Yangon Municipal (Amendment) Act (1991)
- The Cantonments (House Accommodation) Act (1923)
- The Water Power Act (1927)
- The Hindu Inheritance (Removal of Disabilities) Act (1928)
- The Hindu Law of Inheritance (Amendment) Act (1929)
- The Hindu Gains of Learning Act (1930)
- The Custodian of Movable Property Act (1945)
- The Public Property Protection Act (1947)
- The Requisitioning (Emergency Provisions) Act (1947)
- The Land Nationalisation Act (1953)
- The Urban Rent Control Act (1960)
- The Urban Rent Control (Amendment) Act (1960)
- The Urban Rent Control (Amendment) Act (1961)
- The Law Safeguarding Peasant Rights (1963)
- The Tenancy Law (1963)
- The Tenancy (Amendment) Law (1965)
- The Electricity Law (1984)
- The Law Amending the Electricity Law (1990)
- The Transfer of Immovable Property Restriction Act (1987)
- The Law Amending the Transfer of Immoveable Property Restriction Act (2005)
- The Union of Myanmar Foreign Investment Law (1988)
- Procedures Relating to the Union of Myanmar Foreign Investment Law (1988)
- The City of Yangon Development Law (1990)
- The Law Amending the City of Yangon Development Law (1995)
- The Law Amending the City of Yangon Development Law (1996)
- Duties and Rights of the Central Committee for the Management of Culturable land, Fallow land and Waste land (1991)
- Procedures Conferring the Right to Cultivate Land/ The Right to Utilize Land (1991)
- Procedures Conferring the Right to Cultivate Land/ The Right to Utilize Land (Amendment) (1998)
- The Law for the Repeal of Laws (1992)
- The Forest Law (1992)
- The Narcotic Drugs and Psychotropic Substances Law (1993)
- The Development Committees Law (1993)
- The Development Committees (Amendment) Law (1997)
- The Child Law (1993)
- The Development of Border Areas and National Races Law (1993)
- The Protection of Wild Life and Conservation of Natural Areas Law (1994)
- The Myanmar Mines Law (1994)
- The Protection and Preservation of Cultural Heritage Regions Law (1998)

- The Judiciary Law (2000)
- The Highways Law (2000)
- The Attorney General Law (2001)
- The City of Mandalay Development Law (2002)
- Order No. 3: Conferring Powers Relating to Land Administration (2007)
- The Constitution of the Republic of the Union of Myanmar (2008)

Beyond these 73 laws, amendments and regulations, we attempted to also include the *State Housing Town and Country Development Board Act* (1951) but despite considerable efforts, including visits to Burma, requests to a number of prominent Burmese legal scholars and extensive research at a range of international institutes and libraries, we were unable to source a copy of this law.

In addition to these 73 laws, amendments and regulations currently in force, we also came to the conclusion that it would also be useful to include the texts of selected HLP laws that have been repealed by the various military governments. This is for three primary reasons. First, our view is that by charting the legislative repeal process, one would be able to better understand the thinking of the regime as it relates to HLP issues and especially as many of these laws may one day form the basis for new legislative efforts covering the some legislative terrain. Second, because of the questionable legality of the repeal of many of these laws, given the lack of legitimacy of the regimes that ostensibly removed them from the legal code,³⁵ these laws remain important to consider in terms of the full HLP Legal Code of Burma. Third, international law clearly stipulates that no State is empowered to undertake any ‘deliberately retrogressive measures’ with respect to human rights protections, including HLP rights, without appropriate compensatory measures. Clearly, therefore, the repeal of these laws would constitute a seriously deliberate retrogressive measure and arguably should be reinstated or replaced by better laws addressing the same themes. Consequently, we have included the following 23 repealed laws, relevant to the question of housing, land and property rights in Burma:

- The Waste Lands Claims Act (1863) [Repealed 1992]
- The Land Improvement Loans Act (1883) [Repealed 1992]
- The Government Establishment of Private Estates Act (1892) [Repealed 1992]
- The Municipal Act (1898) [Repealed 1993]
- The Law Amending the Municipal Act (1990) [Repealed 1993]
- The Government Buildings Act (1899) [Repealed 1992]
- The Ancient Monuments Preservation Act (1904) [Repealed 1957]
- The Highways Act (1907) [Repealed 2000]
- The Electricity Act (1911) [Repealed 1984]
- The Wild Life Protection Act (1936) [Repealed 1994]
- The Land Alienation Act (1939) [Repealed 1992]
- The Burma Land Purchase Act (1941) [Repealed 1992]
- The Monthly Leases (Termination) Act (1946) [Repealed 1992]
- The Buildings (Regulation of Construction and Repair) Act (1946) [Repealed 1992]

35 See for example: Article 19, *supra* n7.

- The Buildings (Regulation of Construction and Repair) (Amendment) Act (1948) [Repealed 1992]
- The Tenancy Act (1946) [Repealed 1992]
- The Transfer of Immovable Property Restriction Act (1947) [Repealed 1987]
- The Constitution of the Union of Burma (1948)
- The Land Nationalisation Act (1948) [Repealed 1953]
- The Urban Rent Control Act (1948) [Repealed 1960]
- The Urban Rent Control (Application) Act (1952) [Repealed 1960]
- The Constitution of the Socialist Republic of the Union of Burma (1974)
- The City of Mandalay Development Law (1992) [Repealed 2002]

Beyond these 23 repealed laws and amendments we also attempted to include the *State Urban Planning Act* (1961),³⁶ however, again, despite considerable efforts we were unable to source a copy of this law.

All told, we are aware of 73 laws and regulations still in force in Burma and an additional 23 laws that have been repealed under questionable circumstances. Therefore, some 96 laws and regulations within the broader Burma Code can be seen to constitute the HLP Legal Code of Burma. With the existence in a consolidated format of the HLP Legal Code of Burma, commentators, legal scholars and practicing lawyers for the first time, will be able to view in its entirety, the entire legal framework addressing all issues affecting housing, land and property in Burma.

Housing, Land and Property Rights in Burma: A Brief Legal and Political History

HLP rights issues have been part of Burma's entire legal and political history. For over 800 years, from the 11th to 19th centuries, the people of Burma lived under an absolute monarchy.³⁷ During this period, the social structure of Burma was expressed in legal texts (*dbammathats*) interpreted and applied by specialist lawyers (*sbene*).³⁸ The annexation of Burma by the British began in 1825 and continued for the next 62 years. By 1886, all of Burma was incorporated into the British Raj and was administered as a province of India. The British implemented complete legal, governmental and administrative reform. All Burmese law was replaced with the then current Anglo-Indian law. The Privy Council was instituted as the highest court in Burma and when much of the common law was codified in India, it was similarly adopted in Burma and compiled into the 13 volumes of the *Burma Code*.³⁹

36 Repealed by the Law for the Repeal of Laws (1992).

37 Thirgood, Russell, 2002, *The State: Enemy of the People Suppression of Human Rights in Burma*, Australian Journal of Human Rights.

38 Huxley, *supra* n8, noting, "The system of professional lawyers arguing between written sources of law was strikingly similar to the British common law system and strikingly different from anything found elsewhere in Asia".

39 Southalan, John, 2006, *Burma and the common law? An uncommon question*, Legal Issues on Burma Journal, No. 25.

In addition to the *Burma Code* and common law, and akin to the policy enacted in British India, respective religious laws (Buddhist, Muhammadan and Hindu) were to be retained in the area of “succession, inheritance, marriage or caste or any religious institution”. This position was formalised in the *Burma Laws Act (1898)*.⁴⁰

In 1850, the first Burmese law addressing a component of HLP rights was adopted. As the first of a series of laws designed to remove certain discriminatory results from the application of religious laws, the *Caste Disabilities Removal Act (1850)*, sought to ensure that:

“Any law or usage that inflicts the forfeiture of property rights on impairs rights of inheritance by reason of an individual renouncing or having been excluded from the communion of any religion, or being deprived of caste, shall cease to be enforced by law”.

In 1856, the *Hindu Widows’ Remarriage Act*, ensured that Hindu widows would be capable of contracting a second valid marriage and that the offspring of such marriages would be considered legitimate and capable of inheriting property.⁴¹ The subsequent *Married Women’s Property Act (1874)* provided that the wages, earnings and property of a married woman were to be considered her separate property. Further, a married woman was entitled to effect an insurance policy on her own behalf, independently of her husband; maintain a suit for the recovery of her separate property and have the same remedies and liabilities, both civil and criminal, as if she was unmarried.

Several decades later, a variety of similar laws were approved. The *Hindu Disposition of Property Act (1916)* removed “certain disabilities” in the disposition of property by Hindus. The Act provided that “no disposition of property by a Hindu, whether by transfer *inter vivos* or by will, shall be invalid by reason only that any person for whose benefit it may have been made was not in existence at the date of such disposition”. The *Hindu Inheritance (Removal of Disabilities) Act (1928)* designated that no person governed by Hindu law, “shall be excluded from inheritance by reason of any disease, deformity or physical or mental defect”. The *Hindu Gains of Learning Act (1930)* provided a uniform rule as to the rights of a member of a Hindu family to property acquired through means of their “learning”.

The *Specific Relief Act* was approved in 1877 to govern the law related to specific relief of the Courts. The Act covers the recovery of possession of property (movable and immovable property); the specific performance of contracts; the rectification of instruments; the

40 Section 13 of the Burma Laws Act (1898) provides:

“(1) Where in any suit or other proceeding in the Union of Burma it is necessary for the Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, (a) the Buddhist law in cases where the parties are Buddhists, (b) the Muhammadan law in cases where the parties are Mohammedans, and (c) the Hindu law in cases where the parties are Hindus, shall from the rule of decision, except in so far as such law has by enactment been altered or abolished, or is opposed to any custom having the force of law.”

41 The Act itself notes that the position prior to enactment was that Hindu widows (with certain exceptions) were incapable of contracting a second valid marriage and that the offspring of such marriage were considered illegitimate and incapable of inheriting property. The Act notes that this position was viewed by many Hindus as in accordance with established custom but contrary to a true interpretation of the precepts of the Hindu religion.

recession of contracts; the cancellation of instruments; declaratory decrees; the appointment of receivers and the enforcement of public duties.

Through the adoption of progressive land and revenue laws the British created, for the first time, a legal arrangement recognising private ownership of land as well as a system of land revenue tax collection. Due to the separate annexation of Lower and Upper Burma⁴² separate legislation was passed to suit these different jurisdictions. The *Land and Revenue Act* (1879) was the first major land law enacted in Burma and governed the acquisition of land rights for private persons as well as the procedures for assessment and collection of land revenue taxes. Following this legislation, the *Upper Burma Land and Revenue Regulation* (1889) was adopted and applied similar principles of land ownership and land revenue tax collection.

Under these laws, all lands in Burma were for the first time divided into either “state land” or “non state land”. The Acts did not apply to land within the limits of any towns, nor to reserved forestry, fisheries land, military cantonments or specified religious sites. Provision was made for the accrual of land rights (ordinarily attached to a calculated period of possession of land). Further, a landowner was deemed to have a permanent heritable and transferable right of use and occupancy in his land (subject to payment of revenue, taxes and the reservation in favour of the government of all mines and mineral products).

The creation of a system of land revenue tax collection was complemented with a system of cadastral surveying and land registration. The cadastral surveys distinguished the following classes of land: land under grant (long and medium grants); lease-hold lands; temporary lease lands (seasonal only); new colonies (newly opened lands); inundated and ‘island’ lands found only in riverine areas (lands submerged under rivers during Monsoon season, which re-appear when river water recedes).

The land and revenue arrangements instituted by the British led to far greater state involvement with the land sector as well as far greater private ownership of land than had previously been the case, in effect, usurping longstanding customary land usages. Further, the implementation of land and revenue arrangements as well as the practice of the British led to taxes on land becoming the single largest source of state revenue.

The *Transfer of Property Act* (1882) governed the law relating to the transfer of property (movable and immovable), including, sales, mortgages, charges, leases, exchanges and gifts. Although it appears that this Act is still technically in force, many of the relevant HLP provisions have been superseded, primarily by the *Land Nationalisation Act* (1953). The *Transfer of Property Act* complements the position enshrined in the *Land and Revenue Act* that a landowner had a permanent heritable and transferable right of use and occupancy in his land.

The *Lower Myanmar Town and Village Act* (1899) governs land rights of private persons in towns and villages (in contrast to the Land and Revenue arrangements that cover land

⁴² The Annexation of Upper Burma occurred in 1826 and Lower Burma in 1886.

outside of towns). The Act provides that the following rights to land accrue for hereditary land: the right to keep under occupant control (to live and to dwell on the land); the right to cultivate; the right to mortgage; the right to sell and the right to inherit. For government lands, people have rights to keep under occupant control, cultivate and inherit. The Act states that “no rights against the Government shall be deemed to have been or shall hereafter be, acquired by any person over any land in any town or village, except as provided under this Act”. Similar to the *Lower Burma Land and Revenue Act*, land ownership is mostly based on possession, again, normally attached to a calculated period of possession. The Act provides that landholder’s rights cease after two years of abandonment, and also covers eviction procedures from any unauthorized possession and use of state land.

The *Partition Act* (1893) governs the law relating to the partition of immovable property. Specifically the Act provides that where a decree for partition has been made and by reason of the nature of the property, or the number of shareholders, a division of the property cannot be reasonably or conveniently made, the Court may direct a sale of the property and a distribution of the proceeds.

The very important and still frequently applied *Land Acquisition Act* (1894) empowers the state to acquire land where it is needed for any public purpose. The Act provides for the relevant procedures, including the required notice to be given, procedures for objections to acquisition, the method of valuation of land, the process for taking possession of land, court processes and appeals, procedures for the temporary occupation of land and the acquisition of land for corporations. The Act requires the authorities to provide compensation to the original owners of the land, however, in practice, compensation often falls far short of basic minimum standards on just and satisfactory compensation. Much of the forced displacement and land confiscation that has taken place since 1962 has been justified on the basis of the *Land Acquisition Act*. The earlier *Land Acquisition (Mines) Act* (1895), applies to cases in which minerals or mines are situated under land which is desired to be acquired under the *Land Acquisition Act*.

The *Towns Act* (1907) provides for the administrative governance of towns, for example, the division of towns into wards and blocks and the election, duties and powers of ward headmen and elders of a block – including the obligation on residents to announce the arrival and departure of non-residents to a town.

The *Towns Act* is complemented by the *Village Act* (1908) which addresses many of the same governance concerns for villages. The Act provides for rules and procedures relating to the administrative structure of villages, including the duties and powers of village committees, village headmen, rural policemen, sub-divisional and township officers as well as the duties of villagers. The Village Act also contains an express obligation on villagers to announce the arrival and departure of non-residents, including a requirement to seek permission from the village committee for a non-resident to take up residence in a village, to construct a hut, house or enclosure. Permission is also required from the Deputy Commissioner prior to establishing a new village or group of houses. The Act provides an exception for cultivators

or fishermen to construct dwellings where their vocation is carried out. The Act empowers the Deputy Commissioner to sell and remove property illegally on State land.

The *Embankment Act* (1909) regulates the law relating to embankments. The Act requires the maintenance of a list of able bodied persons for employment on embankments (where work needs to be quickly executed to protect loss of life or property). Every owner or occupier of immovable property in the vicinity of an embankment is required to assist in the work by labouring themselves, or providing a labourer as a substitute. The Act authorises an embankment officer (or authorised person) to enter into any immovable property in the vicinity of an embankment and take possession of, appropriate or remove and use any relevant materials for the purpose of such work (for example, timber, bamboo, mats, boats, carts and oxen).

The *Code of Civil Procedure* (1909) provides for the jurisdiction of the Courts in civil matters, for example, property liable to attachment and sale in execution of a decree.

The *Registration Act* (1909) governs the rules, regulations and procedures relevant to the registration of instruments of immovable property (for example, gifts and leases). The Act also provides for the registration of dwellings as well as general administrative procedures, including, the timeframe for registration, the appearance of required witnesses to registration, relevant fees and penalties for non-registration.

In 1921, a series of laws relating to the capital city, Rangoon, were approved. The first of these, the *Rangoon Development Trust Act* (1921) created the Trustees for the Development of the City of Rangoon (The Board). The Board includes representatives from the National Housing and Town and Country Planning Board, the port of Rangoon, the Municipal Corporation of the City of Rangoon as well as representatives appointed by the President of Rangoon. The powers and duties of the Board (subject to the control of the President) include, undertaking works, the improvement, expansion and development of the City and the ability to purchase and hold immovable property. The Act extends the application of the *Land Acquisition Act* so that the President (on behalf of the Board) is empowered to acquire land for the purposes of the Act.

The Act was augmented one year later by the *City of Rangoon Municipal Act* (1922) which provides for rules and procedures related to municipal issues of the City of Rangoon. The duty of carrying out the provisions of the Act was vested in the Municipal Corporation of the City of Rangoon (The Corporation). The Act provides for the constitution of the Corporation and provides for relevant powers and duties, including, for example, water-works, registration of births and deaths, vaccination, markets, lodging houses and public parks. The Corporation is also vested with discretionary duties, including, maternity homes and schools (with certain limitations).

State powers to control the HLP sector were further increased under the *Cantonments (House Accommodation) Act* (1923) which provides for state appropriation of houses situated in cantonments. Under the Act, the President has the power to declare the Act operative in

any cantonment or part of any cantonment, whereby, every house situated in such operative cantonment is liable to appropriation by the Government. Where a military officer, states that he is unable to secure suitable accommodation for himself or his mess and where no suitable house belonging to government is available, the Act provides for state appropriation of housing. The Act regulates the procedure and rules in such cases, including, vacation of the house, liability for repairs to the house, the required notice to be served, the annual rent to be paid and the option to sell the house to the state.

In 1934, Burma became a separate colony of Britain. Between 1931 and 1941, the colonial government initiated a combined British and Burmese Land Committee that was primarily concerned with alleviating rural poverty through land reform measures. Its stated goals were to slow down the rate of land alienation to absentee landlords, readjust tenancy laws and redistribute family-sized plots to farming households.

The *Land Purchase Act* (1941) empowered the government to purchase large, non-agricultural blocks at market prices for redistribution as family-sized plots to rural farming households.⁴³ The *Land Alienation Act* (1941) was intended to reduce the speed of land alienation by absentee landlords.

Following the conclusion of the Second World War, the *Custodian of Movable Property Act* (1945) was passed in order to provide for the recovery and return to owners of movable property that was confiscated from them during the war. The Act provided for the appointment of a Custodian of confiscated property and provided:

“where owing to circumstances arising out of the war an owner of movable property relinquished possession thereof within the Union of Burma, it shall be presumed, until the contrary is proved, that he has continued to be the owner of such property and that he has had no intention of abandoning the same or any rights thereto”.

The Act has clear importance in creating precedence for any eventual HLP restitution programme. The Act further provides that no proceedings (civil or criminal) would be instituted:

“in respect of any movable property possession of which was relinquished by the owner thereof owing to circumstances arising out of the war against any person who has come into possession of that property if such person delivers up such property to the owner or to a Custodian within such [prescribed] period”.

In 1947, the final two pieces of HLP legislation were adopted under colonial rule. The *Public Property Protection Act* (1947) governed the law relating to public property (including property belonging to the armed forces). The Act specifically created an obligation on persons who find abandoned or lost public property to not tamper with and to report the finding of such property. Under the Act, the burden of proving authorised use of any public property is on the person using the property. The *Requisitioning (Emergency Provisions)*

43 COHRE, *supra* n5, noting that the implementation of the Act and the acquisition of land was limited in scope, due to poor fund accumulation and civil administrative capacity.

Act (1947) provided for the requisition of land and premises in certain circumstances. Specifically, the President, where necessary or expedient, was empowered to requisition land and premises for a public servant whose work connected with the government. With this latter Act, the pre-independence HLP law-making process came to a close.

Independence Onwards

On 4 January 1948, the Union of Burma gained independence and ended all legal ties with Britain. A Constitution had been drafted prior to independence and was adopted on 24 September 1947. The drafters were inspired by the Constitutional provisions and practices of a number of western liberal democracies and provided for an institutional structure of government that followed the Westminster separation of powers model.⁴⁴ Chapter VIII supported a competent and independent judiciary, including through the requirement that every judge make and subscribe to a declaration of judicial independence.⁴⁵ Chapter II provided a statement of fundamental rights and was inspired by both the Universal Declaration of Human Rights and the Constitution of the United States of America.⁴⁶ The Constitution further guaranteed that existing laws, provided there were not inconsistent with the provisions of the Constitution, would continue to be in force until repealed or amended.⁴⁷

In terms of HLP rights, section 17(iv) of the Constitution recognised “the right of every citizen to reside and settle in any part of the Union [and] to acquire property” and section 16 provided that “No citizen shall be deprived of his personal liberty, nor his dwelling entered, nor his property confiscated, save in accordance with law”. However, although the Constitution guaranteed the protection of a number of human rights, including limited HLP rights, it also specifically restricted rights to own and hold property.

Article 30 of the Constitution provided:

30. (1) The State is the ultimate owner of all lands.

(2) Subject to the provisions of this Constitution, the State shall have the right to regulate, alter or abolish land tenures or resume possession of any land and distribute the same for collective or co-operative farming or to agricultural tenants.

(3) There can be no large land holdings on any basis whatsoever. The maximum size of private land holding shall, as soon as circumstances permit, be determined by law.

⁴⁴ Thirgood, *supra* n37.

⁴⁵ Section 139(1) of the *Constitution of the Union of Burma* (1947).

⁴⁶ See, for example: Thirgood, n36.

⁴⁷ Section 226(1) of the *Constitution of the Union of Burma* (1947).

Further, Article 23 provided:

23. (1) Subject to the provisions of this section, the State guarantees the rights of private property and of private initiative in the economic sphere.

(2) No person shall be permitted to use the right of private property to the detriment of the general public.

(3) Private monopolist organizations, such as cartels, syndicates and trusts formed for the purpose of dictating prices or for monopolizing the market or otherwise calculated to injure the interests of the national economy, are forbidden.

(4) Private property may be limited or expropriated if the public interest so requires but only in accordance with law which shall prescribe in which cases and to what extent the owner shall be compensated.

(5) Subject to the conditions set out in the last preceding sub-section, individual branches of national economy or single enterprises may be nationalized or acquired by the State by law if the public interest so requires.

The content of Articles 23 and 30 quickly found legislative substance in the *Land Nationalisation Act* (1953). This Act is arguably the most important of all HLP laws in Burma and continues to form the cornerstone of HLP law and policy in Burma today.

Under the *Land Nationalisation Act*, the state nationalised all agricultural lands (with certain exceptions) and abolished all lease, rental and sharecropping agreements.⁴⁸ The Act did not recognise private ownership of land, instead recognising different categories of land use rights – contingent on the land being used productively, as defined by the state.⁴⁹ The sale and transfer of ownership were restricted and size limits were established on agricultural holdings according to land classification, use and size of the family in possession of the land.⁵⁰

Both the *Constitution* and the *Land Nationalisation Act* set the tone for how HLP issues in Burma would subsequently be addressed. Vesting extraordinary State control over land,

48 Hudson-Rodd & Sein Htay, February 2008, *Arbitrary Confiscation of Farmer's Land by the State Peace and Development Council (SPDC) Military Regime in Burma*, The Burma Fund:

“The aim of the Land Nationalisation Act was to confiscate land owned by the Chettyars, all aliens, indigenous large landowners and moneylenders. The major focus was on restraining the extent of land concentration and large landowner's agrarian power, land speculators and capitalist farming methods by re-distributing land to the Burmese cultivator and impoverished rural tillers and agriculturalists”.

49 COHRE, *supra* n5.

50 Hudson-Rodd, *supra* n48:

“Following public dissatisfaction with the slow implementation of the Act, including civil unrest in rural areas, the Act was amended in 1953, resulting in 1.4 million acres of land being redistributed to cultivators. While the land reallocated was considerable in size, most land was exempted from the redistribution process and most small farmers did not benefit in any meaningful way from these land reform efforts. Again as a result of limited application of the Act to a considerable portion of those who should have benefited from it, in 1954 the Land Nationalisation Act Bye-laws were adopted, however, these too failed and were suspended shortly thereafter in 1957”.

accompanied by the process of land nationalisation, created an HLP reality whereby far from benefiting from what was a significant land reform effort, ordinary citizens experienced ever declining rights and degrees of control within the HLP sector. These growing restrictions were set to decline yet further with the installation of military rule in 1962; a process which has grown steadily more draconian in subsequent decades.

The Socialist Military Regime: 1962-1988

On 2 March 1962, the military, led by General Ne Win, staged a coup d'état overthrowing the democratically elected government and establishing a Socialist Revolutionary Council that ruled by decree.⁵¹ The Revolutionary Council launched its own political party, the Burma Socialist Programme Party (BSPP), whose membership was drawn largely from the ranks of the military.⁵² All democratic structures including parliament, the civil administration and the judicial system were dismantled and abolished.⁵³ The 1947 Constitution was not formally repealed, however, the dismantling of all major democratic institutions left many of the provisions inoperative or irrelevant.⁵⁴ One of the first decrees of the Revolutionary Council was that all laws would continue to be in force unless specifically repealed.⁵⁵

In 1971, the BSPP transformed itself into a civilian government. A one party state was created with no separation of powers doctrine.⁵⁶ The socialist regime created the "People's Judicial System"⁵⁷ with the vast majority of judges being drawn from the ranks of the party and having no legal qualifications.⁵⁸ The bar of freelance lawyers was converted into salaried People's Attorneys who received their income from the state.⁵⁹ In addition to codified law, traditional Burmese notions of community, harmony, fair play and socialist concepts were among the factors which affected court decisions.⁶⁰ Further, in 1973, the government published a *Courts Manual* that stated that judges should not refer to any decisions from other countries nor earlier decisions of Burma's courts.⁶¹

In terms of legislative treatment of HLP rights during the socialist period and acting under the slogan "the Burmese Way to Socialism", the state embarked on an expanded programme of large-scale nationalisation of agriculture building on the *Land Nationalisation Act* and including the nationalisation of rice production in 1962.

The first HLP law approved by the new regime, the *Protection of the Right of Cultivation Act* (1963), stated that the following were protected: (1) agricultural land; (2) cattle and

51 Zan, Myint, 2000, *Judicial Independence in Burma: No March Backwards Towards the Past*, Asian Pacific Law and Policy Journal; Thirgood, *supra* n37 and Article 19, *supra* n7.

52 Article 19, *supra* n7.

53 See *Id* and Thirgood, *supra* n37.

54 See Zan, *supra* n51.

55 *Id.*

56 See: Southalan, *supra* n39; Huxley, *supra* n8.

57 Zan, *supra* n51; also translated as "System of People's Justice", see Huxley, *supra* n7.

58 Zan, *supra* n51.

59 Huxley, *supra* n8.

60 *Id.*

61 Southalan, *supra* n39.

ploughing implements; (3) tractors and machinery; (4) other implements whether animate or inanimate; (5) prohibition from confiscation for any reason of agricultural produce and arrest of cultivators. It was also stipulated that such protection would not apply in the case of: (a) non-payment of dues owing to the state; (b) disputes arising from inheritance cases or actions taken by the state for security reasons. The Act also empowered the state to confiscate land in lieu of debts, or if “state security” is threatened.⁶²

The *Tenancy Act (1963) and Tenancy (Amendment) Act (1965)* further took control of land from agriculturalists and placed it into the hands of the state.⁶³ The *Tenancy Act* provided that the government may order any land to be leased to tenants, usurping the right of landowners to lease their land.⁶⁴ The subsequent *Tenancy (Amendment) Act (1965)* further strengthened the hold on land by the State and provided the Government with authority to issue regulations for tenants working on the lands leased from the State. The cultivators who, under the *Land Nationalisation Act*, possessed the right to own land now become lessees under the laws.⁶⁵ Both the *Land Nationalisation Act* and the *Tenancy Act* empowered the state to determine which crops agriculturalists grow. Non-compliance with this and other conditions could result in confiscation of land, fines and imprisonment.⁶⁶

After 12 years in power, the socialist military regime approved a new *Constitution* in 1974. The *Constitution* entrenched the position of the BSPP as the only legal political party in the country and the non-separation of powers and the non-independence of the judiciary become constitutionally formalised and complete.⁶⁷ As one commentator has noted, “a monolithic political structure without checks and balances was constitutionalised”.⁶⁸

The *Constitution* proscribed socialism as the official ideology of the state and the rights and freedoms granted were circumscribed by an overriding duty on the part of citizens to refrain from undermining: (a) the sovereignty and security of the state; (b) the essence of the socialist system; (c) the unity and solidarity of the national races; (d) peace and tranquillity and (e) public morality.

The 1974 *Constitution* did not explicitly repeal the 1947 *Constitution*, and asserted that existing laws and rules, so long as they were not inconsistent with the 1974 Constitution, remained in force until they were repealed or amended by the Council of State.⁶⁹ This may be significant as arguably some of the provisions of the 1947 *Constitution* are still in force. One example is compensation for private property that has been expropriated in the public interest. In terms of HLP rights, the 1974 *Constitution* reiterates that the State is the ultimate owner of all natural resources and also of land; and that it shall develop, extract, exploit and utilize the natural resources.⁷⁰ The *Constitution* rejected the economic rights that had

62 COHRE, *supra* n5.

63 Hudson-Rodd, *supra* n48.

64 *Id*, noting: “Section 6 [of the Tenant Act] stipulated that the state had the authority to issues regulations for the tenants working on the lands leased from the state. The cultivators who under the Land Nationalisation Act (1953) possessed the right to own land, now became lessees under the laws”.

65 Hudson-Rodd, *supra* n33.

66 COHRE, *supra* n5.

67 Zan, *supra* n51.

68 See: Steinberg, *supra* n6; Thirgood, *supra* n37; Zan, *supra* n51 and Article 19, *supra* n7.

69 Article 202 of the *Constitution of the Socialist Republic of the Union of Burma* (1974).

70 Article 18(a) of the *Constitution of the Socialist Republic of the Union of Burma* (1974).

been protected in the 1947 *Constitution*. Notably, the Constitution does not stipulate rights to compensation for expropriation of private property, thus establishing a legal framework leading inevitably to homelessness and landlessness.

Article 22 of the Constitution ensures that all citizens shall “be equal before the law, regardless of race, religion, status, or sex”, “enjoy equal opportunities’ and have ‘the right to inherit according to law’.⁷¹ Article 160 protects the privacy and security of home, property, correspondence and other communications of citizens subject to the Constitution. Article 161 protects every citizen’s income, savings, property and residential buildings lawfully earned and acquired.

After the adoption of the new *Constitution*, HLP legislative activity effectively ceased for the next quarter century, with the exception of *Notification No. 4/78* (1978) which stated that any failure to sow the allotted land with the earmarked crop to obtain optimum results or failure to sell the full quota at the stipulated price during a determined period would result in confiscation of the land.⁷² Presently such powers are entrusted to village and township administration and the cultivators are compelled to follow their dictates without voicing any protest.

This was followed nearly a decade later by the adoption of the *Transfer of Immovable Property Restriction Act* (1987). The Act provides for restrictions on the ability to sell or give away immovable property to foreigners or foreign owned companies. The Act provides that in the case of a deceased, “totally departed” or deported foreigner, the concerned Ministry may allow inheritance according to the law or confiscate the immovable property as state-owned property. The Act provides for an exception for approved diplomatic missions and UN organizations.

Overall, the multitude of laws adopted between 1850 and 1988 generated the development of a complex array of different land classifications, which remains in place today. Understanding how land is allocated and defined is vital in determining the different types of rights that are associated to each of the eleven forms of land that exist under Burmese law today. While we have not been able to access information as to the percentage of the total land mass of Burma that each type of land currently occupies, we do know that eleven types of land exist under law. These are:

Freehold land - This type of land is transferable, largely urban in nature and no land revenue taxes are required to be paid on it. Such land can only, in terms of law, be expropriated in the public interest, subject to the payment of compensation, in accordance with the *Land Acquisition Act*. When this Act is invoked, it is the responsibility of the General Administration Department under the Ministry of Home Affairs to provide compensation in the form of cash, alternative land plots or in other forms.

Grant land - This type of land is owned by the State which is leased on a long-term basis to citizens on 10, 30 and 90 year terms. Grant land is transferable and lessees are required

71 Art. 22(a), (b) and (d) respectively of the *Constitution of the Socialist Republic of the Union of Burma* (1974).

72 Hudson-Rodd, *supra* n34.

to pay land tax. In Rangoon, grant land is provided by the Yangon City Development Committee and in Mandalay by the Mandalay City Development Committee.

Agricultural land - This type of land is used for agricultural purposes and governed according to the terms of the *Tenant Act (1963)*. After 1953 and the *Land Nationalisation Act*, all agricultural land became State land. At present, agricultural land is allocated by Village Peace and Development Councils, bodies which are under the full control of the SPDC. Agricultural land is not transferable and the military retains the right to determine which types of crops are grown on such land and to force the grower to sell the crop directly to the State. If such rules are contravened, the military can re-possess the land in question based on at least six grounds, including failure to cultivate on the allocated land without a good reason; sub-letting the land to others; selling, mortgaging or transferring the land to others; ceasing to farm the land; failing to grow the stipulated type of crop or failure to sell the full quota of the stipulated crop within the price and time-frame set by the junta.

Garden land - This type of land is similar to agricultural land but the types of crops grown on it often differ, and land revenues on garden land is far higher than on agricultural land. Garden land is not transferable.

Grazing land - This type of land is used for grazing purposes and land revenues are not required.

Culturable land, fallow land and waste land - This type of land can be allocated by the regime to State-owned economic organisations, joint ventures, and other organisation and institutions on a commercial basis. The rules governing this type of land are established under the *Procedures Conferring the Right to Cultivate Land/ Right to Utilise Land for Agriculture and Live-Stock Breeding Purposes*.

Forest land - This type of land is governed under the *Forest Law* which requires the granting of permission for extracting timber, firewood or other economic uses of forest land. License fees are required. Under the *Forest Law*, forest dwellers can be forcibly evicted from the areas despite long-term traditional residence there.

Town land - This type of land is urban land that does not fall under the freehold or grant land categories and is often referred to as 'La Na 39 Land'. Having access to this form of land enables the rights-holder to use the land for agricultural, construction of housing or other purposes. Town land is transferable and can be transformed into grant land.

Village land - This type of land is transferable and situated outside of urban areas. Land revenues are collected on this form of land.

Cantonments - This type of land is land acquired by the junta for the exclusive use of and administration by the military. When land is given this classification, the Ministry of Home Affairs issues a declaration that leads to the land being compulsorily acquired under the *Land Acquisition Act*. Under law, compensation is meant to be paid to former owners but

only if such land was formally classified as freehold, grant or town land. Other forms of land acquired in this manner do not receive compensation. In fact, for other forms of land, reliance on the *Land Acquisition Act* is not required and the land in question can simply be declared to be Cantonment Land by the Ministry of Home Affairs. Land revenues are not required, but such land is to be surrendered to the government when it is no longer required for military use.

Monastery land - This type of land once declared as such, eternally retains this distinction and cannot be altered. Land revenues are exempted.⁷³

When the SLORC assumed control of the government in 1988 they inherited a legal code which approached questions of land as just outlined. Over the past two decades, both the SLORC and its successor the SPDC, have essentially relied upon this same land typology. As we will see shortly, however, the latest incarnation of military rule in Burma has proven even more adept than its predecessors at using the HLP legal code as a fundamental tool in entrenching its control in the country as a whole.

The State Law and Order Restoration Council: 1988-1997

On 8 September 1988, the military, re-organised as the State Law and Order Council (SLORC) staged another *coup d'état* and established a martial law regime. The 1974 *Constitution* was suspended, all institutions of state that operated under the *Constitution* were abolished and SLORC assumed all executive, legislative and judicial authority.⁷⁴ Following the practice of the Revolutionary Council, SLORC similarly asserted that all laws would continue in force unless specifically repealed.⁷⁵ The System of People's Justice was abolished and a new Supreme Court was established as the highest court in the country.⁷⁶

In December of 1988, SLORC issued an order declaring that persons with permission to grow paddy had the duty to yield harvests to the full capacity of the field. Only after the paddy season was over and the set quota sold to the government would other income earning agricultural products or cash crops be permitted to be grown. In 1990, SLORC issued further directives to gain total control over land required for fruit orchards, brick production, rice mills, salt production and other purposes. Farmers were forced to grow paddy as the dominant crop; growing other cash crops, fruits or vegetables was severely restricted, limiting the variety of food available for household consumption (and increasing the people's vulnerability to malnutrition).⁷⁷

Further, a Squatter Clearance Scheme was adopted by SLORC in the late 1980s with a view to evicting squatters from vacant public land, Government premises such as factory compounds, railway yards and tracks, private lands needed for public purposes and areas

73 UNHCR Repatriation and Protection Unit, 1999, *Salient Legal Features about Land and Land Ownership in Myanmar: A Discussion Paper*, UNHCR Office of the Chief of Mission (Yangon, Myanmar).

74 See: Thirgood, *supra* n37; Zan, *supra* n51; Southalan, *supra* n39.

75 See *SLORC Declaration No. 6/88* (24 September 1988) cited in Zan, *supra* n51.

76 Zan, *supra* n51.

77 Hudson-Roddd, *supra* n34.

and compounds designated for religious purposes. Since 1989, the junta has pursued an urban beautification programme in Rangoon and other cities which has involved the forced relocation of hundreds of thousands of urban dwellers to new, distant and very poorly serviced satellite towns. In one 12 month period (during 1988-1989) 260,000 squatter residents were forcibly evicted from Rangoon. A further 500,000 people were moved to ten satellite cities around Rangoon in the 1990s, all of which lacked adequate facilities, employment opportunities and basic services. Many of those evicted were formal rights holders over their homes and lands, with judicial options to resist these evictions effectively absent. Minute amounts of compensation were provided to some of the evictees, and in many instances those forcibly relocated were in fact forced to pay for land plots in the far-off resettlement sites. Far from viewing these forced evictions as the violations of HLP rights that they are, the Rangoon Mayor in 2003 boasted:

“Never before in the history of Yangon had so many projects for urban development been undertaken in so short a time”. From 1988, vast areas of Yangon teeming with hutments and low grade housing were replaced by apartment buildings, private towers and condominiums.”⁷⁸

As a further indication of this attitude towards its most vulnerable citizens, SLORC approved the *Electricity Law* in 1984. This Act, as amended in 1990 by the *Electricity (Amendment) Law*, provides that whoever commits enumerated prohibited acts, including the theft of electrical energy, is liable to prosecution and also to paying the market value of any destroyed electrical materials and equipment. Slum dwellers throughout the world tap into electricity grids in order to access electricity when this is either not provided by the authorities or not otherwise accessible to the urban poor.

Much of the urban redevelopment and forced eviction processes in place since the SLORC's emergence into power has been based on the *City of Yangon Development Law* (1990) which gives dramatic powers to a body known as the Yangon City Development Committee (YCDC). Under this law, the YCDC is vested with authority to “convert Yangon with the characteristics of a city of international standards”, including the official role of relocating squatters on the orders of the state.

The YCDC has extensive duties and responsibilities, including a number of functions previously held by the Housing Department:

- the preparation of civil projects and establishment of new towns within the limits of the City of Yangon Municipality;
- administration of lands within the limits of the City of Yangon Municipality;
- determining the population which should be allowed to settle properly in the City of Yangon;
- construction, repairing and demolition of buildings;
- demolition and re-settlement of squatter huts, squatter buildings and squatter wards;
- construction of roads, bridges and maintenance thereof;

78 *Id.*

- stipulation of conditions for traffic and parking of vehicles and slow-moving vehicles;
- construction of gardens, parks, playgrounds and recreation centres and maintenance thereof;
- carrying out works for lighting of roads;
- carrying out works for water supply;
- construction of reservoirs and pipelines and maintenance thereof;
- carrying out works for sanitation;
- carrying out works for public health;
- construction, maintenance and administration of markets;
- stipulation of conditions in respect of roadside stalls; and
- carrying out precautionary measures against fire.

In terms of SLORC/SPDC institutions responsible for HLP related concerns, the YCDC is paramount.

Changes in land laws were made in 1991 with the establishment of the *Central Committee for the Management of Cultivable Land, Fallow Land and Waste Land*.⁷⁹ The Committee is empowered to scrutinize and grant all applications for commercially using cultivable land, fallow land and waste land for agriculture, livestock breeding, aquaculture enterprises or other economic development enterprises. It was also granted the power to allocate control over much larger holdings of land for the purpose of State owned enterprises. For perennial crops such as rubber, oil palm and coffee, the Committee could assign blocks of 5,000 acres. If the land was developed, more land could be granted up to a possible 50,000 acres. For orchard crops, smaller limits of 1,000 to 3,000 acres were established. Large landholdings for livestock and aquaculture operations were made possible. Non-citizens as approved by the Myanmar Investment Commission were able to apply for land allocations. By 2001 more than one million acres were allocated involving about 100 enterprises and associations.⁸⁰

In 1992, the significant *Law for the Repeal of Laws* was enacted. The purpose of the Act is stated simply:

“Whereas it is expedient to provide for the repeal of certain laws from among existing laws, which on scrutiny have been found to be no longer in conformity with the changing circumstances, laws which have not been in use for a very long time and laws for which there are no reasons for use in future, the State Law and Order Restoration Council hereby enacts this Law”.

The law then proceeds to list the laws repealed. Among these a range of laws impinging on the HLP sector were removed from the legal code, including:

- The Land Improvement Loans Act (1883)
- The Government Establishment of Private Estates Act (1892)
- The Municipal Act (1898)

⁷⁹ Hudson-Rodd, *supra* n34.

⁸⁰ *Id.*

- The Government Buildings Act (1899)
- The Ancient Monuments Preservation Act (1904)
- The Highways Act (1907)
- The Local Authorities Loans Act (1914)
- The Disposal of Police Officers' Estates Act (1922)
- The Land Alienation Act (1939)
- The Burma Land Purchase Act (1941)
- The Monthly Leases (Termination) Act (1946)
- The Buildings (Regulation of Construction and Repair) Act (1946)
- The Tenancy Act (1946)
- The State Urban Planning Act (1961)

The remaining SLORC years were also witness to the adoption of several additional laws directly pertinent to HLP rights. The *Forest Law* (1992) implements the forestry and environmental conservation policy of the government and is ostensibly designed to ensure compliance with international agreements relating to forestry and conservation of environments as well as contribute to fuel requirements in Myanmar. Under the Act, the Minister concerned can constitute and demarcate reserved forests; including inquiring into the rights affected of the public and can grant permission for the extraction of forest produce. The Act designates penalties for trespassing and encroaching in a reserved forest.

Under the *Narcotic Drugs and Psychotropic Substances Law* (1993) a Central Body for the Prevention of the Danger of Narcotic Drugs and Psychotropic Substances is given responsibilities to, as necessary, seize as exhibits immovable property involved in an offence under this Law as well as money, property and benefits derived from the transfer and conversion of property involved in the offence.

The *Development Committees Act* (1993) provides that the Ministry of Home Affairs may form further "Development Committees" in addition to the development committees for Yangon and Mandalay. Such Committees are empowered to order the demolition of squatter buildings.

The *Child Law* (1993) was enacted to, *inter alia*, implement the provisions of the Convention on the Rights of the Child. The act provides that every child had the right to citizenship; every child has the right of inheritance and every child has the right of possessing and holding property.

The *Development of Border Areas and National Races Law* (1993) aims to "develop economic, social works and road and communications of the national races at the border areas...in accordance with the aims of non-disintegration of the Union". The Act creates a Central Committee for the Implementation of the Development of the Border Areas and National Races Law and provides for the relevant responsibilities of the Committee, including, providing guidance and policy for development and works in these areas.

The *Myanmar Mines Law* (1994) makes provision for the acquisition of land for mineral production.

The State Peace and Development Council: 1997-

On 15 November, 1997, the SLORC was abolished and reconstituted as the State Peace and Development Council (SPDC). Most but not all members of the abolished SLORC were in the SPDC. In 2000 the SPDC passed the *Judiciary Law* regulating the operation of the judiciary. The law established a Supreme Court, vesting it with jurisdiction in many areas and empowering it to function through employing staff and issuing rules. The law specified the structure of Burma's court system with the Supreme Court above the State, District and Township courts and provided a right of appeal.⁸¹

In 1998, the SPDC introduced the *Protection and Preservation of Cultural Heritage Regions Law* which enables the Ministry of Culture, with the approval of the government, to designate and demarcate areas as ancient monumental zones. The Ministry may also dismantle a building (which is not an ancient monument) and which obstructs the view of an ancient monument. The Ministry can also prohibit ploughing and cultivation with the boundary of an ancient monument or site and prohibit building within the same areas.

The *Highways Law* (2000) provides for the duties and powers of the Ministry of Construction, including, scrutinizing and permitting construction across highways, as well as construction and building within the boundary of highways. Under the Act it is an offence to build on or within the boundary of a highway.

The *City of Mandalay Development Law* (2002) created a "City of Mandalay Development Committee". The responsibilities of the Committee include: constructing, maintaining and demolishing buildings and demolishing and resettlement of squatter houses, squatter buildings and squatter wards.

Finally, *Order No. 3: Conferring Powers Relating to Land Administration* (2007) confers certain powers on the Nay Pwi Taw Development Committee similar to those exercised by the City of Yangon and City of Mandalay Development Committees.

Beyond these measures, both the SLORC and SPDC have continued to use the HLP sectors as a means of simultaneously entrenching political power and subjugating the HLP domain to a household level tool of social control of the population. In Burma today, people's homes are universally recorded and registered. Households on land parcels, delineated as individual freehold property, (*eing/myay paing saing mhu*) are registered by local authorities and village headmen. This recording and registration process enumerates the head of household, location and type of house and family characteristics. Local authorities

81 Commentators have noted that the removal of five out of six judges in the Supreme Court by the military junta demonstrates that "the state has no tolerance for independent judges", see: Burma Lawyers Council, May 1999, *An Urgent Need for Judicial Reform in Burma*, Legal Issues on Burma Journal, No. 3.

at various community levels are obligated to know the whereabouts and movements of the local population, which has the net effect of constant monitoring, surveillance and control of dwellers by SPDC local authorities. This degree of social control, the absence of privacy rights and an overall environment of housing insecurity has been worsened further during the past two decades as a result of massive forced eviction programmes pursued by both SLORC and SPDC.

In January 1993 a National Convention was formed for the purpose of drafting the constitution. Of the 700 initial delegates to the National Convention (on 28 November 1995, the NLD withdrew its 86 representatives) nearly 600 were handpicked by the SLORC.⁸² The establishment and the manner of functioning of the National Convention raise serious questions of legality under both Burmese domestic law and international human rights law. Bearing those criticisms in mind, after 18 years a new Constitution was adopted on 29 May 2008.⁸³ The Constitution will come into force after the scheduled 2010 elections.

The Constitution follows the practice of the Revolutionary Council and SLORC in providing that “existing laws shall remain in operation in so far as they are not contrary to this Constitution until and unless they are repealed or amended”.

The Constitution reconfirms the position of the State as the primary land owner in the country: “the Union is the ultimate owner of all lands and all natural resources above and below the ground, above and beneath the water and in the atmosphere in the Union”.

In terms of individual HLP rights, the new Constitution enshrines rights for *citizens* including: the right of private property, right of inheritance, right of private initiative and patent in accord with the law; the right of citizens to settle and reside in any place within the Republic of the Union of Myanmar according to law; the right to ownership, use of property and the right to private invention and patent in the conducting of business if it is not contrary to the provisions of this Constitution and the existing laws; and the guarantee that the Union will protect according to law movable and immovable properties of every citizen that are lawfully acquired.

The phrase “subject to existing laws” is found throughout the document and as such the military can therefore ignore or override Constitutional provisions that it finds inconvenient (as it does with laws at the moment) or even suspend the entire framework (as it did in 1988, and before that in 1962). Thus, obtaining concessions from the military on paper is no guarantee that they will be respected in practice”.⁸⁴

82 Thirgood, *supra* n37.

83 Horsey, Richard, 2009, *Briefing Paper: A Preliminary Analysis of Myanmar's 2008 Constitution*, presented to the Conflict Prevention and Peace Forum.

84 *Id.*

Conclusion - Building A Blueprint For The Effective Protection Of Housing, Land And Property Rights In A Future Democratic Burma

In one way or another, all structural political transitions involve some form of crisis within the HLP sectors and related struggles over access to land and resources. Displacement, eviction, the destruction of homes and property, ethnic or minority discrimination in these sectors and other problems are common in such contexts. Consequently, transitions that involve an understanding of how best to address HLP rights issues and related grievances are far more likely to promote stability and economic vitality than those that sideline these crucial issues. If refugees or internally displaced persons are not allowed to return to their original homes the residual impact of the previous regime may never entirely dissipate. When land is allocated unjustly, while millions of rural and urban poor continue to exist without land or housing rights, countries in transition can rapidly become ripe for (renewed) conflict. If long-term grievances relating to HLP abuses are not addressed, this too can lead to tension and conflict. When members of certain ethnic groups are encouraged to enter the area of rival ethnic groups with the intention of confiscating land and resources, once again, the path to conflict has been laid. When international agencies come to countries of transition eager to assist in establishing democratic institutions and all but ignore the HLP crises that invariably exist in any post-authoritarian country, transition can only ever be partial.

As central as these and many other issues are to political transitions and transitional justice, however, many countries have failed to place adequate priority on the HLP sector. During the past 20 years, a wide variety of countries have undergone structural political transition from authoritarian rule to at least ostensibly democratic forms of governance. These include all of the countries of the former Soviet Bloc, South Africa, Cambodia, Kosovo, Timor Leste, Afghanistan, Guatemala and many others. These political transitions have proven to be invariably dramatic processes, often accompanied by social upheaval, economic instability and painful political shifts away from centralised forms of government to what are hoped to be broader-based forms of democratic control and decision-making, and few have lived up to the grand expectations that may have been apparent during the lofty days of change. While such deep changes affect all sectors of society, the HLP sectors are particularly subject to distortion, disruption and crisis. New displacement, opportunistic forced evictions and secondary occupation of homes and lands, the large-scale return of refugee and internally displaced persons wishing to re-inhabit their original homes and lands, growing homelessness and landlessness, the rapid growth of new informal and extra-legal settlements, dramatic housing price rises, problems in the provision of basic services such as water and electricity, and a host of additional HLP crises have proven to be part and parcel of the political transition process.

As noted, despite the many experiences of political transition since the end of the Cold War, few countries have successfully managed the HLP dimensions of these changes, and fewer still have tackled these challenges using rights-based approaches to the HLP sector. Most of the time, HLP issues appear on the political agenda as after-thoughts, and few

new Governments have structurally addressed the HLP rights dimensions of transition during their time in opposition. As a result, countries which have witnessed moves towards greater democracy have often neglected the HLP consequences of these changes and as a result, have effectively delayed broader economic and social development objectives by years and perhaps decades. The massive land grabbing that took place in Cambodia after the departure of the UN in 1993, the large-scale occupation of Serb properties by Kosovar Albanians in Kosovo, the failure of South Africa's restitution and housing programmes since 1994 and the comprehensive inability of successive governments in Timor Leste to address the HLP needs of the population are all prime examples of what occurs when HLP processes are left either to market forces or when new Governments and their supporters take advantage of the HLP crisis and engage in fraudulent actions within the HLP sector for personal benefit.⁸⁵

And yet, it is our strongly-held view, having worked directly on HLP issues within a range of these transitional societies, including Albania, Cambodia, Georgia, Kosovo, South Africa, Sri Lanka, Timor Leste and others, that these mistakes do not need to be repeated again in the future when countries such as Burma finally make the transition to democratic forms of governance. Considerable learning has taken place on issues of transition during the past decades, and it is hoped that with each passing transition, many of the errors of judgment, miscalculations, oversight and outright corruption and rights abuses affecting the HLP sector will decline as these lessons are taken increasingly on board. The new Government will be burdened with administering a country and, in particular the HLP sectors, which have faced so much hardship and deprivation for much of its existence, both during the colonial period and since independence in 1948. And it is most decidedly our fervent hope that these lessons will be applied in the case of Burma when it is Burma's turn to move from dictatorship to democracy.

We are concerned, at the same time, that while the enjoyment of HLP rights is presently subject to severe limitations and frequent abuse in contemporary Burma, given the current political dynamics in the country it is not unlikely that the HLP sector in the country will suffer extreme disruption during any eventual transitional process. It is our view that without well-planned and carefully crafted policy and legal measures, this disruption (and likely) accompanying violence has the potential to be worse than in many of the other countries which have made similarly large ideological shifts since the end of the Cold War. Combining the historical neglect of the HLP rights of the populace with the very conscious transformation of the HLP arena into domains of political patronage, rewards for loyalty and outright abuse, manipulation and confiscation and population control and pacification, has created all of the ammunition required for a severe HLP crisis to sweep the country in the run-up to during and subsequent to structural political change. No other transitional country has avoided HLP crises during the past generation of political evolution, and there is little reason to believe at the moment that Burma's eventual HLP crisis will be any less

85 For an overview of how HLP rights issues have arisen in transitional societies, see: Leckie, Scott (ed), 2008, *Housing, Land and Property Rights and UN Peace Operations – A Comparative Survey and Proposals for Reform*, Cambridge University Press.

severe than elsewhere. Indeed, it could become a major crisis unless appropriate action is taken now to build the capacity and political wisdom to ensure that this is not the case.

If we examine just one of the many HLP issues likely to confront any new regime in Burma, HLP property restitution, for instance, it is clear the ramifications of mis-action or non-action will be considerable. Millions of Burma's citizens have faced forced displacement since 1962 when the current regime took full control of the country. This includes villagers displaced for dams and other infrastructure projects, refugees and internally displaced persons forced from their homes in connection with the armed insurgency in the eastern areas of the country, urban poor dwellers that faced arbitrary forced eviction many times throughout the country, in particular in 1988-1990 in Rangoon, when – almost as punishment for political acts that culminated in the overwhelming victory of the National League for Democracy in the 1988 elections - some 1.5 million people were forced to leave their homes, and also includes all of those displaced due to natural disasters such as Cyclone Nargis who were subsequently prevented from returning to their places of habitual residence. All told, thus, the new Government in Burma - assuming it will be committed to the protection and promotion of human rights and fundamental freedoms - will face the question of how to address the HLP rights abuses incurred by the population during the previous regime and how to construct an HLP legislative and policy framework that leads as rapidly and effectively as possible to a situation whereby everyone in Burma enjoys – in full – the HLP rights to which they are entitled already under international human rights law. Having the international HLP code reflected in full within the domestic HLP legal framework will surely constitute one of the major challenges to face a new democratic government in the country.

While no one can predict when the eventual political transition will come, it is our view that the time to begin planning for this HLP transition has already arrived. Beyond what in day-to-day terms are already some of the world's worst ongoing HLP conditions, a democratic Burma - even if the transitional process is relatively free of violence and the people remain reasonably subdued, we can predict with relative accuracy that the new government will confront a vast array of HLP challenges. Understanding these and viewing them within the context of the current Burmese HLP legal code, thus, will allow today's democratic opposition to begin now to build a consolidated vision of precisely what an improved HLP reality would look like in a future democratic Burma and the steps required to create such a reality on the ground.

In this light, we have identified a series of HLP issues and other sectoral areas that we believe require well thought out, integral and progressive visions to be constructed by the broad-based democratic opposition in Burma today. We are confident that a full understanding of the contemporary Burma HLP Legal Code, combined with a deep appreciation of how HLP issues have played out in numerous other countries of transition during previous decades, will greatly assist in creating the awareness required to build prospective HLP laws and policies that can best assist the country in preventing the chaos, mis-management and violence that so often has been apparent within the HLP sector as countries shift from authoritarian regimes to more democratic forms of governance. Many unforeseen

HLP challenges will inevitably emerge, as any eventual political transition will invariably evolve in directions which few would be able to foresee today. At the same time, however, understanding the current status of HLP law in the country, the key *de facto* HLP realities facing the population and learning from the historical experiences in other nations, we can identify a series of HLP challenges that will almost assuredly face any new government in the country. What these issues are most likely to be and how a democratic regime might best grapple with them include the following:

HLP Challenge 1: Addressing HLP Rights within an Eventual Peace Process and Peace and/or Transitional Agreement

If the eventual political transition in Burma involves a negotiated settlement between the current regime and opposition, in addition to questions of reconciliation and preventing impunity, it will be vital to ensure that HLP rights issues find a central place within any such agreement. Including such issues within an agreed transitional arrangement will provide political clarity as to what is expected in HLP terms both from the previous and new governments, as well as outlining the specific logistical and institutional arrangements that will be put into place to ensure a smooth transition within the various HLP sectors. In particular, the agreement should outline the precise governmental institutions that will be entrusted with securing HLP rights for everyone in the country, which includes a combination of existing ministries and any other new institutions that may be required to give sufficient governmental attention to the long-ignored HLP crisis in the country. In this respect, there will be a need to target particular actors who are the key HLP actors in Burma at the moment, including the Housing Department of the Ministry of Construction, the General Affairs Department, the City of Yangon Development Committee, the Mandalay City Development Committee and others. Particular consideration should be given to establishing new State bodies to address HLP restitution processes and another to focus on democratising the entire HLP legal sector. In addition, support should be given to the formation of civil society capacity in Burma to structurally and sustainably address HLP rights concerns through the establishment of HLP rights NGOs in the country which will be vital in promoting HLP rights discourse in the country and promoting people-driven policies to ensure HLP rights for all.

HLP Challenge 2: Applying the Rule of Law and Judicial Remedies to the HLP Sector

After nearly 50 years of authoritarian military regimes and the systematic dismantling of the basic components of the rule of law and judicial independence, a democratic Burma will face significant gaps within the legal and judicial sectors.⁸⁶ An important element in

86 See for example, Zan, *supra* n51:

“Burma...lacks an appropriate legal culture and properly educated legal practitioners. For more than thirty years, legal education has been so strictly controlled and regimented that many Burmese lawyers, judges, law officers...and judicial officers...have not been brought up in a legal culture with a strong and independent judiciary”.

a successful transition to democracy and effective protection of HLP rights will be the promotion and re-development of a rule of law culture in Burma where the populace comes to expect the State to comply with agreed laws and regulatory frameworks, and where people are able to freely access judicial and other remedies for any infringements of their legitimate HLP rights. Creating a fully independent judiciary will need to be a central tenet of any rule of law programming as will the training of new HLP lawyers and legal experts that can assist in protecting a renewed HLP Legal Code. The emergence of an increasingly independent judiciary should go hand in hand with the establishment of effective remedies for the protection and enforcement of HLP rights. In particular, fair, equitable and accessible judicial remedies need to be established to effectively prevent forced evictions and land confiscation, resolve land disputes, clarify land rights, enforce landlord-tenant laws, eventual restitution and return rights and in all other HLP sectors that require access to judicial remedies.

HLP Challenge 3: Mass Refugee and IDP Return

One of the first challenges likely to face any new democratic government in Burma will be the inevitable mass return of perhaps millions of refugees and internally displaced persons to their former homes and lands. When conditions so permit, hundreds of thousands of refugees currently in camps along the Thai-Burma border will be likely to return, as will further hundreds of thousands of refugees in other border areas, migrant workers throughout the region and IDPs throughout the country. Many of those evicted from Rangoon and Mandalay during previous decades may also seek to return to their places of habitual residence.

In order to deal effectively and in a manner consistent with the rights of those forcibly displaced during the junta's reign, a series of laws and policies will need to be put into effect by the new government to address the rights and needs of those wishing to return. In particular, efforts will be required to develop effective remedies and mechanisms to enforce the legitimate HLP restitution rights of those who were arbitrarily and unlawfully forcibly displaced by the previous government. Incorporating the United Nations Principles on Housing and Property Restitution (the 'Pinheiro Principles')⁸⁷ into national legislation and creation of legal and other mechanisms to ensure the rights of displaced persons to voluntarily return to their places of origin would be important attributes for the protection of the HLP rights of returning refugees, IDPs and evictees.⁸⁸ Additional measures should be developed to address the massive secondary occupation of housing, land and property that has taken place during SLORC and SPDC rule and earlier regimes. Tens of thousands of hectares of land – if not considerably more – have been arbitrarily acquired and subsequently occupied by members of the military establishment during previous decades, resulting in the forced displacement of millions of people. Since 1994, more than 3,300 villages have been destroyed and subsequently occupied by members of the military. The new government

87 *Principles on Housing and Property Restitution*, *supra* n19.

88 See: United Nations Inter-Agency (FAO, IDMC, OCHA, OHCHR, UN-HABITAT & UNHCR) March 2007, *Handbook on Housing and Property Restitution for Refugees and Displaced Person - Implementing the 'Pinheiro Principles'*.

will need to act promptly to address this situation and determine how best to address this potentially difficult situation. Policies and laws will need to be put in place to secure the restitution rights of those who have legitimate claims to the return of the confiscated land, but the authorities will also need to ensure that other HLP options, including alternative land or housing, are available to those who are currently in possession of the land even if those now holding such land accessed such land due to the policies of the previous regime. In addition, efforts should be made to reverse the legacy of coerced land sales and illegal land title transfers.

HLP Challenge 4: Overcoming HLP Tenure Insecurity

Any new democratic government will also need to quickly address the massive HLP tenure insecurity that exists in Burma today, and seek to vastly improve the systems in place for land administration and land registration. In contemporary Burma, severely restricted private ownership rights, inadequate land tenure and titling laws, the difficulties associated with land transfers, the low level of rights enjoyed by tenants and growing slums in urban areas and landlessness in rural areas have all contributed to a security of tenure crisis whereby virtually all population groups in all residential and land sectors can – legally – be forcibly evicted from their homes and lands without recourse to judicial or other remedies. The virtual absence of security of tenure in Burma has the net result of severely restricting personal investments in housing resources and community services and infrastructure, and leads to persistently high levels of housing inadequacy throughout the country, including within urban areas where housing standards tend to be higher. The new government will need to act rapidly to increase tenure security for the population and protect people, in the first instance, against any arbitrary or forced eviction from their homes and lands. The adoption of a *Security of Tenure Act* by the new government would be one concrete step to protect tenure rights and begin to develop conditions within society amenable to the emergence of a vibrant and dynamic housing and land market.

HLP Challenge 5: Customary Law within the HLP Sector

Successive military regimes that have ruled Burma for the past half century have severely disrupted customary land use patterns, and effectively denied the existence of customary land use in the country. Much of the land arbitrarily confiscated by the military occurred on land subject to customary arrangements. Such forms of land ownership are common in rural areas and remain a primary source of authority in terms of land management. Various ethnic groups have established practices regarding land ownership, natural resources, cultivation, watershed and decision-making processes at village, district and state levels which retain considerable legitimacy by the populations concerned. The value of customary law was recognized by the British and officially practised even as regards land ownership. For instance, the *Burma Laws Act* 1898 notes that any questions regarding succession, inheritance, marriage are decided by customary law. The role of customary

law in regulating land use and acquisition will need to be explored dispassionately by the new democratic government and recognised and respected where this form of land use and allocation retains legitimacy among local communities. Where appropriate, the more progressive and functional elements of customary laws should be woven carefully into new statutory land laws. Given the almost complete disavowal of customary law by successive regimes in Burma since independence, a major shift in consciousness will be required that embraces customary law where it functions fairly and equitably as a rights augmenting force, and considers improved ways of customary governance where such traditional rules may be oppressive or discriminatory. Above all, a comprehensive land use policy should be considered which is fully compatible with relevant international standards.

HLP Challenge 6: Democratising the HLP Sector

One of main HLP challenges set to face a new democratic government in Burma will be successfully managing the transformation of land ownership from the current system of almost total State ownership of land to a more mixed system of land ownership. It will be vital for the new government to take a moderate and nuanced approach to this important question and ensure that a vision of the HLP sector is apparent that recognises that a mixed approach to land whereby many different forms of land ownership will be more beneficial to the country than purely a system of either State or private ownership.

Care will need to be exercised by the new government to appropriately address the tempting belief that a 'property rights only' approach to the HLP sector will prove the most beneficial to people's HLP rights. Any new government will need to ask if the concept of property rights is truly appropriate for addressing the multi-faceted questions relating to the severe series of HLP crises in Burma today. Can property rights alone address the increasingly inequitable distribution of land in Burma? Can programmes supporting property rights lead to increasingly higher levels of enjoyment of all residential rights? Does a purely property rights approach help those without rights to achieve actually them? It is clear that in certain instances, the recognition of property rights has proven to be an important element or step in developing an HLP legal system based upon the rule of law. The effective enforcement of property rights requires clear and transparent rules, as well as a functioning and independent judiciary, elements that are considered fundamental for the promotion and protection of human rights and the rule of law. But while property rights could play a role in facilitating the emergence of an increasingly human rights friendly environment within Burma, one can question, in the longer term, the impact of a system relying primarily on property rights on the full realisation of all HLP rights. In practical terms, do property rights actually protect only those who already possess property? And what is their true significance for those tens of millions of Burmese citizens who do not possess these rights today within the formal legal system? In the real world of 2009, 'property rights' is simply too narrow a concept to promote the achievement of core objectives of innumerable human rights treaties. Rather, we believe that a comprehensive approach built around the idea of HLP rights holds the best promise for marshalling the resources and assets required from within the housing, land and property sectors that will lead to the improvement of the

lives of lower income groups. Ultimately, such an approach can provide one of the clearest examples of how a rights-based approach to development actually looks in practice and how housing rights and security of tenure can be treated increasingly as core human rights issues.

In pursuing the democratisation of the HLP sector in Burma, the new government will also need to give serious thought to the broader question of comprehensive HLP law reform. National HLP dialogues should be convened throughout all parts of the country to discuss the current state of HLP law in the country, which HLP laws should remain in force, which should be amended and which should be repealed. Discussions along these lines can be instigated now within the democratic opposition and preliminary decisions made about the steps required to secure a solid, rights-based and economically beneficial HLP framework for a democratic Burma.

Beyond improving considerably the treatment and inclusion of HLP rights within the national Constitution, it is clear that a range of new HLP laws will require adoption in a new Burma. At a minimum, we suggest the following four new laws should receive priority treatment:

- ♦A Housing Act
- ♦A Land Act
- ♦An Urban Reform Act
- ♦A Refugee and IDP Restitution Act.

Work on determining the contents of these new foundations of HLP law in Burma can commence now, with initial efforts focusing on precisely how such norms would interact and related to the existing HLP Legal Code of Burma.

HLP Challenge 7: Pursuing the Ratification of International Human Rights Treaties

The state of Burma has one of the poorest ratification records of international human rights treaties of any member of the international community. As of 2009, Burma is party to only two of the major human rights instruments: the Convention on the Elimination of All Forms of Discrimination against Women (1979)⁸⁹ and Convention on the Rights of the Child (1990).⁹⁰

89 UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13. Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979. Entry into force 3 September 1981, in accordance with article 27(1).

90 Burma acceded to the Convention on 15 July 1991; UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3. The Convention on the Rights of the Child was adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. It entered into force on 2 September 1990, in accordance with article 49.

Other relevant Conventions that Burma is party to include: The Convention on the Prevention and Punishment of Genocide;⁹¹ the four Geneva Conventions of 1949,⁹² the Slavery Convention,⁹³ the United Nations Convention against Transnational Organized Crime⁹⁴ and the Convention Concerning the Protection of the World Cultural and Natural Heritage.⁹⁵

The extensive list of relevant human rights instruments that Burma is not a party to and to which any new government should give serious consideration to ratifying, includes:

- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- The International Covenant on Civil and Political Rights (and two Optional Protocols);
- The International Covenant on Economic, Social and Cultural Rights (and Optional Protocol);
- The United Nations Convention against Corruption;
- The International Convention on the Elimination of All Forms of Racial Discrimination;
- The Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- The Convention relating to the Status of Refugees (and Protocol);
- The Convention on the Reduction of Statelessness;
- The Convention relating to the Status of Stateless Persons; and
- The Rome Statute of the International Criminal Court.⁹⁶

91 Burma signed the Convention on 30 December 1949 and ratified the Convention on 14 March 1956; UN General Assembly, *Convention on the Prevention and Punishment of the Crime of Genocide*, 9 December 1948, United Nations, Treaty Series, vol. 78, p. 277. Approved and proposed for signature and ratification or accession by General Assembly resolution 260 A (III) of 9 December 1948.

92 Burma became a state party to the four Geneva Conventions of 1949 on 25 August 1992; International Committee of the Red Cross (ICRC), *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention)*, 12 August 1949, 75 UNTS 31; International Committee of the Red Cross (ICRC), *Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Geneva Convention)*, 12 August 1949, 75 UNTS 85; International Committee of the Red Cross (ICRC), *Geneva Convention Relative to the Treatment of Prisoners of War (Third Geneva Convention)*, 12 August 1949, 75 UNTS 135 and International Committee of the Red Cross (ICRC), *Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)*, 12 August 1949, 75 UNTS 287. Burma is not a party to the 1977 Protocols: International Committee of the Red Cross (ICRC), *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 8 January 1977, 1125 UNTS 3 and International Committee of the Red Cross (ICRC), *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 8 June 1977.

93 Burma became a state party on 29 April 1957; *Slavery Convention*, 25 September 1926, entry into force 7 July 1955.

94 Burma acceded to the Convention on 30 March 2004; UN General Assembly, *United Nations Convention Against Transnational Organized Crime*, adopted by the General Assembly, 8 January 2001, A/RES/55/25.

95 Burma acceded to the Convention on 29 April 1994; UN Educational, Scientific and Cultural Organisation, *Convention Concerning the Protection of the World Cultural and Natural Heritage*, 16 November 1972.

96 Burma is not a party to a number of further relevant conventions including: Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; The Right to Organize and Collective Bargaining Convention; The Equal Remuneration Convention; The Abolition of Forced Labour Convention; The Discrimination (Employment and Occupation) Convention; The Employment Policy Convention; Convention concerning Occupational Safety and Health and the Working Environment; Convention against Discrimination in Education and The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.

The dynamics of HLP law found in Burma today needs to be viewed within the context of literally hundreds of years of repeated conquest, the recurring emergence of political/military fiefdoms all of sizes, and the manner by which tight central control over land, forced displacement and land confiscation have played and continue to play such a dominant role in how the nation is governed. Burma's past and present are so dominated by these types of structural HLP rights impediments that one would be hard pressed to find many other nations where these practices have had such an extensive role in shaping the historical fabric of the nation, and where HLP issues were more at the centre of both political domination *and* eventual liberation.

What are we to make of this complex and widespread HLP crisis in contemporary Burma? How does the history of displacement, persistent HLP abuses and the essential presumption by the authorities (whether colonial powers, warlords, ethnic armies or the State as a whole) that the State holds all power over the land, and thus that the citizenry effectively possesses no real rights over the land and homes they call their own affect the entire gamut of HLP rights of people throughout the country today? And how does this same history influence the actions and behaviour of the *Tatmadaw*-led regime? These queries are complex and require equally complex answers, but to a degree, they can be answered by simply pointing to the crucial and strategic fact that HLP law, policies and practices systematically result in the erosion of the rights of virtually all population sectors in the country.

To properly comprehend the HLP crisis in Burma, the situation needs to be analysed within the context of large scale unlawful and arbitrary land confiscations, including expropriation without due process or compensation, almost universal tenure insecurity, increasingly inadequate housing and living conditions including the inability of tens of millions of citizens to access basic services such as water, electricity, telecommunications and others, the minimal protection of tenant's rights, the physical demise of historical urban centres, including residential areas, a dysfunctional and ineffective system of land administration and registration, severe inequities of women's HLP rights including inheritance and access to housing, land and property, drastic restrictions on individual property ownership, forced evictions due to infrastructure projects and urban gentrification and re-development processes, destructive and non-participatory urban master planning processes, complete inaction on the special HLP needs of particularly vulnerable groups (elderly, disabled, children, etc) and many other HLP concerns. The widespread prevalence of these HLP troubles points to a severe and complex national HLP crisis rivalling the worst systematic abuses of HLP rights in any country. All of this has been allowed to happen on the basis of the HLP Legal Code of Burma as it no stands.

We are hopeful that this book will assist in facilitating a practical debate that has largely yet to occur within the democratic opposition in Burma or relevant international actors about how housing, land and property rights should be reflected within the broader legal code of this country. As is evidenced by the contents of the 94 laws, decrees and regulations

contained in this volume, it is self-evident that the current HLP Legal Code of Burma in its present form will never result in the full enjoyment of HLP rights in the country. The contemporary HLP Legal Code of Burma gives extraordinary powers to the State in terms of land ownership, land acquisition powers and within a whole range of HLP sectors, but gives the citizens of Burma very limited powers in return.

The time to begin to review and reform the Burma HLP Legal Code is now. It remains our challenge to all who care about HLP rights in Burma to start this process today. We have very purposely kept our analysis of the present HLP Code to a minimum. It is now up to Burma's supporters to systematically scrutinise every HLP law currently on the books and to determine the ideal shape of a far better HLP Legal Code of Burma than exists today.

Section 2.

Housing, Land and Property Laws in Force

THE CASTE DISABILITIES REMOVAL ACT (1850)

India Act, 1850

11 April 1850

Whereas it is enacted by section 9, Regulation VII, 1832, of the Bengal Code, that “whenever in any civil suit the parties to such suit may be of different persuasions, when one party shall be of the Hindu and the other of the Muhammadan persuasion, or where one of more parties to the suit shall not be either of the Muhammadan or Hindu persuasions, the laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled”; and whereas it will be beneficial to extend the principle of that enactment; it is enacted as follows:

1. So much of any law or usage as inflicts on any person forfeiture of rights or property, or may be held in any way to impair or affect any right of inheritance by reason of his or her renouncing, or having been excluded from the communion of, any religion, or being deprived of caste, shall cease to be enforced as law.

THE HINDU WIDOWS' REMARRIAGE ACT (1856)

India Act XV, 1856
25 July 1856

Whereas it is known that by the law as administered in the civil Courts, Hindu widows with certain exceptions are held to be, by reason of their having been once married, incapable of contracting a second valid marriage, and the offspring of such widows by any second marriage are held to be illegitimate and incapable of inheriting property;

and whereas many Hindus believe that this imputed legal incapacity, although it is in accordance with established custom, is not in accordance with a true interpretation of the precepts of their religion, and desire that the civil law administered by the Courts of Justice shall no longer prevent those Hindus who may be so minded from adopting a different custom, in accordance with the dictates of their own conscience;

and whereas it is just to relieve all such Hindus from this legal incapacity of which they complain, and the removal of all legal obstacles to the marriage of Hindu widows will tend to the promotion of good morals and to the public welfare;

It is enacted as follows:

1. No marriage contracted between Hindus shall be invalid, and the issue of no such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, any custom and any interpretation of Hindu law to the contrary notwithstanding.

2. All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall upon her re-marriage cease and determine as if she had then died; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

3. On the re-marriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband the guardian of his children, the father or paternal grandfather, or the mother or paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who when appointed shall be entitled to have the care and custody of the said children, or of any of them, during their minority in the place of their mother; and in making such appointment the Court shall

be guided, so far as may be, by the laws and rules in force touching the guardianship of children who have neither father nor mother:

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children whilst minors.

4. Nothing in this Act contained shall be construed to render any widow who, at the time of the death of any person leaving any property, is a childless widow, capable of inheriting the whole or any share of such property, if before the passing of this Act she would have been incapable of inheriting the same by reason of her being a childless widow.

5. Except as in the three preceding sections is provided, a widow shall not, by reason of her re-marriage, forfeit any property or any right to which she would otherwise be entitled; and every widow who has re-married shall have the same rights of inheritance as she would have had, had such marriage been her first marriage.

6. Whatever words spoken, ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married are sufficient to constitute a valid marriage shall have the same effect if spoken, performed or made on the marriage of a Hindu widow; and no marriage shall be declared invalid on the ground that such words, ceremonies or engagements are inapplicable to the case of a widow.

7. If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or, failing all these, of her elder brother, or failing also brothers of her next male relative.

All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year, or to fine, or to both - And all marriages made contrary to the provisions of this section maybe declared void by a Court of law;

Provided that, in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated.

In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

THE LAND AND REVENUE ACT (1879)

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THE LAND AND REVENUE ACT

India Act II, 1876
1 February 1879

WHEREAS it is expedient to declare the law relating to the acquisition by private persons of rights in land in the Union of Burma;

And whereas it is expedient also to consolidate and amend the law relating to the assessment and collection of land-revenue, capitation-tax and certain other taxes;

It is hereby enacted as follows:-

PART I PRELIMINARY

1. (1) This Act extends to Lower Burma and the Thayetmyo District of Upper Burma.
- (2) The President of the Union may, by notification, except any area from the operation of this Act.
2. [...]
3. In this Act, unless there is something repugnant in the subject or context:
 - (a) land is said to be in the possession of a person under this Act:
 - (1) when it is occupied by him, or by his servant, agent, tenant or mortgagee, or by some other person holding under him;
 - (2) when he, his servant, agent, tenant, mortgagee or other person holding under him has paid the revenue which fell due in respect of such land during the last preceding year of assessment as fixed under section 41;
 - (3) if such land, left fallow in the ordinary course of husbandry, was, when last cultivated, cultivated by him, his servant, tenant, agent or mortgagee, or by some other person holding under him:

Provided that no person shall be deemed to be in possession merely on the grounds mentioned in the second or third clause of this definition of any land which is occupied by a person not holding under him, or of any land which he has relinquished by a notice in writing presented to a revenue-officer at such time of the year as the President of the Union may by rule from time to time appoint in this behalf:

(b) “revenue-officer” means any person whom the President of the Union may appoint, by name or as holding an office, to do -

(1) anything required by this Act to be done by a revenue-officer;

(2) anything to be done by a Government officer under this Act or under any rule made under this Act and for the doing of which no agency is specially provided by this Act.

PART II OF RIGHTS OVER LAND

4. Nothing contained in this Part shall apply to the following:-

(a) land included in any forest constituted a “reserved forest” under the law for the time being in force;

(b) land included in any fishery demarcated under the Fisheries Act;

(c) the soil of any public road, canal, drain or embankment;

(d) land included within the limits of any town;

(e) land appropriated to the dwelling-places of any town or village;

(f) land included in any military cantonment;

(g) land included in any civil station;

(h) land belonging [on the 1st February 1879 (Substituted by Act II 1945)] to the site of any monastery, pagoda or other sacred building, or of any school, and continuing to be used for the purposes of such monastery, pagoda, building or school.

The President of the Union may from time to time, by notification, exclude any other land from the operation of this Part or of any section thereof.

5. When the boundaries of any lands exempt, or excluded under section 4 from the operation of this Part or of any section thereof need definition for the purposes of that section and no other mode of defining them is provided by law, the President of the Union shall cause them to be defined by the revenue-officer.

If, before they are defined, any question arises as to whether any land is included within them, such question shall be decided by the revenue-officer, whose decision, subject to appeal and review as hereinafter provided, shall be final.

6. No right of any description shall be deemed to have been or shall be acquired by any person over any land to which this Part applies, except the following:-

- (a) rights created by any grant or lease made by or on behalf of the Government;
- (b) rights acquired under sections 26 and 27 of the Limitation Act;
- (c) rights created or originating in any of the modes hereinafter in that behalf specified;
- (d) rights legally derived from any right mentioned in clauses (a), (b) and (c) of this section.

7. Except as provided in section 22, any person having been in possession of any culturable land for twelve years continuously, and having during that period regularly paid the revenue due thereon, or held the same under an express exemption from revenue, shall be deemed to have, upon the expiration of that period, acquired the status of a landholder in respect of such land:

Provided that such status shall not be deemed to have been acquired by any possession which terminated more than twelve years prior to the 1st February, 1879.

Explanation 1. When land in the possession of one person comes immediately into the possession of another by transfer or succession the possession is deemed to be continuous, and the latter may, in reckoning his length of possession, add the possession of the former to his own.

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 President of the Union, 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.

Explanation 2. When any revenue has been paid in respect of any land by any person holding such land under the person in possession thereof, such revenue shall, for the purposes of this section, be deemed to have been paid by the person so in possession.

8. A landholder shall have a permanent heritable and transferable right of use and occupancy in his land, subject only:

- (a) to the payment of all such revenue, taxes and rates as may from time to time be imposed in respect of such land under any law for the time being in force;

(b) to the reservation in favour of Government of all mines and mineral products, and of all buried treasure with all the powers conferred by section 38A.

9 - 10. [...]

11. Any landholder who, except as provided in section 12, voluntarily relinquishes the possession of any land shall at once forfeit his status of a landholder in respect of such land.

12. Whenever any person in possession of land, and claiming the status of a landholder in respect thereof, desires temporarily to relinquish the possession of the same, he may present a petition to the revenue-officer requesting him to take over such land. The revenue-officer on receipt of such petition, if it appears to him on such enquiry as he thinks fit to make that the petitioner is entitled to such status, shall cause a notice to be published in such manner as the President of the Union may by rule prescribe, declaring that he has taken over the land; and the land shall thereupon be at his disposal to be let on lease or otherwise dealt with, subject to the rights of any third parties over the land and to the right of the petitioner next hereinafter reserved.

13. The petitioner may, at any time within twelve years from the date on which the land has been taken over by the revenue-officer, apply to the revenue-officer to reinstate him in possession of the same:

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.

On receiving such application, the revenue-officer shall, in such manner as may be provided by rules made under this Act and in force for the time being, give notice of the application to any person who may be in occupation under him, and shall in due time proceed to eject him, and shall put the applicant in possession of the land:

Provided that no person shall be ejected under this section from any land which, before receiving notice from the revenue-officer of the said application, such person or his predecessor in interest has in any way prepared for cultivation, until the person sought to be ejected has gathered in his crop:

Provided also that no person shall be so ejected from any land which he or his predecessor in interest has planted, drained, embanked or otherwise permanently improved, until he has been paid by the applicant the value of such improvements at the date of ejection, such value to be determined, in case the parties differ, by order of the revenue-officer.

14. If any person applies for possession of land under section 13, alleging that he is the successor in interest of the petitioner from whom such land was taken over by the revenue-officer, the revenue-officer may, in his discretion, reject such application, or proceed thereon under section 13 as if it were an application by the said petitioner, and the person from

whom such land has been taken, or any other person, may sue to establish his title to such land.

15. Any person being in possession of any land and asserting that he himself or any other person through whom he claims, acquired the status of a landholder in respect of such land in the manner provided by section 7 may apply to the revenue-officer to record, in a register to be provided for this purpose, a declaration of such status having been so acquired. And the revenue-officer, if it appears to him, after a notice of such application has been published for such period and in such manner as the President of the Union may by rule prescribe, and after such enquiry as the revenue-officer may think fit to make, that such status was so acquired, shall record a declaration to that effect, and furnish the applicant with a certificate of the same having been recorded.

16. If within five years from the date on which a declaration has been recorded under section 15 the revenue-officer is satisfied that it is erroneous, he may cancel it:

Provided that no such declaration shall be so cancelled until a notice of the intention to cancel it has been published for such period and in such manner as the President of the Union may from time to time by rule direct. While any such declaration remains on the register un-cancelled, no fresh declaration inconsistent therewith shall be recorded in such register.

17. Whenever a question arises in any proceeding before any civil Court as to whether any person acquired the status of a landholder in respect of any land in the manner provided by section 7, and it appears that a declaration of the fact of such status having been acquired by him has been made under section 15 not less than five years before the commencement of such proceeding and is still un-cancelled, the Court shall decide in accordance therewith.

Whenever any such question arises in any such proceeding and it appears that no such declaration has been so made, or, if made that it has been cancelled, and whenever any question arises whether the status of a landholder, having been acquired, has been subsequently lost, the Court shall refer such question to the revenue-officer, and shall give judgment in accordance with his decision thereon:

Provided that, where any party desires to appeal from the decision of the revenue officer on any question so referred to a revenue-officer of higher grade empowered to hear such appeal by the rules for the time being in force, the Court shall, on such conditions as to the furnishing of security or otherwise as it thinks fit, defer its judgment so as to admit of such appeal being preferred, and in the event of a decision being given in appeal different from that given by the revenue-officer to whom the question was originally referred, shall give judgment in accordance with the decision pronounced in appeal.

18. The President of the Union may from time to time make rules for the disposal by way of grant or otherwise of any land over which no person has a right of either of the classes specified in clauses (a) and (c) of section 6.

Such rules may provide among other matters for the following:-

(a) the amount or kind of interest to be created in such land, and the conditions (if any) subject to which such interest may be conferred;

(b) the mode in which grants and other dispositions of the land may be made;

(c) the total or partial exemption, either absolutely or subject to conditions, of the land from revenue for a term of years or for any life or lives or during the maintenance of any institution;

(d) the realization of any money payable in consideration of the grant or other disposition, or of any penalty payable on breach of a condition annexed to such grant or disposition, as if it were an arrear of revenue due in respect of the land by the person taking under the grant or disposition, his legal representatives or assigns.

19. The President of the Union may also from time to time make rules to regulate the temporary occupation of such land as last aforesaid, and may empower any revenue-officer to eject any person occupying, or continuing to occupy, such land in contravention of such rules.

20. The President of the Union shall from time to time as occasion requires make rules for the allotment from the land referred to in section 18 of grazing-grounds to the inhabitants of any village in the neighbourhood whom he considers to stand in need of such allotment, and for regulating and controlling the enjoyment of such grazing-grounds by persons permitted to resort thereto.

21. The President of the Union shall also make rules from time to time and for different places as occasion requires:

for the allotment from the land referred to in section 18, for the use of tribes or families practising *toungya*-cultivation, of areas suitable for such cultivation of sufficient extent and situated in localities reasonably convenient for the purposes of the persons to whom they are allotted, and for regulating and controlling the enjoyment of land so allotted by persons permitted to resort to the same.

22. No person shall acquire, by length of possession or otherwise, any right over lands disposed of or allotted under section 18, section 20, or section 21 beyond that which is given by the rules made under the said sections respectively.

22A. (1) Every person who is a party to an alienation of land, whether permanent or temporary, shall report the same either orally or in writing within sixty days of its occurrence to such revenue-officer as the President of the Union may appoint in this behalf, or, failing such appointment, to the revenue surveyor or *circle thugyi*.

(2) The officer to whom a report is made under sub-section (1) shall enter the necessary particulars in a register in a form to be prescribed by the President of the Union and shall send a copy of the entry to the revenue-officer appointed in this behalf through the usual channels.

(3) Any person who without good or sufficient cause fails to make the report required by sub-section (1) shall be liable at the discretion of the Deputy Commissioner to pay a fine which may extend to five times the amount of land-revenue payable annually in respect of the land so alienated, and such fine may be recovered as if it were an arrear of land-revenue.

PART III OF REVENUE AND TAXES

A. Of land-revenue

23. All culturable land and all land which was culturable on the 1st February, 1879, but which subsequently becomes unculturable in consequence of the erection of buildings or otherwise by the act of man, and all land assessed to land-revenue on the 1st February, 1879, shall be liable to be assessed to land-revenue in manner hereinafter mentioned.

But nothing in this section shall apply to:

(a) land which, on the 1st February, 1879, belonged to the site of any monastery, pagoda or other sacred building, or of any school, and which continues to be used for the purposes of such monastery, pagoda, building or school;

(b) land exempt from assessment under the express terms of any grant made by or on behalf of the Government;

(c) land in respect of which a toungeya-tax is imposed under section 33;

(d) land appropriated to the dwelling-places of any town or village and exempted from the operation of the former part of this section by order of the President of the Union.

24. The land-revenue payable under section 23 in any area shall be assessed at such rates, in such a manner and for such period as the President of the Union may, by notification, direct.

25. Subject to the rules made under section 24 and for the time being in force, and except as provided in that section and in sections 28 and 42, the rates payable in respect of any land may be altered from time to time as the President of the Union may direct.

26. Any person in possession of any culturable land which is liable to be assessed to land revenue may apply to the revenue-officer to make a settlement with him of such land.

If such person appears to have a permanent heritable and transferable right of use and occupancy in the land, the revenue-officer shall offer him a settlement of the nature hereinafter described.

If such person does not appear to have such a right, it shall be in the discretion of the revenue-officer to offer or refuse such settlement.

27. The settlement offered to the applicant may be either:

- (a) a settlement of a single annual sum payable in respect of the whole land, or
- (b) a settlement of certain annual rates per acre or other superficial measure of land.

In either case the settlement may provide that, for any additional land situate within certain local limits which the applicant may cultivate (not being land acquired by him by transfer or succession), he shall not be required to pay during the continuance of such settlement any revenue whatever or any revenue in excess of rates fixed thereby for such additional land.

The President of the Union shall by rules determine the cases in which each of the said descriptions of settlement shall be offered, and the general principles on which the amount or rate of the revenue payable thereunder shall be fixed.

Subject to such rules, the nature and stipulations of the settlement to be offered in each case shall be in the discretion of the revenue-officer.

28. When a settlement of any land offered under sections 26 and 27 has been accepted, neither the person on whose application such settlement has been made, nor any person succeeding him in possession of the land by transfer or succession, nor any person holding under him or under a person so succeeding him, shall, during the term of such settlement, be held liable to pay any revenue in respect of such land beyond that fixed by the settlement.

But no person shall be deemed to have acquired any right to or over any land, as against any other person claiming rights to or over the same land, merely on the ground that a settlement of such land has been made on his application, or on the application of some person through whom he claims.

29. The settlement shall be made for such term as the President of the Union may from time to time by rule direct.

The settlement of any land shall terminate at the close of any year of assessment prescribed under section 41 if the person in possession of such land, and entitled under section 28 to the benefit of such settlement, not less than three months before the close of such year, presents to the revenue-officer a notice in writing declaring that he desires to rescind the

settlement, and at the same time pays to him all revenue payable in respect of the said land to the close of such year.

If any such person omits to give the notice and make the payment required by this section, he shall continue liable for the revenue payable from time to time under the settlement, although he may have relinquished possession of the land.

30. If the term for which a settlement of any land has been made elapses before a new settlement thereof is made, any person who was entitled to the benefit of the expired settlement at the time of its expiration and continues in possession of such land, and any person holding under him or claiming through him without an interruption of possession, shall be entitled to the benefit, and be bound by the stipulations, of the expired settlement until a new settlement of such land is made:

Provided that the said stipulations shall cease to be in force at the close of any year of assessment as aforesaid if the person in possession, not less than three months before the close of such year, presents to the revenue-officer a notice in writing requiring that they should so cease.

B. Of the five per cent

31-32. [...]

C. Of the Toungya-tax.

33. The President of the Union may direct that, in lieu of the revenue assessable on any land under toungya-cultivation, there shall be collected an annual tax, either on each male person who has completed his age of eighteen years, or on each family of persons, taking part in the cultivation of such land at any time during the year of assessment as fixed under section 41.

The rates of such tax may be fixed from time to time by the President of the Union, but shall not exceed the following that is to say on each male cultivator, two rupees, on each family of cultivators, two rupees.

34-36. [...] [Sections 34 to 36 and the heading "D.—Capitation Tax and the Land-rate in lieu thereof" were omitted by Act VI 1947].

E. Of personal liability for certain revenue and taxes.

37. The amount payable on account of revenue [...] on any land for any year of assessment shall be due jointly and severally from all persons who have been in possession of such land at any time during such year, and all persons who have held under them as tenants, mortgagees or conditional vendees.

38. When a tax per family of cultivators of any land is imposed, the amount due for any year of assessment from each family shall be due jointly and severally from all males of such family who at any time during such year, being then above the age of eighteen years, took any part in the cultivation of such land.

F.Of the extraction of minerals and licences to collect edible birds' nests.

38A. (1) In the case of any land wherein the right to minerals is reserved [...] or otherwise belongs to Government, the Government shall have all powers necessary for the proper enjoyment of its right thereto, and may dispose of any such right and powers to any persons in such manner as to it may seem fit.

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

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

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

(a) for regulating or prohibiting the mining, quarrying or digging for or the excavating or collecting of minerals on land wherein the right to minerals is reserved to or otherwise belongs to Government;

(b) for the disposal by way of lease, licence or otherwise of such right of the Government, and fixing the conditions subject to which and the mode in which such dispositions may be made;

(c) for the levy and collection of royalties and fees in respect of minerals, mined, quarried, excavated or collected on any such land; and

(d) for prohibiting or regulating and controlling the possession, purchase, sale, transport and export of minerals, for the issue of licences in furtherance of such regulation and control. and for the levy and collection of fees in respect of such licences.

39. [...]

40. The President of the Union may from time to time make rules:

(a) for granting licences to collect, or farms of the right of collecting, edible birds' nests upon land over which no person has a right of either of the classes specified in clauses (a) and (c) of section 6;

(b) for fixing the amount of fees to be charged in respect of such licences or farms.

G. Miscellaneous.

41. The year of assessment of any revenue, rate, tax or fee leviable under this Part shall commence on such day of the calendar year as the President of the Union may from time to time by rule prescribe.

42. Notwithstanding anything contained in this Part, no enhancement made in any such revenue, rate, tax or fee shall take effect until the commencement of the year of assessment following that in the course of which it is made.

PART IV OF ARREARS AND THE MODE OF RECOVERING THEM

43. Every sum payable under this Act on account of any revenue, tax, rate, fee, [duty, composition, compensation or costs] [Substituted by Act VI 1947] shall fall due on such date, and shall be payable at such place and to such person, as the President of the Union may from time to time by rule direct.

44. When any such sum has fallen due, and a written notice of demand for it has been served on any one of the persons liable for it, or published in such manner as the President of the Union may from time to time by rule direct, and thirty days have elapsed from the service or publication of such notice without such sum having been paid, such sum shall be deemed to be an arrear; and every person liable for it shall be deemed to be a defaulter.

45. An arrear may be realized as if it were the amount of a decree for money passed against the defaulter in favour of any revenue-officer whom the President of the Union may from time to time appoint in this behalf by name or as holding any office. Proceedings with a view to the realization of such arrears may be instituted by such officer before any other revenue-officer whom the President of the Union may from time to time appoint by name or as holding any office; and, except in so far as the President of the Union may otherwise by rule direct, such other officer may exercise all the powers conferred on, and shall conform to all rules of procedure prescribed for, a Court executing a decree by the Code of Civil Procedure:

Provided that:

except when execution is applied for against a defaulter who has absconded, or who is reasonably believed to be about to abscond, the officer before whom proceedings are instituted under this section shall, before issuing any process of execution against a defaulter,

cause a notice to be served on him in the manner prescribed for the service of summons on defendants in civil suits, requiring him either to pay the amount of the arrear or to appear on a day fixed in the notice and show cause why such amount should not be realized from him.

If on the day so fixed such amount has not been paid and the defaulter does not appear, or appearing fails to show cause as aforesaid, the said officer may order the process to issue forthwith.

46. Instead of, or in addition to, the proceedings which may be instituted under section 45, a revenue-officer empowered in this behalf by the President of the Union may, when the arrear is one of land-revenue [...] [Deleted by Act VI 1947], proceed against the land on which such arrear has accrued as next hereinafter provided.

47. If such officer finds on enquiry that there exists any permanent heritable and transferable right of use and occupancy in the land, he may sell by public auction such right in the whole of the land, or in such portion thereof as he may deem sufficient, for the realization of the arrear.

The proceeds of such sale shall be applied in the first place in liquidation of the arrear, and, in the event of there being any surplus remaining, the revenue-officer shall, if he is satisfied as to the right of any person claiming such surplus, pay the amount thereof to such person, and if he is not so satisfied, shall hold the amount in deposit for the person who may ultimately succeed in due course of law in establishing his title thereto.

48. The purchaser at a sale held under section 47 shall be deemed to have acquired the right offered for sale, free from all encumbrances created over it and from all subordinate interests derived from it, except such as may be expressly reserved by the revenue-officer at the time of sale.

49. If the revenue-officer proceeding against the land finds on enquiry that no permanent heritable and transferable right of use and occupancy exists therein, he may, by proclamation published on the land in such manner as the President of the Union from time to time by rule directs, declare that he has taken possession of such land on behalf of the Government, and may summarily eject any person found in occupation thereof.

50. When a proclamation is published under section 49 in respect of any land over which any private rights of any description exist, such land shall be deemed to have been, from the date of such proclamation, vested in the Government free from all such rights as have not been expressly reserved by the terms of such proclamation.

51. All costs of any proceeding under this Act for the recovery of an arrear may be recovered as if they formed part of such arrear.

52. If a revenue-officer has reason to believe that a revenue-officer subordinate to him who has collected any sum due under this Act has absconded or is about to abscond without accounting for such sum, he may issue a warrant for the apprehension of such subordinate officer and proceed against him or cause proceedings to be instituted against him as if he were a defaulter in the amount so collected.

53. Any person who has become liable for any amount as surety for a defaulter or revenue-officer may be proceeded against as if he himself were a defaulter in such amount.

PART V MISCELLANEOUS

54. A revenue-officer may, by a notice in writing duly served in accordance with rules to be made under this Act, require any person liable for the revenue of any land, or entitled to hold such land free of revenue, to erect boundary-marks sufficient for defining the limits of such land, or to repair any such boundary-marks already existing ; and, if such person fails to comply with his requisition within a period to be specified in the notice, may cause the work to be done and recover the cost thereof as if it were an arrear of revenue due in respect of the land.

54A. (1) A revenue-officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a revenue-officer. Such summons shall be issued and served in accordance with the provisions of the Code of Civil Procedure regarding the service of summonses.

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

54B. Every person attending in obedience to a summons issued by a revenue-officer and every applicant or other person appearing before a revenue-officer shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the revenue-officer may require.

55. Appeals shall lie from orders -and decisions given under any Appeals provision of this Act in such cases, to such officers and subject to such limitations as to time and such other conditions as the President of the Union may from time to time by rule determine:

Provided that decisions by an officer of a grade lower than that of a Commissioner of a division in or on the following matters, claims and questions shall not be final, namely:

(a) matters disposed of by revenue-officers under section 5, and sections 12 to 17, inclusive, except orders as to the value of improvements;

- (b) claims to occupy or resort to lands under sections 19, 20 and 21, and disputes as to the use or enjoyment of such lands between persons permitted to occupy or resort to the same;
- (c) questions as to whether any land or any person is liable to be assessed to any revenue, tax or rate;
- (d) questions as to the mode or principle of assessment of any revenue, tax or rate, or as to the amount assessed;
- (e) questions as to the right to a settlement of land-revenue, or the nature or term of the settlement to be offered;
- (f) questions as to the validity or effect of any settlement, or as to whether the conditions of any settlement are still in force;
- (g) questions as to the liability of any person under sections 37 and 38;
- (h) questions as to whether any revenue, tax or rate is in arrear;
- (i) questions as to the legality of any process issued under section 45;
- (j) questions as to the validity of a sale under section 47, or as to the effect of a proclamation under section 49;

Provided also that in all cases the Financial Commissioner shall have power to call for and review the proceedings, if he thinks fit to do so, and pass such order thereon consistent with the provisions of this Act as he thinks fit.

56. Except as hereinbefore expressly provided, no civil Court shall exercise jurisdiction as to any of the following matters, namely:

- (a) matters, claims and questions mentioned in the first proviso to section 55;
- (b) claims to any office connected with the revenue administration, or to any emolument appertaining to such office, or in respect of any injury caused by exclusion, suspension or removal therefrom;
- (c) claims to have allotments made under section 20 or section 21 and objections to the making of such allotments;
- (d) claims to a remission or refund of any revenue, tax, rate, fee, duty or composition payable or paid under this Act;
- (e) questions as to the right to, or amount of, any compensation for improvements awardable under section 13.

57. The President of the Union may invest any revenue-officer by name or as holding any office with any of the following powers, in addition to the powers directly conferred on revenue-officers by this Act, to be exercised by him in any part of Lower Burma or in any class of cases in any such part;

- (a) power to enter upon any land and to survey, demarcate or make a map of the same;
- (b) power to cut and thresh the crop on any land and weigh the grain with a view to estimating the capabilities of the soil; any power exercised by a civil Court in the trial of suits;
- (d) power to delegate the exercise of any power, or the performance of any duty, to a subordinate revenue-officer;
- (e) power to review any decision or order given by a revenue-officer which is not open to appeal, or from which, if open to appeal, no appeal has been preferred;
- (f) power to call for the proceedings of any subordinate revenue-officer and review any order or decision given therein which is not open to appeal, or from which, if open to appeal, no appeal has been preferred.

58. In addition to the other matters for which the President of the Union is empowered to make rules by this Act, he may from time to time make rules;

(a) for the assessment and collection of all revenue and of every tax rate, fee, duty and composition leviable under this Act;

[aa] to regulate claims to remission of any revenue paid or payable under this Act, and such rules may provide that when any false or frivolous application for remission of any such revenue is made a surcharge not exceeding fifty per centum of the revenue payable may be imposed by way of penalty, and that such surcharge may be realized as if it were an arrear of land revenue;

(b) to determine the person by whom, and the time, place and manner at or in which, anything to be done under this Act, and for which no express provision is made in these respects, shall be done; and generally to regulate the procedure of revenue-officers in all cases;

(c) to provide for the investigation by the higher revenue-officers of charges of misconduct preferred against revenue-officers of lower grade;

(d) [...]

(e) to regulate the costs in all proceedings before revenue-officers, and to provide for their realization as if they were arrears of land-revenue;

(f) as to making advances of money to agriculturists for the purchase of seed and cattle, for the construction, maintenance and repair of dwelling-houses and other buildings, and for other such purposes not coming within the scope of the Land Improvement Loans Act;

(g) for the recovery of advances made under clause (f) of this section from the persons to whom they were made or their legal representatives; and generally, to carry out the provisions of this Act.

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

60. (1) The power to make any rules under this Act is subject to the condition of the rules being made after previous publication

(2) All rules made under this Act shall be published in the Gazette and shall thereupon have effect as if enacted in this Act.

THE MARRIED WOMEN'S PROPERTY ACT (1874)

India Act III, 1874
24 February 1874

Whereas it is expedient to make such provision as hereinafter appears for the enjoyment of wages and earnings by women married before the first day of January, 1866, and for insurances on lives by persons married before or after that day:

And whereas by the Indian Succession Act, 1865, section 4, it is enacted that no person shall by marriage acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property, which he or she could have done, if unmarried:

And whereas by force of the said Act all women to whose marriages it applies are absolute owners of all property vested in, or acquired by, them, and their husbands do not by their marriage acquire any interest in such property, but the said Act does not protect such husbands from liabilities on account of the debts of their wives contracted before marriage, and does not expressly provide for the enforcement of claims by or against such wives:

It is hereby enacted as follows:-

I. PRELIMINARY

1. [...]
2. [This Act extends to the whole of the Union of Burma]

But nothing herein contained applies to any married woman who at the time of her marriage professed the Hindu, Muhammadan, Buddhist, Sikh or Jaina religion, or whose husband, at the time of such marriage, professed any of those religions -

And the President of the Union may from time to time, by order either retrospectively from the 24th February, 1874, or prospectively, exempt from the operation of all or any of the provisions of this Act the members of any race, sect or tribe, or part of a race, sect or tribe, to whom he may consider it impossible or inexpedient to apply such provisions.

The President of the Union may also revoke any such order, but not so that the revocation shall have any retrospective effect.

All orders and revocations under this section shall, be published in the Gazette.

3. [...]

II. MARRIED WOMEN'S WAGES AND EARNINGS

4. The wages and earnings of any married woman acquired or gained by her in any employment, occupation or trade carried on by her and not by her husband, and also any money or other property so acquired by her through the exercise of any literary, artistic or scientific skill, and all savings from and investments of such wages, earnings and property, shall be deemed to be her separate property, and her receipts alone shall be good discharges for such wages, earnings and property.

III. INSURANCE BY WIVES AND HUSBANDS

5. Any married woman may effect a policy of insurance on her own behalf and independently of her husband; and the same and all benefit thereof, if expressed on the face of it to be so effected, shall ensure as her separate property, and the contract evidenced by such policy shall be as valid as if made with an unmarried woman.

6. (1) A policy of insurance effected by any married man on his own life, and expressed on the face of it to be for the benefit of his wife, or of his wife and children, or any of them, shall ensure and be deemed to be a trust for the benefit of his wife, or of his wife and children, or any of them, according to the interest so expressed, and shall not, so long as any object of the trust remains, be subject to the control of the husband, or to his creditors, or form part of his estate.

When the sum secured by the policy becomes payable in the Union of Burma, it shall, unless special trustees are duly appointed to receive and hold the same, be paid to the Official Trustee, and shall be received and held by him upon the trusts expressed in the policy, or such of them as are then existing.

Nothing herein contained shall operate to destroy or impede the right of any creditor to be paid out of the proceeds of any policy of assurance which may have been effected with intent to defraud creditors.

(2) Notwithstanding anything contained in section 2, the provisions of sub-section (1) shall apply in the case of any policy of insurance such as is referred to therein which is effected by any Hindu, Muhammadan, Sikh or Jain after the first day of April, 1923.

Provided that nothing herein contained shall affect any right or liability which has accrued or been incurred under any decree of a competent Court passed before the first day of April, 1923.

IV. LEGAL PROCEEDINGS BY AND AGAINST MARRIED WOMEN

7. A married woman may maintain a suit in her own name for the recovery of property of any description which by force of the Succession Act, or of this Act, is her separate property; and she shall have, in her own name, the same remedies, both civil and criminal, against all

persons, for the protection and security of such property, as if she were unmarried, and she shall be liable to such suits, processes and orders in respect of such property as she would be liable to if she were unmarried.

8. If a married woman possesses separate property, and if any person enters into a contract with her with reference to such property, or on the faith that her obligation arising out of such contract will be satisfied out of her separate property, such person shall be entitled to sue her, and, to the extent of her separate property, to recover against her whatever he might have recovered in such suit had she been unmarried at the date of the contract and continued unmarried at the execution of the decree:

Provided that nothing herein contained shall:

(a) entitle such person to recover anything by attachment and sale or otherwise out of any property which has been transferred to a woman or for her benefit on condition that she shall have no power during her marriage to transfer or charge the same or her beneficial interest therein, or

(b) affect the liability of a husband for debts contracted by his wife's agency expressed or implied.

V. HUSBAND'S LIABILITY FOR WIFE'S DEBTS

9. A husband married after the thirty-first day of December, 1865, shall not by reason only of such marriage be liable for the debts of his wife contracted before marriage, but the wife shall be liable to be sued for, and shall, to the extent of her separate property, be liable to satisfy such debts as if she had continued unmarried.

Provided that nothing contained in this section shall invalidate any contract into which a husband may, before the passing of this Act, have entered in consideration of his wife's ante-nuptial debts.

VI. HUSBAND'S LIABILITY FOR WIFE'S BREACH OF TRUST OF DEVASTATION

10. Where a woman is a trustee, executrix or administratrix, either before or after marriage, her husband shall not, unless he acts or intermeddles in the trust or administration, be liable for any breach of trust committed by her, or for any misapplication, loss or damage to the estate of the deceased caused or made by her, or for any loss to such estate arising from her neglect to get in any part of the property of the deceased.

THE SPECIFIC RELIEF ACT (1877)

India Act, 1877
1 May 1877

PART I PRELIMINARY

1-2. [...]

3. In this Act unless there be something repugnant in the subject or context:

“obligation” includes every duty enforceable by law;

“trust” includes every species of express, implied or constructive fiduciary ownership;

“trustee” includes every person holding, expressly, by implication or constructively, a fiduciary character.

Illustrations:

(a) Z bequeaths land to A, “not doubting that he will pay thereout an annuity of RS. 1,000 to H for his life. A accepts the bequest. A is a trustee within the meaning of this Act for B, to the extent of the annuity.

(b) A is the legal, medical or spiritual adviser of B. By availing himself of his situation as such advisor, A gains some pecuniary advantage which might otherwise have accrued to B. A is a trustee for B, within the meaning of this Act, of such advantage.

(c) A, being B’s banker, discloses for his own purpose the state of B’s account. A is a trustee, within the meaning of this Act, for B, of the benefit gained by him by means of such disclosure.

(d) A, the mortgagee of certain leaseholds, renews the lease in his own name. A is a trustee, within the meaning of this Act, of the renewed lease, for those interested in the original lease.

(e) A, one of several partners, is employed to purchase goods for the firm. A unknown to his co partners supplies them, at the market-price, with goods previously bought by himself when the price was lower, and thus makes a considerable profit. A is a trustee for his co-partners within the meaning of this Act, of the profit so made.

(f) A, the manager of B’s indigo-factory, becomes agent for C, a vendor of indigo-seed and receives, without B’s assent, commission on the seed purchased from C for the factory. A is a trustee, within the meaning of this Act, for B, of the commission so received.

(g) A buys certain land with notice that H has already contracted to buy it. A is a trustee, within the meaning of this Act, for B, of the land so bought.

(h) A buys land from B, having notice that C is in occupation of the land. A omits to make any inquiry as to the nature of C's interest therein. A is a trustee, within the meaning of this Act, for C, to the extent of that interest.

“Settlement” means any instrument (other than a will or codical as defined by the Succession Act), whereby the destination or devolution of successive interests in moveable or immovable property is disposed of or is agreed to be disposed of;

and all words occurring in this Act, which are defined in the Contract Act, shall be deemed to have the meanings respectively assigned to them by that Act.

4. Except where it is herein otherwise expressly enacted, nothing in this Act shall be deemed-

(a) to give any right to relief in respect of any agreement which is not a contract;

(b) to deprive any person of any right to relief, other than specific performance, which he may have under any contract; or

(c) to affect the operation of the Registration Act on documents.

5. Specific relief is given:

(a) by taking possession of certain property and delivering it to a claimant;

(b) by ordering a party to do the very act which he is under an obligation to do;

(c) by preventing a party from doing that which he is under an obligation not to do;

(d) by determining and declaring the rights of parties otherwise than by an award of compensation;

(e) by appointing a receiver.

6. Specific relief granted under clause (c) of section 5 is called preventive relief.

7. Specific relief cannot be granted for the mere purpose of enforcing a Penal law.

PART II
OF SPECIFIC RELIEF

Of recovering possession of property.

(a) Possession of Immoveable Property.

8. A person entitled to the possession of specific immoveable property may recover it in the manner prescribed by the Code of Civil Procedure.

9. If any person is dispossessed without his consent of immoveable property otherwise than in due course of law, he or any person claiming through him may by suit recover possession thereof, notwithstanding any other title that may be set up in such suit.

Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.

No suit under this section shall be brought against the Government.

No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed.

(b) Possession of Moveable Property.

10. A person entitled to the possession of specific moveable property may recover the same in the manner prescribed by the Code of Civil Procedure.

Explanation 1. A trustee may sue under this section for the possession of property to the beneficial interest in which the person for whom he is trustee is entitled.

Explanation 2. A special or temporary right to the present possession of property is sufficient to support a suit under this section.

Illustrations:

(a) A bequeaths land to B for his life, with remainder to C, A dies, B enters on the land, but C, without B's consent, obtains possession of the title deeds. B may recover them from C.

(b) A pledges certain jewels to B to secure a loan. B disposes of them before he is entitled to do so. A, without having paid or tendered the amount of the loan, sues B for possession of the jewels. The suit should be dismissed, as A is not entitled to their possession whatever right he may have to secure their safe custody.

(c) A receives a letter addressed to him by B. B gets back the letter without A's consent. A has such a property therein as entitles him to recover it from B.

(d) A deposits books and papers for safe custody with B. B loses them and C finds them, but refuses to deliver them to B when demanded. B may recover them from C, subject to C's right, if any, under section 168 of the Contract Act.

(e) A, a warehouse-keeper, is charged with the delivery of certain goods to Z, which B takes out of A's possession. A may sue B for the goods.

11. Any person having the possession or control of a particular article of moveable property, of which he is not the owner, may be compelled specifically to deliver it to the person entitled to its immediate possession, in any of the following cases:

(a) when the thing claimed is held by the defendant as the agent or trustee of the claimant;

(b) when compensation in money would not afford the claimant adequate relief for the loss of the thing claimed;

(c) when it would be extremely difficult to ascertain the actual damage caused by its loss;

(d) when the possession of the thing claimed has been wrongfully transferred from the claimant.

Illustrations:

of clause (a):

A, proceeding to Europe, leaves his furniture in charge of B as his agent during his absence. B without A's authority, pledges the furniture to C, and C, knowing that B has no right to pledge the furniture, advertises it for sale. C may be compelled to deliver the furniture to A, for he holds it as A's trustee.

of clause (b):

Z has got possession of an idol belonging to A's family, and of which A is the proper custodian. Z may be compelled to deliver the idol to A.

of clause (c):

A is entitled to a picture by a dead painter and a pair of rare China vases. B has possession of them. The articles are of too special a character to bear an ascertainable market value. B may be compelled to deliver them to A.

CHAPTER II
OF THE SPECIFIC PERFORMANCE OF CONTRACTS

(a) Contracts which may be specifically enforced:

12. Except as otherwise provided in this Chapter, the specific performance of any contract may in the discretion of the Court be enforced:

(a) when the act agreed to be done is in the performance, wholly or partly, of a trust;

(b) when there exists no standard for ascertaining the actual damage caused by non-performance of the act agreed to be done;

(c) when the act agreed to be done is such that pecuniary compensation A for its non-performance would not afford adequate relief; or

(d) when it is probable that pecuniary compensation cannot be got for the non-performance of the act agreed to be done.

Explanation. - Unless and until the contrary is proved, the Court shall presume that the breach of a Contract to transfer immoveable property cannot be adequately relieved by compensation in money, and that the breach of a contract to transfer moveable property can be thus relieved.

Illustrations.

of clause (a):

A holds certain stock in trust for B. A wrongfully disposes of the stock. The law creates an obligation on A to restore the same quantity of stock to B, and B may enforce specific performance of this obligation.

of clause (b):

A agrees to buy, and B agrees to sell, a picture by a dead painter and two rare China vases. A may compel B specifically to perform this contract, for there is no standard for ascertaining the actual damage which would be caused by its non performance.

of clause (c):

A contracts with B to sell him a house for Rs. 1,030. B is entitled to a decree directing A to convey the house to him, he paying the purchase-money.

In consideration of being released from certain obligations imposed on it by its Act of Incorporation, a railway-company contract with Z to make an archway through their

railway to connect lands of Z severed by the railway, to construct 2 road between certain specified points, to pay a certain annual sum towards the maintenance of this road and also to construct a siding and a wharf as specified in the contract. Z is entitled to have this contract specifically enforced for his interest in its performance cannot be adequately compensated for by money; and the Court may appoint a proper person to superintend the construction of the archway, road, siding and wharf.

A contracts to sell, and B contracts to buy, a certain number of railway shares of a particular description. A refuses to complete the sale; B may compel A specifically to perform this agreement, for the shares are limited in number and not always to be had in the market, and their possession carries with it the status of a shareholder which cannot otherwise be procured.

A contracts with B to paint a picture for B, who agrees to pay therefore Rs. 1,000. The picture is painted. B is entitled to have it delivered to him on payment or tender of the Rs. 1,000s A

of clause(d):

A transfers without endorsement, but for valuable consideration, a promissory note to B, A becomes insolvent, and C is appointed his assignee. B may compel C to endorse the note, for C has succeeded to A's liabilities and a decree for pecuniary compensation for not endorsing the note would be fruitless.

13. Notwithstanding anything contained in section 56 of the Contract Act. a contract is not wholly impossible of performance because a portion of its subject-matter, existing at its date, has ceased to exist at the time of the performance.

Illustrations:

(a) A contracts to sell a house to B for a lakh of rupees. The day after the contract is made the house is destroyed by a cyclone. B may be compelled to perform his part of the contract by paying the purchase money.

(b) In consideration of a sum of money payable by B, A contracts to grant an annuity to B for B's life. The day after the contract has been made, H is thrown from his horse and killed. B's representative may be compelled to pay the purchase-money.

14. Where a party to a contract is unable to perform the whole of his part of it, but the part which must be left unperformed bears only a small proportion to the whole in value, and admits of compensation in money, the Court may, at the suit of either party, direct the specific performance of so much of the contract as can be performed, and award compensation in money for the deficiency.

Illustrations:

(a) A contracts to sell B a piece of land consisting of 100 acres. It turns out that 98 acres of the land belong to A, and the two remaining acres to a stranger, who refuses to part with them. The two acres are not necessary for the use or enjoyment of the 98 acres nor so important for such use or enjoyment that the loss of them may not be made good in money. A may be directed at the suit of B to convey to B the 98 acres and to make compensation to him for not conveying the two remaining acres; or B may be directed, at the suit of A, to pay to A, on receiving the conveyance and possession of the land, the stipulated purchase-money less a sum awarded as compensation for the deficiency.

(b) In a contract for the sale and purchase of a house and lands for two lakhs of rupees, it is agreed that part of the furniture should be taken at a valuation. The Court may direct specific performance of the contract notwithstanding the parties are unable to agree as to the valuation of the furniture, and may either have the furniture valued in the suit and include it in the decree for specific performance, or may confine its decree to the house.

15. Where a party to a contract is unable to perform the whole of his part of it, and the part which must be left unperformed forms a considerable portion of the whole, or does not admit of compensation in money, he is not entitled to obtain a decree for specific performance. But the Court may, at the suit of the other party, direct the party in default to perform specifically so much of his part of the contract as he can perform, provided that the plaintiff relinquishes all claim to further performance, and all right to compensation either for the deficiency, or for the loss or damage sustained by him through the default of the defendant.

Illustrations:

(a) A contracts to sell to B a piece of land consisting of 100 acres. It turns out that 50 acres of the land belong to A, and the other 50 acres to a stranger who refuses to part with them. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the 50 acres which belong to A, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree directing A to convey those 50 acres to him on payment of the purchase money.

(b) A contracts to sell to B an estate with a house and garden for a lakh of rupees. The garden is important for the enjoyment of the house. It turns out that A is unable to convey the garden. A cannot obtain a decree against B for the specific performance of the contract, but if B is willing to pay the price agreed upon, and to take the estate and house without the garden, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect, or default, B is entitled to a decree directing A to convey the house to him on payment of the purchase money.

16. When a part of a contract which, taken by itself, can and ought to be specifically performed, stands on a separate and independent footing from another part of the same contract which cannot or ought not to be specifically performed, the Court may direct specific performance of the former part.

17. The Court shall not direct the specific performance of a part of a contract except in cases coming under one or other-of the three last preceding sections.

18. Where a person contracts to sell or let certain property, having only an imperfect title thereto, the purchaser or lessee (except as otherwise provided by this Chapter) has the following rights:-

(a) if the vendor or lessor has subsequently to the sale or lease acquired any interest in the property, he purchaser or lessee may compel him to make good the contract out of such interest;

(b) where the concurrence of other persons is necessary to validate the title, and they are bound to convey at the vendor's or lessor's request, the purchaser or lessee may compel him to procure such concurrence;

(c) where the vendor professes to sell unencumbered property, but the property is mortgaged for an amount not exceeding the purchase money, and the vendor has in fact only a right to redeem it, the purchaser may compel him to redeem the mortgage and to obtain a conveyance from the mortgagee;

(d) where the vendor or lessor sues for specific performance of the contract and the suit is dismissed on the ground of his imperfect title, the defendant has a right to a return of his deposit (if any) with interest thereon, to his costs of the suit and to a lien for such deposit, interest and costs on the interest of the vendor or lessor in the property agreed to be sold or let.

19. Any person suing for the specific performance of a contract may also ask for compensation for its breach, either in addition to, or in substitution for such performance.

If in any such suit the Court decides that specific performance ought not to be granted, but that there is a contract between the parties which has been broken by the defendant and that the plaintiff is entitled to compensation for that breach, it shall award him compensation accordingly.

If in any such suit the Court decides that specific performance ought to be granted, but that it is not sufficient to satisfy the justice of the case, and that some compensation for breach of the contract should also be made to the plaintiff, it shall award him such compensation accordingly.

Compensation awarded under this section may be assessed in such manner as the Court may direct.

Explanation:

The circumstance that the contract has become incapable of specific performance does not preclude the Court from exercising the jurisdiction conferred by this section.

Illustrations:

of the second paragraph;

A contracts to sell a hundred mounds of rice to B. B brings a suit to compel A to perform the contract or to pay compensation. The Court is of opinion that A has made a valid contract and has broken it, without excuse, to the injury of B, but that specific performance is not the proper remedy. It shall award to B such compensation as it deems just.

of the third paragraph;

A contracts with B to sell him a house for Rs. 1,000 the price to be paid and the possession given on the 1st January, 1942. A fails to perform his part of the contract, and B brings his suit for specific performance and compensation, which is decided in his favour on the 1st January, 1943. The decree may, besides ordering specific performance, award to B compensation for any loss which he has sustained by A's refusal.

of the Explanation;

A, a purchaser, sues B, his vendor, for specific performance of a contract for the sale of a patent. Before the hearing of the suit the patent expires. The Court may award A compensation for the non-performance of the contract, and may, if necessary, amend the plaint for that purpose.

A sues for the specific performance of a resolution passed by the directors of a public company, under which he was entitled to have a certain number of shares allotted to him, and for compensation for the non-performance of the resolution. All the shares had been allotted before the institution of the suit. The Court may under this section, award A compensation for the non-performance.

20. A contract, otherwise proper to be specifically enforced, may be thus enforced, though a sum be named in it as the amount to be paid in case of its breach, and the party in default is willing to pay the same.

Illustration:

A contracts to grant B an under-lease of property held by A under C, and that he will apply to C for a licence necessary to the validity of the under-lease, and that, if the licence is not proffered, A will pay B Rs. 10,000. A refuses to apply for the licence and offers to pay B the Rs. 10,000. B is nevertheless entitled to have the contract specifically enforced if C consents to give the licence.

(b) Contracts which cannot be specifically enforced.

21. The following contracts cannot be specifically enforced:-

(a) a contract for the non-performance of which compensation in money is an adequate relief;

(b) a contract which runs into such minute or numerous details or which is so dependent on the personal qualifications or volition of the parties, or otherwise from its nature is such, that the Court cannot enforce specific performance of its material terms;

(c) a contract the terms of which the Court cannot find with reasonable certainty;

(d) a contract which is in its nature revocable;

(e) a contract made by trustees either in excess of their powers or in breach of their trust;

(f) a contract made by or on behalf of a corporation or public company created for special purposes or by the promoters of such company, which is in excess of its powers;

(g) a contract the performance of which involves the performance of a continuous duty extending over a longer period than three years from its date;

(h) a contract of which a material part of the subject-matter, supposed by both parties to exist, has, before it has been made, ceased to exist.

And, save as provided by the [Arbitration Act, 1944] no contract to refer present or future differences to arbitration shall be specifically enforced; but if any person who has made such a contract other than an arbitration agreement to which the provisions of the said Act apply] and has refused to perform it sues in respect of any subject which he has contracted to refer, the existence of such contract shall bar the suit.

Illustrations:

to (a);

A contracts to sell, and B contracts to buy, a lakh of rupees in the four per cent. loan of the Government of India;

A contracts to sell, and B contracts to buy, 40 chests of indigo at Rs. 1,000 per chest;

In consideration of certain property having been transferred by A to B, B contracts to open a credit in A's favour to the extent of Rs. 10,000, and to honour A's drafts to that amount;

The above contracts cannot be specifically enforced, for in the first and second both A and B, and in the third A, would be reimbursed by compensation in money.

to (b);

A contracts to render personal service to B;

A contracts to employ B on personal service;

A, an author, contracts with B, a publisher, to complete a literary work;

B cannot enforce specific performance of these contracts.

A contracts to buy B's business at the amount of a valuation to be made by two valuers, one to be named by A and the other by B. A and B each name a valuer, but before the valuation is made A instructs his valuer not to proceed;

By a charter-party entered into in Calcutta between A, the owner of a ship, and B, the charterer, it is agreed that the ship shall proceed to Rangoon, and there load a cargo of rice, and thence proceed to London, freight to be paid, one-third on arrival at Rangoon, and two-thirds on delivery of the cargo in London;

A lets land to B and B contracts to cultivate it in a particular manner for three years next after the date of the lease;

A and B contract that, in consideration of annual advances to be made by A, B will for three years next after the date of the contracts grow particular crops on the land in his possession and deliver them to A when cut and ready for delivery;

A contracts with B that in consideration of Rs. 1,000 to be paid to him by B, he will paint a picture for B;

A contracts with B to execute certain works which the Court cannot superintend;

A contracts to supply B with all the goods of a certain class which B may require;

A contracts with B to take from B a lease of a certain house for a specified term, at a specified rent, "if the drawing room is handsomely decorated", even if it is he'd have so much certainty that compensation can be recovered for its breach;

A contracts to marry B;

The above contracts cannot be specifically enforced.

to (c);

A, the owner of a refreshment-room, contracts with B to give him accommodation there for the sale of his goods and to furnish him with the necessary appliances. A refuses to perform his contract. The case is one for compensation and not for specific performance, the amount and nature of the accommodation and appliances being undefined.

to (d);

A and B contract to become partners in a certain business, the contract not specifying the duration of the proposed partnership. This contract cannot be specifically performed, for, if it were so performed, either A or B might at once dissolve the partnership.

to (e);

A is a trustee of land with power to lease it for seven years. He enters into a contract with B to grant a lease of the land for seven years, with a grant to renew the lease at the expiry of the term. This contract cannot be specifically enforced.

The directors of a company have power to sell the concern with the sanction of a general meeting of the shareholders. They contract to sell it without any such sanction. This contract cannot be specifically enforced.

Two trustees, A and B, empowered to sell trust-property worth a lakh of rupees, contract to sell it to C for Rs. 30,000. The contract is so disadvantageous as to be a breach of trust. C cannot enforce its specific performance.

The promoters of a company for working mines contract that the company, when formed, shall purchase certain mineral property. They take no proper precautions to ascertain the value of such property - and in fact agree to pay an extravagant price therefore. They also stipulate that the vendors shall give them a bonus out of the purchase-money. This contract cannot be specifically enforced.

to (f);

A company existing for the sole purpose of making and working a railway contract for the purchase of a piece of land for the purpose of erecting a cotton mill thereon. This contract cannot be specifically enforced.

to (g);

A contracts to let for twenty-one years to B the right to use such part of a certain railway made by A as was upon B's land and that B should have a right of running carriages over the whole line on certain terms, and might require A to supply the necessary engine-power, and that A should during the term keep the whole railway in good repair. Specific performance of this contract must be refused to B.

A contracts to pay an annuity to B for the lives of C and D. It turns out that at the date of the contract, C, though supposed by A and B to be alive, was dead. The contract cannot be specifically performed.

(c) Of the discretion of the court:

22. The jurisdiction to decree specific performance is discretionary, and the Court is not bound to grant such relief merely because it is lawful to do so; but the discretion of the Court is not arbitrary but sound and reasonable, guided by judicial principles and capable of correction by a Court of appeal.

The following are cases in which the Court may properly exercise a discretion not to decree specific performance:-

1. Where the circumstances under which the contract is made are such as to give the plaintiff an unfair advantage over the defendant, though there may be no fraud or misrepresentation on the plaintiff's part.

Illustrations:

(a) A, a tenant for life of certain property, assigns his interest therein to B. C contracts to buy and B contracts to sell that interest. Before the contract is completed, A receives a mortal injury from the effects of which he dies the day after the contract is executed. If B and C were equally ignorant or equally aware of the fact, B is entitled to specific performance of the contract. If B knew the fact, and C did not, specific performance of the contract should be refused to B.

(b) A contracts to sell to B the interest of C in certain stock-in-trade. It is stipulated that the sale shall stand good, even though it should turn out that C's interest is worth nothing. In fact, the value of C's interest is worth nothing; interest depends on the rest of certain partnership accounts, on which he is heavily in debt to his partners. This indebtedness is known to A, but not to B. Specific performance of the contract should be refused to A.

(c) A contracts to sell, and B contracts to buy certain land. To protect the land from floods, it is necessary for its owner to maintain an expensive embankment. B does not know of this circumstance, and A conceals it from him. Specific performance of the contract should be refused to A.

(d) A's property is put up to auction. B requests C, A's attorney, to bid for him. C does this inadvertently and in good faith. The persons present, seeing the vendor's attorney bidding, think that he is mere puffer and cease to compete. The lot is knocked down to B at a low price. Specific performance of the contract should be refused to B.

Where the performance of the contract would involve some hardship on the defendant which he did not foresee, whereas its non-performance would involve no such hardship on the plaintiff.

Illustrations:

(e) A is entitled to some land under his father's will on condition that if he sells it within twenty-five years, half the purchase-money shall go to B. A, forgetting the condition, contracts, before the expiration of the twenty five years, to sell the land to C. Here the enforcement of the contract would operate so harshly on A that the Court will not compel its specific performance in favour of C.

(f) A and B, trustees, join their beneficiary, C, in a contract to sell the trust-estate to D, and personally agree to exonerate the estate from heavy incumbrance to which it is subject. The purchase-money is not nearly enough to discharge those incumbrances, though, at the date of the contract, the vendors believed it to be sufficient. Specific performance of the contract should be refused to D.

(g) A, the owner of an estate, contracts to sell it to B, and stipulates that he, A, be obliged to define its boundary. The estate really comprises valuable property, not known to either to be part of it. Specific performance of the contract should be refused to B unless he waives his claim to the unknown property.

(h) A contracts with B to sell him certain land, and to make a road to it from a certain railway's station. It is found afterwards that A cannot make the road without exposing himself to litigation. Specific performance of the part of the contract relating to the road should be refused to B, even though it may be held that he is entitled to specific performance of the rest with compensation for loss of the road.

(i) A, a lessee of mines, contracts with B, his lessor, that at any time during the continuance of the lease B may give notice of his desire to take the machinery and plant used on and about the mines, and that he shall have the articles specified in his notice delivered to him at a valuation on the expiry of the lease. Such a contract might be most injurious to the lessee's business, and specific performance of it should be refused to B.

(j) A contracts to buy certain land from B. The contract is silent as to access to the land. No right of way to it can be shown to exist. Specific performance of the contract should be refused to B.

(k) A contracts with B to buy from B's manufactory and not elsewhere all the goods of a certain class used by A in his trade. The Court cannot compel B to supply the goods but if he does not supply them A may be ruined, unless he is allowed to buy them elsewhere. Specific performance of the contract should be refused to B.

The following is a case in which the Court may properly exercise a discretion to decree specific performance:-

III. Where the plaintiff has done substantial acts or suffered losses in consequence of a contract capable of specific performance.

Illustration:

A sells land to a railway company, who contract to execute certain works for his convenience. The company take the land and use it for their railway. Specific performance of the contract to execute the works should he decreed in favour of A.

(d) For whom Contracts may be specifically enforced.

23. Except as otherwise provided by this Chapter, the specific performance of a contract may be obtained by:

(a) any party thereto;

(b) the representative in interest, or the principal, of any party thereto Z provided that, where the learning, skill, solvency or any personal quality of such party is a material ingredient in the contract or where the contract provides that his interest shall, not be assigned, his representative in interest or his principal shall not be entitled to specific performance of the contract, unless where his part thereof has already been performed;

(c) where the contract is a settlement on marriage or a compromise of doubtful rights between members of the same family, any person beneficially entitled there under;

(d) where the contract has been entered into by a tenant for life in due "exercise of a power, the remainderman;

(e) a reversioner in possession, where the agreement is a covenant entered into with his predecessor in title and the reversioner is entitled to the benefit of such covenant;

(f) a reversioner in remainder, where the agreement is such 21 covenant and the reversioner is entitled to the benefit thereof and will sustain material injury by reason of its breach;

(g) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation;

(h) when the promoters of a public company have, before its incorporation, entered into a contract for the purposes of the company, and such contract is warranted by the terms of the incorporation, the company.

(e) For whom Contracts cannot be specifically enforced.

24. Specific performance of a contract cannot be enforced in favour of a person:

(a) who could not recover compensation for its breach;

(b) who has become incapable of performing, or violates, any essential term of the contract that on his part remains to be performed;

(c) who has already chosen his remedy, and obtained satisfaction for the alleged breach of contract; or

(d) who, previously to the contract, had notice that a settlement of the subject-matter thereof (though not founded on any valuable consideration) had been made and was then in force.

Illustrations:

to clause to (a):

A, in the character of agent for B, enters into an agreement with C to buy C's house. A, is in reality acting not as agent for B but on his own account. A cannot enforce specific performance of this contract.

to clause (b):

A contracts to sell B a house and to become tenant thereof for a term of fourteen years from the date of the sale at a specified yearly rent. A becomes insolvent. Neither he nor his assignee can enforce specific performance of the contract.

A contracts to sell B a house and garden in which there are ornamental trees, a material element in the value of the property as a residence. A, without B's consent, fells the trees. A cannot enforce specific performance of the contract.

A, holding land under a contract with B for a lease, commits waste, or treats the land in an unhusbandlike manner. A cannot enforce specific performance of the contract.

A contracts to let, and B contracts to take, an unfinished house, B contracting to finish the house and the lease to contain covenants on the part of A to keep the house in repair. B finishes the house in a very defective manner; he cannot enforce the contract specifically though A and B may sue each other for compensation for breach of it.

to clause (c);

A contracts to let, and B contracts to take, a house for a specified term at a specified rent. B refuses to perform the contract, A thereupon sues for, and obtains, compensation for the breach. A cannot obtain specific performance of the contract.

25. A contract for the sale or letting of property whether moveable or immovable, cannot be specifically enforced in favour of a vendor or lessor-

(a) who, knowing himself not to have any title to the property, has contracted, to sell or let the same;

(b) who, though he entered into the contract believing that he had a good title to the property, cannot, at the time fixed by the parties or by the Court for the completion of the sale or letting, give the purchaser or lessee a title free from reasonable doubt

(c) who, previous to entering into the contract, has made a settlement (though not founded on any valuable consideration) of the subject-matter of the contract.

Illustrations:

(a) A, without C's authority, contracts to sell to B an estate which A knows to belong to C. A cannot enforce specific performance of this contract even though C is willing to confirm it.

(b) A bequeaths his land to trustees, declaring that they may sell it with the consent in writing of B. B gives a general prospective assent in writing to any sale which the trustees may make. The trustees then enter into a contract with C to sell him the land. C refuses to carry out the contract. The trustees cannot specifically enforce this contract, as in the absence of B's consent to the particular sale to C, the title which they can give C is, as the law stands, not free from reasonable doubt.

(c) A, being in possession of certain land, contracts to sell it to Z. On inquiry it turns out that A claims the land as heir of B, who left the country several years before, and is generally believed to be dead, but of whose death there is no sufficient proof. A cannot compel Z specifically to perform the contract.

(d) A, out of natural love and affection, makes a settlement of certain property on his brothers and their issue, and afterwards enters into a contract to sell the property to a stranger. A

cannot enforce specific performance of this contract so as to override the settlement and has prejudice the interests of the persons claiming under it.

(f) For whom Contracts cannot be specifically enforced, except with a Variation.

26. Where a plaintiff seeks specific performance of a contract in writing, to which the defendant sets up a variation, the plaintiff cannot obtain the performance sought, except with the variation so set up, in the following cases (namely):

(a) where by fraud or mistake of fact the contract of which performance is sought is in terms different from that which the defendant supposed it to be when he entered into it;

(b) where by fraud, mistake of fact, or surprise the defendant entered into the contract under a reasonable misapprehension as to its effect as between himself and the plaintiff;

(c) where the defendant, knowing the terms of the contract and understanding its effect, has entered into it relying upon some misrepresentation by the plaintiff, or upon some stipulation on the plaintiff's part which adds to the contract but which he refuses to fulfill;

(d) where the object of the parties was to produce a certain legal result, which the contract as framed is not calculated to produce;

(e) where the parties have, subsequently to the execution of the contract, contracted to vary it.

Illustrations:

(a) A, B and C sign a writing by which they purport to contract each to enter into a bond to D for Rs. 1,000. In a suit by D, to make A, B and C separately liable each to the extent of Rs. 1,000, they prove that the word "each" was inserted by mistake; that the intention was that they should give a joint bond for Rs. 1,000. D can obtain the performance sought only with the variation this set up.

(b) A sues B to compel specific performance of a contract in writing to buy a dwelling house. B proves that he assumed that the contract included an adjoining yard, and the contract was so framed as to leave it doubtful whether the yard was included or not. The Court will refuse to enforce the contract, except with the variation set up by B.

(c) A contracts in writing to let to B a wharf, together with a strip of A's land delineated in a map. Before signing the contract, B proposed orally that he should be at liberty to substitute for the strip mentioned in the contract another strip of A's land of the same dimensions and to this A expressly assented. B then signed the written contract. A cannot obtain specific performance of the written contract, except with the variation set up by B.

(d) A and B enter into negotiations for the purpose of securing land for B for his life, with remainder to his issue. They execute a contract, the terms of which are found to confer an absolute ownership on B. The contract so framed cannot be specifically enforced.

(e) A contracts in writing to let a house to B, for a certain term, at the rent of Rs. 100 per month, putting it first into tenantable repair. The house turns out to be not worth repairing, so, with B's consent, A pulls it down and erects a new house in its place, B contracting orally to pay rent at Rs. 120 per month. B then sues to enforce specific performance of the contract in writing. He cannot enforce it except with the variations made by the subsequent oral contract.

(g) Against whom Contracts may be specifically enforced.

27. Except as otherwise provided in this Chapter, specific performance of a contract may be enforced against:

(a) either party thereto;

(b) any other person claiming under him by a title arising subsequently to the contract except a transferee for value who has paid his money in good faith and without notice of the original contract;

(c) any person claiming under a title which, though prior to the contract and known to the plaintiff, might have been displaced by the defendant;

(d) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation;

(e) when the promoters of a public company have, before its incorporation, entered into a contract, the company provided that the company has ratified and adopted the contract and the contract is warranted by the terms of the incorporation.

Illustrations:

to clause (b):

A contracts to convey certain land to B by a particular day. A dies intestate before that day without having conveyed the land. B may compel A's heir or other representative in interest to perform the contract specifically.

A contracts to sell certain land to B for Rs. 5,010. A afterwards conveys the land for Rs. 6,000 to C, who has notice of the original contract. B may enforce specific performance of the contract as against C.

A contracts to sell land to B for Rs. 5,030. B takes possession of the land. Afterwards A sells it to C for Rs. 6,000. C makes no inquiry of B relating to his interest in the land. B's possession is sufficient to affect C with notice of his interest, and he may enforce specific performance of the contract against C.

A contracts, in consideration of Rs 1,000 to bequeath certain of his lands to B. Immediately after the contract A dies intestate, and C takes out administration to his estate. B may enforce specific performance of the contract against C.

A contracts to sell certain land to B, Before the completion of the contract, A becomes a lunatic and C is appointed his committee. B may specifically enforce the contract against C.

of clause (c):

A, the tenant for life of an estate with remainder to B, in due exercise of a power conferred by the settlement under which he is tenant for life, contracts to sell the estate to C, who has notice of the settlement. Before the sale is completed, A dies. C may enforce specific performance of the contract against B.

A and B are joint tenants of land, his undivided moiety of which either may alienate in his lifetime, but which, subject to that right, devolves on the survivor. A contracts to sell his moiety to C and dies. C may enforce specific performance of the contract against B.

27A. Subject to the provisions of this Chapter, where a contract to lease immoveable property is made in writing signed by the parties thereto or on their behalf either party may, notwithstanding that the contract though required to be registered, has not been registered, sue the other for specific performance, of the contract if:-

(a) where specific performance is claimed by the lessor, he has delivered possession of the property to the lessee in part performance of the contract; and

(b) where specific performance is claimed by the lessee, he has, in part performance of the contract, taken possession of the property, or, being already in possession, continues in possession, in part performance of the contract, and has done some act in furtherance of the contract:

Provided that nothing in this section shall affect the rights of a transferee for consideration who has no notice of the contract or of the part performance thereof.

This section applies to contracts to lease executed after the first day of April, 1930.

(h) Against whom Contracts cannot be specifically enforced.

28. Specific performance of a contract cannot be enforced against a party thereto in any of the following cases:

(a) if the consideration to be received by him is so grossly inadequate with reference to the state of things existing at the date of the contract, as to be either by itself or coupled with other circumstances evidence of fraud or of undue advantage taken by the plaintiff;

(b) if his assent was obtained by the misrepresentation (whether willful or innocent), concealment, circumvention or unfair practices, of any party to whom performance would become due under the contract, or by any promise of such party which has not been substantially fulfilled;

(c) if his assent was given under the influence of mistake of fact, misapprehension or surprise, provided that, when the contract provides for compensation in case of mistake, compensation may be made for a mistake within the scope of such provision, and the contract may be specifically enforced in other respects if proper to be so enforced.

Illustrations:

to clause (c):

A, one of two executors, in the erroneous belief that he had the authority of his co-executor, enters into an agreement for the sale to B of his testator's property. B cannot insist on the sale being completed.

A directs an auctioneer to sell certain land. A afterwards revokes the auctioneer's authority as to 2 acres of this land, but the auctioneer inadvertently sells the whole to B, who has no notice of the revocation. B cannot enforce specific performance of the agreement.

(i) The effect of dismissing a suit for Specific Performance

29. The dismissal of a suit for specific performance of a contract or part thereof shall bar the plaintiff's right to sue for compensation for the breach of such contract or part. as the case may be.

(i) Awards and directions to execute settlements.

30. The provisions of this Chapter as to contracts shall, *mutatis mutandis*, apply to awards and to directions in a will or codicil to execute a particular settlement.

CHAPTER III OF THE RECTIFICATION OF INSTRUMENTS

31. When, through fraud or a mutual mistake of the parties, a contract or other instrument in writing does not truly express their intention, either party, or his representative in interest. may institute a suit to 'have the instrument rectified: and if the Court find it clearly proved that there has been fraud or mistake in framing the instrument. and ascertain the

real intention of the parties in executing the same, the Court may in its discretion rectify the instrument so as to express that intention, so far as this can be done without prejudice to rights acquired by third persons in good faith and for value.

Illustrations:

(a) A, intending to sell to B his house and one of three godowns adjacent to it, executes a conveyance prepared by B, in which, through B's fraud, all three godowns are included. Of the two godowns which were fraudulently included, B gives one to C and lets the other to D for a rent, neither C nor D having any knowledge of the fraud. The conveyance may, as against B and C, be rectified so as to exclude from it the godown given to C; but it cannot be rectified so as to affect D's lease.

(b) By a marriage settlement. A the father of B, the intended wife, covenants with C, the intended husband, to pay to C, his executors, administrators and assigns, during A's life, an annuity of Rs. 5,000. C dies insolvent and the official assignee claims the annuity from A. The Court, on finding it clearly proved that the parties always intended that this annuity should be paid as a provision for B and her children may rectify the settlement and decree that the assignee has no right to any part of the annuity.

32. For the purpose of rectifying a contract in writing, the Court must be satisfied that all the parties thereto intended to make an equitable and conscientious agreement.

33. In rectifying a written instrument, the Court may inquire what the instrument was intended to mean, and what were intended to be its legal consequences; and is not confined to the inquiry what the language of the instrument was intended to be.

34. A contract in writing may be first rectified and then if the plaintiff, has so prayed in his plaint and the Court thinks fit, specifically enforced.

Illustration:

A contracts in writing to pay his attorney, B, a fixed sum in lieu of costs. The contract contains mistakes as to the name and rights of the client, which, if construed strictly, would exclude B from all rights under it. B is entitled, if the Court thinks it fit, to have it rectified, and to an order for payment of the sum, as if at the time of its execution it had expressed the intention of the parties.

CHAPTER IV OF THE RECISSION OF CONTRACTS

35. Any person interested in a contract in writing may sue to have it rescinded, and such rescission may be adjudged by the Court in any of the following cases, namely:-

(a) where the contract is voidable or terminable by the plaintiff;

(b) where the contract is unlawful for causes not apparent on its face, and the defendant is more to blame than the plaintiff;

(c) where a decree for specific performance of a contract of sale, or of a contract to take a lease, has been made, and the purchaser or lessee makes default in payment of the purchase-money or other sums which the Court has ordered him to pay.

When the purchaser or lessee is in possession of the subject-matter, the Court finds that such possession is wrongful, the Court may also order him to pay the lender or lessor the rents and profits, if any, received by him as such possessor.

In the same case, the Court may by order in the suit in which the decree has been made and not complied with, rescind the contract, either so far as regards the party in default, or altogether, as the justice of the case may require.

Illustrations:

to (a):

A sells a field to B. There is a right of way over the field of which A has direct personal knowledge, but which he conceals from B. B is entitled to have the contract rescinded.

to (b):

A, an advocate, induces his client, a Hindu widow, to transfer property to him for the purpose of defrauding B's creditors. Here the parties are not equally in fault, and B is entitled to have the instrument of transfer rescinded.

36. Rescission of a contract in writing cannot be adjudged for mere mistake, unless the party against whom it is adjudged can be restored to substantially the same position as if the contract had not been made.

37. A plaintiff instituting a suit for the specific performance of a contract in writing may pray in the alternative that, if the contract cannot be specifically enforced, it may be rescinded and delivered up to be cancelled; and the Court, if it refuses to enforce the contract specifically, may direct it to be rescinded and delivered up accordingly.

38. On adjudging the rescission of a contract, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

CHAPTER V
OF THE CANCELLATION OF INSTRUMENTS

39. Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury; may sue to have it adjudged void or voidable; and the Court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

If the instrument has been registered under the Registration Act, the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

Illustrations:

(a) A, the owner of a ship by fraudulently representing her to be seaworthy, induces B, an underwriter, to insure her. B may obtain the cancellation of the policy.

(b) A conveys and to B, who bequeaths it to C and dies. Thereupon D gets possession of the land and produces a forged instrument stating that the conveyance was made to B in trust for him. C may obtain the cancellation of the forged instrument.

(c) [...]

(d) A agrees to sell and deliver a ship to B, to be paid for by B's acceptance of four bills of exchange, for sums amounting to Rs. 30,000 to be drawn by A on B. The bills are drawn and accepted, but the ship is not delivered according to the agreement. A sues B on one of the bills. B may obtain the cancellation of all of the bills.

40. Where an instrument is evidence of different rights or different obligations, the Court may, in a proper case, cancel it in part and allow it to stand for the residue.

Illustration:

A draws a bill on B, who endorses it to C by whom it appears to be endorsed to D, who endorses it to E. C's endorsement is forged. C is entitled to have such endorsement cancelled, leaving the bill to stand in other respects.

41. On adjudging the cancellation of an instrument the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

CHAPTER VI
OF DECLARATORY DECREES

42. Any person entitled to any legal character, or to any right as to any property may institute a suit against any person denying, or interested to deny, his title to such character or right, and the Court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief:

Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

Explanation - A trustee of property is a “person interested to deny” a title adverse to the title of some one who is not in existence, and for whom, if in existence, he would be a trustee.

Illustrations:

(a) A is lawfully in possession of certain land. The inhabitants of a neighbouring village claim a right of way across the land. A may sue for a declaration that they are not entitled to the right so claimed.

(b) A bequeaths his property to B, C and D, “to be equally divided amongst all and each of them, if living at the time of my death, then amongst their surviving children.” No such children are in existence. In a suit against A’s executor, the Court may declare whether B, C and D took the property absolutely, or only for their lives, and it may also declare the interests of the children before their rights are vested.

(c) A covenants that, if he should at any time be entitled to property exceeding one lakh of rupees, he will settle it upon certain trusts. Before any such property accrues, or any persons entitled under the trusts are ascertained, he institutes a suit to obtain a declaration that the covenant is void for uncertainty. The Court may make the declaration.

(d) A alienates to B property in which A has merely a life interest. The alienation is invalid as against C, who is entitled as reversioner. The Court may in a suit by C against A and B declare that C is so entitled.

(e) The widow of a conless Hindu alienates part of the property of which she is in possession as such. The person presumptively entitled to possess the property if he survive her may, in a suit against the alienee, obtain a declaration that the alienation was made without legal necessity and was therefore void beyond the widow’s lifetime.

(f) A Hindu widow in possession of property adopts a son to her deceased husband. The person presumptively entitled to possession of the property on her death without a son may, in a suit against the adopted son obtain a declaration that the adoption was invalid.

(g) A is in possession of certain property. B, alleging that he is the owner of the property, requires A to deliver it to him. A may obtain a declaration of his right to hold the property.

(h) A bequeaths property to B for his life with remainder to B's wife and her children, if any, by B, but, if B die without any wife or children, to C. B has a putative wife, D and children, but C denies that B and D were ever lawfully married. D and her children may, in B's lifetime, institute a suit against C and obtain therein a declaration that they are truly the wife and children of B.

43. A declaration made under this Chapter is binding only on the parties to the suit, persons claiming through them respectively, and, where any of the parties are trustees, on the persons for whom, if in existence at the date of the declaration, such parties would be trustees.

Illustration:

A, a Hindu, in a suit to which B, his alleged wife and her mother are defendants, seeks a declaration that his marriage was duly solemnized and an order for the restitution of his conjugal rights. The Court makes the declaration and order. C, claiming that B is his wife, then sues A for the recovery of B. The declaration made in the former suit is not binding upon C.

CHAPTER VII OF THE APPOINTMENT OF RECEIVERS

44. The appointment of a receiver pending a suit is a matter resting in the discretion of the Court.

The mode and effect of his appointment, and his rights, powers, duties and liabilities, are regulated by the Code of Civil Procedure.

CHAPTER VIII OF THE ENFORCEMENT OF PUBLIC OF DUTIES

45. The High Court may make an order requiring any specific act to be done or forborne, within the local limits of its ordinary original civil jurisdiction, by any person holding a public office whether of a permanent or a temporary nature or by any corporation or inferior Court of Judicature;

Provided:

(a) that an application for such order be made by some person whose property, franchise or personal right would be injured by the forbearing or doing (as the case may be) of the said specific act;

(b) that such doing or forbearing is, under any law for the time being in force, clearly incumbent on such person or Court in his or its public character, or on such corporation in its corporate character;

(c) that in the opinion of the High Court such doing or forbearing is consonant to right and justice;

(d) that the applicant has no other specific and adequate legal remedy; and

(e) that the remedy given by the order applied for will be complete.

Nothing in this section shall be deemed to authorize the High Court:

(f) to make any order binding on [...] the President of the Union;

(g) to make any order on any other servant of the Government, as such, merely to enforce the satisfaction of a claim upon the Government; or

(h) to make any order which is otherwise expressly excluded by any law for the time being in force.

46. Every application under section 45 must be founded on an affidavit of the person injured; stating his right in the matter in question, his demand of justice and the denial thereof; and the High Court may, in its discretion, make the order applied for absolute in the first instance, or refuse it, or grant a rule to show cause why the order applied for should not be made.

If, in the last case, the person, Court or corporation complained of shows no sufficient cause, the High Court may first make an order in the alternative, either to do or forbear the act mentioned in the order, or to signify some reason to the contrary and make an answer thereto by such day as the High Court fixes in this behalf.

47. If the person, Court or corporation to whom or to which such order is directed makes no answer, or makes an insufficient or a false answer, the High Court may then issue a peremptory order to do or forbear the act absolutely.

48. Every order under this Chapter shall be executed, and may be appealed from, as if it were a decree made in the exercise of the ordinary original civil jurisdiction of the High Court.

49. The costs of all applications and orders under this Chapter shall be in the discretion of the High Court.

50. Neither the High Court nor any Judge thereof shall hereafter issue any writ of mandamus.

51. The High Court shall frame rules 2 to regulate the procedure under this Chapter; and, until such rules are framed, the practice of such Court as to applications for and grants of writs of mandamus shall apply, so far as may be practicable, to applications and orders under this Chapter.

PART III
OF PREVENTIVE RELIEF

CHAPTER IX
OF INJUNCTION GENERALLY

52. Preventive relief is granted at the discretion of the Court by injunction, temporary or perpetual.

53. Temporary injunctions are such as are to continue until a specified time, or until the further order of the Court. They may be granted at any period of a suit, and are regulated by the Code of Civil Procedure.

A perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit of the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act which would be contrary to the rights of the plaintiff.

CHAPTER X
OF PERPETUAL INJUNCTIONS

54. Subject to the other provisions contained in, or referred to by, this Chapter, a perpetual injunction may be granted to prevent the breach of an obligation existing in favour of the applicant, whether expressly or by implication.

When such obligation arises from contract the Court shall be guided by the rules and provisions contained in Chapter II of this Act.

When the defendant invades or threatens to invade the plaintiff's right to, or enjoyment of, property, the Court may grant a perpetual injunction in the following cases (namely):-

- (a) where the defendant is trustee of the property for the plaintiff;
- (b) where there exists no standard for ascertaining the- actual damage caused, or likely to be caused, by the invasion;
- (c) where the invasion is such that pecuniary compensation would not afford adequate relief;
- (d) where it is probable that pecuniary compensation cannot be got for the invasion;

(e) where the injunction is necessary to prevent a multiplicity of judicial proceedings.

Explanation - For the purpose of this section a trademark is property.

Illustrations

(a) A lets certain lands to B, and B contracts not to dig sand or gravel thereout. A may sue for an injunction to restrain B from digging in violation of his contract.

(b) A trustee threatens a breach of trust. His co-trustees, if any, should, and the beneficial owners may, sue for an injunction to prevent the breach.

(c) The directors of a public company are about to pay a dividend out of capital or borrowed money. Any of the shareholders may sue for an injunction to restrain them.

(d) The directors of a fire and life-insurance company are about to engage in marine insurance. Any of the shareholders may sue for an injunction to restrain them.

(e) A, an executor through misconduct or insolvency, is bringing the property of the deceased into danger. The Court may grant an injunction to restrain him from getting in the assets.

(f) A, a trustee for B, is about to make an imprudent sale of a small part of the trust property. B may sue for an injunction to restrain the sale, even though compensation in money would have afforded him adequate relief.

(g) A makes a settlement (not founded on marriage or other valuable consideration) of an estate on B and his children. A then contracts to sell the estate to C. B or any of his children may sue for an injunction to restrain the sale.

(h) In the course of A's employment as an advocate, certain papers belonging to his client, B, come into his possession. A threatens to make these papers public or to communicate their contents to a stranger. B may sue for an injunction to restrain A from so doing.

(i) A is B's medical adviser. He demands money of B which B declines to pay. A then threatens to make known the effect of B's communications to him as a patient. This is contrary to A's duty, and B may sue for an injunction to restrain him from so doing.

(j) A, the owner of two adjoining houses, lets one to B and afterwards lets the other to C. A and C begin, to make such alterations in the house let to C as will prevent the comfortable enjoyment of the house let to B. B may sue for an injunction to restrain them from so doing.

(k) A lets certain arable lands to B for purposes of husbandry; but without any express contract as to the mode of cultivation. Contrary to the mode of cultivation customary in the district, B threatens to sow the lands with seed injurious thereto and requiring many

years to eradicate. A may sue for an injunction to restrain B from sowing the lands in contravention of his implied contract to use them in a husbandlike manner.

(l) A, B and C are partners, the partnership being determinable at will. A threatens to do an act tending to the destruction of the partnership property. B and C may, without seeking a dissolution of the partnership, sue for an injunction to restrain A from doing the act.

(m) A, a Hindu widow in possession of her deceased husband's property, commits destruction of the property without any cause sufficient to justify her in so doing. The heir expectant may sue for an injunction to restrain her.

(n) A, B and C are members of an undivided Hindu family. A cuts timber growing on the family property, and threatens to destroy part of the family house and to sell some of the family utensils. B and C may sue for an injunction to restrain him.

(o) A, the owner of certain houses in Rangoon becomes insolvent. B buys them from the Official Assignee and enters into possession. A persists in trespassing on and damaging the houses, and B is thereby compelled at considerable expense, to employ men to protect the possession. B may sue for an injunction to restrain further acts of trespass.

(p) The inhabitants of a village claim a right of way over A's land. In a suit against several of them, A obtains a declaratory decree that his land is subject to no such right. Afterwards each of the other villagers sues A for obstructing his alleged right of way over the land. A may sue for an injunction to restrain them.

(q) A, in an administration-suit to which a creditor, B, is not a party, obtains a decree for the administration of C's assets. B proceeds against C's estate for his debt. A may sue for an injunction to restrain B.

(r) A and B are in possession of contiguous lands and of the mines underneath them. A works his mine so as to extend under B's mine and threatens to remove certain pillars which help to support B's mine. B may sue for an injunction to restrain him from so doing.

(s) A rings bells or makes some other unnecessary noise so near a house as to interfere materially and unreasonably with the physical comfort of the occupier, B. B may sue for an injunction restraining A from making the noise.

(t) A pollutes the air with smoke so as to interfere materially with the physical comfort of B and C, who carry on business in a neighbouring house. B and C may sue for an injunction to restrain the pollution.

(u) A infringes B's patent if the Court is satisfied that the patent is valid; and has been infringed; B may obtain an injunction to restrain the infringement.

(v) A pirates B's copyright. B may obtain an injunction to restrain the piracy unless the work of which copyright is claimed is libelous or obscene.

(w) A improperly uses the trademark of B. B may obtain an injunction to restrain the user, provided that B's use of the trademark is honest.

(x) A, a tradesman, holds out B as his partner against the wish and without the authority of B. B may sue for an injunction to restrain A from so doing.

(y) A, a very eminent man, writes letters on family topics to B. After the death of A an B, C, who is B's residuary legatee, proposes to make money by publishing A's letters. D who is A's executor has a property in the letters, and may sue for an injunction to restrain C from publishing them.

(z) A carries on a manufactory and B is his assistant. In the course of his business imparts to B a secret process of value. B afterwards demands money of A, threatening, in case of refusal, to disclose the process to C, a rival manufacturer. A may sue for an injunction to restrain B from disclosing the process.

55. When, to prevent the breach of an obligation, it is necessary to compel the performance of certain acts which the Court is capable of enforcing, the Court may in its discretion grant an injunction to prevent the breach complained of, and also to compel performance of the requisite acts.

Illustrations:

(a) A, by new buildings, obstructs lights to the access and use of which B has acquired a right under the Limitation Act, Part IV. B may obtain an injunction, not only to restrain A from going on with the buildings, but also to pull down so much of them as obstructs B's lights.

(b) A builds a house with eaves projecting over B's land. B may sue for an injunction to pull down so much of the eaves as so project.

(c) In the case put as illustration (i) to section 54, the Court may also order all written communication made by B, as patient, to A, as medical adviser, to be destroyed.

(d) In the case put as illustration (y) to section 54, the Court may also order A's letters to be destroyed.

(e) A threatens to publish statements concerning B which would be punishable under Chapter XXI of the Penal Code. The Court may grant an injunction to restrain the publication even though it may be shown not to be injurious to B's property.

(f) A, being B's medical adviser, threatens to publish B's written communications with him, showing that B has led an immoral life. B may obtain an injunction to restrain the publication.

(g) In the cases put as illustrations (v) and (w) to section 54 and in illustrations (e) and (f) to this section, the Court may also order the copies produced by piracy, and the trademarks, statements and communications, therein respectively mentioned, to be given up or destroyed.

56. An injunction cannot be granted:

(a) to stay a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless such restraint is necessary to prevent a multiplicity of proceedings;

(b) to stay proceedings in a Court not subordinate to that from which the injunction is sought;

(c) to restrain persons from applying to any legislative body;

(d) to interfere with the public duties of any department of the Government. or with the sovereign acts of a foreign Government;

(e) to stay proceedings in any criminal matter;

(f) to prevent the breach of a contract the performance of which would not be specifically enforced;

(g) to prevent, on the ground of nuisance, an act of which it is not reasonably clear that it will be a nuisance;

(h) to prevent a continuing breach in which the applicant has acquiesced;

(i) when equally efficacious relief can certainly be obtained by any other usual mode of proceeding except in case of breach of trust;

(j) when the conduct of the applicant or his agents has been such as to disentitle him to the assistance of the Court;

(k) where the applicant has no personal interest in the matter.

Illustrations:

(a) A seeks an injunction to restrain his partner, B. from receiving the partnership debts and effects. It appears that A had improperly possessed himself of the books of the firm and refused B access to them. The Court will refuse the injunction.

(b) A manufactures and sells crucibles, designating them as “patent plumbago crucibles”, though, in fact, they have never been patented. B pirates the designation. A cannot obtain an injunction to restrain the piracy.

(c) A sells an article called “Mexican Balm”, stating that it is compounded of diverse rare essences and has sovereign medicinal qualities. B commences to sell a similar article, to which he gives a name and description such as to lead people into the belief that they are buying A’s Mexican Balm. A sues B for an injunction to restrain the sale. B shows that A’s Mexican Balm consists of nothing but scented hog’s lard. A’s use of his description is not as honest one and he cannot obtain an injunction.

57. Notwithstanding section 56, clause (f) where a contract comprises an affirmative agreement to do a certain act, coupled with a negative agreement, express or implied. not to do a certain act, the circumstance that the Court is unable to compel specific performance of the affirmative agreement shall not preclude it from granting an injunction to perform the negative agreement: provided that the applicant has not failed to perform the contract so far as it is binding on him.

Illustrations:

(a) A contracts to sell to B for Rs. 1,000 the good-will of a certain business unconnected with business premises, and further agrees not to carry on that business in Rangoon. B pays A the Rs. 1,000 but A carries on the business in Rangoon. The Court cannot compel A to send his customers to B, but B may obtain an injunction restraining A from carrying on the business in Rangoon.

(b) A contracts to sell to B the good-will of a business. A then sets up a similar business close by B’s shop and solicits his old customers to deal with him. This is contrary to his implied contract; and B may obtain an injunction to restrain A from soliciting the customers, and from doing any act whereby their good-will may be withdrawn from B.

(c) A contracts with B to sing for twelve months at B’s theatre and not to sing in public elsewhere. B cannot obtain specific performance of the contract to sing, but he is entitled to an injunction restraining A from singing at any other place of public entertainment.

(d) B contracts with A that he will serve faithfully for twelve months as a clerk. A is not entitled to a decree for specific performance of this contract. But he is entitled to an injunction restraining B from serving a rival house as clerk.

(e) A contracts with B that, in consideration of Rs. 1,000 to be paid to him by B on a day fixed, he will not set up a certain business within a specified distance, B fails to pay the money. A cannot be restrained from carrying on the business within the specified distance.

THE KAZIS ACT (1880)

India Act XII, 1880
9 July 1880

Whereas by the preamble to Act No. XI of 1864 it was (among other things) declared that it was inexpedient that the appointment of the Kazi-ul-Kuzaat, or of City, Town or Pargana Kazis, should be made by the Government, and by the same Act the enactments relating to the appointment by the Government of the said officers were repealed; and

Whereas by the usage of the Muhammadan community [...] the presence of Kazis appointed by the Government is required at the celebration of marriages and the performance of certain other rites and ceremonies, and it is therefore expedient that the Government should again be empowered to appoint persons to the office of Kazi; It is hereby enacted as follows:

1. The President of the Union may, by notification extends this Act to the whole or any part of the Union of Burma.
2. Whenever it appears to the President of the Union that any considerable number of the Muhammadans resident in any local area desire that one or more Kazis should be appointed for such local area, the President of the Union may, if he thinks fit, after consulting the principal Muhammadan residents of such local area, select one or more fit persons and appoint him or them to be Kazis for such local area.

If any question arises whether any person has been rightly appointed Kazi under this section, the decision thereof by the President of the Union shall be conclusive.

The President of the Union may, if he thinks fit, suspend or remove any Kazi appointed under this section who is guilty of any misconduct in the execution of his office, or who is for a continuous period of six months absent from the local area for which he is appointed, or leaves such local area for the purpose of residing elsewhere, or is declared an insolvent, or desires to be discharged from the office, or who refuses or becomes in the opinion of the President of the Union unfit, or personally incapable, to discharge the duties of the office.

3. Any Kazi appointed under this Act may appoint one or more persons as his naib or naibs to act in his place in all or any of the matters appertaining to his office throughout the whole or any portion of the local area for which he is appointed, and may suspend or remove any naib so appointed.

When any Kazi is suspended or removed under section 2, his naib or naibs (if any) shall be deemed to be suspended or removed, as the case may be.

4. Nothing herein contained, and no appointment made hereunder, shall be deemed:
(a) to confer any judicial or administrative powers on any Kazi or Naib Kazi appointed hereunder; or

- (b) to render the presence of a Kazi or Naib Kaizi necessary at the celebration of any marriage or the performance of any rite or ceremony; or
- (c) prevent any person discharging any of the functions of a Kazi.

THE TRANSFER OF PROPERTY ACT (1882)

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THE TRANSFER OF PROPERTY ACT

India Act IV, 1882
1 July 1882

CHAPTER I PRELIMINARY

1. The President of the Union may, from time to time, by notification, extend this Act or any part thereof to the whole or any specified part of the Union of Burma and may, from time to time, by notification, exempt, either retrospectively or prospectively, any part of the Union of Burma from all or any of the following provisions, namely:-

Sections 54, paragraphs 2 and 3, 59, 107 and 123.

Notwithstanding anything in the foregoing part of this section, sections 4, paragraphs 2 and 3, 59, 107 and 123 shall not extend or be extended to any district or tract of country for the time being excluded from the operation of the Registration Act under the power conferred by the first section of that act or otherwise.

2. Nothing herein contained shall be deemed to affect -

(a) [....]

(b) any terms or incidents of any contract or constitution of property which are consistent with the provisions of this Act, and are allowed by the law for the time being in force.

(c) any right or liability arising out of a legal relation constituted before this Act comes into force, or any relief in respect of any such right or liability; or

(d) save as provided by section 57 and Chapter IV of this Act, any transfer by operation of law or by, or in execution of, a decree or order of a Court of competent jurisdiction;

and nothing in the second Chapter of this Act shall be deemed to affect any rule of Muhammadan law.

3. In this Act, unless there is something repugnant in the subject or context, -

“immoveable property” does not include standing timber, growing crops or grass;

“instrument” means a non-testamentary instrument;

“attested”, in relation to an instrument, means and shall be deemed always to have meant attested by two or more witnesses each of whom has seen the executant sign or affix his mark to the instrument or has seen some other person sign the instrument in the presence

and by the direction of the executant, or has received from the executant a personal acknowledgment of his signature or mark, or of the signature of such other person, and each of whom has signed the instrument in the presence of the executant; but it shall not be necessary that more than one of such witnesses shall have been present at the same time, and no particular form of attestation shall be necessary;

“attached to the earth” means-

- (a) rooted in the earth, as in the case of trees and shrubs;
- (b) imbedded in the earth, as in the case of walls or buildings; or
- (c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached;

“actionable claim” means a claim to any debt, other than a debt secured by mortgage of immoveable property or by hypothecation or pledge of moveable property, or to any beneficial interest in moveable property not in the possession, either actual or constructive, of the claimant, which the civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent;

a person is said to have “notice” of a fact when he actually knows that fact, or when, but for willful abstention from an inquiry or search which he ought to have made, or gross negligence, he would have known it.

Explanation I. Where any transaction relating to immoveable property is required by law to be and has been effected by a registered instrument, any person acquiring such property or any part of, or share or interest in, such property shall be deemed to have notice of such instrument as from the date of registration or, where the property is not all situated in one sub-district, or where the registered instrument has been registered under sub-section (2) of section 30 of the Registration Act, from the earliest date on which any memorandum of such registered instrument has been tiled by any Sub-Registrar within whose sub-district any part of the property which is being acquired, or of the property wherein a share or interest is being acquired, is situated;

Provided that:

- (1) the instrument has been registered and its registration completed in the manner prescribed by the Registration Act and the rules made thereunder,
- (2) the instrument or memorandum has been duly entered or filed, as the case may be, in books kept under section 51 of that Act, and
- (3) the particulars regarding the transaction to which the instrument relates have been correctly entered in the indexes kept under section 55 of that Act.

Explanation II. Any person acquiring any immovable property or any share or interest in any such property shall be deemed to have notice of the title, if any, of any person who is for the time being in actual possession thereof.

Explanation III. A person shall be deemed to have had notice of any fact if his agent acquires notice thereof whilst acting on his behalf in the course of business to which that act is material;

Provided that, if the agent fraudulently conceals the fact, the principal shall not be charged with notice thereof as against any person who was a party to or otherwise cognizant of the fraud.

4. The chapters and sections of this Act which relate to contracts shall be taken as part of the Contract Act.

And sections 54, paragraphs 2 and 3, 59, 107 and 123 shall be read as supplemental to the Registration Act.

CHAPTER II OF TRANSFER OF PROPERTY BY ACT OF PARTIES

(A) Transfer of Property, whether moveable or immovable.

5. In the following sections “transfer of property” means an act by which a living person conveys property, in present or in future, to one or more other living persons, or to himself or to himself and one or more other living persons, and “to transfer property” is to perform such act.

In this section “living person” includes a company or association or body of individuals, whether incorporated or not, but nothing herein contained, shall affect any law for the time being in force relating to transfer of property to or; by companies, associations or bodies of individuals.

6. Property of any kind may be transferred, except as otherwise provided by this Act or by any other law for the time being in force.

(a) The chance of an heir-apparent succeeding to an estate, the chance of a relation obtaining a legacy on the death of a kinsman, or any other mere possibility of a like nature, cannot be transferred.

(b) A mere right of re-entry for breach of a condition subsequent cannot be transferred to any one except the owner of the property affected thereby.

(c) An easement cannot be transferred apart from the dominant heritage.

(d) An interest in property restricted in its enjoyment to the owner personally cannot be transferred by him.

(dd) A right to future maintenance, in whatsoever manner arising, secured or determined, cannot be transferred.

(e) A mere right to sue cannot be transferred.

(f) A public office cannot be transferred, nor can the salary of a public officer, whether before or after it has become payable.

(g) Stipends allowed to military, air-force and civil pensioners of Government and political pensions cannot be transferred.

(h) No transfer can be made (1) in so far as it is opposed to the nature of the interest affected thereby, or (2) for an unlawful object or consideration within the meaning of section 23 of the Contract Act, or (3) to a person legally disqualified to be transferee.

(i) Nothing in this section shall be deemed to authorize a tenant having an untransferable right of occupancy, or the farmer of an estate in respect of which default has been made in paying revenue, to assign his interest as such tenant or farmer.

7. Every person competent to contract and entitled to transferable property, or authorized to dispose of transferable property not his own, is competent to transfer such property either wholly or in part, and either absolutely or conditionally, in the circumstances, to the extent and in the manner allowed and prescribed by any law for the time being in force.

8. Unless a different intention is expressed or necessarily implied, a transfer of property passes forthwith to the transferee all the interest which the transferor is then capable of passing in the property, and in the legal incidents thereof.

Such incidents include, where the property is land, the easements annexed thereto, the rents and profits thereof accruing after the transfer, and all things attached to the earth;

and, where the property is machinery attached to the earth, the moveable parts thereof;

and, where the property is a house, the easements annexed thereto, the rent thereof accruing after the transfer, and the locks, keys, bars, doors, windows, and all other things provided for permanent use therewith;

and, where the property is a debt or other actionable claim, the securities therefore (except where they are also for other debts or claims not transferred to the transferee), but not arrears of interest accrued before the transfer;

and, where the property is money or other property yielding income, the interest or income thereof accruing after the transfer takes effect.

9. A transfer of property may be made without writing in every case in which a writing is not expressly required by law.

10. Where property is transferred subject to a condition or limitation absolutely restraining the transferee or any person claiming under him from parting with or disposing of his interest in the property, the condition or limitation is void, except in the case of a lease where the condition is for the benefit of the lessor or those claiming under him; Provided that property may be transferred to or for the benefit of a woman (not being a Hindu, Muhammadan or Buddhist) so that she shall not have power during her marriage to transfer or charge the same or her beneficial interest therein.

11. Where, on a transfer of property, an interest therein is created absolutely in favour of any person, but the terms of the transfer direct that such interest shall be applied or enjoyed by him in a particular manner, he shall be entitled to receive and dispose of such interest as if there were no such direction.

Where any such direction has been made in respect of one piece of immoveable property for the purpose of securing the beneficial enjoyment of another piece of such property, nothing in this section shall be deemed to affect any right which the transferor may have to enforce such direction or any remedy which he may have in respect of a breach thereof.

12. Where property is transferred subject to a condition or limitation making any interest therein, reserved or given to or for the benefit of any person, to cease on his becoming insolvent or endeavouring to transfer or dispose of the same such condition or limitation is void.

Nothing in this section applies to a condition in a lease for the benefit of the lessor or those claiming under him.

13. Where, on a transfer of property, an interest therein is created for the benefit of a person not in existence at the date of the transfer, subject to a prior interest created by the same transfer, the interest created for the benefit of such person shall not take effect unless it extends to the whole of the remaining interest of the transferor in the property.

Illustration:

A transfers property of which he is the owner to B in trust for A and his intended wife successively for their lives, and, after the death of the survivor, for the eldest son of the intended marriage for life, and after his death for A's second son. The interest so created for the benefit of the eldest son does not take effect, because it does not extend to the whole of A's remaining interest in the property.

14. No transfer of property can operate to create an interest which is to take effect after the life-time of one or more persons living at the date of such transfer, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the interest created is to belong.

15. If, on a transfer of property, an interest therein is created for the benefit of a class of persons with regard to some of whom such interest fails by reason of any of the rules contained in sections 13 and 14, such interest fails in regard to those persons only and not in regard to the whole class.

16. Where, by reason of any of the rules contained in sections 13 and 14, an interest created for the benefit of a person or of a class of persons fails in regard to such person or the whole of such class, any interest created in the same transaction and intended to take effect after or upon failure of such prior interest also fails.

17. (1) Where the terms of a transfer of property direct that the income arising from the property shall be accumulated either wholly or in part during a period longer than -

(a) the life of the transferor, or

(b) a period of eighteen years from the date of the transfer, such direction shall, save as hereinafter provided, be void to the extent to which the period during which the accumulation is directed exceeds the longer of the aforesaid periods, and at the end of such last-mentioned period the property and the income thereof shall be disposed of as if the period during which the accumulation has been directed to be made had elapsed.

(2) This section shall not affect any direction for accumulation for the purpose of -

(i) the payment of the debts of the transferor or any other person taking any interest under the transfer, or

(ii) the provision of portions for children or remoter issue of the transferor or of any other person taking any interest under the transfer, or

(iii) the preservation or maintenance of the property transferred;

and such direction may be made accordingly.

18. The restrictions in sections 14, 16 and 17 shall not apply in the case of a transfer of property for the benefit of the public in the advancement, of religion, knowledge, commerce, health, safety or any other object beneficial to mankind.

19. Where, on a transfer of property, an interest therein is created in favour of a person without specifying the time when it is to take effect, or in terms specifying that it is to take

effect forthwith or on the happening of an event which must happen, such interest is vested, unless a contrary intention appears from the terms of the transfer.

A vested interest is not defeated by the death of the transferee before he obtains possession.

Explanation:

An intention that any interest shall not be vested is not to be inferred merely from a provision whereby the enjoyment thereof is postponed, or whereby a prior interest in the same property is given or reserved to some other person, or whereby income arising from the property is directed to be accumulated until the time of enjoyment arrives, or from a provision that if a particular event shall happen the interest shall pass to another person.

20. Where, on a transfer of property, an interest therein is created for the benefit of a person not then living, he acquires upon his birth, unless a contrary intention appears from the terms of the transfer, a vested interest, although he may not be entitled to the enjoyment thereof immediately on his birth.

21. Where, on a transfer of property, an interest therein is created in favour of a person to take effect only on the happening of a specified uncertain event, or if a specified uncertain event shall not happen, such person thereby acquires a contingent interest in the property. Such interest becomes a vested interest, in the former case, on the happening of the event, in the latter, when the happening of the event becomes impossible.

Exception:

Where, under a transfer of property, a person becomes entitled to an interest therein upon attaining a particular age, and the transferor also gives to him absolutely the income to arise from such interest before he reaches that age, or directs the income or so much thereof as may be necessary to be applied for his benefit, such interest is not contingent.

22. Where, on a transfer of property, an interest therein is created in favour of such members only of a class as shall attain a particular age, such interest does not vest in any member of the class who has not attained that age.

23. Where, on a transfer of property, an interest therein is to accrue to a specified person if a specified uncertain event shall happen and no time is mentioned for the occurrence of that event, the interest fails unless such event happens before, or at the same time as, the intermediate or precedent interest ceases to exist.

24. Where, on a transfer of property, an interest therein is to accrue to such of certain persons as shall be surviving at some period, but the exact period is not specified, the interest shall go to such of them as shall be alive when the intermediate or precedent interest ceases to exist unless a contrary intention appears from the terms of the transfer.

Illustration:

A transfers property to B for life, and after his death to C and D, equally to be divided between them, or to the survivor of them. C dies during the life of B. D survives B. At B's death the property passes to D.

25. An interest created on a transfer of property and dependent upon a condition fails if the fulfillment of the condition is impossible, or is forbidden by law, or is of such a nature that, if permitted, it would defeat the provisions of any law, or is fraudulent, or involves or implies injury to the person or property of another, or the Court regards it as immoral or opposed to public policy.

(a) A lets a farm to B on condition that he shall walk a hundred miles in an hour. The lease is void.

(b) A gives Rs. 500 to B on condition that he shall marry A's daughter C. At the date of the transfer C was dead. The transfer is void.

(c) A transfers Rs. 500 to B on condition that he shall murder C. The transfer is void.

(d) A transfers Rs. 500 to his niece C, if she will desert her husband. The transfer is void.

26. Where the terms of a transfer of property impose a condition to be fulfilled before a person can take an interest in the property, the condition shall be deemed to have been fulfilled if it has been substantially complied with.

Illustrations:

(a) A transfers Rs. 5,000 to B on condition that he shall marry with the consent of C, D and E. E dies. B marries with the consent of C and D. B is deemed to have fulfilled the condition.

(b) A transfers Rs. 5,000 to B on condition that he shall marry with the consent of C, D and E. B marries without the consent of C, D and E, but obtains their consent after the marriage. B has not fulfilled the condition.

27. Where, on a transfer of property an interest therein is created in favour of one person and by the same transaction an ulterior disposition of the same interest is made in favour of another, if the prior disposition under the transfer shall fail, the ulterior disposition shall take effect upon the failure of the prior disposition, although the failure may not have occurred in the manner contemplated by the transferor.

But, where the intention of the parties to the transaction is that the ulterior disposition shall take effect only in the event of the prior disposition failing in a particular manner, the ulterior disposition shall not take effect unless the prior disposition fails in that manner.

Illustrations:

(a) A transfers Rs. 500 to B on condition that he shall execute a certain lease within three months after A's death, and, if he should neglect to do so, to C. B dies in A's life-time. The disposition in favour of C takes effect.

(b) A transfers property to his wife ; but, in case she should die in his life-time, transfers to B that which he had transferred to her. A and his wife perish together, under circumstances which make it impossible to prove that she died before him. The disposition in favour of B does not take effect.

28. On a transfer of property an interest therein may be created to accrue to any person with the condition superadded that in case a specified uncertain event shall happen such interest shall pass to another person, or that in case a specified uncertain event shall not happen such interest shall pass to another person. In each case the dispositions are subject to the rules contained in sections 10, 12, 21, 22, 23, 24, 25 and 27.

29. An ulterior disposition of the kind contemplated by the last preceding section cannot take effect unless the condition is strictly fulfilled.

Illustration:

A transfers Rs. 500 to B, to be paid to him on his attaining his majority or marrying, with a proviso that, if B dies a minor or marries without C's consent, the Rs. 500 shall go to D. B marries when only 17 years of age, without C's consent. The transfer to D takes effect.

30. If the ulterior disposition is not valid the prior disposition is not affected by it.

Illustration:

A transfers a farm to B for her life, and, if she do not desert her husband, to C. B is entitled to the farm during her life as if no condition had been inserted.

31. Subject to the provisions of section 12 on a transfer of property an interest therein may be created with the condition superadded that it shall cease to exist in case a specified uncertain event shall happen or in case a specified uncertain event shall not happen.

Illustrations:

(a) A transfers a farm to B for his life, with a proviso that, in case B cuts down a certain wood, the transfer shall cease to have any effect. B cuts down the wood. He loses his life interest in the farm.

(b) A transfers a farm to B. provided that, if B shall not go to England within three years after the date of the transfer his interest in the farm shall cease. B does not go to England within the term prescribed. His interest in the farm ceases.

32. In order that a condition that an interest shall cease to exist may be valid it is necessary that the event to which it relates be one which could legally constitute the condition of the creation of an interest.

33. Where, on a transfer of property, an interest therein is created subject to a condition that the person taking it shall perform a certain act, but no time is specified for the performance of the act, the condition is broken when he renders impossible, permanently or for an indefinite period, the performance of the act.

34. Where an act is to be performed by a person either as a condition to be fulfilled before an interest created on a transfer of property is enjoyed by him, or as a condition on the non-fulfillment of which the interest is to pass from him to another person, and a time is specified for the performance or the act, if such performance within the specified time is prevented by the fraud of a person who would be directly benefited by non-fulfillment of the condition, such further time shall as against him be allowed for performing the act as shall be requisite to make up for the delay caused by such fraud. But if no time is specified for the performance of the act, then, if its performance is by the fraud of a person interested in the non-fulfillment of the condition rendered impossible or indefinitely postponed, the condition shall as against him be deemed to have been fulfilled.

Election.

35. Where a person professes to transfer property which he has no right to transfer, and as part of the same transaction confers any benefit on the owner of the property, such owner must elect either to confirm such transfer or to dissent from it; and in the latter case he shall relinquish the benefit so conferred, and the benefit so relinquished shall revert to the transferor or his representative as if it had not been disposed of, subject nevertheless, where the transfer is gratuitous, and the transferor has, before the election, died or otherwise become incapable of making a fresh transfer, and in all cases where the transfer is for consideration, to the charge of making good to the disappointed transferee the amount or value of the property attempted to be transferred to him.

Illustrations:

The farm of Hmawbi is the property of C and worth Rs. 800. A by an instrument of gift professes to transfer it to B, giving by the same instrument Rs. 1,000 to C. C elects to retain the far, He forfeits the gist of Rs. 1,000.

In the same case, A dies before the election His representative must out of the Rs. 1.000 pay Rs, 800 to B.

The rule in the first paragraph of this section applies whether the transferor does or does not believe that which he professes to transfer to be his own.

A person taking no benefit directly under a transaction, but deriving a benefit under it indirectly, need not elect.

A person who in his one capacity takes a benefit under the transaction may in another dissent therefrom.

Exception to the last preceding four rules.- Where a particular benefit is expressed to be conferred on the owner of the property which the transferor professes to transfer, and such benefit is expressed to be in lieu of that property, if such owner claim the property, he must relinquish the particular benefit, but he is not bound to relinquish any other benefit conferred upon him by the same transaction.

Acceptance of the benefit by the person on whom it is conferred constitutes an election by him to confirm the transfer, if he is aware of his duty to elect and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives enquiry into the circumstances.

Such knowledge or waiver shall, in the absence of evidence to the contrary, be presumed if the person on whom the benefit has been conferred has enjoyed it for two years without doing any act to express dissent.

Such knowledge or waiver may be inferred from any act of his which renders it impossible to place the persons interested in the property professed to be transferred in the same condition as if such act had not been done.

Illustration:

A transfers to B an estate to which C is entitled and as part of the same transaction gives C a coal-mine. C takes possession of the mine and exhausts it. He has thereby confirmed the transfer of the estate to B.

If he does not within one year after the date of the transfer signify to the transferor or his representatives his intention to confirm or to dissent from the transfer, the transferor or his representatives may, upon the expiration of that period, require him to make his election; and if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the transfer.

In case of disability, the election shall be postponed until the disability ceases, or until the election is made by some competent authority.

Apportionment.

36. In the absence of a contract or local usage to the contrary, all rents, annuities, pensions, dividends, and other periodical payments in the nature of income shall, upon the transfer of the interest of the person entitled to receive such payments, be deemed, as between the transferor and transferee, to accrue due from day to day, and to be apportionable accordingly, but to be payable on the days appointed for the payment thereof.

37. When, in consequence of a transfer, property is divided and held in several shares, and thereupon the benefit of any obligation relating to the property as a whole passes from one to several owners of the property, the corresponding duty shall, in the absence of a contract to the contrary amongst the owners, be performed in favour of each of such ownership proportion to the value of his share in the property, provided that the duty can be severed and that the severance does not substantially increase the burden of the obligation; but if the duty cannot be severed, or if the severance would substantially increase the burden of the obligation the duty shall be performed for the benefit of such one of the several owners as they shall be jointly designate for that purpose.

Provided that no person on whom the burden of the obligation lies shall be answerable for failure to discharge it in manner provided by this section, unless and until he has had reasonable notice of the severance.

Nothing in this section applies to leases for agricultural purposes unless and until the President of the Union, by notification in the Gazette, so directs.

Illustrations:

(a) A sells to B, C and D a house situate in a village and leased to E at an annual rent of Rs. 30 and delivery of one fat sheep, B h wing provided half the purchase-money and C and D one quarter each. E having notice of this, must pay Rs. 15 to B, Rs. 7 $\frac{1}{2}$ to C. and Rs. 7 $\frac{1}{2}$. to D, and must deliver the sheep according to the joint direction of B, C and D.

(b) In the same case, each house in the village being bound to provide ten days' labour each year on a dyke to prevent inundation, E had agreed as a term oi his lease to perform this work for A. B, C and D severally require E to perform the ten days' work due on account of the house of each. E is not hound to do more than ten day's work in all, according to such directions as B, C and D may join in giving.

(B) Transfer of Immoveable Property.

38. Where any person, authorized only under circumstances in their nature variable to dispose of immoveable property, transfers such property for consideration, alleging the existence of such circumstances, they shall, as between the transferee on the one part and the transferor and other person, if any affected by the transfer on the other part, be deemed to have existed if the transferee, after using reasonable care to ascertain the existence of such circumstances, has acted in good faith.

A, a Hindu widow whose husband has left collateral heirs, alleging that the property held by her as such is insufficient for her maintenance, agrees, for purposes neither religious nor charitable, to sell a field, part of such property, to B. B satisfies himself by reasonable enquiry that the income of the property is insufficient for A's maintenance, and that the sale of the held is necessary, and, acting in good faith, buys the field from A. As between B on the one part and A and the collateral heirs on the other part a necessity for the sale shall be deemed to have existed.

39. Where a third person has a right to receive maintenance or a provision for advancement or marriage from the profits of immoveable property, and such property is transferred, the right may be enforced against the transferee if he has notice thereof or if the transfer is gratuitous; but not against a transferee for consideration and without notice of the right nor against such property in his hands.

40. Where, for the more beneficial enjoyment of his own immoveable property, a third person has, independently of any interest in the immoveable property of another, or of any easement thereon, a right to restrain the enjoyment in particular manner of the latter property.

where a third person is entitled to the benefit of an obligation arising out of contract and annexed to the ownership of immoveable property, but not amounting to an interest therein or easement thereon.

such right or obligation may be enforced against a transferee with notice thereof or a gratuitous transferee of the property affected thereby. but not against a transferee for consideration and without notice of the right or obligation, nor against such property in his hands.

Illustration.

A contracts to sell a farm to B. While the contract is still in force he sells the farm to C, who has notice of the contract. B may enforce the contract against C to the same extent as against A.

41. Where, with the consent, express or implied, of the persons interested in-immoveable property, a person is the ostensible owner of such property and transfers the same for consideration. the transfer shall not be voidable on the ground that the transferor was not authorized to make it provided that the transferee, after taking reasonable care to ascertain that the transferor had power to make the transfer has acted in good faith.

42. Where a person transfers any immoveable property, reserving power to revoke the transfer, and subsequently transfers the property for consideration to another transferee such transfer operates in favour of such transferee (subject to any condition attached to the exercise of the power) as a revocation of the former transfer to the extent of the power.

Illustrations:

A lets a house to B, and reserves power to revoke the lease if, in the opinion of a specified surveyor, B should make a use of it detrimental to its value. Afterwards A, thinking that such use has been made, lets the house to C. This operates as a revocation of B's lease subject to the opinion of the surveyor as to B's use of the house having been detrimental to its value.

43. Where a person fraudulently or erroneously represents that he is authorized to transfer certain immoveable property and professes to transfer such property for consideration, such transfer shall, at the option of the transferee, operate on any interest which the transferor may acquire in such property at any time during which the contract of transfer subsists.

Nothing in this section shall impair the right of transferees in good faith for consideration without notice of the existence of the said option.

Illustration:

A, a Hindu, who has separated from his father B, sells to C three fields, X, Y and Z, representing that A is authorized to transfer the same. Of these fields Z does not belong to A, it having been retained by B on the partition; but on B's dying A as heir obtains Z. C, not having rescinded the contract of sale, may require A to deliver Z to him.

44. Where one of two or more co-owners of immoveable property legally competent in that behalf transfers his share of such property or any interest therein, the transferee acquires, as to such share or interest, and so far as is necessary to give effect to the transfer, the transferor's right to joint possession or other common or part enjoyment of the property and to enforce a partition of the same, but subject to the conditions and liabilities affecting, at the date of the transfer, the share or interest so transferred.

Where the transferee of a share of a dwelling-house belonging to an undivided family is not a member of the family, nothing in this section shall be deemed to entitle him to joint possession or other common or part enjoyment of the house.

45. Where immoveable property is transferred for consideration to two or more persons, and such consideration is paid out of a fund belonging to them in common, they are, in the absence of a contract to the contrary, respectively entitled to interests in such property identical, as nearly as may be, with the interests to which they were respectively entitled in the fund, and, where such consideration is paid out of separate funds belonging to them respectively, they are, in the absence of a contract to the contrary respectively entitled to interest in such property in proportion to the shares of the consideration which they respectively advanced.

In the absence of evidence as to the interests in the fund to which they were respectively entitled, or as to the shares which they respectively advanced, such persons shall be presumed to be equally interested in the property.

46. Where immovable property is transferred for consideration by persons having distinct interests therein, the transferors are, in the absence of a contract to the contrary, entitled to share in the consideration equally, where their interests in the property were of equal value, and, where such interests were of unequal value, proportionately to the value of their respective interests.

(a) A, owning moiety, and B and C each a quarter share, of an estate, exchange an eighth share of that estate for a quarter share of another estate. There being no agreement to the contrary, A is entitled to an eighth share in the latter estate, and B and C each to a sixteenth share therein.

(b) A being entitled to a life-interest in an estate and B and C to the reversion, sell the estate for Rs. 1,000. A's life-interest is ascertained to be worth Rs. 600, the reversion Rs. 400. A is entitled to receive Rs. 600 out of the purchase-money, B and C to receive Rs. 400.

47. Where several co-owners of immovable property transfer a share if therein without specifying that the transfer is to take effect on any particular share or shares of the transferors, the transfer, as among such transferors, takes effect on such shares equally where the shares were equal, and, where they were unequal, proportionately to the extent of such shares.

Illustration:

A, the owner of an eight-anna share, and B and C, each the owner of a four-anna share, in an estate, transfer a two anna share in the estate to D, without specifying from which of their several shares the transfer is made. To give effect to the transfer one-anna share is taken from the share of A, and half an anna share from each of the shares of B and C.

48. Where a person purports to create by transfer at different times rights in or over the same immovable property, and such rights cannot all exist or be exercised to their full extent together, each later created right shall, in the absence of a special contract or reservation binding the earlier transferees, be subject to the rights previously created.

49. Where immovable property is transferred for consideration, and such property or any part thereof is at the date of the transfer insured against loss or damage by fire, the transferee, in case of such loss or damage, may, in the absence of a contract to the contrary, require any money which the transfer or actually receives under the policy, or so much thereof as may be necessary, to be applied in reinstating the property.

50. No person shall be chargeable with any rents or profits of any immovable property, which he has in good faith paid or delivered to any person of whom he in good faith held such property, notwithstanding it may afterwards appear that the person to whom such payment or delivery was made had no right to receive such rents or profits.

Illustration:

A lets a field to B at a rent of Rs. 50, and then transfers the field to C. B, having no notice of the transfer, in good faith pays the rent to A. B is not chargeable with the rent so paid.

51. When the transferee of immoveable property makes any improvement on the property believing in good faith that he is absolutely entitled thereto, and he is subsequently evicted therefrom by any person having a better title, the transferee has a right to require the person causing the eviction either to have the value of the improvement estimated and paid or secured to the transferee, or to sell his interest in the property to the transferee at the then market-value thereof, irrespective of the value of such improvement.

The amount to be paid or secured in respect of such improvement shall be the estimated value thereof at the time of the eviction.

When, under the circumstances aforesaid the transferee has planted or sown on the property crops which are growing when he is evicted therefrom, he is entitled to such crops and to free ingress and egress to gather and carry, them.

52. During the pendency in any Court having authority in the Union of Burma of any suit or proceeding which is not collusive and in which any right to immoveable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the rights of any other party thereto under any decree or order which may be made therein, except under the authority of the Court and on such terms as it may impose.

Explanation:

For the purposes of this section, the pendency of a suit or proceeding shall be deemed to commence from the date of the presentation of the plaint or the institution of the proceeding in a Court of competent jurisdiction, and to continue until the suit or proceeding has been disposed of by a final decree or V order and complete satisfaction or discharge of such, decree or order has been obtained, or has become unobtainable by reason of the expiration of any period of limitation prescribed for the execution thereof by any law for the time being in force.

53. (1) Every transfer of immoveable property made with intent to defeat or delay the creditors of the transferor shall be voidable at the option of any creditor so defeated or delayed.

Nothing in this sub-section shall impair the rights of a transferee in good faith and for consideration.

Nothing in this sub-section shall affect any law for the time being in force relating to insolvency.

A suit instituted by a creditor (which term includes a decree holder whether he has or has not applied for execution of his decree) to avoid a transfer on the ground that it has been made with intent to defeat or delay the creditors of the transferor shall be instituted on behalf of, or for the benefit of, all the creditors.

(2) Every transfer of immoveable property made without consideration with intent to defraud a subsequent transferee shall be voidable at the option of such transferee.

For the purposes of this sub-section no transfer made without consideration shall be deemed to have been made with intent to defraud by reason only that a subsequent transfer for consideration was made.

53A. Where any person contracts to transfer for consideration any immoveable property by writing signed by him or on his behalf from which the terms necessary to constitute the transfer can be ascertained with reasonable certainty.

and the transferee has, in part performance of the contract, taken possession of the property or any part thereof, or the transferee, being already in possession, continues in possession in part performance of the contract and has done some act in furtherance of the contract.

and the transferee has performed or is willing to perform his part of the contract, then, notwithstanding that the contract, though required to be registered, has not been registered, or, where there is an instrument of transfer, that the transfer has not been completed in the manner prescribed therefore by the law for the time being in force, the transferor or any person claiming under him shall be debarred from enforcing against the transferee and persons claiming under him any right in respect of the property of which the transferee has taken or continued in possession, other than a right expressly provided by the terms of the contract:

Provided that nothing in this section shall affect the rights of a transferee for consideration who has no notice of the contract or of the part performance thereof.

CHAPTER III OF SALE OF IMMOVEABLE PROPERTY

54. "Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part promised.

Such transfer, in the case of tangible immoveable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

In the case of tangible immoveable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property.

Delivery of tangible immovable property takes place when the seller places the buyer or such person as he directs, in possession of the property.

A contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property.

55. In the absence of a contract to the contrary, the buyer and the seller immovable property respectively are subject to the liabilities, and have the mentioned in the rules next following or such of them as are applicable to the property sold:

(1) The seller is bound:

(a) to disclose to the buyer any material defect in the property or in the seller's title thereto of which the seller is, and the buyer is not, aware, and which the buyer could not with ordinary care discover;

(b) to produce to the buyer on his request for examination all documents of title relating to the property which are in the seller's possession or power;

(c) to answer to the best of his information all relevant questions put to him by the buyer in respect to the property or the title thereto;

(d) on payment or tender of the amount due in respect of the price; to execute a proper conveyance of the property when the buyer tenders it to him for execution at a proper time and place;

(e) in between the date of the contract of sale and the delivery of the property, to take as much care of the property and all documents of title relating thereto which are in his possession as an owner of ordinary prudence would take of such property and documents;

(f) to give, on being so required, the buyer, or such person as he directs, such possession of the property as its nature admits;

(g) to pay all public charges and rent accrued due in respect of the property up to the date of the sale, the interest on all incumbrances on such property due on such date, and, except where the property is sold subject to incumbrances, to discharge all incumbrances on the property then existing.

(2) The seller shall be deemed to contract with the buyer that the interest which the seller professes to transfer to the buyer subsists and that he has power to transfer the same;

Provided that, where the sale is made by a person in a fiduciary character, he shall be deemed to contract with the buyer that the seller has done no act whereby the property is incumbered or whereby he is hindered from transferring it.

The benefit of the contract mentioned in this rule shall be annexed to, and shall go with, the interest of the transferee as such and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

(3) Where the whole of the purchase-money has been paid to the seller, he is also bound to deliver to the buyer all documents of title relating to the property which are in the seller's possession or power;

Provided that:

(a) where the seller retains any part of the property comprised in such documents, he is entitled to retain them all, and (b) where the whole of such property is sold to different buyers, the buyer of the lot of greatest value is entitled to such documents. But in case (a) the seller, and in case (b) the buyer of the lot of greatest value, is bound, upon every reasonable request by the buyer, or by any of the other buyers, as the case may be, and at the cost of the person making the request, to produce, the said documents and furnish such true copies thereof or extracts therefrom as he may require; and in the meantime, the seller, or the buyer of the lot of greatest value, as the case may be, shall keep the said documents safe, uncanceled and undefaced, unless prevented from so doing by fire or other inevitable accident.

(4) The seller is entitled:

(a) to the rents and profits of the property till the ownership thereof passes to the buyer;

(b) where the ownership, of the property has passed to the buyer before payment of the whole of the purchase-money, to a charge upon the property in the hands of the buyer, any transferee without consideration or any transferee with notice of the non-payment, for the amount of the purchase-money, or any part thereof remaining unpaid, and for interest on such amount or part from the date on which possession has been delivered.

(5) The buyer is bound:

(a) to disclose to the seller any fact as to the nature or extent of the seller's interest in the property of which the buyer is aware but of which he has reason to believe that the seller is not aware, and which materially increases the value of such interest;

(b) to pay or tender, at the time and place of completing the sale the purchase-money to the seller or such person as he directs; provided that, where the property is sold free from incumbrances, the buyer may retain out of the purchase-money the amount of any

incumbrances on the property existing at the date of the sale and shall pay the amount so retained to the persons entitled thereto;

(c) where the ownership of the property has passed to the buyer, to bear any loss arising from the destruction, injury or decrease in value of the property not caused by the seller;

(d) where the ownership of the property has passed to the buyer, as between himself and the seller, to pay all public charges and rent which may become payable in respect of the property, the principal moneys due on any incumbrances subject to which the property is sold, and the interest thereon afterwards accruing due.

(6) The buyer is entitled:

(a) where the ownership of the property has passed to him, to the benefit of; any improvement in, or increase in value of the property, and to the rents and profit thereof;

(b) unless he has improperly declined to accept delivery of the property, to a charge on the property, as against the seller and all persons claiming under him, to the extent of the seller's interest in the property, for the amount of any purchase money properly paid by the buyer in anticipation of the delivery and for interest on such amount; and, when he properly declines to accept the delivery, also for the earnest (if any) and for the costs G (if any) awarded to him of a suit to compel specific performance of the contract or to obtain a decree for its rescission.

An omission to make such disclosures as are mentioned in this section, paragraph (1), clause (a), and paragraph (5), clause (a), is fraudulent.

56. If the owner of two or more properties mortgages them to one person and then sells one or more of the properties to another person, the buyer is, in the absence of a contract to the contrary, entitled to have the mortgage debt satisfied out of the property or properties not sold to him, so far as the same will extend, but not so as to prejudice the rights of the mortgagee or persons claiming under him or of any other person who has for consideration acquired an interest in any of the properties,

Discharge of Incumbrances on Sale.

57. (a) Where immovable property subject to any incumbrance, whether immediately payable or not, is sold by the Court or in execution of a decree, or out of Court, the Court may, if it thinks fit, on the application of any party to the sale, direct or allow payment into Court:

(1) in case of an annual or monthly sum charged on the property, or of a capital sum charged on a determinable interest in the property - of such amount as, when invested in securities of the Government of India or the Government of the Union of Burma, the Court

considers will be sufficient, by means of the interest thereof, to keep down or otherwise provide for that charge, and

(2) in any other case of a capital sum charged on the property - of the amount sufficient to meet the incumbrance and any interest due thereon.

But in either case there shall also be paid into Court such additional amount as the Court considers will be sufficient to meet the contingency of further costs, expenses and interest, and any other contingency except depreciation of investments not exceeding one-tenth part of the original amount to be paid in, unless the Court for special reasons (which it shall record) thinks fit to require a larger additional amount.

(b) Thereupon the Court may, if it thinks fit, and after notice to the incumbrance, unless the Court, for reasons to be recorded in writing, thinks fit to dispense with such notice, declare the property to be freed from the incumbrance, and make any order for conveyance, or vesting order, proper for giving effect to the sale, and give directions for the retention and investment of the money in Court.

(c) After notice served on the persons interested in or entitled to the money or fund in Court, the Court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof.

(d) An appeal shall lie from any declaration, order or direction under this section as if the same were a decree.

(e) In this section "Court" means (1) the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, (2) the Court of a District Judge within the local limits of whose jurisdiction the property or any part thereof is situate, (3) any other Court which the President of the Union may, from time to time, by notification in the Gazette, declare to be competent to exercise the jurisdiction conferred by this section.

CHAPTER IV OF MORTGAGES OF IMMOVEABLE PROPERTY AND CHARGES

58 (a) A mortgage is the transfer of an interest in specific immoveable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability.

The transferor is called a mortgagor, the transferee a mortgagee; the principal money and interest of which payment is secured for the time being are called the mortgage-money, and the instrument (if any) by which the transfer is effected is called a mortgage-deed.

(b) Where, without delivering possession of the mortgaged property, the mortgagor binds himself personally to pay the mortgage-money, and agrees, expressly or impliedly, that, in the event of his failing to pay according to his contract, the mortgagee shall have a right to cause the mortgaged property to be sold and the proceeds of sale to be applied, so far as may be necessary, in payment of the mortgage-money, the transaction is called a simple mortgage and the mortgagee a simple mortgagee.

(c) Where the mortgagor ostensibly sells the mortgaged property:

on condition that on default of payment of the mortgage-money on a certain date the sale shall become absolute, or

on condition that on such payment being made the sale shall become void, or

on condition that on such payment being made the buyer shall transfer the property to the seller,

the transaction is called a mortgage by conditional sale and the mortgagee a mortgagee by conditional sale;

Provided that no such transaction shall be deemed to be a mortgage unless the condition is embodied in the document which effects or purports to effect the sale.

(d) Where the mortgagor delivers possession or expressly or by implication binds himself to deliver possession of the mortgaged property to the mortgagee, and authorizes him to retain such possession until payment of the mortgage-money, and to receive the rents and profits accruing from the property or any part of such rents and profits and to appropriate the same in lieu of interest or in payment of the mortgage-money, or partly in lieu of interest or partly in payment of the mortgage-money, the transaction is called an usufructuary mortgage and the mortgagee an usufructuary mortgagee.

(e) Where the mortgagor binds himself to repay the mortgage-money on a certain date, and transfers the mortgaged property absolutely to the mortgagee, but subject to a proviso that he will re-transfer it to the mortgagor upon payment of the mortgage-money as agreed, the transaction is called an English mortgage.

(f) Where a person in any of the following towns, namely, the towns of Rangoon, Moulmein, Bassein and Akyab, and in any other town which the President of the Union may, by notification in the Gazette, specify in this behalf, delivers to a creditor or his agent documents of title to immoveable property, with intent to create a security thereon, the transaction is called a mortgage by deposit of title-deeds.

(g) A mortgage which is not a simple mortgage, a mortgage by conditional sale, an usufructuary mortgage, an English mortgage or a mortgage by deposit of title-deeds within the meaning of this section is called an anomalous mortgage.

59. Where the principal money secured is one hundred rupees or upwards, a mortgage other than a mortgage by deposit of title-deeds can be effected only by a registered instrument signed by the mortgagor and attested by at least two witnesses.

Where the principal money secured is less than one hundred rupees, a mortgage may be effected either by a registered instrument signed and attested as aforesaid or (except in the case of a simple mortgage) by delivery of the property.

59A. Unless otherwise expressly provided, references in this Chapter to mortgagors and mortgagees shall be deemed to include references to persons deriving title from them respectively.

Rights and Liabilities of Mortgagor.

60. At any time after the principal money has become due, the mortgagor has a right, on payment or tender, at a proper time and place, of the mortgage-money, to require the mortgagee (a) to deliver to the mortgagor the mortgage-deed and all documents relating to the mortgaged property which are in the possession or power of the mortgagee, (b) where the mortgagee is in possession of the mortgaged property, to deliver possession thereof to the mortgagor and (c) at the cost of the mortgagor either to re-transfer the mortgaged property to him or to such third person as he may direct, or to execute and (where the mortgage has been effected by a registered instrument) to have registered an acknowledgment in writing that any right in derogation of his interest transferred to the mortgagee has been extinguished;

Provided that the right conferred by this section has not been extinguished by act of the parties or by decree of a Court.

The right conferred by this section is called a right to redeem and a suit to enforce it is called a suit for redemption.

Nothing in this section shall be deemed to render invalid any provision to the effect that, if the time fixed for payment of the principal money has been allowed to pass or no such time has been fixed, the mortgagee shall be entitled to reasonable notice before payment or tender of such money.

Nothing in this section shall entitle a person interested in a share only of the mortgaged property to redeem his own share only on payment of a proportionate part of the amount remaining due on the mortgage, except only where a mortgagee, or, if there are more mortgagees than one, all such mortgagees, has or have acquired, in whole or in part, the share of a mortgagor.

60A. (1) Where a mortgagor is entitled to redemption, then, on the fulfillment of any conditions on the fulfillment of which he would be entitled to require a re-transfer, he may require the mortgagee, instead of re-transferring the property, to assign the mortgage-debt

and transfer the mortgaged property to such third person as the mortgagor may direct; and the mortgagee shall be bound to assign and transfer accordingly.

(2) The rights conferred by this section belong to and may be enforced by the mortgagor or by any incumbrancer notwithstanding an intermediate incumbrance; but the requisition of any incumbrancer shall prevail over a requisition of the mortgagor and, as between incumbrancers, the requisition of a prior incumbrancer shall prevail over that of a subsequent incumbrancer.

(3) The provisions of this section do not apply in the case of a mortgagee who is or has been in possession.

60B. A mortgagor, as long as his right of redemption subsists, shall be entitled at all reasonable times, at his request and at his own cost, and on payment of the mortgagee's costs and expenses in this behalf, to inspect and make copies or abstracts of, or extracts from, documents of title relating to the mortgaged property which are in the custody or power of the mortgagee.

61. A mortgagor, who has executed two or more mortgages in favour of the same mortgagee shall, in the absence of a contract to the contrary, when the principal money of any two or more of the mortgages has become due, be entitled to redeem any one such mortgage separately, or any two or more of such mortgages together.

62. In the case of an usufructuary mortgage, the mortgagor has a right to recover possession of the property together with the mortgage-deed and all documents relating to the mortgaged property which are in the possession or power of the mortgagee:

(a) where the mortgagee is authorized to pay himself the mortgage-money from the rents and profits of the property,- when such money is paid;

(b) where the mortgagee is authorized to pay himself from such rents and profits or any part thereof a part only of the mortgage-money - when the term, if any, prescribed for the payment of the mortgage-money has expired and the mortgagor pays or tenders to the mortgagee the mortgage-money or the balance thereof or deposits it in Court as hereinafter provided.

63. Where mortgaged property in possession of the mortgagee has, during the continuance of the mortgage, received any accession, the mortgagor, upon redemption, shall, in the absence of a contract to the contrary, be entitled as against the mortgagee to such accession.

Where such accession has been acquired at the expense of the mortgagee, and is capable of separate possession or enjoyment without detriment to the principal property, the mortgagor desiring to take the accession must pay to the mortgagee the expense of acquiring it. If such separate possession or enjoyment is not possible, the accession must be delivered with the property, the mortgagor being liable, in the case of an acquisition necessary to preserve the

property from destruction, forfeiture or sale, or made with his assent, to pay the proper cost thereof, as an addition to the principal money, with interest at the same rate as is payable on the principal, or, where no such rate is fixed, at the rate of nine per cent. per annum. In the case last mentioned the profits, if any, arising from the accession shall be credited to the mortgagor.

Where the mortgage is usufructuary and the accession has been acquired at the expense of the mortgagee, the profits, if any, arising from the accession shall, in the absence of a contract to the contrary, be set off against interest, if any, payable on the money so expended.

63A. (1) Where mortgaged property in possession of the mortgagee has during the continuance of the mortgage been improved, the mortgagor, upon redemption, shall, in the absence of a contract to the contrary, be entitled to the improvement; and the mortgagor shall not, save only in cases provided for in sub-section (2), be liable to pay the cost thereof.

(2) Where any such improvement was effected at the cost of their mortgagee and was necessary to preserve the property from destruction or deterioration or was necessary to prevent the security from becoming insufficient, or was made in compliance with the lawful order of any public servant or public authority, the mortgagor shall, in the absence of a contract to the contrary, be liable to pay the proper cost thereof as an addition to the principal money with interest at the same rate as is payable on the principal, or where no such rate is fixed, at the rate of nine per cent per annum, and the profits, if any, accruing by reason of the improvement shall be credited to the mortgagor.

64. Where the mortgaged property is a lease, and the mortgagee obtains a renewal of the lease, the mortgagor, upon redemption, shall, in the absence of a contract by him to the contrary, have the benefit of the new lease.

65. In the absence of a contract to the contrary, the mortgagor shall be, deemed to contract with the mortgagee:

(a) that the interest which the mortgagor professes to transfer to the mortgagee subsists, and that the mortgagor has power to transfer the same;

(b) that the mortgagor will defend, or if the mortgagee be in possession of the mortgaged property, enable him to defend, the mortgagor's title thereto;

(c) that the mortgagor will, so long as the mortgagee is not in possession of the mortgaged property, pay all public charges accruing due in respect of the property;

(d) where the mortgaged property is a lease, that the rent payable under the lease, the conditions contained therein, and the contracts binding on the lessee have been paid, performed and observed down to the commencement of the mortgage; and that the mortgagor will, so long as the security exists and the mortgagee is not in possession of

the mortgaged property, pay the rent reserved by the lease, or, if the lease be renewed, the renewed lease, perform the conditions contained therein and observe the contracts binding on the lessee, and indemnify the mortgagee against all claims sustained by reason of the non-payment of the said rent or the non-performance or non-observance of the said conditions and contracts;

(e) and where the mortgage is a second or subsequent incumbrance on the property, that the mortgagor will pay the interest from time to time accruing due on each prior incumbrance as and when it becomes due, and will at the proper time discharge the principal money due on such prior incumbrance.

The benefit of the contracts mentioned in this section shall be annexed to and shall go with the interest of the mortgagee as such; and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

65A. (1) Subject to the provisions of sub-section (2), a mortgagor, while lawfully in possession of the mortgaged property, shall have power to make leases thereof which shall be binding on the mortgagee.

(2) (a) Every such lease shall be such as would be made in the ordinary course of management of the property concerned, and in accordance with any local law, custom or usage;

(b) Every such lease shall reserve the best rent that can reasonably be obtained, and no premium shall be paid or promised and no rent shall be payable in advance;

(c) No such lease shall contain a covenant for renewal;

(d) Every such lease shall take effect from a date not later than six months from the date on which it is made;

(e) In the case of a lease of buildings, whether leased with or without the land on which they stand, the duration of the lease shall in no case exceed three years, and the lease shall contain a covenant for payment of the rent and a condition of re-entry on the rent not being paid within a time therein specified.

(3) The provisions of sub-section (1) apply only if and as far as a contrary intention is not expressed in the mortgage-deed; and the provisions of sub-section (2) may be varied or extended by the mortgage-deed and, as so varied and extended, shall, as far as may be, operate in like manner and with all like incidents, effects and consequences, as if such variations or extensions were contained in that sub-section.

66. A mortgagor in possession of the mortgaged property is not liable to the mortgagee for allowing the property to deteriorate; but he must not commit any act which is destructive or permanently injurious thereto, if the security is insufficient or will be rendered insufficient by such act.

Explanation. A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

Rights and Liabilities of Mortgages.

67. In the absence of a contract to the contrary, the mortgagee has at any time after the mortgage-money has become due to him, and before a decree has been made for the redemption of the mortgaged property, or the mortgage-money has been paid or deposited as hereinafter provided, a right to obtain from the Court a decree that the mortgagor shall be absolutely debarred of his right to redeem the property, or a decree that the property be sold.

A suit to obtain a decree that a mortgagor shall be absolutely debarred of his right to redeem the mortgaged property is called a suit for foreclosure.

Nothing in this section shall be deemed:

(a) to authorize any mortgagee, other than a mortgagee by conditional sale or a mortgagee under an anomalous mortgage by the terms of which he is entitled to foreclose, to institute a suit for foreclosure, or an usufructuary mortgage as such or a mortgagee by conditional sale as such to institute a suit for sale; or

(b) to authorize a mortgagor who holds the mortgagee's rights as his trustee or legal representative, and who may sue for a sale of the property, to institute a suit for foreclosure; or

(c) to authorize the mortgagee of a railway, canal or other work in the maintenance of which the public are interested, to institute a suit for foreclosure or sale; or

(d) to authorize a person interested in part only of the mortgage-money to institute a suit relating only to a corresponding part of the mortgaged property, unless the mortgagees have, with the consent of the mortgagor, severed their interests under the mortgage.

67A. A mortgagee who holds two or more mortgages executed by the same mortgagor in respect of each of which he has a right to obtain the same kind of decree under section 67, and who sues to obtain such decree on any one of the mortgages, shall, in the absence of a contract to the contrary, be bound to sue on all the mortgages in respect of which the mortgage-money has become due.

68. (1) The mortgagee has a right to sue for the mortgage-money in the following cases and no others, namely:-

(a) where the mortgagor binds himself to repay the same;

(b) where, by any cause other than the wrongful act or default of the mortgagor or mortgagee, the mortgaged property is wholly or partially destroyed, or the security is rendered insufficient within the meaning of section 66, and the mortgagee has given the mortgagor a reasonable opportunity of providing further security enough to render the whole security sufficient, and the mortgagor has failed to do so;

(c) where the mortgagee is deprived of the whole or part of his security by or in consequence of the wrongful act or default of the mortgagor;

(d) where, the mortgagee being entitled to possession of the mortgaged property, the mortgagor fails to deliver the same to him, or to secure the possession thereof to him without disturbance by the mortgagor or any person claiming under a title superior to that of the mortgagor;

Provided that, in the case referred to in clause (a), a transferee from the mortgagor or from his legal representative shall not be liable to be sued for the mortgage-money.

(2) Where a suit is brought under clause (a) or clause (b) of sub-section (1), the Court may, at its discretion, stay the suit and all proceedings therein, notwithstanding any contract to the contrary, until the mortgagee has exhausted all his available remedies against the mortgaged property or what remains of it, unless the mortgagee abandons his security and, if necessary, re-transfers the mortgaged property.

69. (1) A mortgagee; or any person acting on his behalf, shall, subject to the provisions of this section, have power to sell or concur in selling the mortgaged property, or any part thereof, in default of payment of the mortgage-money, without the intervention of the Court, in the following cases and in no others, namely:-

(a) where the mortgage is an English mortgage, and neither the mortgagor nor the mortgagee is a Hindu, Muhammadan or Buddhist or a member of any other race, sect, tribe or class from time to time specified in this behalf by the President of the Union in the Gazette;

(b) where a power of sale without the intervention of the Court is expressly conferred on the mortgagee by the mortgage-deed and the mortgagee is the Government;

(c) where a power of sale without the intervention of the Court is expressly conferred on the mortgagee by the mortgage-deed and the mortgaged property or any part thereof was, on the date of the execution of the mortgage-deed, situate within the towns of Rangoon, Moulmein, Bassein, Akyab or in any other town or area which the President of the Union may, by notification in the Gazette, specify in this behalf.

(2) No such power shall be exercised unless and until:

(a) notice in writing requiring payment of the principal money has been served on the mortgagor, or on one of several mortgagors, and default has been made in payment of the principal money, or of part thereof, for three months after such service; or

(b) some interest under the mortgage amounting at least to five hundred rupees is in arrear and unpaid for three months after becoming due.

(3) When a sale has been made in professed exercise of such a power, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorize the sale, or that due notice was not given, or that the power was otherwise improperly or irregularly exercised; but any person damnified by an unauthorized or improper or irregular exercise of the power shall have his remedy in damages against the person exercising the power.

(4) The money which is received by the mortgagee, arising from the sale, after discharge of prior incumbrances; if any, to which the sale is not made subject, or after payment into Court under section 57 of a sum to meet any prior incumbrance, shall, in the absence of a contract to the contrary, be held by him in trust to be applied by him, first, in payment of all costs, charges and expenses properly incurred by him as incident to the sale or any attempted sale; and, secondly, in discharge of the mortgage-money and costs and other

71. When the mortgaged property is a lease and the mortgagor obtains a renewal of the lease, the mortgagee, in the absence of a contract to the contrary, shall, for the purposes of the security, be entitled to the new lease.

72. A mortgagee may spend such money as is necessary:

(a) [...]

(b) for the preservation of the mortgaged property from destruction, forfeiture or sale;

(c) for supporting the mortgagor's title to the property;

(d) for making his own title thereto good against the mortgagor; and

(e) when the mortgaged property is a renewable lease-hold, for the renewal of the lease;

and may, in the absence of a contract to the contrary, add such money to the principal money, at the rate of interest payable on the principal, and where no such rate is fixed, at the rate of nine per cent per annum:

Provided that the expenditure of money by the mortgagee under clause (b) or clause (c) shall not be deemed to be necessary unless the mortgagor has been called upon and has failed to take proper and timely steps to preserve the property or to support the title.

Where the property is by its nature insurable, the mortgagee may also, in the absence of a contract to the contrary, insure and keep insured against loss or damage by the whole or any part of such property; and the premiums paid for any such insurance shall be added to the principal money with interest at the same rate as is payable on the principal money or, where no such rate is fixed, at the rate of nine per cent per annum. But the amount of such insurance shall not exceed the amount specified in this behalf in the mortgage-deed or (if no such amount is therein specified) two-thirds of the amount that would be required in case of total destruction to reinstate the property insured.

Nothing in this section shall be deemed to authorize the mortgagee to insure when an insurance of the property is kept up by or on behalf of the mortgagor to the amount in which the mortgagee is hereby authorized to insure.

73. (1) Where the mortgaged property or any part thereof or any interest therein is sold owing to failure to pay arrears of revenue or other charges of a public nature or rent due in respect of such property, and such failure did not arise from any default of the mortgagee, the mortgagee shall be entitled to claim payment of the mortgage-money, in whole or in part, out of any surplus of the sale proceeds remaining after payment of the arrears and of all charges and deductions directed by law.

(2) Where the mortgaged property or any part thereof or any interest therein is acquired under the Land Acquisition Act, or any other enactment for the time being in force providing for the compulsory acquisition of immoveable property, the mortgagee shall be entitled to claim payment of the mortgage-money, in whole or in part, out of the amount due to the mortgagor as compensation.

(3) Such claims shall prevail against all other claims except those of prior incumbrancers, and may be enforced notwithstanding that the principal money on the mortgage has not become due.

74-75. [...]

76. When, during the continuance of the mortgage, the mortgagee takes possession of the mortgaged property:

(a) he must manage the property as a person of ordinary prudence would manage it if it were his own;

(b) he must use his best endeavours to collect the rents and profits thereof;

(c) he must, in the absence of a contract to the contrary, out of the income of the property pay the Government revenue, all other charges of a public nature and all rent accruing due in respect thereof during such possession, and any arrears of rent in default of payment of which the property may be summarily sold;

(d) he must, in the absence of a contract to the contrary, make such necessary repairs of the property as he can pay for out of the rents and profits thereof after deducting from such rents and profits the payments mentioned in clause (c) and the interest on the principal money;

(2) he must not commit any act which is destructive or permanently injurious to the property;

(f) where he has insured the whole or any part of the property against loss or damage by fire, he must, in case of such loss or damage, apply any money which he actually receives under the policy, or so much thereof as may be necessary, in reinstating the property, or, if the mortgagor so directs, in reduction or discharge of the mortgage-money;

(g) he must keep clear, full and accurate accounts of all sums received and spent by him as mortgagee, and, at, any time during the continuance of the mortgage, give the mortgagor, at his request and cost, true copies of such accounts and of the vouchers by which they are supported;

(h) his receipts from the mortgaged property, or, where such property is personally occupied by him, a fair occupation-rent in respect thereof, shall, after deducting the expenses properly incurred for the management of the property and the collection of rents and profits and the other expenses mentioned in clauses (c) and (d), and interest thereon, be debited against him in reduction of the amount (if any) from time to time due to him on account of interest and, so far as such receipts exceed any interest due, in reduction or discharge of the mortgage-money; the surplus, if any, shall be paid to the mortgagor;

(i) when the mortgagor tenders, or deposits in manner hereinafter provided, the amount for the time being due on the mortgage, the mortgagee must, notwithstanding the provisions in the other clauses of this section, account for his receipts from the mortgaged property from the date of the tender or from the earliest time when he could take such amount out of Court, as the case may be, and shall not be entitled to deduct any amount therefrom on account of any expenses incurred after such date or time in connection with the mortgaged property.

If the mortgagee fail to perform any of the duties imposed upon him by this section, he may, when accounts are taken in pursuance of a decree made under this Chapter, be debited with the loss, if any, occasioned by such failure.

77. Nothing in section 76, clauses (b), (d), (g) and (h), applies to cases where there is a contract between the mortgagee and the mortgagor that the receipts from the mortgaged property shall, so long as the mortgagee is in possession of the property, be taken in lieu of interest on the principal money, or in lieu of such interest and defined portions of the principal.

Priority.

78. Where, through the fraud, misrepresentation or gross neglect of a prior mortgagee, another person has been induced to advance money on the security of the mortgaged property, the prior mortgagee shall be postponed to the subsequent mortgagee.

79. If a mortgage made to secure future advances, the performance of an engagement or the balance of a running account, expresses the maximum to be secured thereby, a subsequent mortgage of the same property shall, if made with notice of the prior mortgage, be postponed to the prior mortgage in respect of all advances or debits not exceeding the maximum, though made or allowed with notice of the subsequent mortgage.

Illustration:

A mortgages his estate to his bankers, B & Co. to secure the balance of his account with them to the extent of Rs. 10,000. A then mortgages the estate to C, to secure Rs. 10,000 having notice of the mortgage to B & Co. and C gives notice to B & Co. of the second mortgage. At the date of the second mortgage, the balance due to B & Co. does not exceed Rs. 5,000. B & Co. subsequently advance to A sums making the balance of the account against him exceed the sum of Rs. 10,000. B & Co. are entitled, to the extent of Rs. 10,000, to priority over C.

80. [...]

Marshalling and Contribution.

81. If the owner of two or more properties mortgages them to one person and then mortgages one or more of the properties to another person, the subsequent mortgagee is, in the absence of a contract to the contrary, entitled to have the prior mortgage-debt satisfied out of the property or properties not mortgaged to him, so far as the same will extend, but not so as to prejudice the rights of the prior mortgagee or of any other person who has for consideration acquired an interest in any of the properties.

82. Where property subject to a mortgage belongs to two or more persons having distinct and separate rights of ownership therein, the different shares in or parts of such property owned by such persons are, in the absence of a contract to the contrary, liable to contribute rateably to the debt secured by the mortgage, and, for the purpose of determining the rate at which each such share or part shall contribute, the value thereof shall be deemed to be its value at the date of the mortgage after deduction of the amount of any other mortgage or charge to which it may have been subject on that date.

Where, of two properties belonging to the same owner, one is mortgaged to secure one debt and then both are mortgaged to secure another debt, and the former debt is paid out of the former property, each property is, in the absence of a contract to the contrary, liable to

contribute rateably to the latter debt after deducting the amount of the former debt from the value of the property out of which it has been paid.

Nothing in this section. applies to a property liable under section 81 to the claim of the subsequent mortgagee.

Deposit in Court.

83. At any time after the principal money payable in respect of any mortgage has become due and before a suit for redemption of the mortgaged property is barred, the mortgagor, or any other person entitled to institute such suit, may deposit, in any Court in which he might have instituted such suit, to the account of the mortgagee, the amount remaining due on the mortgage.

The Court shall thereupon cause written notice of the deposit to be served on the mortgagee, and the mortgagee may, on presenting a petition verified in manner prescribed by law for the verification of plaints stating the amount then due on the mortgage, and his willingness to accept the money so deposited in full discharge of such amount, and on depositing in the same Court the mortgage-deed and all documents in his possession or power relating to the mortgaged property, apply for and receive the money, and the mortgage deed and all such other documents so deposited shall be delivered to the mortgagor or such other person as aforesaid.

Where the mortgagee is in possession of the mortgaged property, the Court shall, before paying to him the amount so deposited, direct him to deliver possession thereof to the mortgagor and at the cost of the mortgagor either to re-transfer the mortgaged property to the mortgagor or to such third person as the mortgagor may direct, or to execute and (where the mortgage has been effected by a registered instrument) have registered an acknowledgment in writing that any right in derogation of the mortgagor's interest transferred to the mortgagee has been extinguished.

84. When a mortgagor or such other person as aforesaid has tendered or deposited in Court under section 83 the amount remaining due on the mortgage, interest on the principal money shall cease from the date of the tender, or in the case of a deposit, where no previous tender of such amount has been made, as soon as the mortgagor or such other person as aforesaid has done all that has to be done by him to enable the mortgagee to take such amount out of Court, and the notice required by section 83 has been served on the mortgagee;

Provided that, where the mortgagor has deposited such amount without having made a previous tender thereof and has subsequently withdrawn the same or any part thereof, interest on the principal money shall be payable from the date of such withdrawal.

Nothing in this section or in section 83 shall be deemed to deprive the mortgagee of his right to interest when there exists a contract that he shall be entitled to reasonable notice

before payment or tender of the mortgage-money and such notice has not been given before the making of the tender or deposit, as the case may be.

85-99. [...]

Redemption.

91. Besides the mortgagor, any of the following persons may redeem, or institute a suit for redemption of, the mortgaged property, namely:

(a) any person (other than the mortgagee of the interest sought to be redeemed who has any interest in, or charge upon, the property mortgaged or in or upon the right to redeem the same;

(b) any surety for the payment of the mortgage-debt or any part thereof; or

(c) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property.

92. Any of the persons referred to in section 91 (other than the mortgagor) and any co-mortgagor shall, on redeeming property subject to the mortgage, have, so far as regards redemption, foreclosure or sale of such property, the same rights as the mortgagee whose mortgage he redeems may have against the mortgagor or any other mortgagee.

The right conferred by this section is called the right of subrogation, and a person acquiring the same is said to be subrogated to the rights of the mortgagee whose mortgage he redeems.

A person who has advanced to a mortgagor money with which the mortgage has been redeemed shall be subrogated to the rights of the mortgagee whose mortgage has been redeemed, if the mortgagor has by a registered instrument agreed that such person shall be so subrogated.

Nothing in this section shall be deemed to confer a right of subrogation on any person unless the mortgage in respect of which the right is claimed has been redeemed in full.

93. No mortgagee paying off a prior mortgage, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his original security; and, except in the case provided for by section 79, no mortgagee making a subsequent advance to the mortgagor, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his security for such subsequent advance.

94. Wherea property is mortgaged for successive debts to successive mortgagees, a mesne mortgagee has the same rights against mortgagees posterior to himself as he has against the mortgagor.

95. Where one of several mortgagors redeems the mortgaged property, he shall, in enforcing his right of subrogation under section 92 against his co-mortgagors, be entitled to add to the mortgage-money recoverable from them such proportion of the expenses properly incurred in such redemption as is attributable to their share in the property.

96. The provisions hereinbefore contained which apply to a simple mortgage shall, so far as may be, apply to a mortgage by deposit of title-deeds.

97. [...]

Anomalous Mortgages.

98. In the case of an anomalous mortgage the rights and liabilities of the parties shall be determined by their contract as evidenced in the mortgage-deed, and, so far as such contract does not extend by local usage.

99. [...]

Charges.

100. Where immovable property of one person is by act of parties or operation of law made security for the payment of money to another, and the transaction does not amount to a mortgage, the latter person is said to have a charge on the property; and all the provisions hereinbefore contained which apply to a simple mortgage shall, so far as may be, apply to such charge.

Nothing in this section applies to the charge of a trustee on the trust property for expenses properly incurred in the execution of his trust, and, save as otherwise expressly provided by any law for the time being in force, no charge shall be enforced against any property in the hands of a person to whom such property has been transferred for consideration and without notice of the charge.

101. Any mortgagee of, or person having a charge upon, immovable property, or any transferee from such mortgagee or charge-holder, may purchase or otherwise acquire the rights in the property of the mortgagor or owner, as the case may be, without thereby causing the mortgage or charge to be merged as between himself and any subsequent mortgage of, or person having a subsequent charge upon, the same property; and no such subsequent mortgagee or charge-holder shall be entitled to foreclose or sell such property without redeeming the prior mortgage or charge, or otherwise than subject thereto.

Notice and Tender.

102. Where the person on or to whom any notice or tender is to be served or made under this Chapter does not reside in the district in which the mortgaged property or some part thereof is situate, service or tender on or to an agent holding a general power-of-attorney

from such person or otherwise duly authorized to accept such service or tender shall be deemed sufficient.

Where no person or agent on whom such notice should be served can be found or is known to the person required to serve the notice, the latter person may apply to any Court in which a suit might be brought for redemption of the mortgaged property, and such Court shall direct in what manner such notice shall be served, and any notice served in compliance with such direction shall be deemed sufficient;

Provided that, in the case of a notice required by section 83 in the case of a deposit, the application shall be made to the Court in which the deposit has been made.

Where no person or agent to whom such tender should be made can be found or is known to the person desiring to make the tender, the latter person may deposit in any Court in which a suit might be brought for redemption of the mortgaged property the amount sought to be tendered, and such deposit shall have the effect of a tender of such amount.

103. Where, under the provisions of this Chapter, a notice is to be served on or by, or a tender or deposit made or accepted or taken out of Court by, any person incompetent to contract, such notice may be served on or by, or tender or deposit made, accepted or taken by, the legal curator of the property of such person; but where there is no such curator, and it is requisite or desirable in the interests of such person that a notice should be served or a tender or deposit made under the provisions of this Chapter, application may be made to any Court in which a suit might be brought for the redemption of the mortgage to appoint a guardian ad litem for the purpose of serving or receiving service of such notice, or making or accepting such tender, or making or taking Out of Court such deposit, and for the performance of all consequential acts which could or ought to be done by such person if he were competent to contract; and the provisions of Order XXXII in the First Schedule to the Code of Civil Procedure shall, so far as may be, apply to such application and to the parties thereto and to the guardian appointed thereunder.

104. The High Court may, from time to time, make rules consistent with this Act for carrying out, in itself and in the Courts of Civil Jurisdiction subject to its superintendence, the provisions contained in this Chapter-

CHAPTER V OF LEASES ON IMMOVEABLE PROPERTY

105. A lease of immoveable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms.

The transferor is called the lessor, the transferee is called the lessee, the price is called the premium, and the money, share, service or other thing to be so rendered is called the rent.

106. In the absence of a contract or local law or usage to the contrary, a lease of immoveable property for agricultural or manufacturing purposes shall be deemed to be a lease from year to year, terminable, on the part of either lessor or lessee, by six months' notice expiring with the end of a year of the tenancy; and a lease of immoveable property for any other purpose shall be deemed to be a lease from month to month, terminable, on the part of either lessor or lessee, by fifteen days' notice expiring with the end of a month of the tenancy.

Every notice under this section must be in writing signed by or on behalf of the person giving it, and either be sent by post to the party who is intended to be bound by it or be tendered or delivered personally to such party, or to one of his family or servants at his residence, or (if such tender or delivery is not practicable) affixed to a conspicuous part of the property.

107. A lease of immoveable property from year to year or for any term exceeding one year, or reserving a yearly rent, can be made only by a registered instrument.

All other leases of immoveable property may be made either by a registered instrument or by oral agreement accompanied by delivery of possession.

Where a lease of immoveable property is made by a registered instrument, such instrument or, where there are more instruments than one, each such instrument shall be executed by both the lessor and the lessee.

Provided that the President of the Union may, from time to time, by notification in the Gazette, direct that leases of immoveable property, other than leases from year to year, or for any term exceeding one year, or reserving a yearly rent, or any class of such leases, may be made by unregistered instrument or by oral agreement without delivery of possession.

108. In the absence of a contract or local usage to the contrary, the lessor and the lessee of immoveable property, as against one another, respectively, possess the rights and are subject to the liabilities mentioned in the rules next following, or such of them as are applicable to the property is leased:-

(A) Rights and Liabilities of the Lesser.

(a) The lessor is bound to disclose to the lessee any material defect in the property, with reference to its intended use, of which the former is and the latter is not aware, and which the latter could not with ordinary care discover;

(b) the lessor is bound to the lessee's request to put him in possession of the property;

(c) the lessor shall be deemed to contract with the lessee that, if the latter pays the rent reserved by the lease and performs the contracts binding on the lessee, he may hold the property during the time limited by the lease without interruption.

The benefit of such contract shall be annexed to and go with the lessee's interest as such, and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

(B) Rights and Liabilities of the Lessee.

(d) If during the continuance of the lease any accession is made to the property, such accession (subject to the law relating to alluvion for the time being in force) shall be deemed to be comprised in the lease;

(e) if by fire, tempest or flood, or violence of an army or of a mob or other irresistible force, any material part of the property be wholly destroyed or rendered substantially and permanently unfit for the purposes for which it was let, the lease shall, at the option of the lessee, be void:

Provided that, if the injury be occasioned by the wrongful act or default of the lessee, he shall not be entitled to avail himself of a the benefit of this provision;

(f) if the lessor neglects to make, within a reasonable time after notice, any repairs which he is bound to make to the property, the lessee may make the same himself, and deduct the expense of such repairs with interest from the rent, or otherwise recover it from the lessor;

(g) if the lessor neglects to make any payment which he is bound to make, and which, if not made by him, is recoverable from the lessee or against the property, the lessee may make such payment himself, and deduct it with interest from the rent, or otherwise recover it from the lessor;

(h) the lessee may, even after the determination of the lease, remove, at any time whilst he is in possession of the property leased but not afterwards, all things which he has attached to the earth provided he leaves the property in the state in which he received it;

(i) when a lease of uncertain duration determines by any means except the fault of the lessee, he or his legal representative is entitled to all the crops planted or, sown by the lessee and growing upon the property when the lease determines, and to free ingress and egress to gather and carry them;

(j) the lessee may transfer absolutely or by way of mortgage or sub-lease the whole or any part of his interest in the property, and any transferee of such interest or part may again transfer it. The lessee shall not, by reason only of such transfer, cease to be subject to any of the liabilities attaching to the lease;

nothing in this clause shall be deemed to authorize a tenant having an untransferable right of occupancy, or the farmer of an estate in respect of which default has been made in paying revenue, to assign his interest as such tenant or farmer;

(k) the lessee is bound to disclose to the lessor any fact as to the nature or extent of the interest which the lessee is about to take, of which the lessee is, and the lessor is not, aware, and which materially increases the value of such interest;

(l) the lessee is bound to pay or tender, at the proper time and place, the premium or rent to the lessor or his agent in this behalf;

(m) the lessee is bound to keep, and on the termination of the lease to restore, the property in as good condition as it was in at the time when he was put in possession, subject only to the changes caused by reasonable wear and tear or irresistible force, and to allow the lessor and his agents, at all reasonable times during the term, to enter upon the property and inspecting the condition thereof and give or leave notice of any defect in such condition; and, when such defect has been caused by any act or default on the part of the lessee, his servants or agents, he is bound to make it good within three months after such notice has been given or left;

(n) if the lessee becomes aware of any proceeding to recover the property or any part thereof, or of any encroachment made upon, or any interference with, the lessor's rights concerning such property, he is bound to give, with reasonable diligence, notice thereof to the lessor;

(o) the lessee may use the property and its products (if any) as a person of ordinary prudence would use them if they were his own; but he must not use, or permit another to use, the property for a purpose other than that for which it was leased, or fell or sell timber, pull down or damage buildings belonging to the lessor, or work mines or quarries not open when the lease was granted, or commit any other act which is destructive or permanently injurious thereto;

(p) he must not, without the lessor's consent, erect on the property any permanent structure, except for agricultural purposes;

(q) on the determination of the lease, the lessee is bound to put the lessor into possession of the property.

109. If the lessor transfers the property leased, or any part thereof, or any part of his interest therein, the transferee, in the absence of a contract to the contrary, shall possess all the rights, and, if the lessee so elects, be subject to all the liabilities of the lessor as to the property or part transferred so long as he is the owner of it; but the lessor shall not, by reason only of such transfer, cease to be subject to any of the liabilities imposed upon him by the lease, unless the lessee elects to treat the transferee as the person liable to him;

Provided that the transferee is not entitled to arrears of rent due before the transfer, and that if the lessee, not having reason to believe that such transfer has been made, pays rent to the lessor, the lessee shall not be liable to pay such rent over again to the transferee.

The lessor, the transferee and the lessee may determine what proportion of the premium or rent reserved by the lease is payable in respect of the part so transferred, and, in case they disagree, such determination may be made by any Court having jurisdiction to entertain a suit for the possession of the property leased.

110. Where the time limited by a lease of immovable property is expressed as commencing from a particular day, in computing that time such day shall be excluded. Where no day of commencement is named, the time so limited begins from the making of the lease.

Where the time so limited is a year or a number of years, in the absence of an express agreement to the contrary, the lease shall last during the whole anniversary of the day from which such time commences,

Where the time so limited is expressed to be terminable before its expiration, and the lease omits to mention at whose option it is so terminable, the lessee, and not the lessor, shall have such option.

111. A lease of immovable property determines:

- (a) by efflux of the time limited thereby;
- (b) where such time is limited conditionally on the happening of some event - by the happening of such event;
- (c) where the interest of the lessor in the property terminates on, or his power to dispose of the same extends only to the happening of any event - by the happening of such event;
- (d) in case the interests of the lessee and the lessor in the whole of the property become vested at the same time in one person in the same right;
- (e) by express surrender; that is to say, in case the lessee yields up his interest under the lease to the lessor, by mutual agreement between them;
- (f) by implied surrender;
- (g) by forfeiture; that is to say, (1) in case the lessee breaks an express condition which provides that on breach thereof the lessor may re-enter, or (2) in case the lessee renounces his character as such by setting up a title in a third person or by claiming title in himself, or (3) the lessee is adjudicated an insolvent and the lease provides that the lessor may re-enter on the happening of such event; and in any of these cases the lessor or his transferee gives notice in writing to the lessee of his intention to determine the lease;

(h) on the expiration of a notice to determine the lease, or to quit or of intention to quit, the property leased, duly given by one party to the other.

Illustrations to Clause (f)

A lessee accepts from his lessor a new lease of the property leased, to take effect during the continuance of the existing lease. This is an implied surrender of the former lease, and such lease determines thereupon.

112. A forfeiture under section 111 clause (g) is waived by acceptance of rent which has become due since the forfeiture or by distress for such rent, or by any other act on the part of the lessor showing an intention to treat the lease as subsisting:

Provided that the lessor is aware that the forfeiture has been incurred:

Provided also that where rent is accepted after the institution of a suit to eject the lessee on the ground of forfeiture such acceptance is not a waiver.

113. A notice given under section 111 clause (h) is waived, with the express or implied consent of the person to whom it is given by any act on the part of the person giving it showing an intention to treat the lease as subsisting.

Illustrations:

(a) A, the lessor, gives B, the lessee, notice to quit the property leased. The notice expires, B tenders, and A accepts, rent which has become due in respect of the property since the expiration of the notice. The notice is waived.

(b) A, the lessor, gives B, the lessee, notice to quit the property leased. The notice expires, and B remains in possession A gives to B as lessee a second notice to quit. The first notice is waived.

114. Where a lease of immovable property has determined by forfeiture for non-payment of rent, and the lessor sues to eject the lessee, if at the hearing of the suit the lessee pays or tenders to the lessor the rent in arrear, together with interest, thereon and his full costs of the suit, or gives such security as the Court thinks sufficient for making such payment within fifteen days, the Court may, in lieu of making a decree for ejectment, pass an order relieving the lessee against the forfeiture, and thereupon the lessee shall hold the property leased as if the forfeiture had not occurred.

114A. Where a lease of immovable property has determined by forfeiture for a breach of an express condition which provides that on breach thereof the lessor may re-enter, no suit for ejectment shall lie unless and until the lessor has served on the lessee a notice in writing.

(a) specifying the particular breach complained of, and

(b) if the breach is capable of remedy, requiring the lessee to remedy the breach,

and the lessee fails, within a reasonable time from the date of the service of the notice to remedy the breach, if it is capable of remedy. Nothing in this section shall apply to an express condition against the assigning, under-letting, parting with the possession, or disposing, of the property leased, or to an express condition relating to forfeiture in case of non-payment of rent.

115. The surrender, express or implied, of a lease of immovable property does not prejudice an under-lease of the property or any part thereof previously granted by the lessee, on terms and conditions substantially the same (except as regards the amount of rent) as those of the original lease; but unless the surrender is made for the purpose of obtaining a new lease, the rent payable by, and the contracts binding on, the under-lessee shall be respectively payable to and enforceable by the lessor.

The forfeiture of such a lease annuls all such under-leases, except where such forfeiture has been procured by the lessor in fraud of the under-lessees, or relief against the forfeiture is granted under section 114.

116. If a lessee or under-lessee of property remains in possession thereof after the determination of the lease granted to the lessee, and the lessor or his legal representative accepts rent from the lessee or under-lessee, or otherwise assents to his continuing in possession, the lease is, in the absence of an agreement to the contrary, renewed from year to year, or from month to month, according to the purpose for which the property is leased, as specified in section 106.

Illustrations:

(a) A lets a house to B for five years, B underlets the house to C at a monthly rent of Rs. 100. The five years expire, but C continues in possession of the house and pays the rent to A. C's lease is renewed from month to month.

(b) A lets a farm to B for the life of C. C dies, but B continues in possession with A's assent. B's lease is renewed from year to year.

117. None of the provisions of this Chapter apply to leases for agricultural purposes, except in so far as the President of the Union may by notification published in the Gazette; declare all or any of such provisions to be so applicable in the case of all or any of such leases, together with or subject to, those of the local law, if any, for the time being in force.

Such notification shall not take effect until the expiry of six months from the date of its publication.

CHAPTER VI OF EXCHANGES

118. When two persons mutually transfer the ownership of one thing for the ownership of another, neither thing or both things being money only, the transaction is called an “exchange”.

A transfer of property in completion of an exchange can be made only in manner provided for the transfer of such property by sale.

119. If any party to an exchange or any person claiming through or under such party is by reason of any defect in the title of the other party deprived of the thing or any part of the thing received by him in exchange, then, unless a contrary intention appears from the terms of the exchange, such other party is liable to him or any person claiming through or under him for loss caused thereby, or at the option of the person so deprived for the return of the thing transferred, if still in the possession of such other party or his legal representative or a transferee from him without consideration.

120. Save as otherwise provided in this Chapter, each party has the rights and is subject to the liabilities of a seller as to that which he gives, and has the rights and is subject to the liabilities of a buyer as to that which he takes.

121. On an exchange of money, each party thereby warrants the genuineness of the money given by him.

CHAPTER VII OF GIFTS

122. “Gift” is the transfer of certain existing moveable or immoveable property, made voluntarily and without consideration, by one person, called the donor, to another, called the donee, and accepted by or on behalf of the donee.

Such acceptance must be made during the lifetime of the donor and while he is still capable of giving:

If the donee dies before acceptance, the gift is void.

123. For the purpose of making a gift of immoveable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor, and attested by at least two witnesses.

For the purpose of making a gift of moveable property, the transfer may be effected either by a registered instrument signed as aforesaid or by delivery.

Such delivery may be made in the same way as goods sold may be delivered.

124. A gift comprising both existing and future property is void as to the latter.

125. A gift of a thing to two or more donees of whom one does not accept it, is void as to the interest which he would have taken had he accepted.

126. The donor and donee may agree that on the happening of any specified event which does not depend on the will of the donor a gift shall be suspended or revoked; but a gift which the parties agree shall be revocable, wholly or in part, at the mere will of the donor, is void wholly or in part, as the case may be.

A gift may also be revoked in any of the cases (save want or failure of consideration) in which, if it were a contract, it might be rescinded.

Save as aforesaid, a gift cannot be revoked.

Nothing contained in this section shall be deemed to affect the rights of transferees for consideration without notice.

Illustrations:

(a) A gives a Held to B, reserving to himself, with B's assent, the right to take back the field in case B and his descendants die before A. B dies without descendants in A's lifetime. A may take back the field.

(b) A gives a lakh of rupees to B, reserving to himself, with B's assent the right to take back at pleasure Rs. 10,000 out of the lakh. The gift holds good as to Rs. 90,000 but is void as to Rs. 10,000, which continue to belong to A.

127. Where a gift is in the form of a single transfer to the same person of several things, of which one is, and the others are not, burdened by an obligation, the donee can take nothing by the gift unless he accepts it fully.

Where a gift is in the form of two or more separate and independent transfers to the same person of several things the donee is at liberty to accept one of them and refuse the others, although the former may be beneficial and the latter onerous.

A donee not competent to contract and accepting property burdened by any obligation is not bound by his acceptance. But if, after becoming competent to contract and being aware of the obligation, he retains the property given, he becomes so bound.

Illustrations:

(a) A has shares in X, a prosperous joint stock company, and also shares in Y a joint stock company in difficulties. Heavy calls are expected in respect of the shares in Y. A gives B all

his shares in joint stock companies. B refuses to accept the shares in Y. He cannot take the shares in X.

(b) A, having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is more than the house can be let for, gives to B the lease and also, as a separate and independent transaction a sum of money. B refuses to accept the lease. He does not by this refusal forfeit the money.

128. Subject to the provisions of section 127, where a gift consists of the donor's whole property, the donee is personally liable for all the debts due by and liabilities of the donor at the time of the gift to the extent of the property comprised therein.

129. Nothing in this Chapter relates to gifts of moveable property made in contemplation of death, or shall be deemed to affect any rule of Muhammadan law.

CHAPTER VIII OF TRANSFERS OF ACTIONABLE CLAIMS

130. (1) The transfer of an actionable claim, whether with or without consideration, shall be effected only by the execution of an instrument in writing signed by the transferor or his duly authorized agent; shall be complete and effectual upon the execution of such instrument, and thereupon all the rights and remedies of the transferor, whether by way of damages or otherwise, shall vest in the transferee, whether such notice of the transfer as is hereinafter provided be given or not;

Provided that every dealing with the debt or other actionable claim by the debtor or other person from or against whom the transferor would, but for such instrument of transfer as aforesaid, have been entitled to recover or enforce such debt or other actionable claim, shall (save where the debtor or other person is a party to the transfer or has received express notice thereof as hereinafter provided) be valid as against such transfer.

(2) The transferee of an actionable claim may, upon the execution of such instrument of transfer as aforesaid, sue or institute proceedings for the same in his own name without obtaining the transferor's consent to such suit or proceedings and without making him a party thereto.

Exception. Nothing in this section applies to the transfer of a marine or fire policy of insurance.

Illustrations:

(i) A owes money to B, who transfers the debt to C. B then demands the debt from A, who, not having received notice of the transfer, as prescribed in section 131, pays B. The payment is valid, and C cannot sue A for the debt.

(ii) A effects a policy on his own life with an insurance company and assigns it to a bank for securing the payment of an existing or future debt. If A dies, the bank is entitled to receive the amount of the policy and to sue on it without the concurrence of A's executor, subject to the proviso in sub-section (1) of section 130 and to the provisions of section 132.

131. Every notice of transfer of an actionable claim shall be in writing, signed by the transferor or his agent duly authorized in this behalf, or, in case the transferor refuses to sign, by the transferee or his agent, and shall state the name and address of the transferee.

132. The transferee of an actionable claim shall take it subject to all the liabilities and equities to which the transferor was subject in respect thereof at the date of the transfer.

Illustrations:

(i) A transfers to C a debt due to him by B, A being then indebted to B. C sues B for the debt due by B to A, In such suit B is entitled to set off the debt due by A to him although C was unaware of it at the date of such transfer.

(ii) A executed a bond in favour of B under circumstances entitling the former to have it delivered up and cancelled. B assigns the bond to C for value and without notice of such circumstances. C cannot enforce the bond against A.

133. Where title transferor of a debt warrants the solvency of the debtor, the warranty, in the absence of a contract to the contrary, applies only to his solvency at the time of the transfer, and is limited, where the transfer is made for consideration, to the amount or value of such consideration.

134. Where a debt is transferred for the purpose of securing an existing or, future debt, the debt so transferred, if received by the transferor or recovered by the transferee, is applicable, first, in payment of the costs of such recovery, secondly, in or towards satisfaction of the amount for the time being secured by the transfer, and the residue, if any, belongs to the transferor or other person entitled to receive the same.

135. Every assignee, by endorsement or other writing, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

136. No judge, legal practitioner or officer connected with any Court of Justice shall buy or traffic in, or stipulate for, or agree to receive any share of or interest in, any actionable claim, and no- Court of Justice shall enforce, at his instance or at the instance of any person claiming by or through him any actionable claim so dealt with by him as aforesaid.

137. Nothing in the foregoing sections of this Chapter applies to stocks, shares or debentures, or to instruments which are for the time being, by law or custom, negotiable, or to any mercantile document of title to goods.

Explanation. The expression “mercantile document of title to goods” includes a bill of lading, dock-warrant, warehouse-keeper’s certificate, railway receipt, warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented.

THE LAND ACQUISITION (MINES) ACT (1885)

India Act XVIII, 1885
16 October 1885

Whereas it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act;

It is hereby enacted as follows:

1. This Act shall extend only to such part of the Union of Burma as the President of the Union may, by notification, direct.
2. Except as expressly provided by this Act, nothing in this Act shall affect the right of the State to any mines or minerals.
3. (1) When the President of the Union makes a declaration under the Land Acquisition Act that land is needed for a public purpose or for a company, he may, if he thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under the Land Acquisition Act, and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under the Land Acquisition Act in respect of the mines, and may:
 - (a) when he makes an award under that Act, insert such a statement in his award;
 - (b) when he makes a reference to the Court under that Act, insert such a statement in his reference or;
 - (c) when he takes possession of the land under that Act, publish such a statement in such manner as the President of the Union may, from time to time, prescribe.
3. If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the State when the land so vests under the said Act.
4. If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the President of the Union notice in writing of his intention so to do sixty days before the commencement of working.

5. (1) At any time or times after the receipt of a notice under the last foregoing section and whether before or after the expiration of the said period of sixty days, the President of the Union may cause the mines or minerals to be inspected by a person appointed by him for the purpose; and

(2) If it appears to the President of the Union that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the President of the Union may publish a declaration of his willingness either:

(a) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having all interest in the same; or

(b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the President of the Union may in the declaration specify.

(3) If the declaration mentioned in case (a) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case (b) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the President of the Union.

(5) Every declaration made under this section shall be published in such manner as the President of the Union may direct.

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

7. (1) If before the expiration of the said sixty days the President of the Union does not publish a declaration as provided in section 5, the owner, lessee or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the President of the Union so thinks, without waiting for the same to be effected by the owner, lessee or occupier, the Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water level shall be of greater dimensions or section than may be prescribed by the President of the Union in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

9. The Government shall, from time to time, pay to the owner, lessee or occupier of any such mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional, expenses and losses as may be incurred by him: by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Government which cannot be obtained by reason of the action taken under the foregoing sections; and if any disputes or question arises between the Government and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act.

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the President of the Union may, after giving twenty-four hours' notice in writing, enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery, belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance

from any part of the land acquired to the parts of the mines which have been, are being or are about to be worked.

12. If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the President of the Union for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

13. If it appears that any such mines; have been worked contrary to the provisions of this Act, the President of the Union may, if he thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired and the works thereon, and preventing injury thereto; and if, after such notice, any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the lands acquired and the works thereon, the Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

14. When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to, or has vested by operation of law, in a local authority or company, then sections 4 to 13, both inclusive, shall be read as if for the words “the President of the Union” or “the Government” wherever they occur in those sections, except in section 5, sub-section (5) and section 8, the words “the local authority or company, as the case may be, which has acquired the land” were substituted.

15. [...]

16. In this Act:

(a) [...]

(b) “company” means a company registered under any of the enactments relating to companies from time to time in force in India or Pakistan or the Union of Burma, or formed in pursuance of an Act of Parliament of the United Kingdom of Great Britain and Ireland or by Royal Charter or Letters Patent.

17. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act.

THE UPPER BURMA LAND AND REVENUE REGULATION (1889)

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[The Schedule to this Act was deleted by Act VI, 1947]

THE UPPER BURMA LAND AND REVENUE REGULATION

Regulation III, 1889
13 July 1889

CHAPTER I PRELIMINARY

1. This Regulation extends to Upper Burma only excluding the Thayetmyo District.
2. [...]
3. In this Regulation, unless there is anything repugnant in the subject or context:
 - (1) the expression “ minerals “ includes amber;
 - (2) “town” means an area declared by notification of the President of the Union to be a town for the purposes of this Regulation or constituted a municipality or town for the purposes of the Municipal Act or the Towns Act;
 - (3) “village” means an area appropriated to dwelling places not included in the limits of a town;
 - (4) “village-tract” means a local area under the jurisdiction of a village headman, including a village or group of villages and adjacent land;
 - (5) “village headman” means a person appointed to be the headman of a village-tract under section 5 of the Village Act; and
 - (6) “headman” includes both a village headman and a ward headman appointed under section 5 of the Towns Act.

CHAPTER II REVENUE-OFFICERS

Classes, Local Jurisdiction and Powers.

4. (1) There shall be the following classes of revenue-officers, namely:-
 - (a) the Financial Commissioner,
 - (b) the Commissioner,
 - (c) the Collector,

(d) the Assistant Collector.

(2) The President of the Union may appoint any person to exercise, in any area, all or any of the powers of any class of revenue-officer under this Regulation, or any rule made there under.

5. Except where the class of the revenue-officer by whom any function is to be discharged is specified in this Regulation, the President of the Union, by notification in the Gazette or by the rules which he is empowered by this Regulation to make, or the Financial Commissioner by the rules which he is so empowered to make, may determine the functions to be discharged under this Regulation and the rules thereunder by any class of revenue-officers.

Administrative Control.

6. (1) The general superintendence and control over all other revenue-officers shall be vested in, and all such officers shall, subject to the control of the President of the Union, be subordinate to the Financial Commissioner.

(2) Subject as aforesaid to the control of the President of the Union and to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other revenue-officers in his division.

(3) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other revenue-officers in his district.

7. (1) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, among the revenue-officers under his control, any business cognizable by any of those officers.

(2) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any revenue-officer under his control, and either dispose of it himself or by written order refer it for disposal to any other revenue-officer under his control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own jurisdiction.

Appeal, Review and Revision.

8. An appeal shall lie from an original or appellate order of a revenue-officer as follows, Namely:-

(a) to the Collector when the order is made by an Assistant Collector;

(b) to the Commissioner when the order is made by a Collector;

(c) to the Financial Commissioner when the order is made by a Commissioner:

Provided that:

(i) when an original order is confirmed on first appeal, a further appeal shall not lie;

(ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any, to him shall be final.

9. The period of limitation for an appeal under the last foregoing section shall run from the date of the making of the order appealed from and shall be as follows, that is to say:

(a) when the appeal lies to the Collector - thirty days;

(b) when the appeal lies to the Commissioner - sixty days;

(c) when the appeal lies to the Financial Commissioner - ninety days.

10. (1) A revenue-officer may, either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, any order made by himself or by any of his predecessors in office.

Provided as follows:

(a) when a Commissioner or Collector thinks it necessary to review any order which he has not himself made, and when a revenue-officer of a class below that of Collector proposes to review any order, whether made by himself or by any of his predecessors in office, he shall first obtain the sanction of the revenue-officer to whose control he is immediately subject;

(b) an application for review of an order shall not be entertained unless it is made within ninety days from the making of the order, or unless the applicant satisfies the revenue-officer that he had sufficient cause for not making the application within that period;

(c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;

(d) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purposes of this section the Collector shall be deemed to be the successor in office of any revenue-officer of a lower class who has left the district or has ceased to exercise powers as a revenue-officer, and to whom there is no successor in office.

An appeal shall not lie from an order refusing to review or confirming on review a previous order.

11. (1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any revenue-officer subordinate to him.

(2) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any revenue-officer under his control.

(3) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(4) The Financial Commissioner may, in any case called for by himself under subsection (1) or reported to him under sub-section (3), make such order as he thinks fit:

Provided that he shall not under this section make an order reversing or modifying any proceeding or order of a subordinate revenue-officer and affecting any question of right between private persons without giving those persons an opportunity of being heard.

Procedure.

12. (1) The President of the Union may make rules consistent with this Regulation for regulating the procedure of revenue-officers under this Regulation and may by such rules confer upon any revenue-officer any power exercised by a civil Court in the trial of suits.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejection from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a revenue-officer all or any of the powers in regard to contempts, resistance and the like which any civil Court other than the High Court may exercise in the execution of a decree whereby it has adjudged ejection from, or delivery of possession of, such property.

(3) Subject to the rules under this section, a revenue-officer may refer any case which he is empowered to dispose of under this Regulation to another revenue-officer for investigation and report, and may decide the case upon the report.

13. [...]

14. (1) A revenue-officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a revenue-officer.

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

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the revenue-officer may require.

15. (1) A summons issued by a revenue-officer shall, if practicable, be served (a) personally on the person to whom it is addressed, or failing him on (b) his recognized agent, or (c) an adult male member of his family usually residing with him, or (d) the headman of the village in which he resides.

(2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the revenue-officer is employed and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place on or near the land.

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the revenue-officer so directs, be served by delivery of a copy thereof to such of those persons the revenue-officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(4) A summons may, if the revenue-officer so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a prepaid letter addressed to the person at his usual or last known place of residence and registered under Chapter VI of the Burma Post Office Act.

(5) When a summons is so forwarded in a prepaid letter and it is proved that the letter was properly addressed and duly posted and registered, the revenue-officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

16. A notice or order issued by a revenue-officer for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

17. When a proclamation is issued by a revenue-officer it shall be made by such method as the revenue-officer may decide to be the customary method and, if the proclamation relates to land, it shall be further made by the posting of a copy thereof on some conspicuous place on or near the land.

18-21. [...]

The provisions of this Regulation have been declared to apply as respects certain matters to the proceedings of revenue-officers under the Fisheries Act (see s30 of that Act).

2 The Land and Revenue Act of Lower Burma applies to this District, see s1 of that Act.

CHAPTER III
PROVISIONS WITH RESPECT TO CERTAIN SOURCES OF REVENUE

122. [...]

State Land.

23. "State land" in the following sections of this Regulation land belonging to or at the disposal of the Government, and includes -

(a) land formerly termed royal land;

(b) land held on condition of rendering public service or as an appanage to or emolument of a public office;

(c) islands and alluvial, formations in rivers;

(d) waste-land and land included within reserved forests; and

(e) land which has been under cultivation but has been abandoned and to the ownership of which no claim is preferred within two years from the 13th July, 1889.

24. (1) Any land which before the 13th July, 1889, has been or thereafter may be declared by the Collector to be State land shall be deemed to be such land until the contrary is proved.

(2) A claim to the ownership or possession of any land with respect to which such a declaration has been or may be so made, or to hold such land free of land-revenue or at a favourable rate of land-revenue, or to establish any lien upon, or other interest in, such land or the rents, profits or produce thereof, shall be cognizable by the Collector only, and the order which the Collector may make on the claim shall, subject to the provisions of Chapter II with respect to appeal, review and revision, be final.

(3) The period of limitation for a claim under the last preceding sub-section shall be one year from the date of the declaration made by the Collector.

(4) A declaration made by the Collector under sub-section (1) may be withdrawn by him at any time before the passing of an order on any claim preferred under sub-section (2) to the ownership or possession of the land to which the declaration relates; and a declaration so withdrawn shall be deemed not to have been made, and no presumption of the nature specified in sub-section (1) shall be deemed to have arisen.

25. Subject to the provisions of this Regulation and the rules there under and to the terms of any order made on any such claim as is mentioned in sub-section (2) of the last foregoing section, the following are among the incidents of the tenure of State land, namely:-

(a) an occupier of State land can have no heritable or transferable right of use or occupancy therein, nor can any rights adverse to the Government exist in such land unless they have been created or continued by a grant made by or on behalf of the [...] Government;

(b) [...]

(c) an occupier of State land may not, except for default in the payment of land-revenue due from him to the Government, be ejected from such land without such notice as may be prescribed by rules to be made by the President of the Union in this behalf or, failing such notice, such compensation as, subject to any such rules, the Collector may, having regard to all the circumstances of the case, deem just;

(d) a person occupying State land without the permission of the Collector or of some other officer authorized by rules to be made by the President of the Union in this behalf, or occupying such land with such permission and making default in the payment of the land-revenue due from him to the Government in respect thereof, may at any time be ejected from the land by order of the Collector.

26. (1) The Financial Commissioner may make rules:

(a) for the disposal by way of grant or otherwise of any State land which is waste;

(b) for regulating the temporary occupation of such land; and

(c) for the allotment from such land of grazing-grounds to the inhabitants of any village-tract in the neighbourhood thereof whom he considers to stand in need of such allotment, and the regulation and control of the use of such grazing-grounds by persons permitted to graze their cattle thereon.

(2) Rules under clause (a) of sub-section (1), with respect to State land which is waste, may provide for the following among other matters, namely:

(i) the amount or kind of interest to be created in such land, and the conditions, if any, subject to which such interest may be conferred,

(ii) the mode in which grants and other dispositions of the land may be made,

(iii) the total or partial exemption, either absolutely or subject to conditions, of the land from rent for a term of years or for any life or lives or during the maintenance of any institution, and

(iv) the realization of any money payable in consideration of the grant or other disposition, or of any penalty payable on breach of a condition annexed to such grant or disposition, as if it were an arrear of revenue due in respect of the land from the person taking under the grant or disposition, his legal representatives or assigns, but such rules shall not take effect until they have been approved by the President of the Union.

(3) A rule under sub-section (1) may authorize the ejectment, by order of any revenue-officer, of any person occupying or using land in contravention of any rule under that sub-section.

(4) No person shall acquire, by length of possession or otherwise, any interest in land disposed of, occupied or allotted in pursuance of rules under clause (a), clause (b) or clause (c) of sub-section (1) beyond such interest as is conferred by the rules.

Land-revenue.

27. (1) All lands, to whatever purpose they may be applied and wherever they may be situate, shall, subject to the other provisions of this section, be liable to the payment of land-revenue to the Government.

(2) The land-revenue payable under sub-section (1) shall be at such rates in kind or money and for such period as the revenue-officer appointed in this behalf may, in accordance with rules to be made by the President of the Union, fix.

The rates so fixed may be on classes of soil or on classes of crop throughout any district or part of a district.

(3) The President of the Union may direct that in any district or part of a district an abatement from the rates fixed under sub-section (2) shall be made before they are applied to the assessment of land other than State land, and in every such direction shall specify the amount of such abatement. When in any district or part of a district such an abatement has been granted, the abatement shall not be withdrawn nor decreased in any future revision of the assessment except with the previous sanction of the President of the Union.

(4) All land, which was subject to the payment of land-revenue immediately before the 13th July, 1889,¹ shall, whether it has or has not been declared under section 24, sub-section (1), to be State land, continue to be so subject, and the land-revenue payable in respect thereof shall, until the land is assessed under the provisions of this Regulation and the rules thereunder, be levied in such manner and at such rates as have heretofore been customary.

(5) No refund of land-revenue shall be claimable in the event of an land assessed under sub-section (4) being afterwards declared to be other than State land.

(6) Nothing in sub-section (1) with respect to the liability of State land to the payment of land-revenue shall be deemed to apply to any of the following classes of land, namely:

(a) land belonging, on the 13th July, 1889, to the site and curtilage of any monastery, pagoda, or other sacred building, or of any school, and continuing to be used for the purpose of such monastery, pagoda, building or school;

(b) land exempted from liability to the payment of land-revenue by the express terms of any grant made or continued by or on behalf of the [...] Government.

28. When any local area is being assessed to land-revenue under the last foregoing section, the President of the Union may, by notification in the Gazette, declare, with respect to the whole or any part of the area, that all the holders of all the lands assessed in each village-tract therein shall be jointly and severally responsible for the land-revenue assessed on all the lands in the village-tract.

28A. (1) Notwithstanding anything contained in this Regulation, no enhancement made in any rate of land-revenue, tax or fee shall take effect until the commencement of the year of assessment next following that in the course of which the enhancement is made.

(2) The President of the Union may, by notification in the Gazette, fix the year which shall be deemed to be the year of assessment in respect of such rate, tax or fee.

Land-records.

29. (1) The Financial Commissioner shall cause a record-of-rights to be prepared for each village-tract, and for such towns as he may, from time to time by notification in the Gazette, direct and, when such a record has been prepared, the Collector shall maintain It by causing a corrected edition thereof to be prepared at such intervals as the Financial Commissioner may prescribe.

(2) For the purpose of facilitating the preparation of the periodical edition of the record-of-rights, a register, to be called the register of mutations, shall be kept in which any event affecting any of the matters recorded in the record-of-rights or in the last periodical edition thereof shall be recorded as soon as may be after it happens.

(3) The Financial Commissioner shall from time to time make rules:

(a) as to the documents (including maps) to be comprised in the record-of-rights, and their contents and form;

(b) as to the documents (including maps) to be comprised in the periodical edition of the record-of-rights, and their contents and form;

(c) as to the contents and form of the register of mutations, and the verification of matters to be recorded therein;

(d) as to the obligation of persons interested in land to give information of any event which may affect any of the matters recorded in the record-of-rights or in the last periodical edition thereof;

(e) as to the consequences which shall ensue on failure to discharge such obligation;

(f) as to the fee, if any, to be paid in respect of any entry in a register of mutations and the person by whom such fee is to be payable; and

(g) generally, for the guidance of revenue-officers and headmen in carrying out the purposes of this section.

(4) Any person whose rights or liabilities are required by any rule under sub-section (3) to be recorded under this section shall be bound to furnish, on the requisition of any revenue-officer or headman engaged in compiling the record, all information necessary for the correct compilation thereof.

30. (1) If, in the course of any proceeding for the purpose of carrying out the provisions of the last foregoing section and the rules thereunder, a dispute arises as to any matter of which an entry is to be made in a record or register, a revenue-officer, of his own motion or on the application of any party interested, may, after such inquiry as he thinks fit, determine the entry to be made as to that matter.

(2) If in any such dispute the revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain by summary inquiry who is the person best entitled to the property and shall by order direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register.

(3) A direction of a revenue-officer under sub-section (2) shall be subject to any decree or order which may be subsequently passed by any competent authority.

Minerals and Earth-oil.

31. (1) Save as otherwise expressly provided by the terms of any grant made or continued by or on behalf of the [...] Government, the right to all precious stones, mines, minerals, coal and earth-oil shall be deemed to belong to the Government, and the Government shall have all powers necessary for the proper enjoyment of its right thereto, and may dispose of any such right and powers to any person in such manner as to it may seem fit.

1(2) Whenever the rights of any owner or occupier of any land are infringed by the occupation or disturbance of the surface of the said land, either by the Government in the exercise of the rights and powers referred to in sub-section

(1), or by any person to whom the Government may have disposed of such rights and powers in regard to the said land, the Government shall pay, or cause to be paid, to such owner or occupier compensation for the infringement.

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

(3) The President of the Union may make rules -

(a) for regulating or prohibiting the mining, quarrying or digging for or the excavating or collecting of, minerals on land wherein the right to minerals is deemed to belong to the Government;

(b) for the disposal by way of lease, licence or otherwise of such right of the Government, and fixing the conditions subject to which and the mode in which such dispositions may be made;

(c) for the levy and collection of royalties and fees in respect of minerals mined, quarried, excavated or collected on any such land, and;

(d) for prohibiting or regulating and controlling the possession, purchase, sale, transport and export of minerals, for the issue of licences in furtherance of such regulation and control, and for the levy and collection of fees in respect of such licences.

32-36. [...]

CHAPTER IV COLLECTION OF REVENUE

37. In the following sections of this Regulation:

(1) "revenue" includes:

(a) [...]

(b) land-revenue payable in respect of State and other lands;

(c) revenue payable on account of precious stones, mines, minerals, coal, earth-oil, salt and ferries;

(d) [...]

(e) excise in respect of spirit, fermented liquor, intoxicating drugs and opium; and

(f) every other sum payable to the Government in accordance with law, contract or local usage; and

(2) “moveable property” includes standing timber, growing crops and grass.

38. (1) The Financial Commissioner may make rules determining the number and amount of the instalments by which, the person to whom, and the time, place and manner at and in which any revenue is to be paid.

(2) Until rules are made under sub-section (1) revenue shall be paid by the instalments, to the persons, at the times and places and in the manner by which, to whom and at and in which it was payable on the 13th July, 1889.

(3) Any revenue not paid as required by rules under sub-section (1) or by subsection (2) is an arrear, and the person from whom it is primarily due, as well as the surety, if any, for the payment thereof by that person, is a defaulter.

39. The revenue for the time being payable in respect of any land shall be the first charge upon the rents, profits and produce of the land and, except with the written consent of the Collector, such rents, profits or produce shall not be liable to be taken in execution of a decree or order of any Court until the revenue chargeable thereon, and any arrear of revenue due in respect of the land, have been paid.

40. Subject to the other provisions of this Chapter, a statement of account certified by a Collector or Assistant Collector shall be conclusive proof of the existence of an arrear, of its amount and of the person who is the defaulter.

41. (1) An arrear may be recovered by any one or more of the following processes, namely:

(a) by service on the defaulter of a notice requiring him to pay the arrear at a time and place, and to a person, specified in the notice;

(b) by attachment and sale of any moveable property belonging to the defaulter except, if he is an agriculturist, his implements of husbandry and seed-grain and the cattle actually employed by him in agriculture, and, if he is an artisan, his tools;

(c) by the arrest of the defaulter and his imprisonment in the civil jail for a period not exceeding one month;

(d) by attachment and sale of any immoveable property belonging to the defaulter.

(2) The processes described in sub-section (1) may be used either separately or simultaneously.

42. (1) When any immovable property is sold under this Chapter for the recovery of an arrear due in respect thereof, the following consequences shall ensue, unless a revenue-officer empowered in this behalf has otherwise directed, namely:

- (a) all leases, liens and other incumbrances on the property shall be extinguished, and
- (b) all grants or contracts previously made by any person other than the purchaser in respect of the property shall become void against the purchaser.

(2) When any immovable property is brought to sale under this Chapter. for the recovery of any other sum than an arrear due in respect thereof, interests of the defaulter alone therein, as those interests existed immediately before the attachment of the property, shall be sold.

43. (1) When proceedings are taken under this Chapter for the recover of an arrear, the person against whom they are taken may, if he denies that the arrear or any part thereof is due, pay the same under protest made at the time of payment and signed by him or his agent and institute a suit in any civil Court having jurisdiction, as regards the value of the suit, at the headquarters of the district in which the arrear is alleged to have accrued, for the recovery of the amount which he denies to be due.

(2) In a suit instituted under sub-section (1) the plaintiff may, notwithstanding anything in section 40, give evidence with respect to his liability for the payment of the alleged arrear.

44. (1) The Financial Commissioner may make rules consistent with this Regulation:-

(a) for determining the officers or classes of officers by whom any of the processes described in section 41 may be enforced;

(b) for regulating the procedure to be followed in enforcing any of those processes;

(c) [...]

(d) for determining the commission, if any, to be allowed to persons appointed in accordance with any rule under section 38, sub-section (1), to receive payment of any revenue and, where the commission is to be paid to more persons than one, the manner in which it is to be divided among them; and

(e) generally, for the guidance of all persons in matters connected with the enforcement of this Chapter.

(2) [...]

45. (1) When a sale of any property under this Chapter for the recovery of an arrear has become absolute, the proceeds thereof shall be applied, in the first place, to the payment

of the arrear and, in the second place, to the payment of any other arrear, or of any sum recoverable as an arrear under this Chapter, which may be due to the Government from the defaulter.

(2) Any balance of the proceeds of the sale which may remain after satisfaction of the claims of the Government under sub-section (1) shall, subject to the directions of any Court with respect to the application thereof, be paid to the defaulter.

46. Except on behalf of the Government, no revenue-officer or person employed in a revenue-office, shall purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which any revenue-officer in the district in which he is employed has ordered to be sold for the recovery of an arrear of revenue.

47. Where, under any enactment for the time being in force, any sum is recoverable as an arrear of revenue, or as an arrear of land-revenue, it shall be recoverable as an arrear under this Chapter.

48. [...]

CHAPTER V SUPPLEMENTAL PROVISIONS

49. [...]

49A. So far as may be necessary for the purposes of any assessment of land either contemplated or in progress, any revenue-officer generally or specially empowered by the Financial Commissioner in that behalf:

(a) may enter upon, demarcate, survey and make plans of any land ; and (b) so far as may be necessary for the purpose of estimating the capabilities of the soil, may cause any ripe crop thereon to be cut and threshed, or otherwise properly harvested, and the grain or other produce to be measured and weighed:

Provided that not more than half an acre of the crop belonging to any one person shall be so cut upon any one occasion without the consent of the owner thereof, and that without the consent of the occupier thereof no farm or other holding shall be entered upon under this section oftener than once in five years:

Provided also that in the exercise of this power no injury shall be caused to any other crop or land.

50. The Financial Commissioner may, in addition to the other rules which may be made by him under this Regulation, make rules consistent with this Regulation and any other enactment for the time being in force:

(a) regulating claims to remission of any revenue paid or payable under this Regulation and providing that when any false or frivolous application for remission of any such revenue is made a surcharge not exceeding fifty per centum of the revenue payable may be imposed by way of penalty, and providing for the realization of such surcharge as if it were an arrear of land revenue.

(b) regulating the travelling and other expenses of witnesses;

(c) regulating other costs in proceedings before revenue-officers and providing for the realization of costs in such proceedings as if they were arrears of revenue;

(d) regulating the procedure in cases where persons are entitled to inspect records of revenue-offices or records or papers in the custody of headmen or to obtain copies of the same and pre-scribing the fees payable for searches and copies;

(e) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in revenue-offices or submitted to any authority;

(f) declaring what shall be the language of any of those offices [...]; and

(g) generally for carrying out the purposes of this Regulation.

51. (1) The power to make any rules under this Regulation is subject to the condition of the rules being made after previous publication.

(2) Rules made by the Financial Commissioner under this Regulation shall not take effect until they have been sanctioned by the President of the Union.

(3) [...]

(4) The authority making any rule under this Regulation may attach to the breach thereof, in addition to any other consequences which may ensue from such breach, such punishment, not exceeding imprisonment for one month, or fine extending to two hundred rupees, or both, as may seem to such authority, having regard to the object of the rule, to be appropriate.

52. [...]

53. Except as otherwise provided by this Regulation:

(1) a civil Court shall not have jurisdiction in any matter which the President of the Union or a revenue-officer is empowered by or under this Regulation to dispose of, or

take cognizance of the manner in which the President of the Union or any revenue-officer exercises any powers vested in them by or under this Regulation; and in particular:

(2) a civil Court shall not exercise jurisdiction over any of the following matters, which shall be cognizable exclusively by revenue-officers, namely:

(i) any question as to the limits of any State land;

(ii) any claim to the ownership or possession of any State land, or to hold such land free of land-revenue or at a favourable rate of land-revenue, or to establish any lien upon, or other interest in, such land or the rents, profits or produce thereof;

(iii) any claim to compel the performance of any duties imposed by or under this Regulation or any other enactment for the time being in force on any revenue-officer as such;

(iv) [...]

(v) the preparation of records-of-rights or periodical edition of such a record;

(vi) the correction of any entry in a record-of-rights or periodical edition of such a record or in a register of mutations;

(vii) the amount of land-revenue to be paid in respect of any State or other land under this Regulation;

(viii) the amount of, or the liability of any person to pay, any other revenue recoverable under this Regulation;

(ix) [...]

(x) [...]

(xi) any claim to hold free of revenue any land, fishery or natural products of land or water;

(xii) any claim connected with, or arising out of, the collection of revenue, or the enforcement of any process for the recovery of an arrear of revenue or any sum recoverable as such an arrear;

(xiii) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of revenue or any sum recoverable as such an arrear;

(xiv) the amount of, or the liability of any person to pay, any fees, costs or other charges imposed under this Regulation.

THE PARTITION ACT (1893)

India Act IV, 1893

9 March 1893

1. Nothing herein contained shall be deemed to affect any local law providing for the partition of immovable property paying revenue to Government.

2.. Whenever in any suit for partition in which, if instituted prior to the commencement of this Act, a decree for partition might have been made, it appears to the Court that, by reason of the nature of the property to which the suit relates, or of the number of the shareholders therein or of any other special circumstance, a division of the property cannot reasonably or conveniently be made, and that a sale of the property and distribution of the proceeds would be more beneficial for all the shareholders, the Court may, if it thinks fit, on the request of any of such shareholders interested individually or collectively to the extent of one moiety or upwards, direct a sale of the property and a distribution of the proceeds.

3. (1) If, in any case in which the Court is requested under the last foregoing section to direct a sale, any other shareholder applies for leave to buy at a valuation the share or shares of the party or parties asking for a sale, the Court shall order a valuation of the share or shares in such manner as it may think fit and offer to sell the same to such shareholder at the price so ascertained, and may give all necessary and proper directions in that behalf.

(2) If two or more shareholders severally apply for leave to buy as provided in sub-section (1) the Court shall order a sale of the share or shares to the shareholder who offers to pay the highest price above the valuation made by the Court.

(3) If no such shareholder is willing to buy such share or shares at the price so ascertained, the applicant or applicants shall be liable to pay all costs of or incident to the application or applications.

4. (1) Where a share of a dwelling-house belonging to an undivided family has been transferred to a person who is not a member of such family and such transferee sues for partition, the Court shall, if any member of the family being a shareholder shall undertake to buy the share of such transferee, make a valuation of such share in such manner as it thinks fit and direct the sale of such share to such shareholder, and may give all necessary and proper directions in that behalf.

(2) If in any case described in sub-section (1) two or more members the family being such shareholders severally undertake to buy such share, the Court shall follow the procedure prescribed by sub-section (2) of the last foregoing section-

5. In any suit for partition a request for sale may be made, an undertaking, or application for leave, to buy may be given or made on behalf of any party under disability by any person authorized to act on behalf of such party in such suit, but the Court shall not be bound to

comply with any such request, undertaking or application unless it is of opinion that the sale or purchase will be for the benefit of the party under such disability.

6. (1) Every sale under section 2 shall be subject to a reserved bidding, and the amount of such bidding shall be fixed by the Court in such manner as it may think fit and may be varied from time to time.

(2) On any such sale any- of the shareholders shall be at liberty to bid at the sale on such terms as to non-payment of deposit or as to setting-off or accounting for the purchase money or any part thereof instead of paying the same as to the Court may seem reasonable.

(3) If two or more persons, of whom one is a shareholder in the property, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the shareholder.

7. Save as hereinbefore provided, when any property is directed to be sold under this Act, the following procedure shall, as far as practicable, be adopted, namely:-

(a) if the property be sold under a decree or order of the High Court the procedure of such Court in its original civil jurisdiction for the sale of property by the Registrar;

(b) if the property be sold under a decree or order of any other Court, such procedure as the High Court may from time to time by rules prescribe in this behalf, and until such rules are made, the procedure prescribed in the Code of Civil Procedure in respect of sales in execution of decrees.

THE LAND ACQUISITION ACT (1894)

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THE LAND ACQUISITION ACT

India Act I, 1894
1 March 1894

PART I PRELIMINARY

1-2. [...]

3. In this Act, unless there is something repugnant in the subject or context:

(a) the expression “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

(b) the expression “person interested” includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;

(c) the expression “Collector” includes any officer specially appointed by the President of the Union to perform the functions of a Collector under this Act;

(d) the expression “Court” means a principal civil Court of original jurisdiction, unless the President of the Union has appointed (as he is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act;

(e) the expression “company” means a company constituted or registered by or under the law of the United Kingdom, the Union of Burma or India or Pakistan, and includes a society registered under the law of the Union of Burma or India or Pakistan relating to the registration of societies or co-operative societies;

(f) the expression “public purpose” includes the provision of village sites in districts in which the President of the Union shall have declared by notification in the Gazette that it is customary for the Government to make such provision; and

(g) the following persons shall be deemed persons “entitled to act” as and to the extent hereinafter provided (that is to say) -

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability;

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of full age; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that:

(i) no person shall be deemed “entitled to act” whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(ii) in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(iii) the provisions of Order XXXI of the Code of Civil Procedure shall, mutatis mutandis, apply in the case of persons interested in appearing before a Collector of Court by a next friend, or by a guardian for the case, in proceedings under this Act; and

(iv) no person “entitled to act” shall be competent to receive the compensation-money payable to the person for whom he is entitled to act unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II ACQUISITION

Preliminary Investigation.

4. (1) Whenever it appears to the President of the Union that land in any locality is need or is likely to be needed for any public purposes, a notification to that effect, shall be published in the Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by the President of the Union in this behalf, and for his servants and workmen:

to enter upon and survey and take levels of any land in such locality;

to dig or bore into the subsoil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries and line by placing marks and cutting trenches; and,

where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

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

5. The Officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final.

Objections.

5A. (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a company may, within thirty days of the notification, object to the acquisition of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the President of the Union, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the President of the Union on the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

Declaration of intended Acquisition.

6. (1) Subject to the provisions of Part VII of this Act, when the President of the Union is satisfied, after considering the report, if any, made under section 5A, sub-section (2), that any particular land is needed for a public purpose, or for a company, a declaration shall be made to that effect;

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

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

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a company, as the case may be; and, after making such declaration, the President of the Union may acquire the land in manner hereinafter appearing.

7. Whenever any land shall have been so declared to be needed for a public purpose or for a company, the President of the Union, or sonic officer authorized by the President of the Union in this behalf, shall direct the Collector to take order for the acquisition of the land.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and if no plan has been made thereof, a plan to be made of the same.

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

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

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and registered under the Burma Post Office Act.

10. (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every

other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Penal Code.

Enquiry into Measurements, Value and Claims, and Award by the Collector.

11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land at the date of the publication of the notification under section 4, sub-section (1) and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of:

(i) the true area of the land;

(ii) the compensation which in his opinion should be allowed for the land; and

(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

12. (1) Such award shall be filed in the Collector's office and shall except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

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

13. The Collector may for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him.

14. For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a civil Court under the Code of Civil Procedure.

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

Taking possession.

16. When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the State, free from all encumbrances.

17. (1) In cases of urgency, whenever the President of the Union so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any waste or arable land needed for public purposes, or for a company. Such land shall thereupon vest absolutely in the State, free from all encumbrances.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any railway administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, or whenever it becomes necessary for the War Office to acquire the immediate possession of any land for the use of the armed forces of the Union the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the President of the Union, enter upon and take possession of such land, which shall thereupon vest absolutely in the State, free from all encumbrances:

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

(4) In the case of any land to which, in the opinion of the President of the Union, the provisions of sub-section (1) or sub-section (2) are applicable, the President of the Union may direct that the provisions of section 5A shall not apply, and, if he does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub-section (1).

PART III
REFERENCE TO COURT AND PROCEDURE THEREON

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken;

Provided that every such application shall be made:

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

19. (1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand:

(a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons whom he has reason to think interested in such land;

(c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11; and

(d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively:

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely:

(a) the applicant;

(b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and

(c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any civil Court in the Union of Burma shall be entitled to appear, plead and act (as the case may be) in such proceeding.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration:

first, the market value of the land at the date of the publication of the notification under section 4, sub-section (1);

secondly, the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immovable, in any other manner, or his earnings;

fifthly, if in consequence of the acquisition of the land by the Collector the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

(2) In addition to the market-value of the land as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

24. But the Court shall not take into consideration:

first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or,

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the notification under section 4, sub-section (1).

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

26. (1) Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment, within the meaning of section 2, clause (2), and section 2, clause (9), respectively, of the Code of Civil Procedure.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so

extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or, that he should pay a part of the Collector's costs.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

PART IV APPORTIONMENT OF COMPENSATION

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

PART V PAYMENT

31. (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it, or if there be no person be competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount;

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18;

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section, the Collector may, with the sanction of the President of the Union, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

32. (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall:

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied:

(i) in the purchase of such other lands as aforesaid; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely:

(a) the costs of such investments as aforesaid;

(b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys; and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such

Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit there from as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be:

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

PART VI TEMPORARY OCCUPATION OF LAND

35. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the President of the Union that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a company, the President of the Union may direct the Collector to procure the occupation and use of the same for such term as the President of the Union shall think fit, not exceeding three years from the commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken there from, pay to them such compensation either in a gross sum of money, or by monthly or other periodical payments as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

36. (1) On payment of such compensation, or on executing such agreement or on making a reference under section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein.

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the President of the Union shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a company.

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

PART VII
ACQUISITION OF LAND FOR COMPANIES

38. (1) The President of the Union may authorize any officer of any company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

(2) In every such case section 4 shall be construed as if for the words “for such purpose” the words “for the purposes of the company” were substituted; and section 5 shall be construed as if after the words “the officer” the words “of the company” were inserted.

38A. An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a company for the purposes of this Part, and the references to company in sections 5A, 6, 7, 17 and 50 shall be interpreted as references also to such concern.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any company unless with the previous consent of the President of the Union, nor unless the company shall have executed the agreement hereinafter mentioned.

40. (1) Such consent shall not be given unless the President of the Union be satisfied, either on the report of the Collector under section 5A, sub-section (2), or by an enquiry held as hereinafter provided:

(a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith, or

(b) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the President of the Union shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure in the case of a civil Court.

41. If the President of the Union is satisfied, after considering the report, if any, of the Collector under section 5A, sub-section (2), or on the report of the officer making an enquiry under section 40, that the purpose of the proposed acquisition is to obtain land for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith, or that the proposed acquisition is needed for the construction of a work and that such work is likely to prove useful to the public, he shall require the company to enter into an agreement with the Government, providing to the satisfaction of the President of the Union for the following matters, namely:-

- (1) the payment to Government of the cost of the acquisition;
- (2) the transfer, on such payment, of the land to the company;
- (3) the terms on which the land shall be held by the company;
- (4) where the acquisition is for the purpose of erecting dwelling houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided; and
- (5) where the acquisition is for the construction of any other work, the time within which and the conditions on which the work shall be executed and maintained, and the terms on which the public shall be entitled to use the work.

42. Every such agreement shall, as soon as may be after its execution, be published in the Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act:

43. The provisions of sections 39 to 42, both inclusive, shall not apply to the acquisition of land for any railway or other company, for the purposes of which under any agreement the Government is, or was, bound to provide land.

44. In the case of the acquisition of land for the purposes of a railway company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

PART VIII MISCELLANEOUS

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the Courthouse, and also in some conspicuous part of the land to be acquired;

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and registered under the Burma Post Office Act, and service of it may be proved by the production of the addressee's receipt.

46. Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate and such Magistrate shall enforce the surrender of the land to the Collector.

48. (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired;

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired:

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question

to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim under section 23, sub-section (1), thirdly, by a person interested, on account of the severing of the land to be acquired from his other land, the President of the Union is of opinion that the claim is unreasonable or excessive, he may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary; but the Collector shall without delay furnish a copy of the order of the President of the Union to the person interested, and shall thereafter proceed to make his award under section II.

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or company concerned may appear and adduce evidence for the purpose of determining the amount of compensation;

Provided that no such local authority or company shall be entitled to demand a reference under section 18.

51. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the Court under this Act.

54. Subject to the provisions of the Code of Civil Procedure applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the

time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court, and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to the Supreme Court subject to the provisions contained in section 110 of the Code of Civil Procedure [and in Order XLV thereof].

55. (1) The President of the Union shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement.

(2) The power to make rules under sub-section (1) shall be subject to the condition of the rules being made after previous publication.

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

THE BURMA LAWS ACT (1898)

India Act XIII, 1898

4 November 1898

1-4. [...]

5. The President of the Union may, for administrative including revenue purposes:

(a) divide Upper Burma into divisions and each of these divisions into districts, and vary the limits of those divisions and districts, and

(b) divide each of those districts into sub-divisions, each of those sub-divisions into townships and each of those townships into circles, and vary the limits of these sub-divisions, townships and circles.

6. For the purpose of facilitating the application of any enactment for the time being in force in any part of Upper Burma, any Court may construe the enactment with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the Court.

7-12. [...]

13. (1) Where in any suit or other proceeding in the Union of Burma it is necessary for the Court to decide any question regarding succession, inheritance marriage or caste, or any religious usage or institution:

(a) the Buddhist law in cases where the parties are Buddhists,

(b) the Muhammadan law in cases where the parties are Muhammadan and

(c) the Hindu law in cases where the parties are Hindus,

shall form the rule of decision, except in so far as such law has by enactment been altered or abolished, or is opposed to any custom having the force of law.

(2) [...]

(3) In cases not provided for by sub-section (1), or by any other enactment for the time being in force, the decision shall be according to justice, equity and good conscience.

14. (1) The President of the Union may, by notification in the Gazette, transfer any portion of Upper Burma to Lower Burma or any portion of Lower Burma to Upper Burma, with effect from a date to be specified in the notification, and on and with effect from that date,

the portion so transferred shall form part of Lower Burma or Upper Burma, as the case may be.

(2) [...]

THE LOWER BURMA TOWN AND VILLAGE LANDS ACT (1899)

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THE SCHEDULE

SCHEDULED TOWNS

THE LOWER BURMA TOWN AND VILLAGE LANDS ACT

Burma Act IV, 1898
9 September 1899

CHAPTER I PRELIMINARY

1. This Act extends to Lower Burma and the Thayetmyo District of Upper Burma.
2. The provisions of this Act shall apply only to land in towns and villages.
3. (1) Nothing in Chapter II shall apply to the following lands, namely:-
 - (a) the soil of any river, canal, tank, drain, embankment, public road or natural water-course;
 - (b) land included in any cantonment;
 - (c) land occupied on the 9th September, 1899, for the purposes of any monastery, pagoda or other sacred building, and continuing to be used for the purposes of such monastery, pagoda or building;
 - (d) land included in any fisheries as defined in the Fisheries Act.
- (2) When the boundaries of any land exempt under this section from the operation of Chapter II need definition, and no other mode of defining them is provided by law, they shall be defined by the Revenue Officer.
- (3) If before they are defined any question arises as to whether any land is included within them, such question shall be decided by the Revenue Officer.
- (4) Nothing in Chapter IV shall apply to land included in any cantonment.

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

- (1) "State land" means all land of which no absolute and revenue free grant has been made, recognised or continued by or on behalf of the [...] Government;
- (2) "land at the disposal of Government" means:
 - (a) land in respect of which no person has acquired a land-holder's right;
 - (b) land in respect of which no person holds any right created by grant or lease made by or on behalf of the [...] Government;

(3) “town” means an area declared by the President of the Union by notification to be a town for the purposes of this Act, or constituted a municipality or town for the purposes of the Municipal Act or of the Towns Act;

(4) “scheduled town” means a town specified in the Schedule;

(5) “village” means an area appropriated to dwelling places not included in the limits of a town;

(6) “Revenue Officer” means any person whom the President of the Union may appoint by name or as holding an office to do anything to be done by a Revenue Officer under this Act, or under any rule made thereunder;

(7) “licence” means a licence in writing to use and occupy State land granted by a Revenue Officer authorized to grant the same;

(8) “possession” means the occupation of land by any person or by his servant, agent, guardian, trustee, mortgagee, tenant or licensee;

(9) “continuous possession” includes occupation of land by another person through whom or in whose right the present occupier has immediately succeeded in occupation, or by the servant, agent, guardian, trustee, mortgagee, tenant or licensee of any such person; and

(10) “landholder’s right” means a permanent heritable and transferable right of use and occupancy in land in the landholder’s possession subject only:

(a) to the payment of all such revenue, taxes, cesses, rates and other impositions as may from time to time be imposed on such land under any law for the time being in force;

(b) to the reservation in favour of Government of all mines and mineral products and of all buried treasure, with all the powers conferred by Chapter VIA.

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

CHAPTER II OF RIGHTS IN LAND

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

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

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

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

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

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

- (a) in the case of Akyab, the first day of April, 1852;
- (b) in the case of Bassein, the Hrst day of January, 1876;
- (c) in the case of Prome, the first day of January, 1870; has been in continuous possession of any land otherwise than under a grant or lease of the same from the [...] Government up to the 9th September, 1899, 1 shall be deemed to have acquired a landholder's right in respect of such land.

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

(2) If, under the law applicable to any such land before such extension, the person in possession of the land at the time when the extension was made could by continuous possession for a period of twelve years have acquired, a right thereto equivalent to a

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

CHAPTER III

GENERAL PROVISIONS IN REGARD TO A LANDHOLDER'S RIGHT

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

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

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

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

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

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

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

(2) Whenever any such question arises in any such proceeding and it appears that no such declaration has been so made, or that, if made, it was made less than five years before the commencement of such proceeding, or that it has been cancelled, and whenever any question arises as to whether a landholder's right, having been acquired, has been subsequently lost, the Court shall refer such question to the Revenue Officer, and shall give judgment in accordance with his decision thereon:

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

CHAPTER IV DISPOSAL OF LAND

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

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

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

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

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

CHAPTER V EVICTION FROM AND UNAUTHORIZED POSSESSION AND USE OF STATE LAND

18. (1) Every person who:

- (a) at the commencement of this Act is in possession of State land in respect whereof he has not then acquired a landholder's rights;

(b) after the commencement of this Act enters into possession of such land under a licence from the Revenue Officer, shall, until he acquires a landholder's right in respect of such land, be liable to be evicted therefrom after three months' notice from the Revenue Officer to quit the same:

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

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

19. Any person who after the 9th September, 1899,

(a) enters into possession of any land at the disposal of Government except under a grant or lease from the Government, or under a licence from the Revenue Officer, or

(b) remains in possession of such land after any such grant, lease or licence has been cancelled, or has expired, or has otherwise become void and possession has been demanded on behalf of Government,

shall be liable:

(i) to be summarily evicted therefrom;

(ii) to pay five times the amount of revenue or rent assessable or payable in respect of the land during the period of his unauthorized occupation; and

(iii) to pay such fine as the Revenue Officer may determine as a further penalty for such unauthorized occupation or possession.

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

(1) to pay such revenue or rent, or enhanced rate of revenue or rent, in respect of the land as the Revenue Officer shall determine from the time when the land was first used for such other purpose;

(2) to pay such line as the Revenue Officer may determine as a further penalty for the unauthorized use of the land;

(3) to have the grant, lease or licence of or for the land cancelled by the Revenue Officer and to be evicted therefrom:

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

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

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

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

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

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

CHAPTER VI

ASSESSMENT OF LAND REVENUE

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

(a) land which on the [9th September, 1899] belongs to the site of any monastery, pagoda or other sacred building, and which continues to be used for the purpose of such monastery, pagoda or sacred building,

(b) land exempt from assessment under the express terms of any grant or lease made or to be made by or on behalf of the [...] Government, so long as the conditions (if any) subject to which the grant or lease has been or shall be made are fulfilled;

(c) plots of land in villages not exceeding one-fourth of an acre each in extent and occupied by or appertaining to buildings;

(d) plots of land in towns not exceeding one-fourth of an acre each in extent and occupied by or appertaining to buildings which are assessed to one of the taxes specified in section 62,2 sub section (1), division (A), clause (a), clause (b), clause (c) or clause (d) of the Municipal Act, or on which a house cess is levied under section 6 of the District Cesses Act.

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

CHAPTER VIA
REGULATION OF THE EXTRACTION OF MINERALS
AND LEVY OF ROYALTIES THEREON

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

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

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

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

(a) for regulating or prohibiting the mining, quarrying or digging for or the excavating or collecting of minerals on land wherein the right to minerals is reserved to or otherwise belongs to Government;

(b) for the disposal by way of lease, licence or otherwise of such right of the Government, and fixing the conditions subject to which it and the mode in which such dispositions may be made;

(c) for the levy and collection of royalties and fees in respect of minerals mined, quarried, excavated or collected on any such land; and

(d) for prohibiting or regulating and controlling the possession, purchase, sale, transport and export of minerals, for the issue of licences in furtherance of such regulation and control, and for the levy and collection of fees in respect of such licences.

CHAPTER VII
RECOVERY OF SUMS DUE TO GOVERNMENT

24. All sums of money now due and payable, or which shall hereafter become due and payable, to Government in respect of any land, whether for land-revenue, rent or otherwise, and all fines imposed by a Revenue Officer under this Act, shall be recoverable as if they were arrears of land-revenue under the Land and Revenue Act.

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

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

CHAPTER VIII
RECORD OF POSSESSION

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

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

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

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

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

32. The Revenue Officer may, in any case before altering the roll of town lands, make a summary inquiry into the circumstances of any alleged transfer, devolution of title, or acquisition of possession of any land, and may refuse to enter the name of any person on the roll as being in possession of any land until he shall have been declared by the decree of a competent civil Court to be entitled to possession thereof.

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

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

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

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

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

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

CHAPTER IX MISCELLANEOUS

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

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

(3) In addition to the powers conferred by this section, the President of the Union may invest any Revenue Officer with any power exercised by a civil Court in the trial of suits for the purpose of all or any particular classes of cases coming before such Revenue Officer.

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

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

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

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

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

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

(a) the manner in which, and the period for which, notice of receipt of an application under section 12 shall be given by the Revenue Officer under section 13;

(b) the manner in which, and the period for which, notice of the Revenue Officer's proposal to cancel a declaration under section 14 shall be published;

(c) the particulars to be entered in the roll of town lands to be kept under section 28;

(d) the cases in which, the officers to whom, and the limitations and conditions subject to which, appeals shall lie from orders and decisions of Revenue Officers;

(e) the person or persons by whom, and the manner in which, anything required by this Act to be done and not therein specially provided for shall be done ; and

(i) generally, to carry out the provisions and objects of this Act.

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

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

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

THE TOWNS ACT (1907)

Burma Act III, 1907
25 May 1907

PRELIMINARY

1-2. [...]

3. In this Act, unless there is something repugnant in the subject or context:

(1) [...]

(2) “town” means a local area declared to be a town for the purposes of this Act by a notification under section 4.

4. The President of the Union may, by notification, declare any local area to be a town for the purposes of this Act.

5. (1) The Deputy Commissioner may, by order in writing, divide any town into wards and any ward into blocks.

(2) [Substituted by Act LXVI 1947] The Deputy Commissioner shall appoint a person to be headman of a ward and may appoint persons to be elders of a block. Where there are more suitable candidates than the appointments to be made, the Deputy Commissioner shall be guided in his choice by the wishes of the inhabitants of the ward or block concerned to be ascertained by means of an election:

Provided that the Deputy Commissioner shall not be bound to accept the candidature of any person whom, on grounds to be recorded in writing, he considers for any reason to be unsuitable:

Provided also that the Deputy Commissioner shall not be bound by the results of the election where the successful candidate:

(a) owed his election to the exercise of undue influence or intimidation or corrupt practices;
or

(b) cannot furnish such security as is or may be prescribed in this behalf.

No person shall be eligible to be a headman of a ward or elder of a block unless he is eligible to vote.

(3) [Substituted by Act LXVI 1947] The Deputy Commissioner may delegate to a Sub-divisional Officer or Township Officer by name the duty of holding the election referred to in sub-section (2).

(4) (a) [Substituted by Act LXVI 1947] The headman of a ward or elder of a block so appointed shall hold office for a period of five years, but shall be eligible for re-election.

(b) Notwithstanding anything contained in any other law, the Deputy Commissioner may, in the case of a headman of a ward or elder of a block appointed in his jurisdiction prior to the commencement of the Towns (Amendment) Act, 1947, by three months' notice in writing to the headman or elder concerned, terminate the appointment of such headman or elder with effect from the date to be mentioned in the notice.

General Duties of Headmen and Elders.

6. (1) Every headman of a ward shall communicate forthwith to the officer in charge of the nearest police station or to the nearest Magistrate any information which he may obtain respecting:

(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in his ward;

(b) the resort to any place within, or the passage through, his ward of any person whom he may know or reasonably suspect to be a dacoit, robber, house-breaker, escaped convict or proclaimed offender;

(c) the commission of, or attempt or intention to commit, within his ward, any of the following offences, namely:

(i) murder;

(ii) culpable homicide not amounting to murder;

(iii) dacoity;

(iv) robbery;

(v) offences against the Arms Act;

(vi) offences against section 10A ; and

(vii) any other offence respecting which the Deputy Commissioner, by general or special order, with the previous sanction of the President of the Union, may direct him to communicate information;

(d) the occurrence in his ward of any sudden or unnatural death, or of death under suspicious circumstances.

(2) Every elder of a block shall communicate forthwith to the headman of his ward any information which he may obtain respecting any of the matters specified in sub-section (1), which may exist or occur in his block, and in the absence of the headman of his ward, he shall communicate the information forthwith to the officer in charge of the nearest police station.

7. (1) The headman of a ward shall be bound to perform the following public duties, namely:-

(a) to assist the police in the investigation of every offence respecting which he is required by the last foregoing section to communicate information;

(b) to search for and use his utmost endeavors to arrest any person whom he may have reason to believe to have been concerned in the commission or attempted commission of any such offence, and to recover, if possible, any property taken by any such person;

(c) to arrest any person found lurking within the limits of the ward who cannot give a satisfactory account of himself;

(d) to forward, as soon as may be, to the nearest police-station, any person arrested by him or made over to his custody, together with any weapon or other article likely to be useful as evidence;

(e) to prevent to the best of his ability the commission of any offence regarding which he is required by section 6, sub-section (1), to communicate information, and to arrest the person designing to commit such offence if it appears to him that the commission of such offence cannot otherwise be prevented;

(f) to collect or aid in collecting, to the utmost of his ability, any revenue or other money due to the Government or to a municipal or town committee from residents of the ward or persons holding land therein;

(g) to report to such officer as may be appointed by the Deputy Commissioner in this behalf all trespass or encroachments upon, and injuries to, State land and public property which may occur within his ward, and of which he may reasonably and fairly be expected to have cognizance;

(h) if so ordered by the Deputy Commissioner, in accordance with such rules as may be made in this behalf by the President of the Union, to register all births and deaths which take place within the ward, and any other vital statistics which may be prescribed by such rules;

(i) to take such measures as may be prescribed in any rules made in this behalf by the Commissioner with the previous sanction of the President of the Union:

(firstly) for the prevention and extinction of fires;

(secondly) for the prevention of public nuisances;

(thirdly) for the general sanitation of the ward and the prevention of the spreading of any contagious or infectious disease among human beings;

(f) to take such measures as may be prescribed in any rules made in this behalf for the prevention and suppression of any contagious or infectious disease among domestic animals;

(k) to report all cases of small-pox, plague, cholera and cattle disease which occur within his ward and of which he may reasonably and fairly be expected to have cognizance, and to supply, to the best of his ability, any local information which any Magistrate, officer of police or municipal officer may require;

(l) to collect and furnish, upon receipt of payment for the same in advance at such rates as the Deputy Commissioner, with the sanction of the Commissioner, may from time to time fix guides, supplies of food, carriage, and means of transport for any troops or police posted in or near or marching through or near the town:

Provided that no headman shall be bound to collect supplies beyond the limits of the ward of which he is headman, or to furnish carriage or means of transport for more than twelve hours journey from such town unless the Deputy Commissioner certifies in writing that it is necessary in the public interests that carriage or means of transport should be supplied for a longer period, in which case the Deputy Commissioner shall fix higher rates of payment than the rates of payment for journeys of twelve hours or less:

Provided also that no headman shall requisition for personal service any resident of such ward who is not of the labouring class and accustomed to do such work as may be required; and

(m) generally to assist all officers of the Government and municipal officers in the execution of their public duties.

(2) The elder of a block shall be bound to assist the headman of his ward in the performance of the duties prescribed in sub-section (1).

(3) The President of the Union may, by notification, direct that particular clauses of sub-section (1) shall not apply to any town specified in such notification.

8. If any headman of a ward or elder of a block neglects, without reasonable excuse, to perform any of the public duties imposed upon him by this Act or any rule made thereunder, he shall be liable, on conviction by a Magistrate, to a fine which may extend to fifty rupees.

General Duties of Residents.

9. Persons residing in a ward shall be bound to perform the following public duties, namely:-

(a) to take such measures as may be prescribed in any rules made in this behalf for the prevention and suppression of any contagious or infectious disease among domestic animals;

(b) on a general or individual requisition of the headman to assist him in the execution of his public duties.

9A. If any person residing in a ward refuses or neglects to perform any of the public duties imposed upon him by this Act or any rule thereunder, he shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be liable, on conviction by a Magistrate, to a fine which may extend to fifty rupees.

10. (1) If in any town in the Union of Burma (The word "Upper" was omitted from the original expression "Upper Burma" by the Union of Burma (Adaptation of Laws) Order, 1948)] which the President of the Union may, by notification, declare to be within the operation of this section, any person who is not a resident of such town comes into a ward thereof, he or the person (if any) in whose house he is living shall, within twelve hours of his coming into such ward, report to the headman his arrival, his name and occupation, and the name of the place where he last resided.

(2) The departure from such ward of a person reported under sub-section (1) shall also be reported by the person, if any, in whose house he has been living.

(3) Any person who contravenes the provisions of this section shall, on conviction by a Magistrate, be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to fifteen days, or with both.

10A. (1) The Deputy Commissioner may, by a notification publicly promulgated or addressed to individuals, prohibit the carrying of any of a kind exempted from the provisions of the Arms Act, bludgeons, loaded sticks, hunting crops, clasp-knives of a specified size, or other offensive instruments in any public place.

(2) Any person being in a public place shall upon demand deliver up to a police-officer or to the ward headman any such offensive instrument as is referred to in sub-section (1) which may be in his possession.

(3) Whoever contravenes a prohibition under sub-section (1) or the provisions of sub-section (2) shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

(4) When any person is convicted of an offence under sub-section (3) the instrument in respect of which he has been convicted shall be liable to be confiscated by the Court.

(5) This section shall not apply to Rangoon Town.

Pwes, Billiards, Saloons, Pawn-shops etc.

11. (1) Whoever:

(a) holds a pwé in any town, without a licence granted by the Deputy Commissioner or by an officer appointed by the Deputy Commissioner in this behalf, or

(b) promotes the holding of a pwé held without such licence, or

(c) takes part in or in any manner assists the race, performance or other entertainment (if any) constituting a pwé held without such licence, or takes part in or in any manner assists the arrangement or management of a pwe held without such licence, or

(d) being present thereat, permits the holding of a pwé without such licence on any land or premises under his control,

shall be punished, on conviction by a Magistrate, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) No fee shall be paid on the application for, or on the issue of, the licence required by sub-section (1).

(3) For the purposes of this section “pwe” ordinarily means a puppet show or other theatrical or dramatic performance: or a native cart, pony, boat or other like race, held for public entertainment whether on public or private property;

and, in respect of any local area, also includes public entertainments or assemblies of any such class as the President of the Union may, by notification, declare to be pwes for the purposes of this section when held in such local area.

11A. (1) No person shall keep a public billiard table, bagatelle board, ring-throwing establishment, or any place of public resort for any form of game or amusement which the President of the Union may, by notification, declare to be within the provisions of this section, except under and in accordance with the conditions of a licence granted by the Deputy Commissioner or by an officer appointed by the Deputy Commissioner in this behalf.

(2) The President of the Union may by rules prescribe the circumstances in which such licences may be refused, the fees to be paid for such licences and the conditions on which such licences may be granted or revoked.

(3) Any person who commits a breach of sub-section (1) or of any of the conditions of a licence granted under this section shall be liable for a first offence to a fine which may extend to one hundred rupees, and for a subsequent offence to imprisonment for a term which may extend to one month, or to fine which may extend to five hundred rupees, or to both.

11B. (1) No person shall keep a pawn-shop or carry on the business of a pawn-broker except under and in accordance with rules made by the President of the Union in this behalf.

(2) The President of the Union may make rules:

(a) regulating pawn-shops and rendering licences necessary for pawn-brokers;

(b) prescribing the form of such licences and the conditions subject to which they shall be granted and may be revoked;

(c) providing for the sale, issue, production and return of such licences; and

(d) generally for carrying into effect the objects of this section.

(3) The President of the Union may, by rule under this section, attach to the breach of any rule thereunder punishment which may extend for a first offence to a fine of rupees one hundred, and for each subsequent offence to imprisonment for one month, or to a fine of two hundred rupees, or both:

Provided that this section shall apply only to such towns as the President of the Union may, by notification, direct.

Supplemental.

12. (1) No appeal shall lie from any order made under this Act or any rule made thereunder.

(2) But the Deputy Commissioner may revise any such order made by any officer subordinate to him;

the Commissioner may revise any such order made by the Deputy Commissioner; and the President of the Union may revise any order made by the Deputy Commissioner or Commissioner.

(3) Save as provided by this section, every order made under this Act shall be final and shall not be liable to be contested by suit or otherwise.

13. (1) The President of the Union may make rules to carry out the objects and purposes of this Act.

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

(a) prescribe the duties to be performed by the headman and residents of a ward in respect of the matters mentioned in section 7, sub-section (1), clause (j), and in section 9, clause (a);

(b) prescribe the measures to be taken for the prevention and suppression of any contagious or infectious disease among domestic animals coming into or passing through a ward:

Provided that the President of the Union may, by notification, exclude from the operation of all or any of the rules made under clauses (a) and (b) any town which has been constituted a municipality under the provisions of the Municipal Act.

13A. Whoever, not being a resident of a ward, refuses to obey or contravenes any rule made under clause (b), sub-section (2), of section 13 shall be punishable, on conviction by a Magistrate, with *va line* which may extend to fifty rupees.

14. All rules made under this Act by the President of the Union or by a Commissioner shall be published in the Gazette, and, when so published, shall have the same effect as if enacted by this Act.

THE TOWNS (AMENDMENT) ACT (1947)

Burma Act LXVI
8 November 1947

It is hereby enacted as follows:-

1. For sub-section (2) and (3) or section 5 of the Towns Act the following sub-sections shall be substituted:-

“(2) The Deputy Commissioner shall appoint a person to be headman of a ward and may appoint persons to be elders of a block. Where there are more suitable candidates than the appointments to be made, the Deputy Commissioner shall be guided in his choice by the wishes of the inhabitants of the ward or block concerned to be ascertained by means of an election:

Provided that the Deputy Commissioner shall not be bound to accept the candidature of any person whom, on grounds to be recorded in writing, he considers for any reason to be unsuitable:

Provided also that the Deputy Commissioner shall not be bound by the results of the election where the candidate:

(a) owed his election to the exercise of undue influence of intimidation or corrupt practices;
or

(b) cannot furnish such security as is or may be prescribed in this behalf.

No person shall be eligible to be a headman or a ward or elder of a block unless he is eligible to vote.

(3) The Deputy Commissioner may delegate to a Subdivisional Officer or Township Officer by name the duty of holding the election referred to in sub-section (2).

(4) (a) The headman of a ward or elder of a block so appointed shall hold office for a period of five years, but shall be eligible for re-election.

(b) Notwithstanding anything contained in any other law, the Deputy Commissioner may, in the case of a headman of a ward or elder of a block appointed in his jurisdiction prior to the commencement of the Towns (Amendment) Act, 1947, by three months' notice in writing to the headman or elder concerned, terminate the appointment of such headman or elder with effect from the date to be mentioned in the notice.”

THE VILLAGE ACT (1908)

Burma Act VI, 1907
1 January 1908

PRELIMINARY

1-2. [...]

3. This Act shall take effect notwithstanding anything in any enactment for the time being in force-

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

(1) "headman" means the person appointed to be the headman of a village-tract under section 5;

(2) "rule" means a rule made by the President of the Union under this Act;

(3) "stolen property" has the meaning assigned to that term by section 410 of the Penal Code;

(4) "Subdivisional Officer" means the officer in charge of a sub division of a district as constituted for revenue and general purposes;

(5) "Township Officer" means the officer in charge of a township as constituted for revenue and general purposes;

(6) "town" means a local area appropriated to dwelling places not included within the limits of a town;

(7) "village" means an area appropriated to dwelling places not included within the limits of a town;

(8) "village-tract" means the local are under the jurisdiction of a headman, including a village or group of villages and adjacent lands; and

(9) "village committee" means the village committee established for a village-tract under section 5A.

5. (1) The Deputy Commissioner may declare that any local area shall be a village tract and, when necessary, may determine the limits of any village tract.

(2) The village headman of every village tract shall be appointed by the Deputy Commissioner afer he has ascertained the wishes of the villagers by means of an election, provided that the

Deputy Commissioner may reject the application of any of the candidates by reason of his character or residence of any of the physical or mental disqualifications, or of being below 21 years or above 55 years of age. The Deputy Commissioner may overrule the result of an election by the villagers:

(a) if the candidate so elected owed his election to the exercise of undue influence or to intimidation; or

(b) if the candidate so elected cannot furnish such security as is or may be prescribed in this behalf:

(c) [...]

(3) (a) The village headman so appointed shall hold office for a period of five years, but shall be eligible for re-election;

(b) Notwithstanding anything contained in any other law, the Deputy Commissioner, may, in the case of any village headman appointed in his jurisdiction prior to the commencement of the Village (Amendment) Act, 1947, by three months' notice in writing to the headman concerned, terminate the appointment of such headman with effect from the date to be mentioned in the notice.

(4) The Deputy Commissioner or a Sub-divisional or Township Officer, empowered by the Deputy Commissioner in this behalf, may appoint a rural policeman or more than one such policeman in any rural village-tract.

5A. (1) For every village-tract there shall be constituted a village committee for the purpose of exercising such powers as are or may be conferred upon the village committee under this Act or any other law, and for of advising the headman in matters concerning the general welfare of the village-tract:

Provided that the President of the Union may by notification exclude any village-tract from the operation of this section, in which case all the provisions of this Act relating to village committees shall, where the context so permits, be deemed to apply to the headman.

(2) The headman shall be a member and the chairman of the village committee.

(3) (a) The remaining members of the village committee shall not be less than four persons or more than eight persons to be elected by the residents of the village-tract in accordance with such rules as may be made in this behalf. The tenure of office of such village committee shall be five years, to be reckoned from the earliest date of appointment of any of its members other than the Chairman.

(b) Where any person is appointed to be a member of the village committee in the place of any member who has resigned or died, or has vacated the office of member of the village

committee before the expiration of the said period of five years, such succeeding member, shall hold office only for the unexpired period of the life of the village committee;

Provided that a member of the village committee shall be deemed to have resigned his office if the Deputy Commissioner, by order made on sufficient grounds, declares that the continuance in office of such member is contrary to the interests of the residents of the village-tract.

(c) Notwithstanding anything contained in any other law, the Deputy Commissioner may, in the case of members of a village committee appointed in his jurisdiction prior to the commencement of the Village (Amendment) Act, 1947, by one month's notice in writing to the members concerned, terminate the appointment of such members with effect from the date to be mentioned in the notice; and every member, whose appointment is so terminated, shall be eligible for election under the rules made under this section.

DUTIES AND POWERS OF VILLAGE COMMITTEES, HEADMEN AND RURAL POLICEMAN

6. (1) The Commissioner may, by notification, invest any village committee with the powers of a civil Court for the trial of suits between persons of whom both or all, as the case may be, reside within the village-tract, and may; by general or special notification, specify the classes, and the value not exceeding fifty rupees, of the suits which such village committee may try.

(2) In any suit tried in exercise of powers conferred under sub-section (1), the decision of the village committee shall, subject to revision by the Township Judge in whose civil jurisdiction such suit was tried, be final.

(3) Notwithstanding anything in the Code of Civil Procedure, a person shall not be bound to institute a suit in the Court of a village committee.

(4) A fee shall be paid to the headman on the institution of a suit in the Court of a village committee at the following rate:-

One anna in the rupee on the value of the suit with a minimum fee of one rupee, or two rupees if the suit is a matrimonial suit or otherwise not capable of valuation.

7. (1) Every headman shall forthwith communicate to the nearest Magistrate or the officer in charge of the nearest police station or any other officer of the Government, or an officer of the army, naval or air forces serving, in the Union of Burma any information which he may obtain respecting:

(a) the permanent or temporary (residence) of any notorious receiver or vendor of stolen property in his village-tract;

(b) the resort to any place within, or the passage through, his village-tract of any person whom he knows, or reasonably suspects, to be a dacoit, robber, escaped convict, proclaimed offender or as deserter from any armed force whether of the Government or of any other Power;

(c) the commission of, or attempt or intention to commit, any of the following offences within his village-tract, namely:

(i) murder;

(ii) culpable homicide not amounting to murder;

(iii) dacoity;

(iv) robbery;

(v) offence against the Arms Act; or

(vi) any other offence respecting which the Deputy Commissioner by general or special order made with the previous sanction of the Commissioner, directs him to communicate information;

(d) the occurrence in his village-tract of any sudden or unnatural death or of any death under suspicious circumstances or the outbreak of any epidemic disease among human beings or cattle;

(e) the destruction of or damage to or any attempt to cause such destruction or damage to any Government property including telecommunication lines, roads, bridges or railway lines;

(f) the presence in his village-tract of any person in possession of unlicensed arms or ammunition or the existence within his village-tract of any unlicensed arms or ammunition;

(g) any matter likely to affect the maintenance of law and order or the prevention of crime or the safety of person or property respecting which the Deputy Commissioner, by general or special order, has directed him to communicate information.

(2) Section 45 of the Code of Criminal Procedure shall not apply to the areas in which this Act is in force.

8. (1) Every headman shall be bound to perform the following public duties, namely:-

(a) to investigate every offence respecting which he is required by section 7C to communicate information;

(b) to search for and arrest any person whom he has reason to believe to have been concerned in the commission or attempted commission of any such offence, and to recover, if possible, any property taken by any such person;

(c) to arrest any person found lurking within the limits of the village-tract who cannot give a satisfactory account of himself;

(d) to forward, as soon as may be, to the nearest police-station any person arrested, by him or made over to his custody, together with any weapon or other article likely to be useful as evidence;

(e) to resist any unlawful attack made upon any village within the village-tract;

(f) to take such measures and to execute such works for the protection of the villages within his tract and for keeping open the communications between them and for the, maintenance of the water supply as the Deputy Commissioner or Subdivisional Officer may direct;

(g) to collect and furnish, upon receipt of payment for the same at such rates as the Deputy Commissioner may fix, guides, messengers, porters, supplies of food, carriage and means of transport for any troops or police posted in or near or marching through the village-tract or for any servant of the Government travelling on duty provided that no headman shall requisition for personal service any resident of such village-tract who is not of the labouring class and accustomed to do such work as may be required;

(h) [...]

(i) to collect or aid in collecting revenue and other money due to the State from residents of the village-tract or persons holding land therein;

(j) if so ordered, and in accordance with such rules as may be made in this behalf, to register all births and deaths which take place within the village-tract, and any other vital statistics which may be prescribed by such rules;

(k) to superintend and control and to take such measures as may be prescribed in any rules made in this behalf for:

firstly, the prevention of public nuisances;

secondly, the cure or prevention of the spreading of any contagious or infectious disease among human beings or domestic animals of any kind;

thirdly, the prevention and extinction of fires;

fourthly, the general sanitation of the village-tract;

fifthly, the regulation of the slaughter of horned cattle, ponies, sheep, goats and swine and the sale of the flesh thereof;

(l) to supply to the best of his ability any local information which [any Magistrate, police-officer or any other officer of the Government of any officer of the army, naval or air forces serving in the Union of Burma] may require;

(m) to disarm any person found in possession of any weapon of the kind mentioned in section 21A while proceeding to, returning from or being present at a pwe held in the headman's village-tract;

(n) generally to assist all officers of the Government in the execution of their public duties; and

(o) generally to adopt such measures and do such acts as the exigency of the village may require.

(2) Every rural policeman shall be bound to perform such public duties similar to those imposed on a headman by sub-section (1) as may be imposed upon him by rules made in this behalf.

(3) Every headman shall have power to arrest any person who commits an offence punishable under section 510 of the Penal Code.

9. (1) If any of the offences mentioned in the next following sub-section is committed in a village-tract, the village committee may, on complaint made to the headman, take cognizance of it and try any person accused thereof.

(2) The offences referred to in sub-section (1) are the following, namely:-

(a) assault;

(b) theft when the value of the property stolen does not exceed five rupees);

(c) mischief when the mischief causes damage to an amount not exceeding five rupees;

(d) criminal trespass;

(e) any other offence which the President of the Union may, by notification, declare to be triable by a village committee under sub-section (1).

(3) If the accused is convicted, he may be sentenced to fine not exceeding five rupees or, if the offence was theft or mischief twice the value of the property stolen or twice the amount of the damage caused, as the case may be; or to confinement for a term not exceeding

twenty-four hours in such place as the Deputy Commissioner may appoint in this behalf, or to both.

(4) A village committee specially empowered by the Commissioner in this behalf may, on complaint, try any person accused of theft or mischief when the value of the property stolen or the amount of the damage caused does not exceed fifty rupees, and may in any case so triable sentence the accused on conviction, to fine not exceeding fifty rupees, or to confinement for a term not exceeding fifteen days in such place as the Deputy Commissioner may appoint in this behalf; or to both.

(5) Proceedings under this section shall be held in the presence of the complainant and the accused.

(6) The offence out of which the proceedings have arisen may be compounded at any time before the village committee pronounces its decision.

(7) The proceedings need not be reduced to writing, but such record shall be kept of the cases decided as the Deputy Commissioner directs.

(8) The whole or any part of any fine imposed for an offence referred to in this section may be awarded as compensation to any person injured by the offence.

(9) A fee of one rupee may be levied on a complainant under sub-section (1) and of two rupees on a complaint under sub-section (1), but no other fees shall be leviable in any case under this section.

(10) If the accused is convicted, the amount of any fee paid in respect of the complaint shall be recovered from him as if it were a fine imposed under this Act and to be repaid to the complainant.

(11) Nothing contained in this section shall enable a village committee to try a person who is accused of an offence punishable under Chapter XII or Chapter XVII of the Penal Code with imprisonment for a term of three years or upwards and who has been previously convicted of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards.

10. If a headman or a rural policeman neglects to perform any of the public duties imposed upon him by this Act or any rule thereunder, or abuses any of the powers conferred upon him by this Act or any such rule, he shall be liable, by order of the Deputy Commissioner to pay a fine not exceeding fifty rupees.

GENERAL DUTIES OF VILLAGERS

11. Every person residing in a village-tract shall be bound to perform the following public duties, namely:-

(a) to communicate forthwith to the headman any information which he may obtain respecting the commission of, or attempt or intention to commit within the village-tract, any offence with respect to which the headman is required by section 7 to communicate information;

(b) to resist any unlawful attack made upon any village within the village-tract;

(c) to take such measures as may be prescribed in any rules made in this behalf for:

(i) the registration of births, deaths and vital statistics;

(ii) the prevention of public nuisances;

(iii), the cure or prevention of the spreading of any contagious or infectious disease among human beings or domestic animals of any kind;

(iv) the prevention and extinction of fires;

(v) the general sanitation of the village-tract; and

(vi) on the requisition of the headman or a rural policeman to assist him in the execution of his duties prescribed in sections 7 and 8 of the Act and the rules made under the Act.

Explanation - A requisition under clause (d) may be either general or addressed to an individual.

12. If any person residing in a village-tract refuses or neglects to perform any of the public duties imposed upon him by this Act or by any rule thereunder, he shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be liable:

(i) by order of the headman, to fine not exceeding five rupees, or

(ii) by order of the village committee, on the case being referred to it by the headman, to fine not exceeding ten rupees, or to confinement for a term not exceeding forty-eight hours in such place as the Deputy Commissioner may appoint in this behalf or to both, or

(iii) on conviction by a Magistrate, to fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both.

13. The Deputy Commissioner may, with the sanction of the Commissioner, impose fines on all or any residents of a village-tract if after enquiry he has found:

(a) that they or any of them have failed to resist an attack on the village or to take all reasonable means to prevent the escape of any criminal;

(b) that they have suppressed or combine to suppress evidence in any criminal case;

and may, with the like sanction, order the whole or any part of the fines recovered to be applied in compensation for the injury, damage or loss to person or property cause by such attack or by the offence of which the criminal is accused.

14. [...]

PROVISIONS RESPECTING RESIDENCE IN VILLAGE-
TRACTS AND ERECTION OF HOUSES

15. (1) If any person comes into a village-tract of which he is not a resident, he or the person, if any, in whose house he is living shall, within four hours of his arrival, report to the headman or in the village where the headman does not reside to the ywagaung of his arrival, his name and occupation, and the name of the place where he last resided.

(2) The departure from the village-tract of a person whose arrival has been reported under sub-section (1) shall also be reported by the person, if any, in whose house he has been living.

16. (1) Whoever contravenes the provisions of section 15 shall be punishable, on conviction by a Magistrate, with fine which may extend to fifty rupees or with simple imprisonment for a term which may extend to fifteen days, or with both.

(2) Where no prosecution has been instituted before a Magistrate for the offence under sub-section (1), the headman of a village-tract in which a person contravenes the provisions of section 15 may, within eight days from the date of the commission of such offence, upon information received from any person or upon his own knowledge or suspicion that such offence has been committed, send up such person for trial, by the village committee which shall, if it convicts the accused for such offence, sentence him to fine not exceeding five rupees, or to confinement for a term not exceeding twenty-four hours in such place as the Deputy Commissioner may appoint in this behalf, or to both.

(3) Proceedings before a village committee under sub-section (2) shall be held in the presence of the accused. Such proceedings need not be reduced to writing, but such record shall be kept of the cases decided as the Deputy Commissioner directs.

17. A person who is not a resident of a village-tract shall not build any house, hut or enclosure, or take up his residence in the village-tract without the permission of the village committee.

18. (1) No person shall, without the permission of the Deputy Commissioner, establish a new village or group of houses; and no person shall build or occupy a house on land which was not within a village on the 1st January, 1908 until it has been appropriated to dwelling places with the permission of the Deputy Commissioner.

(2) Nothing contained in this section shall be deemed to require a cultivator or fisherman, or other person whose vocation during a season of the year is carried on at a distance from a village, to obtain the permission of the Deputy Commissioner to build a house on the locality where his vocation is carried on, or to occupy it for the season of the year during which, having regard to the custom of his vocation, it is necessary that he should reside in such locality.

19. (1) Whoever contravenes the provisions of section 17 or section 18 shall be punishable, on conviction by a Magistrate, with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to fifteen days, or with both.

(2) When a person has been convicted under this section, the Deputy Commissioner may issue an order requiring him and any other person (if any) occupying the houses and land in respect of which he was convicted to quit the same and to remove therefrom all property other than State property within a specified time.

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

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

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

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

20. (1) When the Deputy Commissioner has reason to believe, on the report of a headman or otherwise, that a person residing in any place is harbouring, aiding or abetting, he may require that person to leave that place and to reside in such other place as the Deputy Commissioner may direct.

(2) Whoever disobeys a requisition under sub-section (1) shall be punishable, on conviction by a Magistrate, with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

PAWN SHOPS

20A. (1) No person shall keep a pawn-shop or carry on the business of a pawn-broker except under and in accordance with rules made by the President of the Union in this behalf.

(2) The President of the Union may make rules:

- (a) regulating pawn-shops and rendering licences necessary for pawn-brokers;
- (b) prescribing the form of such licences and the conditions subject to which they shall be granted and may be revoked;
- (c) providing for the sale, issue, production and return of licences; and
- (d) generally for carrying into effect the objects of this section.

(3) The President of the Union may, by rule under this section, attach to the breach of any rule thereunder any punishment which may extend for a first offence to a fine of one hundred rupees, and for each subsequent offence to imprisonment for one month, or to a fine of two hundred rupees, or both:

Provided that this section shall apply only to such villagers as the Deputy Commissioner may direct and shall not apply to any area notified under section 246 of the Municipal Act.

PWES

21. Whoever:

- (a) holds a pwe in any village-tract, without a licence granted by the Deputy Commissioner or by an officer or other person appointed by the Deputy Commissioner in this behalf, or
- (b) promoted the holding of a pwe held without such licence, or
- (c) takes part in or in any manner assists the race, performance or other entertainment (if any) constituting a pwe held without licence, or takes part in or in any manner assists the arrangement or management of a pwe held without such licence, or
- (d) being present thereat, permits the holding of a pwe without such license on any land or premises under his control,

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

(2) No fee shall be paid on the application for, or on the issue of, the licence required by sub-section (1).

(3) For the purpose of this Act “pwe” ordinarily means a puppet show or other theatrical or dramatic performance, or a native cart, pony, boat or other like race, held for public entertainment, whether on public or private property;

and, in respect of any local area, also includes public entertainment or assemblies of any such class as the President of the Union may by notification declare to be pwes for the purposes of this Act when held in such local area.

21A. (1) No person being present at a pwe shall have in his possession a da of a kind exempted from the provisions of the Arms Act, knife, bludgeon, loaded stick, hunting-crop or any other instrument which the Deputy Commissioner may declare for the purpose of this section to be an offensive weapon.

(2) Every person proceeding to, returning from, or being present at, a pwe and having in his possession any such weapon shall upon demand deliver up the same to the headman of the village-tract in which the pwe is being held or to any rural policeman in such village-tract or to any person employed by the said headman to assist him in keeping order at the pwe or to any police-officer within the said village-tract; and every weapon delivered up in accordance with the provisions of this sub-section shall be made over to the headman as soon as possible;

Provided that any weapon delivered up in accordance with the provisions of this sub-section may at any time be returned to the owner at the discretion of the headman.

(3) Whoever contravenes the provisions of this section shall be punishable, on conviction by a Magistrate, with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to fifteen days, or with both.

(4) The headman may within eight days from the commission of an offence under this section at his discretion either report the matter to the nearest Magistrate or try the accused himself, and upon conviction sentence him to a fine not exceeding five rupees or to confinement for a term not exceeding twenty-four hours in such place as the Deputy Commissioner may appoint in this behalf, or to both.

(5) Proceedings before a headman shall be held in the presence of the accused and such record shall be kept thereof as the Deputy Commissioner directs.

(6) When any person is convicted of an offence under sub-section (3) or sub-section (4) the instrument in respect of which he has been convicted shall be liable to be confiscated;

(7) This section shall not apply to any person exempted under the provisions of section 27 of the Arms Act or to any person employed by a headman to assist him in keeping order as a pwe or exempted by special or general order of the Deputy Commissioner.

SUPPLEMENTAL PROVISIONS

22. (1) A fine imposed under this Act may be recovered as if it were an arrear of land-revenue.

(2) [...]

23. (1) An appeal shall lie to the Commissioner from an order passed by the Deputy-Commissioner under the provisions of sub-section (2) of section 5, and except as provided herein, no appeal shall lie from any order made under this Act.

(2) But the Deputy Commissioner may revise any such order made by any authority subordinate to him; the Commissioner may revise any such order made by the Deputy Commissioner; and the President of the Union may revise any order made by the Deputy Commissioner or Commissioner.

(3) Save as provided by this section, an order made under this Act shall be final, and shall not be liable to be contested by suit or otherwise.

(4) The word order in this section does not include a decision of a village committee in a suit tried in exercise of powers conferred under section 6, sub-section (1).

24. The President of the Union may authorize any Settlement Officer, Assistant Commissioner, Extra Assistant Commissioner, Subdivisional Officer, or any Forest Officer, as defined in section 3 (5) of the Forest Act, above the rank of Assistant Conservator to exercise all or any of the powers of the Deputy Commissioner, and any Forest Officer above the rank of Forest Ranger to exercise all or any of the powers of a Subdivisional or of a Township Officer under this Act in any district or part of a district.

25. (1) The emoluments of a headman or rural policeman shall not be liable to attachment in execution of a decree or order of any civil Court.

(2) An assignment of or charge on or an agreement to assign or charge, any such emoluments shall be void.

(3) Where the emoluments of a headman consist wholly or in part of a grant of land, the title to the grant shall pass with the office of headman, and the Deputy Commissioner may, upon such terms, if any, as to compensation for improvements or otherwise as he thinks fit, enforce the surrender of the land to the person for the time being holding that office.

(2) An assignment of or charge on, or an agreement to, assign or charge, any such emoluments shall be void.

(3) Where the emoluments of a headman consist wholly or in part of a grant of land, the title to the grant shall pass with the office of headman, and the Deputy Commissioner may, upon such terms, if any, as to compensation for improvements or otherwise as he thinks fit, enforce the surrender of the land to the person for the time being holding that office.

(4) In enforcing a surrender under sub-section (3) the Deputy Commissioner may proceed in the manner provided in sub-sections (2) to (5) of section 19.

26. A civil Court shall not have jurisdiction over any claim to the office of headman or other village-officer or to the position of member of a village committee, or in respect of any injury caused by exclusion from such office or position, or power to compel the performance of the duties or a division of the emoluments, thereof.

27. [...]

28. No complaint against a headman or member of a village committee or rural policeman of any act or omission punishable under this Act shall be entertained by any Court unless the prosecution is instituted by order of, or under authority from, the Deputy Commissioner.

28A. (1) Notwithstanding anything contained in section 192 of the Code of Criminal Procedure, any Magistrate who has taken cognizance of a case may transfer it for inquiry or trial to any village committee which could have taken, cognizance of it under section 9, and such village committee shall take cognizance of it accordingly.

(2) The District Magistrate may withdraw any case which has been transferred to a village committee under the preceding sub-section and may inquire into or try such case himself, or refer it for inquiry or trial to any Magistrate competent to inquire into or try the same.

29. (1) The President of the Union, may, by notification, make rules consistent with this Act:

(a) conferring on headmen or on rural policeman any powers or privileges which may be exercised or are enjoyed by police-officers under any enactment for the time being in force;

(b) prescribing the duties to be performed by rural policemen, including any duties imposed upon police officers by any enactment for the time being in force;

(c) regulating the exercise, enjoyment and performance of those powers, privileges and duties by rural policemen;

(cc) (i) prescribing the qualification of electors and regulating the manner in which [a headman or] members of village committees shall be elected;

(ii) prescribing the number of members to be elected for village committees generally or with reference to certain village-tracts;

(iii) prescribing the procedure in inquiries and trials, the times at which meetings of the village committee shall be held, the manner of summoning the same, the quorum necessary therefore, and the conduct of business thereat, with reference to the discharge of the special duties to be performed by the village committee under this Act and generally;

(d) prescribing the duties to be performed by the headman and residents of a village-tract in respect of the matters mentioned in section 8, sub-section (1), clauses (j) and (k), and in section 11, clause (c);

(e) regulating the emoluments of headmen and rural policemen;

(f) prescribing the procedure to be observed by a village committee trying a suit in exercise of powers conferred under section 6, sub-section (1), the record which is to be made of the suit and the mode in which that record is to be disposed of, the powers in which the village committee and the headmen may exercise as regards the costs of the suit and of any proceeding arising thereout, the manner, circumstances and conditions in and on which such a decree or order maybe sent for execution to, and be executed by, another village committee or a civil Court;

(g) for the disposal of fees levied under section 6, sub-section (4), and section 9, sub-section (9);

(h) for the prevention and suppression of any contagious or infectious disease among human beings or domestic animals of any kind coming into or passing through a village-tract; and

(i) generally, for carrying into effect the purposes of this Act.

(2) All such rules shall, when published in the Gazette, have the same effect as if enacted by this Act.

30. Whoever, not being a resident of a village-tract, refuses to obey or contravenes any rule made under clause (h) of sub-section (1) of section 29 shall be punishable, on conviction by a Magistrate, with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to fifteen days, or with both.

THE VILLAGE (AMENDMENT) ACT (1955)

Act No XXV, 1955

[Specific date unknown]

1. (1) This Act may be called the Village (Amendment) Act, 1955.

(2) It shall be deemed to have come into force from the 1st January 1952.

2. In clause (a) of sub-section (3) of section 5 of the Village Act, for the period “.” a semi colon “;” shall be substituted and thereafter the following proviso shall be inserted, namely:-

“provided that on the expiry of the said period he shall continue to hold office until a new headman is appointed.”

THE VILLAGE (AMENDMENT) ACT (1961)

Act XXXIV, 1961

2 October 1961

It is hereby enacted as follows:-

1. (1) This Act may be called the Village (Amendment) Act, 1961.

(2) It shall be deemed to have come into force on the 29th October 1958.

2. In section 5 of the Village Act:

(a) for sub-section (2), the following shall be substituted as sub-section (2) namely:-

“(2) The village headman of every village-tract shall be appointed by the Deputy Commissioner after he has ascertained the wishes of the villagers by such means as may be prescribed by the President.”

(b) sub-section (3) shall be deleted.

THE EMBANKMENT ACT (1909)

Burma Act IV, 1909
15 October 1910

1-2. [...]

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

(1) “embankment” means any embankment constructed for the purpose of excluding, regulating or retaining water, and includes all earthen walls, dams, canals, drains, piers, groins, sluices, buildings, water-gauges, bench-marks and other works subsidiary to any such embankment;

(2) “kazin” means any small bank or ridge surrounding or dividing a field;

(3) “Embankment-officer” means any officer appointed by a notification of the President of the Union to be an Embankment-officer in respect of any embankment; and

(4) “cattle” includes also elephants, buffaloes, horses, mares, geldings, ponies, colts, tillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

4. The Deputy Commissioner of any district in which the whole or any part of an embankment is situated shall cause to be prepared:-

(a) a list of the village-tracts in the neighbourhood of the embankment of each of which the headman shall be liable to furnish able-bodied persons for employment on such embankment when so required under section 5, clause (a);

(b) a list or lists setting down the maximum number of such able-bodied persons which each headman shall be liable to furnish.

The Deputy Commissioner may, from time to time, add to or alter such lists.

5. Whenever it appears to the Embankment-officer that, unless some work is quickly executed in connection with an embankment, loss of life or extensive damage to property will ensue, and that the labourers or materials required for the execution of such work cannot be obtained in the ordinary course in time to enable him to execute such work with the expedition necessary in order to avert such loss or damage, he may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such work; and thereupon:

(a) the headman of any village-tract named in the aforementioned list shall, if required so to do by such officer or by any person authorized by him in this behalf, be bound to furnish such number of able-bodied persons, not being in excess of the total number set down in

the list prepared under section 4, clause (b), as such officer or person may require; and all able-bodied persons called upon by the headman of their village-tract shall be bound to assist in the work by labouring thereon as such officer or person directs;

(b) every owner or occupier of immoveable property situated in the neighbourhood of such embankment (whether such owner or occupier resides in the neighbourhood of such embankment or not) shall, if required so to do by such officer or by any person authorized by such officer in this behalf, be bound to assist in the work by labouring thereon himself as such officer or person so authorized directs, or by furnishing a labourer as his substitute so to labour thereon;

(c) all persons so assisting or called on to assist in the work shall be subject to the orders of the Embankment-officer in respect of such work;

(d) the Embankment-officer or any person authorized by him in this behalf may enter into and upon any immoveable property in the neighbourhood of such embankment, and take possession of, appropriate and remove any trees or bamboos, whether standing or not, and any timber, mats, ropes, soil or other materials found in or upon such property, and any boats, carts and oxen found on or about the same, and use the same for the purposes of such work.

6. All persons labouring, or detained for the purpose of labouring, in compliance with a requisition made under section 5, or whose materials may be taken or means of transport used under that section, shall, as soon as may be reasonably practicable, be paid by the Embankment-officer for their labour and detention, or for such materials or for the hire of such means of transport (as the case may be), at a rate not being less than the highest market-rates for similar labour, materials or hire of means of transport for the time being prevailing in the neighbourhood.

Any dispute arising between an Embankment-officer and any person as to the amount to be paid to such person under this section may be referred by either party to the Deputy Commissioner, whose decision thereon shall be final.

7. Whenever, from the removal of any trees, bamboos or other materials or from the use of any means of transport under section 5, any damage, above the price or hire payable under section 6 for such materials or means of transport, results directly to any person, the Embankment-officer shall pay to such person such sum as may be agreed upon as compensation for such damage. In case of dispute as to the amount so to be paid, either party may refer such dispute to the Deputy Commissioner, whose decision thereon shall be final.

8. Any person who:

(a) being a headman liable to furnish labourers under section 5 fails, without reasonable cause, to furnish or assist in furnishing the labourers required of him; or

(b) being a person liable to assist in any work under section 5, clause (a), refuses or neglects, without reasonable cause, so to assist; or

(c) being an owner or occupier of immoveable property liable under section 5, clause (b), to assist or furnish a hired labourer as his substitute, refuses or neglects. without reasonable cause, to assist or furnish a hired labourer as his substitute, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both.

9. (1) Where an Embankment-officer has been appointed for any embankment, whoever, without the permission of such officer, does any of the following acts:-

(a) damages such embankment by excavation, by dragging any boat, tree, log or-bamboos on or across it or by any other means;

(b) interferes with any work subsidiary to such embankment so as to damage, destroy, remove or render less useful any such work;

(c) erects any structure, building or machine or lays any pipe line on such embankment;

(d) grazes any cattle or allows any cattle under his charge (or of which he is the owner) to trespass on such embankment;

(e) cuts or roots out any tree, shrub or grass growing on such embankment;

(f) obstructs any drain or sluice connected with such embankment ; shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both.

(2) Where an Embankment-officer has been appointed for any embankment, any person who, without the permission in writing of such officer:

(a) enters into possession of any land forming part of such embankment, except under a lease or licence; or

(b) remains in possession of such land after any such lease or licence has been cancelled or has expired, or as otherwise become void, and possession has been demanded, shall be liable to be summarily evicted there from.

9A. (1) Any person who causes any vehicle to pass on or across any embankment, contrary to any order made in this respect by the Deputy Commissioner, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

(2) Any such order may require a fee or fees to be paid as a condition precedent to the use of an embankment for vehicular traffic.

10. (1) Any person who, without the permission of the Deputy Commissioner, constructs, maintains, repairs or adds to any dyke, embankment or bund (other than a kazin) within the limits of any local area to which this sub-section may from time to time be applied by public notice by the President of the Union shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

(2) If any question arises whether a specified erection is a kazin, the decision of the Deputy Commissioner shall be final.

11.(1) The Deputy Commissioner may by notice require any person who constructs, maintains, repairs or adds to a dyke, embankment or bund in contravention of the provisions of section 10, sub-section (1), to remove the same within a time to be specified in the notice.

(2) If any dyke, embankment or bund of which the removal has been required by notice under sub-section (1) is not removed within the time specified in the notice, the Deputy Commissioner may cause the same to be removed.

(3) The cost of the removal of any dyke, embankment or bund removed under the provisions of sub-section (2) shall be recoverable as an arrear of revenue either from the person who constructed, maintained, repaired or added to the dyke, embankment or bund, or from the owner or occupier of the land on which it was situated, or jointly and severally from both such persons, as the Deputy Commissioner may determine.

12. Every Embankment-officer and every person authorized by an Embankment-officer to act under section 5 shall be deemed to be a "public servant" within the meaning of the Penal Code.

12A. Any person in charge of or employed upon any embankment may remove from the lands or buildings belonging thereto, or may arrest without a warrant and take forthwith before a Magistrate or to the nearest police-station to be dealt with according to law, any person, who within his view, commits any of the offences mentioned in clauses (a), (b) and (c) of sub-section (1) of section 9.

13. (1) The President of the Union may make rules to regulate the following matters:-

(a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(b) the amount and manner of payment of fees for the use of embankments under section 9A, sub-section (2);

(c) the manner in which any order or public notice issued under the provisions of this Act shall be published;

(d) the construction and maintenance of kazis;

(e) for the temporary occupation of embankment lands and for the eviction of persons in unauthorized occupation of such lands; and

(f) generally to carry out the provisions of this Act.

(2) The President of the Union may, in making any rule under this section, attach to the breach of it, in addition to any other consequences that, would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding six months' imprisonment, or two hundred rupees fine, or both.

14. All rules made by the President of the Union under this Act shall be published in the Gazette, and shall thereupon have the same effect as if enacted by this Act.

THE CODE OF CIVIL PROCEDURE (1909)

[Selections]

India Act, 1908

1 January 1909

1. [...]

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

(1) “Code” includes rules;

(2) “decree” means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within section 47 or section 144, but shall not include:

(a) any adjudication from which an appeal lies as an appeal from an order, or

(b) any order of dismissal for default.

Explanation - A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final;

(3) “decree-holder” means any person in whose favour a decree has been passed or an order capable of execution has been made;

(4) “district” means the local limits of the jurisdiction of a principal civil Court of original jurisdiction (hereinafter called a “District A Court”), and includes the local limits of the ordinary original civil jurisdiction of the High Court;

(5) “foreign Court” means a Court situate beyond the limits of the Union of Burma which has no authority in the Union of Burma and is not established or continued by the President of the Union;

(6) “foreign judgment” means the judgment of a foreign Court;

(7) “Government Pleader” includes any officer appointed by the President of the Union to perform all or any of the functions expressly imposed by this Code on the Government Pleader and also any pleader acting under the directions of the Government Pleader;

(8) “Judge” means the presiding officer of a civil Court;

- (9) “judgment” means the statement given by the Judge of the grounds of; a decree or order;
- (10) “judgment-debtor” means any person against whom a decree has been passed or an order capable of execution has been made;
- (11) “legal representative” means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued;
- (12) “mesne profits” of property means those profits which the person in wrongful possession of such property actually received or might with ordinary diligence have received therefrom, together with interest on such profits, but shall not include profits due to improvements made by the person in wrongful possession;
- (13) “moveable property” includes growing crops;
- (14) “order” means the formal expression of any decision of a civil Court which is not a decree;
- (15) “pleader” means any person entitled to appear and plead for another in Court, and includes an advocate of the High Court;
- (16) “prescribed” means prescribed by rules;
- (17) “public officer” means a person falling under any of the following descriptions, namely:-
- (a) every Judge;
 - (b) every member of the Indian Civil Service or of the Burma Civil Service (Class I);
 - (c) every commissioned or gazetted officer in the military, naval or air forces of [the Government];
 - (d) every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order, in the Court, and every person especially authorized by a Court of Justice to perform any of such duties;
 - (e) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

(f) every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

(g) every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to make or to execute any revenue-process, or to investigate, or to report on, any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government; and

(h) every officer in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty;

(18) “rules” means rules and forms contained in the First Schedule or made under section 122;

(19) “share in a corporation” shall be deemed to include stock, debenture stock, debentures or bonds; and

(20) “signed” save in the case of a judgment or decree, includes stamped.

[...]

PART I SUITS IN GENERAL

Jurisdiction of the Courts and Res Judicata.

9. The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

Explanation - A suit in which the right to property or to an offence is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

[...]

Place of Suing.

15. Every suit shall be instituted in the Court of the lowest grade competent to try it.

16. Subject to the pecuniary or other limitations prescribed by any law, suits:

- (a) for the recovery of immoveable property with or without rent or profits;
- (b) for the partition of immoveable property;
- (c) for foreclosure, sale or redemption in the case of a mortgage of or charge upon immoveable property;
- (d) for the determination of any other right to or interest in immoveable property;
- (e) for compensation for wrong to immoveable property;
- (f) for the recovery of moveable property actually under distraint or attachment, shall be instituted in the Court within the local limits of whose jurisdiction the property is situate:

Provided that a suit to obtain relief respecting, or compensation for wrong to, immoveable property held by or on behalf of the defendant may, where the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation: In this section “property” means property situate in the Union of Burma.

17. Where a suit is to obtain relief respecting, or compensation for wrong to, immoveable property situate within the jurisdiction of different Courts the suit may be instituted in any Court within the local limits of whose jurisdiction any portion of the property is situate:

Provided that, in respect of the value of the subject matter of the suit, the entire claim is cognizable by such Court.

18. (1) Where it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more Courts any immoveable property is situate, any one of those Courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction:

Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction.

(2) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the appellate or revisional Court shall not allow the objection unless in its opinion there was, at

the time of the institution of the suit, no reasonable ground for uncertainty as to the Court having jurisdiction with respect thereto and there has been a consequent failure of justice.

19. Where a suit is for compensation for wrong done to the person or to moveable property, if the wrong was done within the local limits of the jurisdiction of one Court, and the defendant resides, or carries on business, or personally works for gain within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.

Illustrations.

(a) A, residing in Mandalay, beats B in Rangoon. B may sue A either in Rangoon or in Mandalay.

(b) A, residing in Mandalay, publishes in Rangoon statements defamatory of B. B may sue A either in Rangoon or in Mandalay.

20. Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction:

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

Explanation I. - Where a person has a permanent dwelling at one place and also a temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.

Explanation II: A corporation shall be deemed to carry on business at its sole or principal office in the Union of Burma or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Illustrations.

(a) A is a tradesman in Rangoon. B carries on business in Mandalay. B, by his agent in Rangoon, buys goods of A and requests A to deliver them to the Burma Railways. A delivers

the goods accordingly in Rangoon. A may sue B for the price of the goods either in Rangoon, where the cause of action has arisen, or in Mandalay, where B carries on business.

(b) A resides at Maymyo, B at Rangoon and C at Mandalay. A, B and C being together at Prome, B and C make a joint promissory note payable on demand, and deliver it to A. A may sue B and C at Prome where the cause of action arose. He may also sue them at Rangoon, where B resides, or at Mandalay, where C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot proceed without the leave of the Court.

21. No objection as to the place of suing shall be allowed by any appellate or revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been a consequent failure of justice.

22. Where a suit may be instituted in any one of two or more Courts and is instituted in one of such Courts, any defendant, after notice to the other parties, may, at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, apply to have the suit transferred to another Court, and the Court to which such application is made, after considering the objections of the other parties (if any), shall determine in which of the several Courts having jurisdiction the suit shall proceed.

23. (1) Where the several Courts having jurisdiction are subordinate to the same appellate Court, an application under section 22 shall be made to the appellate Court.

(2) Where such Courts are subordinate to different appellate Courts, the application shall be made to the High Court.

[...]

Attachment.

60. (1) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, bank notes, cheques, bills of exchange, hundis, promissory notes, Government securities, bonds or other securities for money, debts, shares in a corporation and, save as hereinafter mentioned, all other saleable property, moveable or immovable, belonging to the judgment-debtor, or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf:

Provided that the following particulars shall not be liable to such attachment or sale, namely:-

(a) the necessary wearing-apparel, cooking vessels, beds and bedding of the judgment—debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;

(b) tools of artizans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section;

(c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist and occupied by him;

(d) books of account;

(e) a mere right to sue for damages;

(f) any right of personal service;

(g) stipends and gratuities allowed to pensioners of the Government or payable out of any service family pension fund notified in the Gazette by the President of the Union in this behalf, and political pensions;

(h) the wages of labourers and domestic servants, whether payable in money or in kind, and salary, to the extent of the first hundred rupees and one-half the remainder of such salary;

(i) the salary of any public officer or of any servant of a railway administration or local authority to the extent of the first hundred rupees and one-half the remainder of such salary:

Provided that, where the whole or any part of the portion of such salary liable to attachment has been under attachment, whether continuously or intermittently, for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months and, where such attachment has been made in execution of one and the same decree, shall be finally exempt from attachment in execution of that decree;

(j) the pay and allowances of persons to whom the Burma Army Act applies, or of persons other than commissioned officers to whom the Burma Naval Volunteer Reserve (Discipline) Act or any other law relating to the Navy applies;

(k) all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act for the time being applies in so far as they are declared by the said Act not to be liable to attachment;

(l) any allowance forming part of the emoluments of any public officer or of any servant of a railway administration or local authority which the President of the Union may by notification in the Gazette declare to be exempt from attachment, and any subsistence grant or allowance made to any such officer or servant while under suspension;

(m) an expectancy of succession by survivorship or other merely contingent or possible right or interest;

(n) a right to future maintenance;

(o) any allowance declared by any enactment in force in the Union of Burma to be exempt from liability to attachment or sale in execution of a decree; and

(p) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which, under any law for the time being applicable to him, is exempt from sale for the recovery of an arrear of such revenue.

Explanation 1: The particulars mentioned in clauses (g), (h),(i), (j) (l) and (o) are exempt from attachment or sale whether before or after they are actually payable, and in the case of salary other than salary of a public officer or a servant of a railway administration or local authority the attachable portion thereof is exempt from attachment until it is actually payable.

Explanation 2: In clauses (h) and (i), “salary” means the total monthly emoluments, excluding any allowance declared exempt from attachment under the provisions of clause (a), derived by a person from his employment whether on duty or on leave.

(2) Nothing in this section shall be deemed to exempt houses and other buildings (with the materials and the sites thereof and the lands immediately appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of any such house, building, site or land.

61. The President of the Union may, by general or special order published in the Gazette, declare that such portion of agricultural produce, or of any class of agricultural produce, as may appear to the President of the Union to be necessary for the purpose of providing until the next harvest for the due cultivation of the land and for the support of the judgment-debtor and his family, shall, in the case of all agriculturists or of any class of agriculturists, be exempted from liability to attachment or sale in execution of a decree.

62. (1) No person executing any process under this Code directing or authorizing seizure of moveable property shall enter any dwelling-house after sunset and before sunrise.

(2) No outer door of a dwelling-house shall be broken open unless such dwelling-house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto, but when the person executing any such process has duly gained access to any

dwelling-house, he may break open the door of any room in which he has reason to believe any such property to be.

(3) Where a room in a dwelling-house is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the person executing the process shall give notice to such woman that she is at liberty to withdraw; and, after allowing reasonable time for her to withdraw and giving her reasonable facility for withdrawing, he may enter such room for the purpose of seizing the property, using at the same time every precaution, consistent with these provisions, to prevent its clandestine removal.

63. (1) Where property not in the custody of any Court is under attachment in execution of decrees of more Courts than one, the Court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the Court of highest grade, or, where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

(2) Nothing in this section shall be deemed to invalidate any proceeding taken by a Court executing one of such decrees.

64. Where an attachment has been made, any private transfer or delivery of the property attached or of any interest therein, and any payment to the judgment-debtor of any debt, dividend or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment.

Explanation:

For the purposes of this section, claims enforceable under an attachment include claims for the ratable distribution of assets.

Sale.

65. Where immovable property is sold in execution of a decree and such sale has become absolute, the property shall be deemed to have vested in the purchaser from the time when the property is sold and not from the time when the sale becomes absolute.

66. (1) No suit shall be maintained against any person claiming title under a purchase certified by the Court in such manner as may be prescribed on the ground that the purchase was made on behalf of the plaintiff or on behalf of someone through whom the plaintiff claims.

(2) Nothing in this section shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner.

67. (1) The President of the Union may, by notification in the Gazette, make rules for any local area imposing conditions in respect of the sale of any class of interests in land in execution of decrees for the payment of money, where such interests are so uncertain or undetermined as, in the opinion of the President of the Union, to make it impossible to fix their value.

(2) When on the date on which this Code came into operation in any local area any special rules as to sale of land in execution of decrees were in force therein, the President of the Union may, by notification in the Gazette declare such rules to be in force, or may, by a like notification, modify the same.

Every notification issued in the exercise of the powers conferred by this sub-section shall set out the rules so continued or modified.

Delegation to Collector of Power to Execute Decrees against Immovable Property.

68. The President of the Union may declare by notification in the Gazette that in any local area the execution of decrees in cases in which a Court has ordered any immovable property to be sold, or the execution of any particular kind of such decrees, or the execution of decrees ordering the sale of any particular kind of, or interest in, immovable property, shall be transferred to the Collector.

69. The provisions set forth in the Third Schedule shall apply to all cases in which the execution of a decree has been transferred under the last preceding section.

70. (1) The President of the Union may make rules consistent with the aforesaid provisions:-

(a) for the transmission of the decree from the Court to the Collector, and for regulating the procedure of the Collector and his subordinates in executing the same, and for re-transmitting the decree from the Collector to the Court;

(b) conferring upon the Collector or any gazetted subordinate of the Collector all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector;

(c) providing for orders made by the Collector or any gazetted subordinate of the Collector, or orders made on appeal with respect to such orders, being subject to appeal to, and revision by, superior revenue authorities as nearly as may be as the orders made by the Court, or orders made on appeal with respect to such orders, would be subject to appeal to, and revision by, appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Collector.

(2) A power conferred by rules made under sub-section (1) upon the Collector or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall

not be exercisable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

71. In executing a decree transferred to the Collector under section 68 the Collector and his subordinates shall be deemed to be acting judicially.

72. (1) Where in any local area in which no declaration under section 68 is in force the property attached consists of land or of a share in land, and the Collector represents to the Court that the public sale of the land or share is objectionable and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector to provide for such satisfaction in the manner recommended by him instead of proceeding to a sale of the land or share.

(2) In every such case the provisions of sections 69 to 71 and of any rules made in pursuance thereof shall apply so far as they are applicable.

[...]

144. (1) Where and in so far as a decree is varied or reversed, the Court of first instance shall, on the application of any party entitled to any benefit by way of restitution or otherwise, cause such restitution to be made as will, so far as may be, place the parties in the position which they would have occupied but for such decree or such part thereof as has been varied or reversed; and, for this purpose, the Court may make any orders, including orders for the refund of costs and for the payment of interest, damages, compensation and mesne profits, which are properly consequential on such variation or reversal.

(2) No suit shall be instituted for the purpose of obtaining any restitution or other relief which could be obtained by application under sub-section (1).

145. Where any person has become liable as surety:

(a) for the performance of any decree or any part thereof, or

(b) for the restitution of any property taken in execution of a decree, or

(c) for the payment of any money, or for the fulfillment of any condition imposed on any person, under an order of the Court in any suit or in any proceeding consequent thereon, the decree or order may be executed against him, to the extent to which he has rendered himself personally liable, in the manner herein provided for the execution of decrees, and such person shall, for the purposes of appeal, be deemed a party within the meaning of section 47:

Provided that such notice as the Court in each case thinks sufficient has been given to the surety.

THE REGISTRATION ACT (1909)

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THE REGISTRATION ACT

India Act XVI, 1909
1 January 1909

PART I PRELIMINARY

1. [...]

(2) The President of the Union may, by notification, exclude any area from the operation of this Act.

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

(1) “addition” means the place of residence, and the profession, trade, rank and title (if any) of a person described, and, in the case of a native of India or Pakistan or the Union of Burma, his caste (if any) and his father’s name, or where he is usually described as the son of his mother, then his mother’s name;

(2) “book” includes a portion of a book and also any number of sheets connected together with a view of forming a book or portion of a book;

(3) “district” and “sub district” respectively mean a district and sub-district formed under this Act;

(4) “District Court” includes the High Court in its ordinary original civil jurisdiction;

(5) “endorsement” and “endorsed” include and apply to an entry in writing by a registering officer on a rider or covering slip to any document tendered for registration under this Act;

(6) “immoveable property” includes lands, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass;

(7) “lease” includes a counterpart, an undertaking to cultivate or occupy, and an agreement to lease;

(8) “minor” means a person who, according to the personal law to which he is subject, has not attained majority;

(9) “moveable property” includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property; and

(10) “representative” includes the guardian of a minor and the committee or other legal curator of a lunatic or idiot.

PART II
OF THE REGISTRATION ESTABLISHMENT

3. (1) The President of the Union shall appoint an officer to be the Inspector-General of Registration;

Provided that the President of the Union may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector-General shall be exercised and performed by such officer or officers, and within such local limits, as the President of the Union appoints in this behalf.

(2) Any Inspector-General may hold simultaneously any other office under the Government.

4. [...]

5. (1) For the purposes of this Act, the President of the Union shall form districts and sub-districts, and shall prescribe, and may alter, the limits of such districts and sub-districts.

(2) The districts and sub-districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the Gazette.

(3) Every such alteration shall take effect on such day after the date of the notification as is therein mentioned.

6. The President of the Union may appoint such persons, whether public officers or not, as he thinks proper, to be Registrars of the several districts, and to be Sub-Registrars of the several sub-districts, formed as aforesaid, respectively;

Provided that the President of the Union may delegate, subject to such restrictions and conditions as he thinks fit, to the Inspector-General of Registration the power of appointing Sub-Registrars.

7. (1) The President of the Union shall establish in every district an office to be styled the office of the Registrar and in every sub-district an office or offices to be styled the office of the Sub-Registrar or the office of the Joint Sub-Registrars.

(2) The President of the Union may amalgamate with any office of a Registrar any office of a Sub-Registrar subordinate to such Registrar, and may authorize any Sub-Registrar whose office has been so amalgamated to exercise and perform, in addition to his own powers and duties, all or any of the powers and duties of the Registrar to whom he is subordinate.

Provided that no such authorization shall enable a Sub-Registrar to hear an appeal against an order passed by himself under this Act.

8. (1) The President of the Union may also appoint officers, to be called Inspectors of Registration offices, and may prescribe the duties of such officers.

(2) Every such Inspector shall be subordinate to the Inspector-General.

9. [...]

10. (1) When any Registrar is absent otherwise than on duty in his district, or when his office is temporarily vacant, any person whom the Inspector-General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, shall be the Registrar during such absence or until the President of the Union fills up the vacancy.

(2) [...]

11. When any Registrar is absent from his office on duty in his district he may appoint any Sub-Registrar or other person in his district to perform during such absence, all the duties of a Registrar except those mentioned in Sections 68 and 72.

12. When any Sub-Registrar is absent, or when his office is temporarily vacant, any person whom the Registrar of the district appoints in this behalf shall be Sub-Registrar during such absence, or until the vacancy is filled up.

13. (1) All appointments made by the Inspector-General under section 6 and all appointments made under section 10, section 11 or section 12 shall be reported to the President of the Union by the Inspector-General.

(2) Such report shall be either special or general, as the President of the Union directs.

(3) The President of the Union may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead, and the Inspector-General of Registration may, subject to such conditions and restrictions as the President of the Union may impose, exercise the like power in the case of Sub-Registrars appointed by him.

14. (1) The President of the Union may assign such salaries as he deems proper to the registering officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries.

(2) The President of the Union may allow proper establishments for the several offices under this Act.

15. The several Registrars and Sub-Registrars shall use a seal bearing the following inscription [in Burmese and such other language] as the President of the Union directs:-

[....]

16. (1) The President of the Union shall provide for the office of every registering officer the books necessary for the purposes of this Act.

(2) The books so provided shall contain the forms from time to time prescribed by the Inspector-General, with the sanction of the President of the Union, and the pages of such books shall be consecutively numbered in print and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

(3) The President of the Union shall supply the office of every Registrar with a fire-proof box, and shall in each district make suitable provision for the safe custody of the records connected with the registration of documents in such district.

PART III OF REGISTERABLE DOCUMENTS

17. (1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which this Act came or comes into force, namely:-

(a) instruments of gift of immoveable property;

(b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property;

(c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest;

(d) leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent; and

(e) non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property;

Provided that the President of the Union may, by order published in the Gazette, exempt from the operation of this sub-section any leases executed in any district, or part of a district, the terms granted by which do not exceed live years and the annual rents reserved by which do not exceed fifty rupees.

(2) Nothing in clauses (b) and (c) of sub-section (1) applies to:

(i) any composition deed; or

(ii) any instrument relating to shares in a joint stock company, notwithstanding that the assets of such company consists in whole or in part of immoveable property; or

(iii) any debenture issued by any such company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the company has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(iv) any endorsement upon or transfer of any debenture issued by any such company; or

(v) any document not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immoveable property, but merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or extinguish any such right, title or interest; or

(vi) any decree or order of a Court except a decree or order expressed to be made on a compromise and comprising immoveable property other than that which is the subject-matter of the suit, or proceeding; or

(vii) any grant of immoveable property by Government; or

(viii) any instrument of partition made by a revenue officer; or

(ix) any order granting a loan or instrument of collateral security granted under the Land Improvement Loans Act; or

(x) any order granting a loan under the Agriculturists Loans Act, or instrument for securing the repayment of a loan made under that Act [or instrument for securing the repayment of an agricultural loan made by a co-operative society]; or

(xi) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage; or

(xii) any certificate of sale granted to the purchaser of any property sold by public auction by a civil or revenue officer.

Explanation: A document purporting or operating to effect a contract for the sale of immovable property shall not be deemed to require or ever to have required registration by reason only of the fact that such document contains a recital of the payment of any earnest money or of the whole or any part of the purchase money.

(3) Authorities to adopt a son, not conferred by a will, shall also be registered.

18. Any of the following documents may be registered under this Act, namely:-

(a) instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immovable property;

(b) instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest;

(c) leases of immovable property for any term not exceeding one year, and leases exempted under section 17;

(d) instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in moveable property;

(e) wills, and

(f) all other documents not required by section 17 to be registered.

19. If any document duly presented for registration be in a language which the registering officer does not understand, and which is not commonly used in the district, he shall refuse to register the document unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

20. (1) The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration.

(2) If the registering officer registers any such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

21. (1) No non-testamentary document relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

(2) Houses in towns shall be described as situate on the north or other side of the street or road (which should be specified) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered.

(3) Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(4) No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration unless it is accompanied by a true copy of the map or plan, or, in case such property is situate in several districts, by such number of true copies of the map or plan as are equal to the number of such districts.

(5) No non-testamentary document relating to a part of a holding shall be accepted for registration unless:

(a) it is accompanied:

(i) where a Government map or plan of the holding is available, by two true copies of such map or plan, or

(ii) where such map or plan is not available, by two true copies of the map or plan of the holding made by a qualified surveyor, and

(b) the part to which the document relates is clearly marked in the copies of such maps or plans;

Provided that if such document relates to parts of holdings situated in several districts, it shall be accompanied by such number of true copies of the map as are equal to twice the number of such districts.

Explanation: For the purposes of this sub-section a “holding” is a continuous area of land held by one person or by a number of persons jointly on the same tenure and on the same title.

22. (1) Where it is, in the opinion of the President of the Union practicable to describe houses, not being houses in towns, and lands by reference to a Government map or survey, the President of the Union may, by rule made under this Act, require that such houses and lands as aforesaid shall, for the purposes of section 21, be so described.

(2) Save as otherwise provided by any rule made under sub-section (1), failure to comply with the provisions of section 21, sub-section (2) or sub-section (3), shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify that property.

PART IV
OF THE TIME OF POSSESSION

23. Subject to the provisions contained in sections 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution;

Provided that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final.

23A. Notwithstanding anything to the contrary contained in this Act, if in any case a document requiring registration has been accepted for registration by a Registrar or Sub-Registrar from a person not duly empowered to present the same, and has been registered, any person claiming under such document may, within four months from his first becoming aware that the registration of such document is invalid, present such document or cause the same to be presented in accordance with the provisions of Part VI for re-registration in the office of the Registrar of the district in which the document was originally registered; and upon the Registrar being satisfied that the document was so accepted for registration from a person not duly empowered to present the same, he shall proceed to the re-registration of the document as if it had not been previously registered, and as if such presentation for re-registration was a presentation for registration made within the time allowed therefore under Part IV, and all the provisions of this Act as to registration of documents shall apply to such re-registration; and such document, if duly re-registered in accordance with the provisions of this section, shall be deemed to have been duly registered for all purposes from the date of its original registration.

24. Where there are several persons executing a document at different times, such document may be presented for registration and re-registration four months from the date of each execution.

25. (1) If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in the Union of Burma not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration-fee, such document shall be accepted for registration.

(2) Any application for such direction may be lodged with a Sub Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

26. When a document purporting to have been executed by all or any of the parties out of the Union of Burma is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the registering officer, if satisfied:

(a) that the instrument was so executed, and

(b) that it has been presented for registration within four months after its arrival in the Union of Burma, may, on payment of the proper registration-fee, accept such document for registration.

27. A will may at any time be presented for registration or deposited in manner hereinafter provided.

PART V OF THE PLACE OF REGISTRATION

28. Save as in this Part otherwise provided, every document mentioned in section 17, sub-section (1), clauses (a), (b), (c) and (d), and section 18, clauses (a), (b) and (c), shall be presented for registration in the office of a Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate.

29. (1) Every document other than a document referred to in section 28, and a copy of a decree or order, may be presented for registration either in the office of the Sub-Registrar in whose sub-district the document was executed, or in the office of any other Sub-Registrar at which all the persons executing and claiming under the document desire the same to be registered.

(2) A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose sub-district the original decree or order was made, or, where the decree or order does not affect immoveable property, in the office of any other Sub-Registrar at which all the persons claiming under the decree or order desire the copy to be registered.

30. (1) Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

(2) [...]

31. In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit:

Provided that such officer may on special cause being shown attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will.

PART VI
OF PRESENTING DOCUMENTS FOR REGISTRATION

32. Except in the cases mentioned in section 31 and section 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office:

- (a) by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order, or
- (b) by the representative or assign of such person, or
- (c) by the agent of such person, representative or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

33. (1) For the purposes of section 32, the following powers-of-attorney shall alone be recognized, namely:-

- (a) if the principal at the time of executing the power-of-attorney resides in any part of the Union of Burma in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose district or sub-district the principal resides;
- (b) if the principal at the time aforesaid resides in any other part of the Union of Burma, a power-of-attorney executed before and authenticated by any Magistrate;
- (c) if the principal at the time aforesaid does not reside in the Union of Burma, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice Consul, or representative of His Britannic Majesty or of the Government:

Provided that the following persons shall not be required to attend at any registration office or Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (a) and (b) of this section, namely:

- (i) persons who by reason of bodily infirmity are unable without risks or serious inconvenience so to attend;
- (ii) persons who are in jail under civil or criminal process; and
- (iii) persons exempt by law from personal appearance in Court.

(2) In the case of every such person the Registrar or Sub-Registrar or Magistrate, as the case may be, if satisfied that the power-of-attorney has been voluntarily executed by the

person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid.

(3) To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Magistrate may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for examination.

(4) Any power-of-attorney mentioned in this section may be proved by the production of it without further proof when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

(5) Powers-of-attorney authenticated in British India before the 1st April, 1937, in accordance with the provisions of clause (a) or clause (b) of sub-section (1) or section 33 of the Indian Registration Act, 1908, shall (as from the said date) be deemed to have been executed and authenticated in accordance with the provisions of clause (rs) of sub-section (1) of this section.

34. (1) Subject to the provisions contained in this Part and in sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation under sections 23, 24, 25 and 26.

Provided that, if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, in addition to the fine, if any, payable under section 25, the document may be registered.

(2) Appearances under sub-section (1) may be simultaneous or at different times.

(3) The registering officer shall thereupon:

(a) enquire whether or not such document was executed by the persons by whom it purports to have been executed;

(b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document; and

(c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

(4) Any application for a direction under the proviso to sub-section (1) may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

(5) Nothing in this section applies to copies of decrees or orders.

35. (1) (a) If all the persons executing the document appear personally or before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be and if they all admit the execution of the document, or

(b) if in the case of any person appearing by a representative, assign or agent, such representative, assign or agent admits the execution, or

(c) if the person executing the document is dead, and his representative or assign appears before the registering officer and admits the execution, the registering officer shall register the document as directed in sections 58 to 61, inclusive.

(2) The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

(3) (a) If any person by whom the document purports to be executed denies its execution, or

(b) if any such person appears to the registering officer to be a minor, an idiot or a lunatic, or

(c) if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution, the registering officer shall refuse to register the document as to the person so denying, appearing or dead:

Provided that, where such officer is a Registrar, he shall follow the procedure prescribed in Part XII:

Provided further that the President of the Union may, by notification in the Gazette, declare that any Sub-Registrar named in the notification shall, in respect of documents the execution of which is denied, be deemed to be a Registrar for the purposes of this subsection and of Part XII.

PART VII

OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES

36. If any person presenting any document for registration, or claiming under any document which is capable of being so presented, desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or Court as the President of the Union directs in this behalf to issue a summons requiring him to appear at the registration office, either in

person or by duly authorized agent, as in the summons may be mentioned, and at a time named therein.

37. The officer or Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

38. (1) (a) A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration office, or

(b) a person in jail under civil or criminal process, or

(c) persons exempt by law from personal appearance in Court, and who would but for the provision next hereinafter contained be required to appear in person at the registration office, shall not be required so to appear.

(2) In the case of every such person the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him or issue a commission for his examination.

39. The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses, and for their remuneration in suits before civil Courts, shall, save a aforesaid and mutatis mutandis, apply to any summons or commission issued and any person summoned to appear under the provisions of this Act.

PART VIII OF PRESENTING WILLS AND AUTHORITIES TO ADOPT

40. (1) The testator, or after his death any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration.

(2) The donor, or after his death the donee, of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

41. (1) A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

(2) A will or authority to adopt presented for registration by any other person entitled to present it shall be registered if the registering officer is satisfied:

(a) that the will or authority was executed by the testator or donor, as the case may be;

(b) that the testator or donor is dead; and

(c) that the person presenting the will or authority is, under section 40, entitled to present the same.

PART IX
OF THE DEPOSIT OF WILLS

42. Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any) and with a statement of the nature of the document.

43. (1) On receiving such cover, the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register-book No- 5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

(2) The Registrar shall then place and retain the sealed cover in his fire-proof box.

44. If the testator who has deposited such cover wishes to withdraw it, he may apply, either personally or by duly authorized agent, to the Registrar who holds it in deposit, and such Registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

45. (1) If, on the death of a testator who has deposited a sealed cover under section 42, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and, at the applicant's expense, cause the contents thereof to be copied into his Book No. 3.

(2) When such copy has been made, the Registrar shall re-deposit the original will.

46. (1) Nothing hereinbefore contained shall affect the provisions of section 284 of the Succession Act or the power of any Court by order to compel the production of any will.

(2) When any such order is made, the Registrar shall, unless the will has been already copied under section 45, open the cover and cause the will to be copied into his Book No. 3 and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

PART X
OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

48. All non-testamentary documents duly registered under this Act, and relating to any property, whether moveable or immovable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession and the same constitutes a valid transfer under any law for the time being in force:

Provided that a mortgage by deposit of title-deeds, as defined in section 58 of the Transfer of Property Act, shall take effect against any mortgage-deed subsequently executed and registered which relates to the same property.

49. No document required by section 17 or by any provision of the Transfer of Property Act or by any law formerly in force for the registration of documents in the Union of Burma to be registered shall:

(a) affect any immovable property comprised therein, or

(b) confer any power to adopt, or

(c) be received as evidence of any transaction affecting such property or conferring such power, unless it has been registered:

Provided that an unregistered document affecting immovable property may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, or as evidence of part performance of a contract for the purposes of section 53A of the Transfer of Property Act, or as evidence of any collateral transaction not required to be effected by registered instrument.

50. (1) Every document of the kinds mentioned in clauses (a), (b), (e) and (d) of section 17, sub-section (1), and clauses (a) and (b) of section 18, shall, if duly registered, take effect as regards the property comprised therein against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.

(2) Nothing in sub-section (1) applies to leases exempted under the proviso to sub-section (1) of section 17 or to any document mentioned in sub-section (2) of the same section, or to any registered document which had not priority under the law in force on the 1st January, 1909.

Explanation - In cases where Act No. XVI of 1864 2 or the Indian Registration Act, 1866, was in force in the place and at the time in and at which such unregistered document was executed, "unregistered" means not registered according to such Act, and, where the document is executed after the first day of July, 1871, not registered under the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or the Indian Registration Act, 1908, or this Act.

PART XI
OF THE DUTIES AND POWERS OF REGISTERING OFFICERS

(A) As to the Register-books and Indexes.

51. (1) The following books shall be kept in the several offices hereinafter named, namely:-

A. In all registration offices:

Book 1, "Register of non-testamentary documents relating to immoveable property";

Book 2, "Record of reasons for refusal to register";

Book 3, "Register of wills and authorities to adopt", and

Book 4, "Miscellaneous Register";

B. In the offices of Registrars:

Book 5, "Register of deposits of wills".

(2) In Book 1 shall be entered or filed all documents or memoranda registered under sections 17, 18 and 89 which relate to immoveable property, and are not wills.

(3) In Book 4 shall be entered all documents registered under clauses (d) and (f) of section 18 which do not relate to immoveable property.

(4) Nothing in this section shall be deemed to require more than one set of books where the office of the Registrar has been amalgamated with the office of a Sub-Registrar.

52, (1) (a) The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it;

(b) a receipt for such document shall be given by the registering officer to the person presenting the same; and

(c) subject to the provisions contained in section 62, every document admitted to registration shall without unnecessary delay be copied in the book appropriated therefore according to the order of its admission.

(2) All such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector-General.

53. All entries in each book shall be numbered in a consecutive series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

54. In every office in which any of the books hereinbefore mentioned are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has copied, or filed a memorandum of, the document to which it relates.

55. (1) Four such indexes shall be made in all registration-offices, and shall be named, respectively, Index No. I, Index No. II, Index No- III and Index No. IV.

(2) Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document entered or memorandum filed in Book No. 1.

(3) Index No. II shall contain such particulars mentioned in section 21 relating to every such document and memorandum as the Inspector General from time to time directs in that behalf.

(4) Index No. III shall contain the names and additions of all persons executing every will and authority entered in Book No. 3 and of the executors and persons respectively appointed thereunder, and after the death of the testator or the donor (but not before) the names and additions of all persons claiming under the same.

(5) Index No. IV shall contain the names and additions of all persons executing and of all persons claiming under every document entered in Book No. 4.

(6) Each Index shall contain such other particulars, and shall be prepared in such form, as the Inspector-General from time to time directs.

56. [...]

57. (1) Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2 and the Indexes relating to Book No. 1 shall be at all times open to inspection by any person applying to inspect the same; and, subject to the provisions of section 62, copies of entries in such books shall be given to all persons applying for such copies.

(2) Subject to the same provisions, copies of entries in Book No. 3 and in the Index relating thereto shall be given to the persons executing the documents to which such entries relate, or to their agents, and after the death of the executants (but not before) to any person applying for such copies.

(3) Subject to the same provisions, copies of entries in Book No- 4 and in the Index relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer, or to his agent or representative.

(4) The requisite search under this section for entries in Books Nos. 3 and 4 shall be made only by the registering officer.

(5) All copies given under this section shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

(B) As to the Procedure on admitting to Registration.

58. (1) On every document admitted to registration, other than a copy of a decree or order, or a copy sent to a registering officer under section S9, there shall be endorsed from time to time the following particulars, namely:-

(a) the signature and addition of every person admitting the execution of the document, and if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;

(b) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(c) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

(2) If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

59. The registering officer shall affix the date and his signature to all endorsements made under sections 52 and 58, relating to the same document and made in his presence on the same day.

60. (1) After such of the provisions of sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word "registered" together with the number and page of the book in which the document has been copied.

(2) Such certificate shall be signed, sealed and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section 59 have occurred, as therein mentioned.

61. (1) The endorsements and certificate referred to and mentioned in sections 59 and 60 shall thereupon be copied into the margin of the Register book, and the copy of the map or plan (if any) mentioned in section 21 shall be tiled in Book No. 1.

(2) The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in section 52.

62. (1) When a document is presented for registration under section 19, the translation shall be transcribed in the register of documents of the nature of the original, and, together with the copy referred to in section 19, shall be filed in the registration office.

(2) The endorsements and certificate respectively mentioned in sections 59 and 60 shall be made on the original, and, for the purpose of making the copies and memoranda required by sections 57, 64, 65 and 66, the translation shall be treated as if it were the original.

63. (1) Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

(2) Every such officer may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness of such note, it shall be signed by the registering officer.

(3) Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

(C) Special Duties of Sub-Registrar.

64. Every Sub-Registrar on registering a non-testamentary document relating to immoveable property not wholly situate in his own sub-district shall make a memorandum thereof and of the endorsement and certificate (if any) thereon, and send the same to every other Sub-Registrar subordinate to the same Registrar as himself in whose sub-district any part of such property is situate, and such Sub-Registrar shall file the memorandum in his Book No. 1.

65. (1) Every Sub-Registrar on registering a non-testamentary document relating to immoveable property situate in more districts than one shall also forward a copy thereof and of the endorsement and certificate (if any) thereon, together with a copy of the map or plan (if any) mentioned in section 21, to the Registrar of every district in which any part of such property is situate other than the district in which his own sub-district is situate.

(2) The Registrar on receiving the same shall file in his Book No. 1 the copy of the document and the copy of the map or plan (if any), and shall forward a memorandum of the document to each of the Sub-Registrars subordinate to him within whose sub-district any part of such property is situate; and every Sub-Registrar receiving such memorandum shall file it in his Book No. 1.

(D) Special Duties of Registrar.

66. (1) On registering any non-testamentary document relating to immovable property the Registrar shall forward a memorandum of such document to each Sub-Registrar subordinate to himself in whose sub-district any part of the property is situate.

(2) The Registrar shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in section 21, to every other Registrar in whose district any part of such property is situate.

(3) Such Registrar on receiving any such copy shall file it in his Book No. 1, and shall also send a memorandum of the copy to each of the Sub Registrars subordinate to him within whose sub-district any part of the property is situate.

(4) Every Sub-Registrar receiving any memorandum under this section shall file it in his Book No. 1.

67. [...]

(E) Of the Controlling Powers of Registrars and Inspector-General.

68. (1) Every Sub Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.

(2) Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him or in respect of the rectification of any error regarding the book or the office in which any document has been registered.

69. (1) The Inspector-General shall exercise a general superintendence over, all the registration offices in the Union of Burma. and shall have power from time to time to make rules consistent with this Act:

- (a) providing for the safe custody of books, papers and documents;
- (b) declaring what languages shall be deemed to be commonly used in each district;
- (c) declaring what territorial divisions shall be recognized under section 21;
- (d) regulating the amount of fines imposed under sections 25 and 34, respectively;
- (e) regulating the exercise of the discretion reposed in the registering officer by section 63;
- (f) regulating the form in which registering officers are to make memoranda of documents;

- (g) regulating the authentication by Registrars and Sub-Registrars of the books kept in their respective offices under section 51;
- (h) declaring the particulars to be contained in Indexes Nos. I, II, III, and IV, respectively;
- (i) declaring the holidays that shall be observed in the registration offices; and
- (j) generally, regulating the proceedings of the Registrars and Sub Registrars.

(2) The rules so made shall be submitted to the President of the Union for approval, and, after they have been approved, they shall be published in the Gazette, and on publication shall have effect as if enacted in this Act.

70. The Inspector-General may also, in the exercise of his discretion remit wholly or in part the difference between any line levied under section 25 or section 34 and the amount of the proper registration fee.

PART XII OF REFUSAL TO REGISTER

71. (1) Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub district, shall make an order of refusal and record his reasons for such order in his book No. 2 and endorse the words "registration refused" on the document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

72. (1) Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate, if presented to such Registrar within thirty days from the date of the order; and the Registrar may reverse or alter such order.

(2) If the order of the Registrar directs the document to be registered and the document is duly presented for registration within thirty days after the making of such order, the Sub-Registrar shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59, and 60; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.

73. (1) When a Sub-Registrar has refused to register a document on the ground that any person by whom it purports to be executed, or his representative or assign, denies its execution, any person claiming under such document, or his representative, assign or agent

authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply to the Registrar to whom such Sub-Registrar is subordinate in order to establish his right to have the document registered.

(2) Such application shall be in writing and shall be accompanied by a copy of the reasons recorded under section 71, and the statements in the application shall be verified by the applicant in manner required by law for the verification of plaints.

74. In such case, and also where such denial as aforesaid is made before a Registrar in respect of a document presented for registration to him, the Registrar shall, as soon as conveniently may be, enquire:

(a) whether the document has been executed;

(b) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration, as the case may be, so as to entitle the document to registration.

75. (1) If the Registrar finds that the document has been executed and that the said requirements have been complied with, he shall order the document to be registered.

(2) If the document is duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same and thereupon shall so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60.

(3) Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

(4) The Registrar may, for the purpose of any enquiry under section 74, summon and enforce the attendance of a witnesses, and compel them to give evidence, as if he were a civil Court, and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure.

76. (1) Every Registrar refusing:

(a) to register a document except on the ground that the property to which it relates is not situate within his district or that the document ought to be registered in the office of a Sub-Registrar, or

(b) to direct the registration of a document under section 7 or section 75, shall make an order of refusal and record the reasons for such order in his Book No. 2, and, on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

(2) No appeal lies from any order by a Registrar under this section or section 72.

77. (1) Where the Registrar refuses to order the document to be registered under section 72 or section 76, any person claiming under such document, or his representative, assign or agent, may, within thirty days after the making of the order of refusal, institute in the civil Court, within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office if it be duly presented for registration within thirty days after the passing of such decree.

(2) The provisions contained in sub-sections (2) and (3) of section 75 shall, mutatis mutandis, apply to all documents presented for registration in accordance with any such decree, and, notwithstanding anything contained in this Act, the document shall be receivable in evidence in such suit.

PART XIII
OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES

78. The President of the Union shall prepare a table of fees payable:

- (a) for the registration of documents;
- (b) for searching the registers;
- (c) for making or granting copies of reasons, entries or documents, before, on or after registration; and of extra or additional fees payable;
- (d) for every registration under section 30;
- (e) for the issue of commissions;
- (f) for tiling translations;
- (g) for attending at private residences;
- (h) for the safe custody and return of documents; and
- (i) for such other matters as appear to the President of the Union necessary to effect the purposes of this Act.

79. A table of the fees so payable shall be published in the Gazette, and a copy thereof [...] shall be exposed to public view in every registration office.

80. All fees for the registration of documents under this Act shall be payable on the presentation of such documents.

PART XIV
OF PENALTIES

81. Every registering officer appointed under this Act and every person employed in his office for the purposes of this Act, who, being charged with the endorsing, copying, translating or registering of any document presented or deposited under its provisions, endorses, copies, translates or registers such document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury as defined in the Penal Code to any person, shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

82. Whoever:

(a) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or enquiry under this Act; or

(b) intentionally delivers to a registering officer, in any proceeding under section 19 or section 21, a false copy or translation of a document, or a false copy of a map or plan; or

(c) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act; or

(d) abets anything made punishable by this Act;

shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

83. (1) A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector-General or of the Registrar or the Sub-Registrar in whose district or sub-district, as the case may be, the offence has been committed.

(2) Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class.

84. (1) Every registering officer appointed under this Act shall be deemed to be a public servant within the meaning of the Penal Code.

(2) Every person shall be legally bound to furnish information to such registering officer when required by him to do so.

(3) In section 228 of the Penal Code, the words "judicial proceeding" shall be deemed to include any proceeding under this Act.

PART XV
MISCELLANEOUS

85. Documents (other than wills) remaining unclaimed in any registration office for a period exceeding two years may be destroyed.

86. No registering officer shall be liable to any suit, claim or demand by reason of anything in good faith done or refused in his official capacity.

87. Nothing done in good faith pursuant to this Act or [any Act previously in force] by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

88. (1) Notwithstanding anything herein contained, it shall not be necessary for any officer of Government, or for the Administrator-General, Official Trustee or Official Assignee, Receiver or Registrar of the High Court to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in section 58.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to any Secretary to Government or to such officer of Government, Administrator-General, Official Trustee, Official Assignee, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

89. (1) Every officer granting a loan under the Land Improvement Loans Act shall send a copy of his order to the registering officer within the local limits of whose jurisdiction the whole or any part of the land to be improved, or of the land to be granted as collateral security, is situate, and such registering officer shall file the copy in his Book No. 1.

(2) Every Court granting a certificate of sale of immoveable property under the Code of Civil Procedure shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immoveable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1.

(3) Every officer granting a loan under the Agriculturists Loans Act shall send a copy of any instrument whereby immoveable property is mortgaged for the purpose of securing the repayment of the loan, and if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1.

(3a) Every officer of a co-operative society granting an agricultural loan shall send a copy of any instrument, whereby immoveable property is mortgaged for the purpose of securing the

repayment of the loan, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy in his Book No. 1.

(4) Every revenue-officer granting a certificate of sale to the purchaser of immoveable property sold by public auction shall send a copy of the certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situate, and such officer shall file the copy in his Book No. 1.

Exemptions from Act.

90. (1) Nothing contained in this Act shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps, namely:-

(a) documents issued, received or attested by any officer engaged in making a settlement or revision of settlement of land-revenue; and which form part of the records of such settlement; or

(b) documents and maps issued, received or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey; or

(c) documents which, under any law for the time being in force, are filed periodically in any revenue office by officers charged with the preparation of village-records; or

(d) documents evidencing transfers of land or any interest in land on behalf of the Government.

(2) All such documents and maps shall, for the purposes of sections 48 and 49, be deemed to have been and to be registered in accordance with the provisions of this Act.

91. Subject to such rules and the previous payment of such fees as the President of the Union prescribes in this behalf, all documents and maps mentioned in section 90, clauses (a), (b) and (c), and all registers of the documents mentioned in clause (d), shall be open to the inspection of any person applying to inspect the same, and, subjects aforesaid, copies of such documents shall be given to all persons applying for such copies.

THE HINDU DISPOSITION OF PROPERTY ACT (1916)

India Act XV, 1916
28 September 1916

Whereas it is expedient to remove certain existing disabilities in respect of the power of disposition of property by Hindus for the benefit of persons not in existence at the date of such disposition;

It is hereby enacted as follows:

1. [...]

2. Subject to the limitations and provisions specified in this Act, no disposition of property by a Hindu, whether by transfer inter vivos or by will shall be invalid by reason only that any person for whose benefit it may have been made was not in existence at the date of such disposition.

3. The limitations and provisions referred to in section 2 shall be the following, namely:

(a) in respect of dispositions by transfer inter vivos, those contained in Chapter II of the Transfer of Property Act, and

(b) in respect of dispositions by will, those contained in sections 113, 114, 115 and 116 of the Succession Act.

4. [...]

5. Where the President of the Union is of opinion that the Khoja community in the Union of Burma or any part thereof desire that the provisions of this Act should be extended to such community, he may, by notification in the Gazette, declare that the provisions of this Act, with the substitution of the word “Khojas” or “Khoja”, as the case may be, for the word “Hindus” or “Hindu”, wherever those words occur, shall apply to that community in such area as may be specified in the notification, and this Act shall thereupon have effect accordingly.

THE RANGOON DEVELOPMENT TRUST ACT (1921)

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THE RANGOON DEVELOPMENT TRUST ACT

Burma Act V, 1920

1 February 1921

1. This Act shall extend to the City of Rangoon and to such areas in the neighbourhood thereof as the President of the Union may, by notification, specify in this behalf:

Provided that sections 68 and 70 and clause (7) of section 95 shall extend to the whole of the Union of Burma:

[Inserted by Act VIII, 1949] Provided further that for the purpose of section 69, the Mingaladon Airport and such other airport in the neighbourhood of the City of Rangoon as the President of the Union may, by notification, specify in this behalf shall be deemed to be included in the City of Rangoon.

2. In this Act, unless it is otherwise expressly provided or unless there is something repugnant in the subject or context:

(1) words shall be deemed to have the meaning ascribed to such words under any enactment for the time being in force relating to the municipal government of the City of Rangoon;

(2) (a) “the Board” means the Board of Trustees constituted under, this Act;

(b) “Chairman” means the Chairman of the Board;

(c) “City” means the City of Rangoon and comprises the area from a time to time notified by the President of the Union for the purposes of municipal government;

(d) “Court” means the highest Court of original jurisdiction in Rangoon;

(e) the expression “land likely to be used for building purposes” includes any land likely to be used as, or for the purpose of providing, open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town planning scheme, whether in the nature of a building work or not, and the decision of the President of the Union as to whether land is likely to be used for building purposes or not shall be final;

(f) “plot” means a continuous portion of land held in one ownership, other than land used, allotted or reserved for any public or municipal purpose;

(g) “reclamation” means the alteration by any means, including the use of refuse or rubbish or materials obtained by dredging, of the level of land in order that the effective drainage of such land may become practicable;

(h) “scheme” means a town planning scheme, framed in accordance with the provisions of this Act, and includes a plan relating to a town-planning scheme;

(i) “Trustee” means a member of the Board.

CHAPTER II THE BOARD OF TRUSTEES

Constitution of the Board.

3. The duty of carrying out the provisions of this Act shall, subject to the conditions and limitations hereinafter contained, be vested in a Board, to be called “The Trustees for the Development of the City of Rangoon”; and such Board shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued.

[Substituted by Act LXVIII, 1951] 4. The Board shall consist of six members, namely:

(a) the Chief Executive Officer of the National Housing and Town and Country Planning Board who shall be the Chairman;

(b) the Chairman of the Commissioners for the Port of Rangoon;

(c) one Trustee elected by the Municipal Corporation of the City of Rangoon, and

(d) three Trustees appointed by the President of the Union.

5. (1) A person shall not be qualified to be elected as a Trustee to “represent any body or association referred to in section 4 unless he is at the time of the election a member of such body or association.

(2) The Secretary or other duly appointed officer of such body or association shall make a return to the President of the Union setting forth in full the name of every person elected under the provisions of this Act.

6. (1) If any body or association referred to in section 4 fails to elect all or any of the Trustees whom it is empowered under such section to elect, the President of the Union may appoint any persons belonging to such body or association to be Trustees in order to fill such vacancies; and any persons so appointed shall be deemed to be Trustees as if they had been duly elected by such body or association.

(2) If any body or association should, for any reason, be unable to elect a Trustee as provided in section 4, the President of the Union may, from time to time, by notification, substitute any other recognized and properly constituted body or association for the purposes of that section.

7. (1) A person shall be disqualified for being elected or appointed a Trustee if he:

(a) has been convicted of an offence punishable with imprisonment for a term exceeding six months, such conviction not having been subsequently set aside and such disqualification not having been removed by an order which the President of the Union is hereby empowered to make, if he thinks fit, in this behalf; or

(b) has been declared by the President of the Union unfit for employment in, or has been dismissed from, the public service; or

(c) is an undischarged insolvent or bankrupt; or

(d) holds any office or place of profit under the Board; or

(e) has directly or indirectly, by himself or by any partner, employer, or employee, any share or interest in any contract or employment with, by, or on behalf of, the Board; or

(f) is a director, or a secretary, manager or other salaried officer, of any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of, the Board; or

[Substituted by the Union of Burma (Adaptation of Laws) Order, 1948] (g) is not, or ceases to be, a citizen of the Union or a British subject:

(2) But a person shall not be disqualified or be deemed to have any share or interest in such a contract or employment by reason only of

(i) his having any share or interest in:

(a) any lease, sale or purchase of immoveable property or any agreement for the same; or

(b) any agreement for the loan of money or any security for the payment of money only; or

(c) any newspaper in which any advertisement relating to the affairs of the Board is inserted; or

(d) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one financial year, of any article in which he trades; or

(ii) his having a share or interest, otherwise than as director, or secretary, manager or other salaried officer, in any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of, the Board.

(3) In the case of any person or class of persons the President of the Union may waive the disqualification referred to in sub-section (1), clause (f).

8. (1) The Chairman shall be the chief executive officer of the Board and may exercise and perform, subject to the provisions of this Act and of rules made thereunder and to the control of the Board, such of the powers and duties conferred or imposed by this Act on the Board as the Board may by rules made under section 96 delegate to him.

(2) The pay, allowances, leave, privileges and other conditions of tenure of the office of Chairman shall be determined by the President of the Union after consultation with the Board, and such pay and allowances shall be debited to the Rangoon Development Fund to such extent as the President of the Union may decide.

9. (1) The President of the Union may, after consultation with the Board, grant leave of absence to the Chairman or depute him to other duties for such period as he shall think fit.

(2) The President of the Union shall determine the amount (if any) of the allowance which shall be paid to the Chairman while absent on leave or deputation:

Provided that such allowance shall not exceed the amount of his salary and provided that if the Chairman is a Government officer, the amount of such allowance shall be such as he may be entitled to under any rules applicable to him relating to transfer to foreign service.

10. (1) Whenever the Chairman is granted leave of absence or deputed to other duties, the President of the Union may appoint a person to act as Chairman and may, subject to the provisions of section 8, direct the amount of the remuneration (if any) which shall be paid to such person.

(2) Any person appointed to act as Chairman shall exercise the powers and perform the duties conferred and imposed by and under this Act on the Chairman, and shall be subject to the same liabilities, restrictions and conditions as the Chairman.

11. The Board may permit any Trustee, other than the Chairman, the Mayor of Rangoon, or the Municipal Commissioner of the City of Rangoon, to absent himself from meetings of the Board for any period not exceeding six months.

12. (1) The President of the Union may, by notification, declare that any Trustee shall cease to be a Trustee:

(a) if he has acted in contravention of section 20; or

(b) if he has been absent from, or has been unable to attend, all meetings of the Board for any period exceeding six consecutive months; or

(c) if he has, without the permission of the Board, been absent from all meetings of the Board for any period exceeding three consecutive months; or

(d) if he is not qualified to be a Trustee under section 5, sub-section (1).

(2) The President of the Union shall, by notification, declare that a Trustee shall cease to be a Trustee if he becomes disqualified for appointment or election as a Trustee for any of the reasons mentioned in section 7, subsection (1).

13. If any Trustee be permitted by the Board to absent himself from meetings of the Board for any period exceeding three months, or if any Trustee dies or resigns office, or is removed from office under section 12, the vacancy may be filled by a fresh appointment or election under section 4.

14. (1) [...]

(2) Subject to the provisions of section 12, the term of office of Trustees (Other than an ex-officio Trustee) shall be as follows:-

(a) the Chairman - such period as may be fixed by the President of the Union;

(b) a Trustee appointed or elected in pursuance of section 13 the period of absence or the remainder of the period of office, as the case may be;

(c) other Trustees - three years.

(3) Any Trustee shall, if not disqualified for any of the reasons mentioned in section 5, sub-section (1), or section 7, sub-section (1), be eligible for re-appointment or re-election at the end of his term of office:

Provided that the President of the Union may declare by notification that any Trustee, in respect of whom a notification has been published under section 12, shall not be eligible for re-appointment or re-election.

15. Every election and appointment to office made, and every declaration made under section 7, sub-section (1), clause (b), section 12, sub-section (1) and sub-section (2), and the proviso to section 14, sub-section (3), of this Chapter shall be published by notification and shall be valid and take effect from the date of such notification, unless some other date is therein specified.

Conduct of Business.

16. (1) The Board shall meet and transact business in accordance with the rules made under section 96, sub-section (2).

(2) The Chairman shall be the presiding authority at all meetings: provided that in the event of the absence of the Chairman from any meeting, the Trustees present shall elect one of their number to be the presiding authority at such meeting.

(3) All questions shall be decided by a majority of votes of the Trustees present, the presiding authority having a second or casting vote in all cases of equality of votes.

17. (1) The Board may associate with themselves, in such manner and for such period as may be prescribed by rules made under section 96, any persons whose assistance or advice they may desire in carrying out any of the provisions of this Act.

(2) A person associated by the Board under sub-section (1) for any purpose shall have a right to take part in the discussions of the Board relating to that purpose, but shall not have the right to vote at a meeting of the Board and shall not be a member of the Board for any other purpose.

18. (1) The Board may appoint committees, each consisting of not less than three Trustees in addition to any persons associated with the Board under section 17, and may, by general or special order, refer to such committees, for enquiry and report, any matter relating to any of the purposes of this Act.

(2) All proceedings of any such committee shall be subject to confirmation by the Board.

(3) The Chairman shall be a member of all such committees and shall, if present, preside at all meetings thereof.

(4) All questions at any meeting of a committee shall be decided by a majority of votes of the Trustees present, the presiding authority having a second or casting vote in all cases of equality of votes.

19. Every Trustee, except the Chairman, and every person associated with the Board under section 17, shall be entitled to receive such fees for each meeting of the Board and for each meeting of a committee at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof as the President of the Union from time to time may fix:

[Inserted by Act XX, 1946] Provided that no fees shall be payable to officials or persons who receive their pay directly or indirectly from Government funds.

20. (1) A Trustee who:

(a) has directly or indirectly, by himself or by any partner, employer or employee, any such share or interest as is described in section 7, sub-section (2), or is a director, secretary,

manager or other salaried officer of an incorporated company which has any such share or interest, or

(b) has acted professionally, in relation to any matter, on behalf of any person having therein any such share or interest as aforesaid, shall not vote or take any other part in any proceeding of the Board or any committee relating to such matter.

(2) If any Trustee, or any person associated with the Board under section 17, has, directly or indirectly any beneficial interest in any immovable property situated in an area comprised, or intended to be comprised, in a scheme.

(a) he shall, before taking part in any proceeding at a meeting of the Board or any committee relating to such area, inform the presiding authority at the meeting of the nature of such interest;

(b) he shall not vote at any meeting of the Board or of any committee upon any resolution or question relating to such immovable property; and

(c) he shall not take any other part in any proceeding at a meeting of the Board or of any committee relating to such area if the presiding authority at the meeting considers it inexpedient that he should do so.

21. (1) The Board may enter into and perform all such agreements and contracts as they may consider necessary for carrying out the purposes of this Act.

(2) Any such contract the value of which does not exceed two thousand rupees may be entered into on behalf of the Board by the Chairman, but no other such contract shall be entered into except with the previous sanction of the Board.

22. No new work shall be commenced and no contract in respect thereof shall be entered into if the estimated cost of such work exceeds:

(a) two thousand rupees, until the plan and estimate therefore shall have been determined on and approved by the Board; or

(b) two lakhs of rupees, until the plan and estimate therefore shall have been submitted to and approved by the President of the Union.

23. (1) Any such contract the value of which does not exceed two thousand rupees may be executed by the Chairman, and every other such contract shall be executed by the Chairman and one Trustee and shall be sealed with the common seal of the Board.

(2) No contract which is not executed in accordance with the provisions of this section shall be binding upon the Board.

24. The common seal of the Board shall remain in the custody of the Secretary of the Board and shall not be affixed to any contract or other instrument except in the presence of the Chairman and one Trustee.

25. (1) At least fourteen days before the Chairman enters into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding two thousand rupees, he shall give notice by advertisement in local newspapers inviting tenders for such contract.

(2) In every such case, the Chairman shall place before the Board the specifications, conditions and estimates and all the tenders received, specifying the particular tender (if any) which he proposes to accept:

Provided that:

(a) the Board may authorize the Chairman to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them; and

(b) the Board shall not be bound to sanction the acceptance of any tender which has been made, but may sanction the acceptance of any of such tenders which appears to them, upon a view of all the circumstances, to be the most advantageous, or may direct the rejection of all the tenders submitted to them.

26. The Chairman shall take sufficient security for the due performance of every contract involving an expenditure exceeding one thousand rupees.

Officers and Servants.

27. (1) The Board shall prepare schedules of the staff of officers and servants whom they consider it necessary and proper to employ for the purposes of this Act:

Provided that artisans, porters, labourers, sirdars of porters and labourers, employees who are paid by the day and employees whose pay is charged to temporary work, shall not be deemed to be officers and servants within the meaning of this section.

(2) Such schedules shall also set forth the amount and nature of the salaries, fees and allowances which the Board propose to sanction for each such officer or servant.

(3) A copy of all such schedules as last sanctioned by the Board shall be appended to the annual budget estimate prepared under section 73.

28. Subject to any directions contained in any schedule prepared under section 27 and any rules made under section 95 and for the time being in force, the power of appointing, promoting and granting leave to officers and servants of the Board, and reducing, suspending

or dismissing them for misconduct, and dispensing with their services for any reason other than misconduct, shall be vested:

(a) in the case of officers and servants whose monthly salary does not exceed three hundred rupees - in the Chairman; and

(b) in other cases - in the Board:

Provided that any officer or servant in receipt of a monthly salary exceeding one hundred rupees who is reduced, suspended or dismissed by the Chairman may appeal to the Board, whose decision shall be final.

29. (1) The Board shall not, without the previous sanction of the President of the Union.

(a) create or abolish any appointment the monthly emoluments of which amount to over eight hundred rupees, or

(b) increase the monthly emoluments of any existing appointment to a sum exceeding eight hundred rupees.

(2) All orders passed by the Board under section 28 and relating to any officer appointed to hold an office the monthly emoluments of which exceed eight hundred rupees, except orders granting leave to, or suspending, any such officer, shall be subject to the previous sanction of the President of the Union.

30. The Chairman shall exercise supervision and control over the acts and proceedings of all officers and servants of the Board; and, subject to the foregoing sections, shall dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances.

31. (1) Subject to the sanction of the Board, given generally or with reference to any particular case, any of the powers, duties or functions conferred or imposed on the Chairman under this Act or any rule made thereunder may be delegated by him by an order in writing to any officer of the Board.

(2) The exercise or discharge by any officer of any powers, duties or functions delegated to him under sub-section (1) shall be subject to such conditions and limitations, if any, as may be prescribed in the said order and also to control and revision by the Chairman.

CHAPTER III
POWERS AND DUTIES OF THE BOARD

32. The Board may, subject to the control of the President of the Union and the provisions of this Act, undertake any works and incur any expenditure for the improvement, expansion or development of the City, or of any area in the vicinity thereof to which the President of the Union may, by notification, declare this Act to apply, and for the purpose of framing and executing such town-planning schemes as may be necessary from time to time.

33. The Board may, for the purposes of this Act, purchase and hold moveable and immoveable property within or without the City.

34. (1) The President of the Union on behalf of the Board may, under the Land Acquisition Act, subject to the modifications set out in Schedule I, and in addition to the provisions contained in Chapter IV, acquire any land or any right or interest therein, whether attached thereto or not, either in connection with any scheme or independently of any scheme, and any scheme may provide for such acquisition.

(2) The President of the Union on behalf of the Board may acquire under the Land Acquisition Act, at any time prior to the completion of the scheme under sub-section (1), in addition to any land comprised in the scheme, any other land which is beneficially or injuriously affected thereby.

(3) The President of the Union on behalf of the Board may acquire under the Land Acquisition Act any easement affecting any immoveable property vested in the Board where such acquisition is necessary for the development of the City:

Provided that where there is any dispute as to the existence of such necessity such dispute shall be referred for decision to the Court as provided in section 39 before the issue of the notice of intention to acquire any such easement.

(4) The word "land" in the Land Acquisition Act shall, for the purposes of this Act, be deemed to include all the rights, interests and easements referred to in this section.

35. The Board shall pay to the Municipal Corporation of the City of Rangoon each year such sum of money as will suffice to pay the interest on the loans raised by the Municipal Committee of Rangoon for the purposes of the Town Lands Reclamation Fund and specified in Schedule II, and a further sum so calculated that it will, taking into account the amount in the sinking fund of the aforesaid loans on the 1st February, 1921 [Date of Commencement of this Act], and accumulations in the way of compound interest, be sufficient to repay each of the aforesaid loans on the date appointed for repayment when the loan was raised.

36. The Board shall be liable to pay such contributions for the leave allowances and pension of any servant of the Government employed as Chairman or as an officer or servant of the Board as may be prescribed in any rules applicable to him relating to transfer to foreign service.

Facilities for movement of the population.

37. With a view to facilitating the movement of the population in and around the City, the Board may from time to time:

(1) subject to any conditions they may think fit to impose:

(a) guarantee the payment, from the funds at their disposal, of such sums as they may think fit, by way of interest on capital expended on the construction, maintenance or working of any way or means of locomotion; or

(b) make such payments as they may think fit from the aid funds by way of subsidy to persons undertaking to provide, maintain and work any way or means of locomotion; or

(2) either singly or in combination with any other person, construct, maintain and work any way or means of locomotion, under the provisions of any law applicable thereto; or

(3) construct or widen, strengthen or otherwise improve, bridges:

Provided that no guarantee or subsidy shall be made under clause (1), and no means of locomotion shall be constructed, maintained or worked under clause (2), without the sanction of the President of the Union.

CHAPTER IV SCHEMES

Procedure relating to the framing, examination and sanctioning of a Scheme.

38. (1) Whenever it appears to the Board that any immovable property which is wholly or partially built upon or which is in course of development, or which is being or is likely to be used for building purposes, is so situated that, in order to secure proper sanitary conditions, amenity and convenience in connection with the laying out or use of the said immovable property or of any neighbouring immovable property, it is expedient that a scheme be prepared, the Board may declare by resolution their intention to prepare such scheme, with reference to the whole or any portion of such immovable property, including the whole or such portion as may be necessary of such neighbouring immovable property.

(2) Within twenty-one days from the date of such resolution, the Board shall serve notice of it upon the owner of any immovable property affected thereby or his agent and shall

publish it in the prescribed manner in the Gazette, and shall apply to the President of the Union for sanction to the making of such scheme.

(3) If, within one month from the date of such publication in the Gazette, any person communicates in writing to the President of the Union any objections or suggestions relating to such scheme, the President of the Union shall consider such objections or suggestions.

(4) After receiving such application and after making such enquiry as he may think fit, the President of the Union may, by notification, either sanction; the making of such scheme, with or without modification and subject to such conditions as he may think fit to impose, or he may, by similar notification, refuse to give sanction.

(5) Within twelve months from the date of the notification sanctioning the making of a scheme, the Board shall, in consultation with the local authorities concerned, and such owners or their agents as may be deemed necessary, prepare and publish in the prescribed manner a draft scheme for the area in respect of which sanction has been given.

(6) If, within three months from the date of publication of the draft scheme, any person affected by such scheme communicates in writing to the Board any objection relating to such scheme, the Board shall consider such objection and may modify such scheme in such manner as they think fit. The Board shall then submit the draft scheme, with any modifications which they may have made therein, together with the objections which may have been communicated to them, to the President of the Union.

(7) The President of the Union shall then decide all disputes between the Board and any other local authority arising from the scheme.

(8) At the request of any person who has communicated any objection under sub-section (6), the President of the Union shall appoint a referee with a sufficient establishment, whose powers and duties with respect to all such objections shall be as prescribed by the rules framed under section 95, and whose decision shall be final except as regards the matters specified in sub-section (9).

(9) If the decision of the referee is questioned as regards:

(a) estimates of the accrual of increment;

(b) the proportion of the accrued increment to be contributed to the cost of the scheme;

(c) the contribution to be levied on each plot included in the scheme;

(d) the contribution to be levied on any plot which is increased in value by the scheme but which is not included in the scheme;

(e) the compensation to be paid under section 56, or;

(f) the date or dates upon which the contributions shall be levied;

there shall be a right of reference to the Court as provided in section 39.

(10) After making such enquiries with respect to such referred questions as may be deemed necessary, the Court may accept, modify, vary or reject the decision of the referee on such questions.

(11) The Board shall then prepare a final scheme embodying all alterations and modifications which have been made, or rendered necessary, by the decisions of the referee or the Court, and shall forward such scheme to the President of the Union.

(12) The President of the Union, after consideration of such scheme, may:

(a) reject the said scheme and direct that all further proceedings in connection therewith shall be stayed; or

(b) approve of the said scheme.

(13) After the President of the Union has sanctioned and published such scheme in the Gazette, it shall have effect as if it were enacted in the body of this Act.

(14) The Board may permit any private owner to carry out, under the supervision of the Board, the reclamation and development of his own land in accordance with the provisions of such scheme.

Reference to the Court.

39. (1) A reference to the Court, under section 34, sub-section (2), and under section 38, sub-section (9), shall ordinarily lie to a single Judge, but a reference, except in the case of a reference under section 34, shall lie to a Bench of two Judges in the following cases:-

(a) where the amount of the claim involved exceeds the sum of rupees twenty-five thousand;

(b) in the matters mentioned in section 38, sub-section (9), clauses (a) and (b), respectively.

(2) The decision of the Court, whether the reference lies to a single Judge or to a Bench, shall be final:

Provided that in a reference to a Bench if the Judges constituting such Bench are unable to agree they shall refer any matter upon which they may differ to another Judge of the Court whose decision thereon shall be final.

40. (1) The referee shall, save where he is a servant of the Government be entitled to such remuneration, either by way of monthly salary or by way of fees, or partly in one way and partly in the other, as the President of the Union may from time to time determine.

(2) The salary of a referee who is a Government servant, and any remuneration payable under sub-section (I), and all expenses incidental to the work of the referee shall, unless the President of the Union otherwise determines, be paid by the Board and shall be added to the costs of the scheme.

Matter for which a Scheme may make Provision.

41. A scheme may make provision for:

(a) the construction, diversion, alteration and stopping up of streets, roads, water-channels and communications;

(b) the construction, alteration and removal of buildings and bridges and other structures;

(c) the plotting out of land as building sites whether such land is intended to be used for building purposes in the immediate future or not;

(d) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and other public purposes of all kinds;

(e) reclamation and drainage, inclusive of sewerage and of surface drainage and sewage disposal;

(f) lighting;

(g) water-supply;

(h) the preservation of objects of historical interest or natural beauty;

(i) the imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the number, height, architectural features and character of buildings allowed in specified areas, and the purposes to which buildings or specified areas may or may not be appropriated;

(j) a building line on each side of every street which it is proposed to lay out, including a provision:

(i) that no person shall construct any portion of any building so as to encroach past the said line on to the street;

(ii) that owners shall build right up to the said line;

(c) such other matter not inconsistent with the objects of this Act as may be prescribed by the President of the Union.

42. A scheme may make provision for:

(a) the variation, extinction or transfer of any right or title or interest in or connected with, or the alteration or rearrangement of the boundaries of, any holding of land affected thereby, if such variation, extinction, transfer, alteration or re-arrangement is, in the opinion of the Board, necessary in order to render such holding more suitable for building purposes or for any object in furtherance of the scheme;

(b) the allotment of a plot to any owner dispossessed of immovable property in furtherance of the scheme;

(c) the transfer of the ownership of a plot from one person to another.

43, (1) A scheme may make provision for such and so many building sites or for the construction, maintenance and management of such and so many dwellings and shops within the limits of the land affected by the scheme or its vicinity as may be necessary for persons of the poorer and working classes.

(2) A scheme may also provide for the construction, maintenance and management of such dwellings and shops by the Board themselves, or either wholly or in part by some person who satisfies the Board of his ability to carry out such work, or either wholly or in part by the Municipal Corporation of the City of Rangoon.

(3) When any such scheme provides, either wholly or in part, for the construction, maintenance and management of the work by any person or by the Municipal Corporation of the City of Rangoon, the scheme shall embody the terms and conditions agreed upon between the Board and such person or between the Board and the Municipal Corporation of the City of Rangoon.

(4) The Board shall not themselves construct dwellings or shops under a scheme unless they are satisfied, after due enquiry, that neither any other person nor the Municipal Corporation of the City of Rangoon is willing and able to construct them.

44. Every scheme shall contain, as far as can be ascertained or prepared, the following particulars, namely:-

(41) a plan showing the existing state and situation of the land affected by such scheme;

(b) the area, ownership and tenures of each original plot;

(c) a statement of the existing population on the land affected by the scheme;

(d) the land allotted or reserved under section 41, clause (d), with a general indication of the uses to which such land is to be put and an estimate of the compensation to be paid under section 56;

- (e) a statement of the works which it is proposed to execute under section 41 on the land in respect of which the scheme has been prepared in order to give effect to the said scheme;
- (f) an estimate of the total costs of the scheme; and a statement specifying the proportion of such costs payable by, or leviable from, the Board, or any local bodies, owners, mortgagees, mortgagors, lessors, lessees or other persons affected by such scheme;
- (g) a statement of the increment on each plot;
- (h) a statement showing the proportion of the accrued increment on each plot to be contributed to the cost of the scheme;
- (i) a statement of the agency or agencies by means of which such works should be carried out and the means of providing funds wherewith to pay their cost;
- (j) a statement showing the lands and buildings, if any, which it is proposed to acquire and the estimated cost of acquiring the same;
- (k) a statement showing the plots on which it is proposed to levy a contribution under section 50;
- (l) proposals with reference to the order in which such works should be carried out and the dates on which they should be undertaken;
- (m) a plan showing the state of the land after the execution of the scheme and the extent to which it is proposed to change the boundaries of original plots;
- (n) the area, ownership and tenures of the plots into which it is proposed to divide the said land under the scheme;
- (o) a statement of the authority by whom the conditions and restrictions imposed under section 41, clauses (i) and (j), are to be enforced;
- (p) a statement of the arrangements made or proposed for temporary re-housing during the execution of the scheme and for re-housing persons of the poorer and working classes who are likely to be displaced by the execution of the scheme;
- (q) the date or dates upon which the contributions shall be levied;
- (r) such other particulars as the President of the Union may generally or with reference to any special scheme.

Effect of Scheme.

45. With effect from the date of publication of a resolution under section 38, sub-section (2), no person shall, without the permission in writing of the Board and except in accordance with the terms and conditions of such permission, erect or re-erect, add to or make any change in, any building situated within the area included in such scheme.

46. Subject to the provisions of this Act, and the rights of [the State] [Submitted by the Union of Burma (Adaptation of Laws) Order, 1948] the day on which the final scheme comes into force:

(a) all immovable property required by the Board as provided for in such scheme shall, unless it is otherwise determined in such scheme, vest absolutely in the Board free from all encumbrances;

(b) all rights in original plots which have been reconstituted shall determine and the reconstituted plots shall become subject to the rights settled by the final scheme.

47. On and after the day on which the final scheme comes into force any person continuing to occupy any land which he is not entitled to occupy under the final scheme may, in accordance with the prescribed procedure, be summarily evicted by the Board.

48. (1) On and after the day on which the final scheme comes into force the Board may, after giving the prescribed notice and in accordance with the provisions of the scheme, remove, pull down or alter any building or other work in the area included in the scheme which is such as to contravene the scheme, or in the erection or carrying out of which any provision of the scheme has not been complied with.

(2) If any question arises as to whether any building or work contravenes a scheme, or whether any provision of a scheme is not complied with, that question shall be referred by the Board to the President of the Union and his decision shall be final and conclusive and binding on all persons.

Cost of Scheme.

49. The cost of a scheme shall be met wholly or in part by a contribution to be levied by the Board on each plot included in the final scheme calculated in proportion to the increment which is estimated to accrue in respect of such plot:

Provided that no such contribution on account of land privately owned shall exceed seventy-five per cent of the increment estimated to accrue in respect of each plot.

50. When, by the making of any scheme, any immovable property not included in the final scheme is increased in value, the cost of such scheme may be met wholly or in part by a contribution levied by the Board on any plot which is so increased in value, calculated in proportion to the increment which is estimated to accrue in respect of such plot:

Provided that:

(i) no such contribution shall exceed fifty per cent of the increment estimated to accrue in respect of such plot; and

(ii) no such contribution shall be levied unless it is included within the particulars of the draft scheme published in accordance with the provisions of section 38, sub-section (5).

51. The sum of the contributions under sections 49 and 50 shall in no case exceed the actual cost of the scheme and in apportioning such costs all immoveable property included in such scheme except any plot vested in the Board shall bear its proportionate share.

52. The cost of reclaiming any immoveable property vested in the Board under section 58 or exchanged for any such immoveable property or purchased from the revenues of such immoveable property shall be debited solely against the account specified in clause (0) of section 77, sub-section (1).

53. For the purposes of this Act, the increment shall be deemed to be the amount by which the value of a plot estimated on the assumption that the scheme has been completed exceeds the value of the same plot estimated at its market value at the date of the declaration of intention to make a scheme without reference to improvements contemplated in the scheme:

Provided that, in estimating such values, the value of buildings or other works erected or in the course of erection on such plot shall not be taken into consideration.

54. (1) Any scheme may provide for the payment of the contributions under sections 49 and 50 in a lump sum or in installments of such amounts, not being less than twelve rupees per annum, for any plot and at such intervals as will suffice to discharge such contributions, together with interest thereon at the rate of six per centum per annum, within a period not exceeding thirty years.

(2) The said installments shall be payable by the owner of the plot on which the said contributions are so charged and may be recovered in the manner prescribed by section 86.

(3) The contributions payable in respect of any plot shall be and remain a continuing charge on the same during such time as they remain unpaid.

(4) At any time before the expiration of the period for the payment of any contributions under this section, the owner of the plot on which it is charged may redeem such charge by paying such part of the said contributions as may not have been defrayed by sums already levied in respect of the same.

55. In any case in which the President of the Union has sanctioned the acquisition of land under section 34, sub-section (2), the owner of any portion of such land may apply to the

Board to refrain from the acquisition thereof and to proceed under the provisions of section 50, or otherwise as may be agreed upon, and the Board may thereupon proceed accordingly.

Compensation.

56. (1) Where property or a private right of any sort is injuriously affected by reason of any provisions contained in a scheme, compensation shall, subject to the provisions of this Act, be payable by the Board or by any person benefited, or partly by the Board and partly by such person, as may be determined in each case by the final scheme.

(2) Such compensation may be paid either in cash, or by the allotment of a plot, or in such other manner as may be determined in each case by the final scheme:

Provided that:

(a) no compensation shall be payable under sub-section (1) if or in so far as the provisions of a scheme are such as would have been enforceable without compensation under any rule having the force of law, bye-law or Act in force at the time;

(b) property or a private right of any sort shall not be deemed to be injuriously affected by reason of any provisions inserted in a scheme, which, with a view to securing the amenity of the area included in such scheme or any part thereof, impose any conditions and restrictions in regard to any of the matters specified in section 41, clauses (i) and (j);

(c) the Board shall not be bound to consider any claim to compensation which is made after three months from the publication of the draft scheme.

57. (1) Any scheme which has been notified in accordance with the provisions of section 38 may be revoked, or abandoned, or may be varied by a subsequent scheme prepared in accordance with this Act, and the President of the Union may, on the application of the Board, or of any other person appearing to him to be interested, by order revoke, abandon or vary any scheme so notified, if such revocation, abandonment or variation should appear to be expedient in the circumstances of the case:

Provided that no such variation, revocation or abandonment shall be effected without the publication of a notice in the prescribed manner.

(2) Any person who has incurred expenditure for the purpose of complying with a scheme revoked, abandoned or varied under sub-section (1) shall be entitled to compensation from the Board in so far as any such expenditure is rendered abortive by reason of such revocation, abandonment or variation.

(3) If a scheme is revoked or abandoned under sub-section (1), the Board shall pay to any person whose interests have been affected by such scheme compensation not exceeding

the amount of the costs reasonably incurred by him in the proceedings under this Act connected with such scheme.

CHAPTER V PROPERTY, TAXATION AND FINANCE

Property.

58. (1) From the day on which this Act comes into force, there shall vest in the Board the right, title and interests of Government in, and to, the following immovable property in the City, namely:-

- (a) all waste-land not especially reserved by the President of the Union; and
- (b) all immovable property held from Government under permit, licence or lease or occupied without title.

(2) All rents or fees now derived by Government on account of such permits, licences or leases shall be collected by and vest in, the Board.

(3) After the commencement of this Act! the President of the Union may, by notification, place any other Government immovable property at the disposal of the Board, and such property shall thereupon vest in the Board from the date of the notification.

59. (1) The Board may dispose of immovable property, vested in the Board under the provisions of section 58 or otherwise, by lease, sale, transfer or in any other manner, subject to any rules which may be made under section 95.

(2) If any immovable property vested in the Board is required. by the Government for administrative purposes, the Board shall transfer the same to the President of the Union upon payment of all costs incurred by the Board in acquiring, reclaiming or developing the same, together with interest thereon at the rate of six per cent per annum calculated from the 1st February, 1921, or from the date on which such costs were incurred, whichever is the later. The transfer of any such immovable property shall be notified in the Gazette and such property shall thereupon vest in the Government from the date of the notification.

60. The Municipal Corporation of the City of Rangoon shall pay from the Municipal Fund to the Board on the first day of each quarter, so long as the Board continues to exist, a sum of twenty—five thousand rupees, and may pay any further sum with the previous sanction of. the President of the Union.

61. On the day on which this Act comes into force:

- (a) the balance at the credit of and all assets and liabilities due to and payable from the account of the deposits of land sales and rents, Rangoon;

(b) all assets and liabilities of the Rangoon Town Lands Reclamation Fund including any contingent liability under any orders of the Secretary of State existing at the date when this Act comes into force. [This Act came into force on the 1st February, 1921].

shall respectively vest and be taken over by the Board.

62. All moneys to be credited to the Board on the day on which this Act comes into force [This Act came into force on the 1st February, 1921] and all moneys thereafter payable to the Board shall be received by the Chairman, and shall forthwith be paid into the [Union Bank of Burma] [Substituted by Act LXVIII, 1951], or such other Bank as may be selected by the Board subject to the approval of the President of the Union, to the credit of an account which shall be styled "The account of the Rangoon Development Fund", and shall be held by the Board in trust for the purposes of this Act subject to the provisions herein contained.

63. The moneys from time to time credited to the Rangoon Development Fund shall be applied:

firstly, in making due provision for the repayment of the outstanding balances of principal and interest of all loans mentioned in Schedule II, and secondly, in payment of all sums, charges and costs necessary for the purpose of carrying this Act into effect, or of which the payment shall be duly directed or sanctioned under any of the provisions of this Act or any other Act, or payable under any order or decree of a civil or criminal Court.

64. (1) Surplus moneys at the credit of the Rangoon Development Fund may, from time to time, be:

(a) deposited at interest in the [Union Bank of Burma] [Substituted by Act LXVIII, 1951] or in any other Bank approved by the President of the Union in this behalf; or

(b) invested in Government securities, securities guaranteed by Government, Rangoon Municipal debentures, debentures issued by the Commissioners for the Port of Rangoon or by the Board, or with the approval of the President of the Union in any other manner.

(2) All such deposits and investments shall be made by the Chairman on behalf of the Board.

65. (1) No payment shall be made by the Bank out of the account referred to in section 62, except upon a cheque.

(2) Payment of any sum due by the Board exceeding one hundred rupees in amount shall be made by means of a cheque and not in any other way.

(3) Payment of any sum due by the Board not exceeding one hundred rupees in amount may be made by the Chairman in cash, cheques for sums not in excess of one thousand

rupees each, signed in accordance with the provisions of section 66, being drawn from time to time to cover such payments.

66. All orders for making any deposit or investment under section 64, or for any withdrawal or disposal thereof, and all cheques referred to in section 65 shall be signed:

(a) by the Chairman and the Secretary to the Board, or

(b) in the event of the illness or occasional absence from Rangoon of the Chairman or the Secretary, then by the Secretary or the Chairman, as the case may be, and by a Trustee other than the Chairman.

67. (1) No work shall be begun or executed unless provision for the expenditure required therefore has been made in a current budget-grant, and no sum shall be expended by or on behalf of the Board unless the expenditure of the same is covered by a current budget-grant or can be met by reappropriation or, with the previous sanction of the President of the Union, by drawing on the closing balance.

(2) The following items shall be exempted from the provisions of subsection (1), namely:-

(a) repayments of moneys belonging to contractors and other persons and held in deposit, and of moneys collected by, and credited to, the Board by mistake;

(b) payments due under a decree or order of a Court passed against the Board;

(c) sums payable under a compromise of any suit or other legal proceeding or claim;

(d) sums payable by way of compensation; and

(e) payments required to meet some pressing emergency.

(3) Whenever any sum exceeding five thousand rupees which cannot be met by reappropriation is expended under clause (b), clause (c), clause (d) or clause (e) of subsection (2), the Chairman shall forthwith report the circumstances to the President of the Union, and shall at the same time report how the Board propose to cover the expenditure.

Taxation.

63. (1) The duty charged by Articles 23, 33 and 40A respectively, of Schedule I of the Burma Stamp Act shall, in the case of instruments affecting immoveable property situated in the City and executed on and after the commencement of this Act, [That is, after the 1st February, 1921] be increased by two per centum on the value of the property so situated, as set forth in the instrument.

(2) For the purposes of this section, section 27 of the said Burma Stamp Act shall be read as if it specifically required the particulars referred to therein to be set forth separately in respect of:

(a) property situated in the City, and (b) property situated outside the City, respectively.

(3) For the purposes of this section, section 64 of the said Burma Stamp Act shall be read as if it referred to the Board as well as the Government.

(4) All collections resulting from the said increase shall, after deducting incidental expenses (if any), be paid to the Board at such time as may be prescribed by rule made under section 95.

69. (1) Every male passenger liable to pay the full fare leaving Rangoon by sea-going vessel [or aircraft] [Inserted by Act VIII, 1949] for a destination other than a port [or an airport] [Inserted by Act VIII, 1949] in the Union of Burma shall pay in respect of each journey so made by him a tax of such amount not exceeding two rupees as the President of the Union may determine.

(2) The said tax shall be collected as a surcharge on the fares in respect of such journeys by the persons by whom the fares are collected and, after making such deductions as the President of the Union may approve to meet expenses incurred in the collection of the tax, shall be paid to the Board by the owner of the vessel [or aircraft] in which the passengers are carried, or if the fares are collected by an agent of the owner of the vessel [or aircraft] [Inserted by Act VIII, 1949] or by a charterer or hirer of the vessel [or aircraft] [Inserted by Act VIII, 1949] or his agent, by such charterer or hirer or agent, at such time as may be prescribed by rule, and the owner of the vessel [or aircraft] [Inserted by Act VIII, 1949] and his agent or the charterer or hirer and his agent, as the case may be, shall be jointly and severally liable to pay and account for the tax to the Board.

(3) The owner or agent of the owner of every vessel [or aircraft] [Inserted by Act VIII, 1949] referred to in sub-section (1) shall prepare and deliver, or cause to be prepared and delivered, to the Chairman, each quarter, a return, in the form prescribed by rule made under section 95, of all passengers carried by such vessel, [or aircraft] [Inserted by Act VIII, 1949] by whom the tax imposed by that sub-section is payable;

and shall subscribe, at the foot of such return, a declaration of the truth thereof:

70. (1) Whenever the President of the Union considers that any duty or tax imposed by sections 68 and 69, or any contribution payable under section 60 of this Act, or any portion of any such duty, tax or contribution, is not required for the purposes of this Act, he may, by notification,-

(a) suspend, for any specified period, the levy of such duty, tax or contribution or any specified portion thereof; or

(b) abolish such duty, tax or contribution or any specified portion thereof, from a date to be specified in the notification.

(2) If at any time the President of the Union considers that any such duty, tax or contribution or any portion thereof, which has been suspended or abolished under sub-section (1), is required for the purposes of this Act, he may, by notification, cancel, such suspension or abolition, wholly or in part, as he may think fit, from a date to be specified in the notification.

Loans.

71. The Board shall be deemed to be a local authority, as defined in the Local Authorities Loans Act, for the purpose of borrowing money under that Act.

Enforcement of Liabilities.

72. (1) If the Board fail to pay any money borrowed in accordance with the provisions of section 71 or any interest or payments due in respect thereof, the Accountant-General, Burma, shall make such payment and the Municipal Corporation of the City of Rangoon shall forthwith pay from the Municipal Fund to the said Accountant-General a sum equivalent to the sum so paid by him.

(2) When payment has been made as aforesaid, or if the Board should fail to make any payments for which they are liable under the provisions of section 35, the Municipal Corporation of the City of Rangoon shall be deemed to be, and have all the rights of, a lender in respect of the said payments against the Board under section 5 of the Local Authorities Loans Act, and the Government shall reimburse the said Corporation out of the proceeds of any attachment levied under the provisions of that section, subject to the conditions and limitations therein prescribed.

(3) If the Municipal Corporation of the City of Rangoon fails to make any payments as required by section 60 or by sub-section (1), the Government may attach the Municipal Fund or any part thereof.

(4) All moneys paid by the Municipal Corporation of the City of Rangoon under sub-section (1), and not reimbursed by the Government under sub-section (2), and all moneys payable under sub-section (1) and levied under sub-section (3), shall constitute a charge upon the property belonging to or vested in the Board.

Budget Estimates.

73. The annual budget estimate shall be prepared in accordance with rules framed under section 96, and such estimate as approved by the Board shall be submitted to the President of the Union, who may approve or modify the same:

Provided that the President of the Union shall, before modifying any budget estimate, give to the Board an opportunity for the further consideration of the said estimate.

74. A copy of every such estimate shall, as finally approved by the resident of the Union be sent by the Board to the Municipal Corporation of the City of Rangoon.

175. [...] [Omitted by Act II, 1945]

76. (1) The Board may, at any time during the year for which a budget estimate has been sanctioned, cause a supplementary estimate to be prepared and laid before them at a special meeting.

(2) The provisions of section 73 and section 74 shall apply to the said estimate.

Accounts.

77. (1) The accounts of the Board shall be kept in such a manner as to show separately:

(a) all income and expenditure in connection with immoveable property vested in the Board under section 58 or exchanged for any such immoveable property or purchased from the revenues of such immoveable property, and

(b) all other income and expenditure of the Board.

(2) Such accounts shall be subject to such audit as the Board may with the sanction of the President of the Union, direct.

Provident Fund.

78. The Board may, by rules framed under the provisions of section 96, establish and maintain a provident or annuity fund and may compel all;

any of the officers or servants of the Board, other than servants of the Government to subscribe to such fund and if necessary may deduct such subscriptions out of the salaries or emoluments of such officers or servants.

CHAPTER VI PROCEDURE

Power of Entry.

79. The Chairman, or any officer of the Board authorized by him in this behalf, may with or without assistants or workmen enter into or upon any immoveable property in order:

- (a) to make any inspection, survey, measurement, valuation or enquiry;
- (b) to take levels;
- (c) to dig or bore into the sub-soil;
- (d) to set out boundaries and intended lines of work;
- (e) to mark such levels, boundaries and lines by placing marks and cutting trenches, or
- (f) to do any other thing;

whenever it is necessary to do so for any of the purposes of this Act or any rule made thereunder or any scheme under preparation or sanctioned thereunder:

Provided as follows:

- (i) no such entry shall be made between sunset and sunrise;
- (ii) no building which is used as a dwelling place shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours previous written notice of the intention to make such entry;
- (iii) sufficient notice shall in every case be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed;

(iv) due regard shall always be had, as far as may be compatible with the exigencies of the purpose for which the entry is made to the social and religious usages of the occupiers of the premises entered.

80. (1) The Board may:

(a) do any act which is necessary or desirable to be done in pursuance of the provisions of any scheme; and

(b) execute any work which it is the duty of any person to execute under such scheme and which such person has failed to execute.

(2) Any expenses incurred by the Board under clause (b) of sub-section (1) may be recovered by the Board from the person or persons in default.

(3) In the event of any question arising whether any action taken or purporting to be taken under sub-section (1) is in pursuance of the provisions of a scheme, such question shall be referred to the President of the Union, whose decision thereon shall be final and conclusive and binding on all persons.

Signature and Service of Notices or Bills.

81. Every notice, bill or rent receipt, which is required by this Act or by any rule made thereunder to bear the signature of the Chairman or of any other Trustee or of any officer or servant of the Board, shall be deemed to be properly signed if it bears a facsimile of the signature of the Chairman or of such other Trustee or of such officer or servant, as the case may be, stamped thereon.

82. When any notice, bill or other document is required by this Act or by any rule made thereunder to be served upon or to be issued or presented to any person, such service, issue or presentation shall be effected:

(a) by giving or tendering such document to such person; or

(b) if such person is not found, by leaving such document at his last known place of abode in the city, or by giving or tendering the same to some adult male member of his family; or

(c) if such person does not reside in the city, and his address elsewhere is known to the Chairman, by forwarding such document to him by registered post under cover bearing the said address; or

(d) if none of the means aforesaid be available, by causing a copy of such document to be affixed on some conspicuous part of the property to which the document relates.

Legal Proceedings.

83. The Chairman may, subject to the control of the Board:

(a) institute, defend, or withdraw from, legal proceedings under this Act or any rule made thereunder;

(b) compound any offences against this Act or any rule made thereunder which, under any law for the time being in force may lawfully be compounded;

(c) admit, compromise or withdraw any claim made under this Act or any rule made thereunder; and

(d) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain, or as he may be desired by the Board to obtain, for any of the purposes referred to in clauses (a), (b) and (c), or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Board or any officer or servant of the Board.

84. No suit shall be maintainable against the Board, or any Trustee, or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any officer of the Board, in respect of anything lawfully and without negligence done under this Act or any rule made thereunder.

85. No suit shall be instituted against the Board, or any Trustee, or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any officer or servant of the Board in respect of any act purporting to be done under this Act or any rule made thereunder, until the expiration of one month next after written notice has been delivered or left at the office of the Board, or at the office or the place of abode of such officer, servant or person, stating the cause of action, the name and place of abode of the intending plaintiff, and the relief which he claims, and the plaint must contain a statement that such notice has been so delivered or left.

Recovery of Dues.

36. (1) Any sum of money, or any tax or fee due to or claimable by the Board may be recovered by the Board as if it was an arrear of land-revenue.

(2) The President of the Union may, by notification, prescribe by whose orders and on whose application such money, tax or fee may be recovered.

CHAPTER VII OFFENCES

87. The offences mentioned in column 1 of the following table shall be punishable to the extent mentioned in column 2 thereof with reference to such offences, respectively:

1	2
(1) Contravening the provisions of a scheme in respect of the matters specified in section 41, clauses (i) and (j), or the provisions of section 45.	Fine not exceeding Rs. 500, and in case of continuing contravention, a further fine which may extend to Rs. 100 for each day after the first during which the contravention continues.
(2) Omitting to furnish the return required by section 69 (3), or refusing to sign or complete the same.	Fine not exceeding Rs. 1,000.
(3) Making and delivering any such return containing any statement not true to the best of the information and belief of the person making the same.	Imprisonment for a period which may extend to three years, or fine, or both.

88. Whoever disobeys any rule made or any lawful direction given by the Board by public notice given under the powers conferred upon them by any of the provisions of this Act, or any notice in writing lawfully issued by them under the powers so conferred, or fails to comply with the conditions subject to which any permission was given by the Board to him under those powers, shall, if the disobedience or omission is not an offence punishable under any other section, be punishable with fine which may extend to Rs. 50 and, in the case of a continuing breach, with a further fine which may extend to Rs. 5 for every day after the date of first conviction on which the offender is proved to have persisted in the offence.

89. If any Trustee, or any officer or servant of the Board, knowingly acquires, directly or indirectly, by himself or by any partner, employer or employee, otherwise than as such Trustee, officer or servant, any share or interest in any contract or employment with, by or on behalf of, the Board, not being a share or interest such as, under section 7, sub-section (2), it is permissible for a Trustee to have without being thereby disqualified for being elected or appointed a Trustee, he shall be punishable with simple imprisonment for a term which may extend to one year, or with fine, or with both.

90. If any person:

(a) obstructs or molests any person with whom the Chairman has entered into a contract on behalf of the Board in the performance or execution by such person of his duty, or of anything which he is empowered or required to do by virtue or in consequence of this Act or any rule made thereunder; or

(b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized by this Act or any rules thereunder;

he shall be punishable with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to two months.

91. All fines and damages realized, and the proceeds of all confiscations, in cases in which prosecutions are instituted under, this Act or any rule made thereunder, shall be paid to the Board.

92. Notwithstanding anything contained in the Code of Criminal Procedure:

(a) all offences against this Act or any rule made thereunder shall, wherever committed, be cognizable by a Magistrate of the Rangoon Town District;

(b) no such Magistrate shall be deemed to be incapable of taking cognizance of any such offence by reason only of being liable to pay any tax imposed by this Act or of his being benefited by the funds to the credit of which any fine imposed by him will be payable;

(c) it shall not be necessary, in respect of any offence under this Act or of any rule made thereunder, to examine the complainant when the complaint is presented in writing.

93. No person shall be liable to punishment for any offence referred to in section 87, column 1, item (1), of the table unless complaint of such offence is made before a Magistrate within three months next after the commission of such offence.

94. (1) If, on account of any act or omission, any person has been convicted of an offence against this Act or any rule made thereunder, and, by reason of the same act or omission of the said person damage has occurred to any property of the Board, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence.

(3) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said Magistrate as if it were a line inflicted by him on the person liable therefore.

CHAPTER VIII

RULES

95. The President of the Union may make rules consistent with the provisions of this Act to provide for all or any of the following matters, namely:-

(1) Regulating elections under section 4, clauses (d), (e), (f), (g) and (h).

(2) (a) The particulars which a resolution declaring the intention to frame a scheme shall contain, including the submission of plans, and the description of buildings, if any, which may be affected by such scheme;

(b) the publication of such resolution, and the hearing and determination of objections against such scheme or any portion thereof;

(c) all other matters which may be provided for in a scheme;

(d) the publication of a draft or final scheme, the hearing and determination of objections against a scheme or any portion thereof, and the delegation to any person of the power of hearing and reporting on such objections;

(e) the inspection by the public of such draft or final scheme, and of the documents, plans and maps prepared with such scheme;

(f) regulating the sending of copies of such documents, plans and maps to the proper registering officer;

(g) the further particulars to be prescribed for inclusion in any draft scheme under section 44;

(h) the submission to the President of the Union of any scheme;

(i) the publication of notice of variation, revocation or abandonment of any scheme.

(3) (a) Fixing the remuneration of the referee;

(b) the staff and establishment to be provided for the referee and the remuneration of such staff and establishment;

(c) the procedure to be followed by the referee;

(d) determining the powers and duties conferred or imposed upon the referee;

(e) the form in which the Board shall draw up the final scheme, the particulars to be entered in such final scheme, and the extent to which variations may be made by the Board in the draft scheme;

(f) the period of limitation for references to the Court;

(g) fixing the fees payable on a reference under section 39;

(h) the procedure to be followed by a person who questions the decision of the referee as regards any of the points specified in section 38, sub-section (9), in applying for a reference to be made to the Court.

(4) The procedure to be followed by the Board in summarily evicting a person under section 47.

(5) The notice to be given by the Board before they take action under section 48.

(6) The maintenance of a register of charges created under section 54.

(7) The collection of the duty and taxes imposed by sections 68 and 69 and the payment thereof to the Board.

(8) The form of the returns required by section 69, sub-section (3), the particulars to be contained therein, the manner of verification thereof, and the time within which the same are to be delivered to the Chairman.

(9) The procedure to be followed by the officer deputed to hold an enquiry for the purpose of deciding a disputed claim to ownership under section 103.

(10) The preparation of the annual administration report, and prescribing the form and contents thereof.

(11) The lease, sale, transfer, or disposal of any immoveable property vested in the Board under section 58 or exchanged for any such immoveable property or purchased from the revenue of such immoveable property:

Provided that such disposal, sale or transfer shall not affect the rights of [the State] [Substituted by the Union of Burma (Adaptation of Laws) Order, 1948] therein or the conditions of any trust to which it may be subject.

(12) The preparation and submission of estimates and determining the authority by whom such estimates shall be prepared or submitted.

(13) Regulating the manner of publication of public notices and advertisements.

(14) The procedure to be adopted for securing co-operation on the part of the Board with the owners or persons interested in immoveable property proposed to be included in a scheme at every stage of the proceedings by means of conferences and such other means as may be expedient.

(15) Fixing of the period of limitation for claims for compensation.

(16) Fixing of fees for process and amount of fees payable to witnesses.

(17) The person by whom and the time, place and manner at or in which anything is to be done under this Act for which no express provision is made.

(18) The cases in which inspection and copies of documents and records may be granted, regulating the procedure in, and fixing the fees for, obtaining the same.

(19) The carrying out of the purposes of this Act with reference to all matters not specifically enacted therein.

96. (1) The Board may, from time to time, make rules, not inconsistent with any of the provisions of this Act or of any rules made by the President of the Union, for carrying out the purposes of this Act.

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

(a) associating persons with the Board under section 17;

(b) the guidance of persons employed by it under this Act;

(c) the time and place of meetings of the Board and committees;

(d) the manner in which notice of such meetings may be given;

(e) the quorum necessary for the transaction of business at meetings;

(f) the constitution and powers of committees appointed under section 18;

(g) delegating powers and duties to the Chairman subject to such limitations and restrictions on the exercise of such delegated powers and duties as may be deemed necessary;

(g) the filling of vacancies on committees;

(h) the manner in which a Trustee may resign;

(i) the manner in which minutes of proceedings shall be kept and published;

(l) regulating the preparation of the budget estimate;

(k) any other matter relating to the proceedings of the Board or committees, the holding or regulation of meetings, and the conduct of debate;

(l) the construction, maintenance and management of dwellings and shops constructed under any scheme;

(m) the qualifications ordinarily to be required of an officer or servant;

- (n) the procedure to be followed in dismissing or removing from his appointment any officer or servant;
- (o) the amount and the nature of the security to be demanded from any officer or servant from whom it may be deemed expedient to require security;
- (p) the grant of leave to officer or servants;
- (q) the payment of allowances to officers and servants, or to certain of them, whilst absent on leave;
- (r) the remuneration to be paid to the person appointed to act for any of the said officers or servants during their absence on leave;
- (s) the period of service of the said officers and servants;
- (t) the conditions under which the said officers or servants on retirement or discharge, or, in case of their death while in service, their widows or other dependent relations, shall receive pensions, gratuities or compassionate allowances, and the amount of conveyance allowance and travelling allowance payable to such officers or servants, provided that no pension, gratuity, leave allowance or other allowance, except gratuities or compassionate allowances to widows and dependents, shall exceed the sum to which any officer or servant would be entitled if such officer or servant had been employed by Government in a capacity similar to that in which he is employed by the Board;
- (tt) the payment of advances, and contingent and other expenditure;
- (ttt) other matters incidental to the control and administration of the Rangoon Development Fund;
- (u) the payment of contributions to any provident or annuity fund established by the Board;
- (v) the times, circumstances and conditions under which payments may be made out of any such fund and the conditions under which such payments shall relieve such fund from further liability;
- (w) the settlement, by arbitration or otherwise, of disputes relating to such fund, or the payments or subscriptions thereto, or claims thereon, between the Board and other persons or between persons claiming any share or interest therein; and
- (x) regulating generally such other matters incidental to such fund and the investment thereof as the President of the Union may approve.

97. (1) The power of the Board to make any rules under section 96 is subject to the control of the President of the Union and to the condition of the rules being made after previous publication.

(2) All rules made under this Act shall be published in the Gazette and shall thereafter have effect as if enacted in this Act.

CHAPTER IX SUPPLEMENTAL PROVISIONS

Status of Trustees, etc.

98. Every Trustee, and every officer and servant of the Board, and the referee shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.

Police.

99. (1) The Commissioner of Police of Rangoon and his subordinates shall co-operate with the Chairman for carrying into effect and enforcing the provisions of this Act.

(2) It shall be the duty of every police officer:

(a) to communicate without delay to the proper officer or servant of the Board any information which he receives of a design to commit or of the commission of any offence against this Act or any rule made thereunder; and

(b) to assist the Chairman or any officer or servant of the Board reasonably demanding his aid for the lawful exercise of any power vested in the Chairman or in such officer or servant under this Act or any such rule.

100. (1) Every police-officer shall arrest any person who commits, in his view, any offence against this Act or any rule made thereunder, if the name, and address of such person be unknown to him, and if such person, on demand, declines to give his name and address or gives a name and address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address are ascertained, or, without the order of a Magistrate, for any longer time, not exceeding at the most forty hours from his arrest, than is necessary for bringing him before a Magistrate.

(3) On the written application of the Chairman, any police officer above the rank of constable shall arrest any person who obstructs any officer or servant of the Board in the exercise of any of the powers conferred by this Act or any rule made thereunder.

Evidence.

101. Whenever, under this Act or any rule made thereunder, the doing or the omitting to do anything or the validity of anything depends upon the approval, sanction, permission, acceptance, declaration, opinion or satisfaction of:

- (a) the Board or the Chairman, or
- (b) any officer or servant of the Board,

a written document, signed in case (a) by the Chairman and in case (b) by the said officer or servant, purporting to convey or set forth such approval, sanction, permission, acceptance, declaration, opinion or satisfaction, shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion or satisfaction.

Miscellaneous.

102. (1) No act or proceeding taken under this Act shall be questioned on the ground merely of:

- (a) the existence of any vacancy in, or any defect in the constitution of, the Board or any committee; or
- (b) any person having ceased to be a Trustee ; or
- (c) any Trustee having voted or taken any other part in any proceeding in contravention of section 20; or
- (d) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Board, the minutes of the proceedings of which have been duly signed in the manner prescribed, shall be taken to have been duly convened and to be free from all defect and irregularity.

103. (1) Where there is a disputed claim as to the ownership of any if immoveable property included in an area in respect of which any of the provisions of this Act are to be applied, an enquiry may be held by such officer as the President of the Union may appoint for the purpose of deciding who shall be deemed to be the owner for the purposes of this Act.

(2) Such decision shall not be subject to appeal or revision, but it shall not operate as an bar to a regular suit.

(3) Such decision shall, in the event of a civil Court passing a decree which is inconsistent therewith, be corrected, modified or rescinded in accordance with such decree as soon as practicable after such decree has been brought to the notice of the Board either by the civil Court or by some person affected by such decree.

104. For the purposes of this Act, an officer appointed under section 103 or the referee may, in accordance as far as possible with the provisions of the Code of Civil Procedure, summon and enforce the attendance of witnesses including the parties interested or any of them and compel them to give evidence and produce documents.

105. In extending this Act to any area, the President of the Union shall follow the same procedure as is prescribed, for the time being in force, for including any area within the limits of the City of Rangoon.

106. (1) Nothing in the Registration Act shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a final scheme which has come into force and which has not been revoked, or of any document relating to a charge fixed on any plot in connection with a final scheme:

Provided that the Board shall, in accordance with rules made under section 95, cause a copy of any such document, plan and map to be sent to the registering officer in whose jurisdiction any part of the immovable property affected by such scheme is situated.

(2) All such documents, plans and maps shall be deemed to have been and to be duly registered under section 17 of the Registration Act for the purposes of sections 48 and 49 of that Act, and the registering officer shall file a copy in his book No. I:

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

(3) In section 90 of the Registration Act the word "Government" shall, for the purposes of this Act, be construed as referring both to the Government and the Board:

Provided that a copy of any document or map mentioned in that section and executed by or in favour of the Board shall be sent to the registering officer in whose jurisdiction any part of the land affected is situated, and such copy shall be filed by the registering officer in his book No. 1:

Provided also that, subject to rules made under section 95, all such documents and maps shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents and maps shall be given to all persons applying for such copies.

Compensation.

107. In any case not otherwise expressly provided for in this Act, the Board may pay reasonable compensation to any person who sustains damage by reason of the exercise of the powers vested, by this or any other Act or any rule thereunder, in the Board or the Chairman or any officer or servant of the Board.

Control.

108. The Chairman shall forward to the President of the Union a copy of the minutes of the proceedings of each meeting of the Board within ten days from the date on which the minutes of the proceedings of such meeting were signed in manner prescribed.

109. The President of the Union may at any time call upon the Board to furnish him with any extract from any proceedings of the Board or of any committee constituted under this Act, or from any record under the control of the Board, and with any statistics concerning or connected with the administration of this Act, and the Board shall furnish the same without unreasonable delay.

110. The President of the Union may require the Board to submit:

(a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Board;

(b) a report on any such matter;

(c) a copy of any document in their charge;

and the Board shall submit the same without unreasonable delay.

111. (1) If, on receipt of any report submitted or of any document furnished under section 110, the President of the Union is of opinion:

(a) that any of the duties imposed or powers conferred on the Board by this Act or by any other law for the time being in force has not been performed or exercised, or has been performed or exercised in an imperfect, inefficient or unsuitable manner; or

(b) that adequate financial provision has not been made for the performance of any such duty;

the President of the Union may, by an order in writing, direct the Board within a period to be specified in the order, to make arrangements to his satisfaction for the proper performance of the duties mentioned in clause (a), or to make financial provision to his satisfaction for the performance of any such duty, as the case may be;

and the Board shall comply with such directions without unreasonable delay.

(2) On failure of the Board to comply with such directions within the period specified, the President of the Union or any person or persons appointed in this behalf may, subject to the provisions of this Act, perform such duty or exercise such power or make such provision as the case may be.

Dissolution of Board.

112. The President of the Union may at any time, by notification, declare that, as and from a date to be specified in such notification, the Board shall be dissolved and that until further orders to be notified in this behalf all the powers and duties conferred and imposed upon the Board under this Act shall be exercised and performed by the Municipal Corporation of the City of Rangoon, and that all assets and liabilities of the Board shall for the time being vest in and be taken over respectively by the said Corporation.

113. When all the schemes sanctioned by the Board under this Act shall have been executed or shall have been so far executed as to render the continued existence of the Board in the opinion of the President of the Union unnecessary, the President of the Union may, by notification, declare that the Board shall be dissolved as and from such date as may be specified therein, and the Board shall be dissolved accordingly.

114. On the publication of a notification by the President of the Union declaring under section 112 that the powers and duties of the Municipal Corporation of the City of Rangoon under the Act have ceased, or under section 113 that the Board has been dissolved, all the immoveable property vested in the Board under section 53 or exchanged for any such immoveable property or purchased from the revenues of such immoveable property, together with the liabilities attaching thereto, shall respectively vest in and be taken over by the Government, and all other property belonging to the Board, together with the liabilities attaching thereto, shall respectively vest in and be taken over by the Municipal Corporation of the City of Rangoon.

SCHEDULE I

(Referred to in Section 34)

Modifications in the Land Acquisition Act.

1. In section 3:

(1) At the end of clause (c) the following shall be deemed to be inserted, namely:-

“the expression ‘local authority’ includes the Board constituted under the provisions of the Rangoon Development Trust Act.”

(2) In clause (f), after the word “includes” the following words shall be deemed to be inserted, namely

“any of the purposes of the Rangoon Development Trust Act, and”.

2. To section 11, the following shall be deemed to be added, namely “and (iv) the costs which, in his opinion, should be allowed to person who is found to be entitled to compensation,

and who is not entitled to receive the additional sum of fifteen per centum mentioned in section 23, sub-section (2), as having been actually and reasonably incurred by such person in preparing his claim and putting his case before the Collector:

Provided that the Collector may disallow, wholly or in part, costs incurred by any person, if he considers that the claim made by such person for compensation is extravagant.”

3. In section 15, for the word and figures “and 24” the figures, word and letter “24 and 24A” shall be deemed to be substituted.

4. In section 17, sub-section (3), after the figures “24” the words, figures and letter “or section 24A” shall be deemed to be inserted.

5. After section 17, the following shall be deemed to be inserted, namely:-

“17A. In every case referred to in section 16, or section 17, the Collector shall, upon payment of the cost of acquisition, make over charge of the land to the Board and the land shall thereupon vest in the Board, subject to the liability of the Board to pay any further costs which may be incurred on account of its acquisition.”

6. At the end of sub-section (1) of section 18, the words, “or the amount of the costs allowed” shall be deemed to be inserted.

7. After the words “amount of compensation” in clause (c) of section 19, the words “and of costs (if any)” shall be deemed to be inserted.

8. After the words “amount of compensation” in clause (c) of section 20, the words “or costs” shall be deemed to be inserted.

9. (1) In sub-section (2) of section 23, after the words “in every case” the following shall be deemed to be inserted, namely:-

“except where the land acquired is comprised in a scheme which has been sanctioned by the President of the Union and published under section 38 of the Rangoon Development Trust Act.”

(2) At the end of section 23, the following shall be deemed to be added, namely:-

“(3) For the purposes of clause [...] of sub-section (1) of this section:

(a) the market value of any land in any area comprised in a scheme published under section 38 of the Rangoon Development Trust Act, and acquired for the purposes of such scheme, shall be deemed to be the market value of the land at the date of the resolution under sub-section (1) of section 38 of the Rangoon Development Trust Act, if such land is acquired

within three years from such date, or on the date of acquisition if such acquisition takes place more than three years after the date of such resolution;

(b) if it be shown that, before the date of such resolution, the owner of the land had taken active steps and incurred expenditure to secure a more profitable disposition of the same, further compensation, not exceeding in amount the said expenditure, may be paid to him;

(c) if the market value is especially high in consequence of the land being put to a use which is unlawful or contrary to public policy, that use shall be disregarded, and the market value shall be deemed to be the market value of the land if put to ordinary uses;

(d) if the market value of any building is specially high in consequence of the building being so over-crowded as to be dangerous to the health of the inmates, such over-crowding shall be disregarded, and the market value shall be deemed to be the market value of the building if occupied by such number of persons only as could be accommodated in it without risk of danger from over-crowding.

10. For clause seventhly of section 24 the following shall be deemed to be substituted, namely:-

“seventhly, any outlay on additions or improvements to land or buildings comprised in, and acquired for the purposes of, any scheme sanctioned by the President of the Union and published under section 38 of the Rangoon Development Trust Act, which was incurred after the date of the resolution under section 38, sub-section (1), of the Rangoon Development Trust Act, unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair.”

11 After section 24, the following shall be deemed to be inserted, namely:-

“24A. In determining the amount of compensation to be awarded for any land acquired for the Board for the purposes of the Rangoon Development Trust Act, the Court shall also have regard to the following provisions, namely:-

(1) When any interest in any land acquired for the purposes of the said Act has been acquired after the date of the resolution under section 38, sub-section (1), of the said Act, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land.

(2) If, in the opinion of the Court, any building is in a defective state from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation shall not exceed the sum which the Court considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be, minus the estimated cost of putting it into such condition or state.

(3) If, in the opinion of the Court, any building which issued or is intended or is likely to be used for human habitation, or human occupation for any purpose whatever, is not reasonably capable of being made fit for such human habitation or occupation, the amount of compensation shall not exceed the value of the materials of the building minus the cost of demolishing the building.

12. (1) After the words “the compensation” in sub-section (1) of section 31, and after the words “the amount of the compensation” in sub-section (2) of that section, the words “and costs (if any)” shall be deemed to be inserted.

(2) After the words “any compensation” in the concluding proviso to sub-section (2) of section 31, the words “or costs” shall be deemed to be inserted.

SCHEDULE II

(Referred to in Section 35)

Loans raised by the Municipal Committee of Rangoon for the purposes of the Town Lands Reclamation Fund.

(a) A loan of six lakhs of rupees, bearing interest at $4\frac{1}{2}$ per centum per annum, raised in 1902 and repayable after a currency of twenty years;

(b) a loan of five lakhs of rupees, bearing interest at $4\frac{1}{2}$ per centum per annum, raised in 1902 and repayable after a currency of twenty five;

(c) a loan of five lakhs of rupees, bearing interest at $4\frac{1}{2}$ per centum per annum, raised in 1902 and repayable after a currency of thirty years;

(d) a loan of two lakhs of rupees, bearing interest at $4\frac{1}{2}$ per centum per annum, raised in 1904 and repayable after a currency of thirty five years;

(c) a loan of twenty seven and a half lakhs of rupees, bearing interest at four per centum per annum, raised in 1908 and repayable after a currency of twenty five years; and

(f) a loan of fifteen lakhs of rupees, bearing interest at four per centum per annum, raised in 1910 and repayable after a currency of twenty-five years.

THE CITY OF RANGOON MUNICIPAL ACT (1922)

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THE CITY OF RANGOON MUNICIPAL ACT

Burma Act VI, 1922

1 August 1922

CHAPTER I PRELIMINARY

1. This Act extends to the City of Rangoon [See clause (vii) of section 3 and Schedule VI] only: Provided that the President of the Union may, by notification, extend this Act or any part to any other local area in the Union of Burma.

2. [...]

3. In this Act, unless there is something repugnant in the subject context:

(i) “authorized” means authorized by the Corporation, either generally or specially;

(ii) “bakery” means any place in which are baked or cooked biscuits or confectionery, for the purposes of sale or profit;

(iii) “budget grant” means any sum entered on the expenditure of a budget estimate which has been approved by the Corporation and includes any sum by which such budget grant may at any time be increased under clause (b) of section 72 or section 73 or 76;

(iv) “building” means a house, hut, shed or other roofed structure, whatsoever purpose and of whatsoever material constructed, every part thereof, but shall not include a tent or other and merely temporary shelter;

(v) “building line” means a line to which the main wall of abutting on a street may lawfully extend;

(vi) [...]

(vii) “the City” means the City of Rangoon, as described in Schedule VI as amended from time to time;

(viii) “closet accommodation” means a receptacle for human excreta, together with the structure comprising such receptacle and the fittings and apparatus connected therewith;

(ix) “the Commissioner” means the Municipal Commissioner for the City appointed under section 27, and includes any municipal officer empowered under this Act, to exercise, perform or discharge any of the powers, duties or functions of the Commissioner to the extent to which, such officer is so empowered;

(x) “the Corporation” means the Municipal Corporation of the City of Rangoon constituted under section 4;

(xi) “councillor” means a member of the Corporation duly elected or appointed under this Act;

(xii) “dangerous disease” means cholera, plague, small-pox or any other disease which the Corporation may by public notice declare to be a dangerous disease;

(xiii) “drain” includes a sewer, tunnel, pipe, ditch, gutter or channel, and any cistern, flush-tank, septic tank, or other device for carrying off or treating sewage, offensive matter, polluted water, sullage, waste water, rain water or sub-soil water, and any culvert, ventilation shaft or pipe or other appliance or fitting connected therewith, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter from any place;

(xiv) the expression “erect or re-erect any building” includes:

(a) any material alteration or enlargement of any building;

(b) the conversion into a place for human habitation of any building not originally constructed for human habitation;

(c) the conversion into more than one place for human habitation of a building originally constructed as one such place;

(d) the conversion of two or more places of human habitation into a greater number of such places;

(e) such alteration of the internal arrangements of a building as effects an alteration in its drainage or sanitary arrangements or affects its stability;

(f) the addition of any rooms, buildings, out-houses or other structures to a building; and

(g) the reconstruction of the whole or any part of the external walls of a building or the renewal of the posts of a wooden building;

(xv) “factory” means:

(q) any premises wherein, or within the precincts of which, on any one day in the year not less than twenty persons are simultaneously employed and steam, water or other mechanical power or electrical power is used in aid of any process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale any article or part of an article;

(b) any premises wherein, or within the precincts of which, on any one day in the year; not less than ten persons are simultaneously employed and any such process is carried on, any such power is used in aid thereof or not, which have been declared by the President of the Union, by notification, to be a factory;

A declaration under sub-clause (b) may be made in respect of any class of premises, or in respect of any particular premises;

(xvi) “keeper” means the person in charge of a lodging-house, and may include the owner for the purposes of any rules;

(xvii) “land” includes land which is built upon or covered with water;

(xviii) “licensed plumber” and “licensed surveyor” mean, respectively, a person, licensed by the Corporation as a plumber or surveyor under this Act;

(xix) “local authority” includes the Trustees for the Development of the City of Rangoon;

(xx) “lodging-house” means a building or part of a building:

(a) which is let in lodgings; or

(b) which is occupied to any extent in common by members of more than one family, and the rent of which does not exceed one hundred rupees per month; or

(c) which is let as a human habitation for a period of less than a month: provided that this definition shall not include hotels or boarding-houses, when the daily charge for board and residence is not less than one rupee;

(xxi) “market” includes any place where persons periodically assemble for the sale of meat, fish, fruit, vegetables, livestock or any other article of food;

(xxii) “the Medical Acts” means the Medical Act, 1858, and the Acts amending the same;

(xxiii) “municipal analyst” means any qualified person who has been appointed by the Corporation to perform the duties of an analyst;

(xxiv) “municipal drain” means a drain vested in the Corporation;

(xxv) “municipal market” means a market vested in or managed by the Corporation;

(xxvi) “municipal slaughter-house” means a slaughter-house vested in or managed by the Corporation;

(xxvii) “municipal tax” means any impost levied under the provisions of this Act by the Corporation;

(xxviii) “municipal water-work” means a water-work vested in or managed by the Corporation;

(xxix) “nuisance” includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the , sense of sight, smell or hearing, or which is or may be dangerous to life or injurious to health or property;

(xxx) “offensive matter” includes animal carcasses, dung, dirt, putrid or putrefying substances, and filth of any kind which is not included in “sewage”;

(xxxi) “owner” includes the person who for the time being receives the rent of any building or land, whether on his-own account or as agent or trustee, or who would so receive the rent of the building or land were let to a tenant, but does not include the Government;

(xxxii) “prescribed” means prescribed by this Act or by any rule under this Act;

(xxxiii) “private street” means a street which is not ‘a public street;

(xxxiv) the term “public securities” means Government securities and any securities guaranteed by Government, securities of the Commissioners for the Port of Rangoon, securities issued by the Corporation, securities heretofore issued by the Municipal Committee of Rangoon, and any other securities which the President of the Union may declare to be public securities for the purposes of this Act;

(xxxv) “public street” means any street heretofore paved, metalled, channelled or sewered by the Municipal Committee of Rangoon, and any street which becomes a public street under any of the provisions of this Act;

(xxxvi) a person is deemed “to reside” in any dwelling which he sometimes uses or some portion of which he sometimes uses, though perhaps interruptedly, as a sleeping apartment; and a person is not deemed to cease “to reside” in any such dwelling merely because he is absent from it, or has elsewhere another dwelling in which he resides, if there is the liberty of returning to it at any time and no abandonment of the intention of returning thereto;

(xxxvii) “rubbish” includes dust, ashes, broken bricks, mortar, broken-glass, garden or stable refuse and refuse of any kind which is not “offensive matter” or “sewage”;

(xxxviii) “rules” means rules and forms contained in Schedules I, II, III or IV or made under sections 230, 231, 233 or 236;

(xxxix) “sewage” includes night soil and other contents of water-closets, latrines, urinals, privies and cesspools, and polluted water from sinks, bath-rooms, stables, cattlesheds and other like places;

(xi) “sewage-connection” includes any drain connecting any water-closet, latrine, urinal, privy, bath-room, sink, sullage-tray, manhole or trap, with any. drain set apart by the Corporation for sewage and other offensive matter;

(xli) “street” includes any highway and any. cause-way, bridge, viaduct, arch, road, lane, foot-way, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of passage or access, and also the surface-soil, sub-soil, foot-way and drains of any street, and planted in such soil;

(xlii) “street alignment” means a line dividing the land comprised in and forming a part of a street from the adjoining land;

(xliii) “vehicle” means a wheeled conveyance capable of being used on a street;

(Xliv) “water-closet” means closet accommodation used or adapted or intended to be used in connection with municipal water-works, and comprising provision for the flushing of the receptacle by means of a water supply, and having connection with a sewer;

(xlv) “water-connection” includes:

(a) any tank, cistern, hydrant, standpipe, meter or tap situated on private property and connected with a water-main or pipe belonging to the Corporation; and

(b) the water-pipe connecting such tank, cistern, hydrant, standpipe, meter or tap with such water-main or pipe;

(xlvi) “water for domestic purposes” shall not include water for cattle or for horses, or for washing vehicles, when the cattle, horses or vehicles are kept for sale or hire, or by a common carrier, or water for any trade, manufacture or business, or for building purposes, or for watering gardens, or for fountains or for any ornamental purposes;

(xlvii) “water-work” includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open, sluice, main-pipe, culvert, engine and any machinery, land, building or, thing for supplying or used for supplying water;

(xlviii) “workshop” means any building. place or premises, or part of any building, place or premises not being a factory, in which, or within the close, compound, or precincts of which, any manual, labour is exercised by way of trade or for the purposes, of gain in or incidental to any of the following purposes, namely:-

(i) the making of any article or part of any article; or

(ii) the altering, repairing, ornamenting or finishing of any article; or

(iii) the adapting for sale of any article, and to or over which place or premises, or part of such place or premises the employer of the persons working therein has the right of access or control.

CHAPTER II THE MUNICIPAL CONSTITUTION

Principal Municipal Authority.

4. The duty of carrying out the provisions of this Act shall, subject to the conditions and limitations herein after prescribed, be vested in a body to be called “The Municipal Corporation of the City of Rangoon”; and such body shall be a body corporate and have perpetual succession and a common seal and shall by the said name sue and be sued.

Subordinate Municipal Authorities.

5. The powers conferred and the duties imposed on the Corporation by this Act in regard to all matters relating to education shall, subject to such conditions and limitations as may be prescribed and to the general control of the Corporation, be exercised or performed as the case may be, by an Education Board constituted in the manner prescribed, and in all such matters the Corporation shall seek and consider the advice of the Education Board.

6. (1) The Corporation may, in the manner prescribed, appoint standing committees for the execution and performance of such powers and duties conferred or imposed on the Corporation by this Act as it thinks fit.

(2) The Corporation may appoint special committees and refer to such committees for enquiry and report or for opinion, any subject relating to matters dealt with by this Act.

The Corporation.

7. The Corporation shall consist of as many councilors not in any case exceeding forty as may be prescribed, of whom at least three fourths shall be elected in the manner prescribed from the general body of electors and the remainder shall be nominated by the President of the Union or elected by local authorities and public bodies as maybe prescribed:

Provided that where no qualified candidate has been duly nominated to represent any ward or community at the time fixed for election the vacancy be filled in the manner prescribed in section 15, sub-section (4).

8. All members of the Corporation constituted as aforesaid shall come into office on the first day of March [Substituted for the word “January” by Act LV, 1948] following on the date of their election or appointment and shall retire from office at noon on the first day of March [Substituted for the word “January” by Act LV, 1948] three years after they take office, which day is in this Act referred to as the day for retirement.

9. In the event of non-acceptance of office by a person elected or appointed to be a councillor, or of the death or resignation of a councillor, or of his ceasing to hold office as such, or of his removal by the President of the Union, or of his becoming incapable of acting previous to the day for retirement, there shall be deemed to be a casual vacancy in the office, and such vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or appointed would have been entitled to hold it if the vacancy had not occurred.

10. No person shall vote for, or stand for election as a councillor unless he possesses the qualifications prescribed for an elector or councillor, as the case may be.

11. Notwithstanding anything contained in section 16 of the Oaths Act, no councillor shall exercise any of the rights of his office until he has at a meeting of the Corporation made an oath or affirmation that he will be [faithful to the Constitution of the Union] [Substituted by the Union of Burma (Adaptation of Laws) Order, 1948]; and if any councillor fails within three months of his election or appointment, as the case may be (or within such further period as the President of the Union may in any particular case think fit to allow), to make such oath or affirmation he shall be deemed have refused acceptance of his office.

12. A person shall be disqualified for being elected or appointed and for being a councillor if such person:

(a) has been convicted of an offence punishable with imprisonment for a term exceeding six months, such conviction not having been subsequently set aside and such disqualification not having been removed by an order which the President of the Union is hereby empowered to make, if he thinks fit, in this behalf;

(b) has been declared by the President of the Union unfit for employment in, or has been dismissed from, the public service; or

(c) is an undischarged insolvent or bankrupt; or

(d) is a municipal officer or servant or a licensed plumber or licensed surveyor; or

(e) is a Judge of the Rangoon [City Civil Court] [In this Act the words "City Civil Court" were substituted for the words "Small Cause Court" by Act XVI. 1946] or acting in that capacity; or

(f) has directly or indirectly, by himself or by any partner, employer or employee, any share or interest in any contract or employment with, by or on behalf of, the Corporation; or

(g) is a director, secretary, manager or other salaried officer of any incorporated company which has any share or interest in any contract or employment with, by or on behalf of the Corporation:

Provided that no person shall be disqualified or be deemed to have any share or interest in such a contract or employment by reason only of having any share or interest:

(i) in any lease, sale, exchange or purchase of immovable property or any agreement for the same; or

(ii) in any agreement for the loan of money or any security for the payment of money only; or

(iii) in any newspaper in which any advertisement relating to the affairs of the Corporation is inserted; or

(iv) in any occasional sale to the Corporation of any article in which he regularly trades; or

(v) in any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Corporation otherwise than as director, secretary, manager or salaried officer thereof.

13. (1) A councillor shall cease to hold office as such:

(a) ipso facto on his becoming disqualified for office by reason of the provisions of section 12;

(b) on the recommendation of the Corporation if, not being prevented by illness or granted leave of absence by the Corporation, he absents himself from all meetings thereof for a period of three consecutive months.

(2) The President of the Union may, if he thinks fit, on the recommendation of the Corporation made after due enquiry, in which the councillor shall have the right to be heard, remove any councillor elected or appointed under this Act if such councillor has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct.

14. Whenever it is alleged that any councillor has become disqualified for office for any reason aforesaid, and such councillor does not admit the allegation, or whenever any councillor is himself in doubt whether or not he has become disqualified for office, such councillor or any other councillor or the Corporation may apply to the Chief Judge of the Rangoon [City Civil Court] [Substituted by Act XVI, 1946]; and the said Judge, after making such enquiry as he deems necessary, determine whether or not such councillor has become disqualified for being a councillor, and his decision shall be final.

Election Disputes. [For rules of procedure prescribed by the High Court for filing and hearing of election petitions, see High Court Notification No. 18 (General), dated the 12th September, 1941, Burma Gazette, 1942, Part IV p829].

15. (1) If the order of the Commissioner as to the validity of the nomination of any candidate for election as a councillor, or if the qualification of any person declared to be elected a councillor, is disputed, or if the validity of any election is questioned by reason of irregularity in the election proceedings, bribery, corruption, personation, treating, undue influence or for any other cause, any person whose name is entered in the register of electors in the ward or of the community concerned or (in the case of an election by a local authority or a public body) any person entitled to vote in such election may, at any time within eight days after the result of the election has been declared, apply to the High Court in the exercise of its original civil jurisdiction for an adjudication on the matter. If the application is for a declaration that any particular candidate shall be deemed to have been elected, the applicant shall make parties to his application all candidates who, although not declared elected, have, according to the results declared by the Commissioner, obtained a greater number of votes than the said candidate and proceed against them in the same manner as against the candidate who has been declared to be elected.

(2) If the said High Court, after making such inquiry as it deems necessary, finds that the election was a valid election, and that the person whose election is objected to was at the time of the election qualified to be elected as a councillor and was not disqualified for being a councillor, it shall confirm the declared result of the election. If it finds that the person whose election is objected to was at the time of the election not qualified to be elected as a councillor or was disqualified for being a councillor it shall declare such person's election null and void, in which case it shall direct that the candidate, if any, in whose favour the next highest number of votes is recorded after the said person or after all the persons who were declared to be elected at the said election, and against whose election no cause of objection is found, shall be deemed to have been elected. If it finds that the election is not a valid election it shall set it aside.

(3) The order made by a Judge of the said High Court in the exercise of its original civil jurisdiction shall be final and conclusive.

(4) If there is no person who may be deemed to be elected under sub-section (2), the Commissioner shall submit a report of the circumstances to the President of the Union who may either:

(a) appoint a fit person to fill the vacancy; or

(b) direct the Commissioner to appoint another day and hold a fresh election to fill such vacancy.

16. No suit shall be brought in, nor application or appeal lie to, any Court in respect of any matters relating to the system of representation and election, unless such suit, application or appeal is expressly authorized by this Act.

The Mayor.

17. (1) The Corporation shall, at its first meeting in the month of March [Substituted for the word "January" by Act LV, 1948] every year, elect one of its number to be Mayor until the first meeting of the Corporation in the next following month of March [Substituted for the word "January" by Act LV, 1948] unless the councilors in the meantime retire from office, and then until the day for retirement;

(2) Any councillor who ceases to be Mayor may be re-elected as Mayor;

(3) If any casual vacancy occurs in the office of Mayor, the Corporation shall, as soon as it conveniently can gather the occurrence of such vacancy, elect one of its number to fill such vacancy, and the Mayor so elected shall continue in office so long only as the person in whose place he is elected would have been entitled to continue therein if such vacancy had not occurred.

Proceedings.

18. (1) The Corporation shall meet for the transaction of business at least once in each month.

(2) No business shall be transacted at any meeting of the Corporation unless the prescribed quorum is present: provided that if at such meeting a quorum is not present, the Mayor shall adjourn the meeting to such other day as he may think fit, and the business which would have been brought before the original meeting, if there had been a quorum present, shall be brought before and transacted at the adjourned meeting whether there is a quorum present thereat or not;

(3). Every such meeting shall be presided over by the Mayor, if he is present and if the office of Mayor is vacant, or if the Mayor is absent, by such one of the councilors present as may be chosen by the meeting to be Chairman for the occasion.

(4) The presiding authority shall have a second or casting vote in all cases of equality of votes;

(5) Every such meeting shall be open to the press and the public, unless a majority of councilors present decide that any inquiry or deliberation pending before the Corporation

is such as should be held in private: provided that the presiding authority may at any time cause any person other than a councillor to be removed who interrupts the proceedings;

(6) A minute containing the names of the councillors present, an account of the proceedings and a statement of every resolution adopted by the Corporation at every such meeting shall be recorded in a book to be kept for the purpose and shall be signed by the presiding authority of the meeting of the Corporation at which such minute is confirmed, and a copy thereof shall be submitted to the President of the Union as soon thereafter as may be practicable.

19. No councillor or member of the Education Board or any standing or other committee shall vote or take part in the discussion of any matter before any meeting of the Corporation or of such Board or committee if he:

(a) has, directly or indirectly, by himself or by any partner, employer or employee, any such share or interest in such matter as is described in clause (f) of section 12, or is a director, secretary, manager or other salaried officer of an incorporated company which has any such share or interest, or

(b) has acted or is acting professionally, in relation to any such matter, on behalf of any person having any such share or interest as aforesaid.

20. Any councillor or member of the Education Board or of any standing or other committee who, at a meeting of the Corporation or of the Education Board or of the standing or any other committee, as the case may be, neglects or refuses to obey any direction of the presiding authority shall be removed from the place of meeting under the orders of such presiding authority and, notwithstanding anything said to the contrary in this Act, shall not be permitted to attend any meeting of the Corporation, or Education Board or any committee, without the express permission of the Corporation granted in that behalf, upon such terms, if any, as to apology, submission, suspension or the like, as the Corporation may in its discretion impose.

21. The Commissioner shall have the same right of being present at a meeting of the Corporation or of the Education Board or of any standing or other committee, and of taking part in the discussions thereat, as a councillor or a member of such Board or committee respectively, and may at any time a statement or explanation of facts, but he shall not be at liberty to vote upon, or to make, any proposition at any such meeting.

Validity of Proceedings.

22. No act or proceeding of the Corporation or of the Education Board or of any standing committee appointed under this Act shall be questioned on account of any vacancy in its body.

23. No disqualification of, or defect in the election or appointment of, any person acting as a councillor or as the Mayor or presiding authority of the Corporation, or as the chairman or as a member of the Education Board or of any standing committee appointed under this Act, shall be deemed to vitiate any act or proceeding of the Corporation or of such Board or of any such committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding, were entitled to act.

24. Until the contrary is proved:

(a) every meeting of the Corporation or of the Education Board or of a standing committee in respect of the proceedings whereof a minute has been made and signed in accordance with this Act shall be deemed to have been duly convened and held, and all members of the meeting shall be deemed to have been duly qualified; and

(b) where the proceedings are proceedings of a standing committee, such committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

CHAPTER III DUTIES AND POWERS OF THE CORPORATION

25. The Corporation shall make adequate provision, by any means or measures which it is lawfully competent for it to use, for each of the following matters, namely:-

(i) the construction or laying out of drains for effectually draining the City, and the maintenance, flushing and cleansing of all municipal drains;

(ii) the erection in proper and convenient situations on municipal land of water-closets, closet accommodation, urinals and other conveniences for the public, and the maintenance and cleansing of the same;

(iii) the collection, removal, treatment and disposal of sewage, offensive matter and rubbish;

(iv) the watering, scavenging and cleansing of all public streets in the City and the removal of all sweeping therefrom;

(v) the management and maintenance of all municipal water-works and the construction or acquisition of new works necessary for a sufficient supply of suitable water for public and private purposes;

(vi) the reclamation of unhealthy localities, the removal of vegetation and generally the abatement of all nuisances;

- (vii) the regulation of places for the disposal of the dead and the provision of new places for the said purpose;
- (viii) the registration of births and deaths;
- (ix) public vaccination in accordance with the provisions of the Vaccination Act;
- (x) measures for preventing and checking the spread of disease;
- (xi) the construction or acquisition of markets and cattle-pounds and the maintenance of all municipal markets and cattle pounds;
- (xii) the regulation of all markets, lodging-houses, camping grounds and rest-houses (zayats) in the City;
- (xiii) the construction or acquisition of slaughter houses and the maintenance and cleansing of municipal slaughter-houses;
- (xiv) the regulation of offensive and dangerous trades;
- (xv) the formation and maintenance of a fire insurance fund for the protection of municipal property;
- (xvi) the maintenance of a fire brigade and of suitable appliances for the extinction of fires and the protection of life and property against fire;
- (xvii) the maintenance of an ambulance service;
- (xviii) the making secure or removal of dangerous buildings and places;
- (xix) the construction, levelling, maintenance including metalling or paving and channelling and improvement of public streets and the construction sane; maintenance of public bridges, culverts, causeways and the like;
- (xx) the lighting of all public streets and municipal markets and of buildings vested in the Corporation;
- (xxi) the removal of obstructions and projections in and upon streets, bridges and other public places;
- (xxii) the naming and numbering of streets and the numbering of buildings and lands;
- (xxiii) the construction or acquisition, improvement and maintenance of offices and buildings required for municipal purposes, and the maintenance of all public monuments and other property vested in the Corporation;

(xxiv) the construction or acquisition and maintenance; of hospitals for the treatment of contagious or infectious diseases, and the maintenance of any hospital (other than the Rangoon General Hospital), dispensary, poor-house and leper asylum the cost of which may be declared by the President of the Union to be a proper charge on the Municipal Fund;

(xxv) the expenses of pauper lunatics and pauper lepers sent to public asylums from the City;

(xxvi) the construction of any encampment;

(xxvii) the maintenance and regulation of any public institution placed by the President of the Union within the sphere of or under the charge of the Corporation;

(xxviii) the maintenance of public parks, gardens, recreation grounds and open spaces which were in existence on the 1st August 1922 and are by this Act vested in the Corporation;

(xxix) (a) the establishment of vernacular schools; the management, visiting and maintenance of all vernacular schools so established or vested in the Corporation and in this Act hereinafter referred to as municipal vernacular schools; the construction and repair of all buildings connected therewith and the pay and appointment of the teaching staff in such schools;

(b) the recognition, control, visiting and aid of vernacular schools under private management; and

(xxx) fulfilling any obligation imposed by this Act or any law for the time being in force.

26. The Corporation may in its discretion provide either wholly or in part for all or any of the following matters, namely:-

(i) the organisation, maintenance or management of -

(a) institutions within or without the City for the care of the sick or incurable or for the care and training of the blind or other partially helpless persons or children;

(b), maternity homes or shelters, dispensaries or milk depots for infants;

(c) chemical or bacteriological laboratories (within or without the City) for the examination or analysis of water, food or drugs, for the detection of disease or for researches connected with public health;

(d) public wash-houses, bathing places or other institutions designed for the improvement of public health;

(e) dairies or farms within or without the City for the supply of milk or milk products or for municipal profit or for the purpose of experiments in the breeding of cattle or the cultivation of crops;

(ii) where and so long as such schools or institutions are recognised by the Government or are under the control of the University of Rangoon:

(a) the establishment, maintenance or management of schools;

(b) the aid of schools under private management;

(c) the promotion or paid of higher or special education in institutions within or in close proximity to the City;

(iii) the building or purchase and maintenance of:

(a) dwellings for municipal officers or servants;

(b) suitable dwellings for the poorer and working classes;

(c) sanitary stables or byres for horses, ponies, or cattle used in hackney carriages or hack carts or for milch-kine;

(iv) the construction, purchase, organization, maintenance or management of tramways, trackless trams, or motor transport facilities for the carriage of the public;

(v) the laying out or maintenance of public parks, gardens or recreation grounds, and planting and care of trees on roadsides and elsewhere;

(vi) the construction and maintenance in the public streets of drinking fountains for men and, water-troughs for animals;

(vii) the laying out in areas previously built on or not of new public streets; and the construction of buildings to abut on such streets;

(viii) the organization or maintenance of libraries, museums, art galleries, botanical or zoological collections or the purchase or construction of buildings therefore;

(ix) the holding of agricultural, industrial or scientific fairs or exhibitions or of athletic sports;

(x) the promotion of public health or infant welfare;

(xi) the organization or maintenance in times of scarcity of shops or stalls for the sale of the necessaries of life;

(xii) the prevention of cruelty to animals, including the construction or maintenance of infirmaries under the Prevention of Cruelty to Animals Act [The figures “1890” were omitted by Act II, 1945]

(xiii) the destruction of crows or any other animals causing nuisance or of vermin or the confinement or destruction of stray dogs or other domestic animals;

(xiv) contributions towards any public fund raised for the relief of human suffering within or without the City;

(xv) music in public places or places of public resort;

(xvi) public ceremonies or entertainments, including the preparation of addresses to persons of distinction;

(xvii) on such terms and conditions as the President of the Union approves, the promotion, formation, extension or assistance of any provident fund or benefit society whose objects include the erection, improvement, maintenance or management of suitable accommodation for the poorer and working classes by any or all of the following means:

(a) the acquisition of land with a view to selling or leasing the same to such society;

(b) the making of grants or loans thereto;

(c) subscription for any share capital therein;

(d) guaranteeing the payment of interest on money borrowed by such society or of any share-capital issued thereby;

(xviii) the acquisition of immoveable property for any of the purposes above mentioned, or the cost of surveys, or examination of property, or for the construction or adaptation of buildings necessary for such purposes;

(xix) any measure not hereinbefore specifically named, expenditure whereon is declared by the President of the Union to be an appropriate charge on the Municipal Fund.

CHAPTER IV

MUNICIPAL OFFICER AND SERVANTS

Chief Executive Officer.

27. (1) The Corporation shall appoint a fit person, to be styled the Commissioner, who shall be the chief executive officer of the Corporation, and to whom all other municipal officers and servants shall be subordinate.

(2) The Commissioner shall exercise and perform such powers and duties as are conferred or imposed on him by this Act, and further, such of the powers and duties conferred or imposed on the Corporation as it may, in the manner prescribed, delegate to him.

(3) He shall devote his whole time and attention to the duties of his office: provided that he may at any time:

(i) be a member of the Union Parliament; or

(ii) hold the office of Commissioner for the Port of Rangoon; or

(iii) be a member of the Board of Trustees constituted under the Rangoon Development Trust Act; or

(iv) be a member of any body constituted under the University of Rangoon Act; or

(v) with the sanction of the Corporation, serve on any committee or tribunal constituted by the President of the Union for the purpose of any local inquiry or for the furtherance of any object of local importance or interest.

(4) During any absence or during any vacancy in the office the Commissioner, the Corporation may appoint a person to act as Commissioner. Every person so appointed shall exercise the powers conferred and perform the duties imposed by this Act for by any other enactment at the time in force on the Commissioner, and shall be subject to the same liabilities, restrictions and conditions to which the Commissioner is liable, and shall receive such monthly salary and allowances within the limits prescribed in section 28 or 29 as the President of the Union or the Corporation, as the case may be, shall determine.

(5) Any of the powers, duties or functions conferred or imposed upon the Commissioner by this Act may be exercised, performed or discharged, under the Commissioner's control and subject to his revision and to such conditions and limitations, if any, as the Corporation shall think fit to provide, by any other municipal officer whom the Corporation generally or specially empowers in this behalf.

28. Where an officer in the service of the Government is appointed to be the Commissioner, the pay, allowances, leave privileges and other conditions of tenure of the office shall, subject to such rules as may be prescribed, be determined by the President of the Union after consultation with the Corporation; and sections 29 to 36 shall not apply. Municipal Officers and Servants generally.

29. (1) The Corporation shall appoint fit persons to be:

(a) Health Officer, Secretary, Assessor and Chief Accountant; and

(b) Chief Engineer or Engineers in charge of separate departments of Municipal Works.

(2) Each of the said officers shall:

(a) devote his whole time and attention to the duties of his office: provided that, with the sanction of the Corporation, he may undertake other duties for the furtherance of any object of local importance or interest;

(b) receive such monthly salary as the Corporation shall, with the previous sanction of the President of the Union determine; and

(c) be removable at any time from office for misconduct or for neglect of, or incapacity for, the duties of his office, on the votes of not less than two-thirds of the members present at a meeting of the Corporation:

Provided that:

(i) no person shall be appointed to be Health Officer whose name is not registered under the Medical Acts as the holder of a diploma showing that he has passed any examination in public health;

(ii) the Corporation may, in its' discretion, appoint a person probationally, for a limited period only, to any of the said offices;

(iii) every permanent appointment made under this section shall be subject to confirmation by the President of the Union;

(iv) no officer appointed under this section shall be removed from office in consequence of a vote under clause (c) of sub-section (2) without the sanction of the President of the Union;

(v) no variation in the amount of salary determined under clause (b) of sub-section (2) shall be made, by the Corporation except with the previous sanction of the President of the Union.

(3) To each of the said officers the Corporation shall pay, in addition to their salaries, such allowances, pensions and gratuities, and make on their behalf such, payment to provident or annuity funds, as it thinks fit.

(4) The provisions of this section, excepting clause (a) of sub-section (2) shall apply to the officer appointed to be Commissioner or acting Commissioner not being a servant of the Government.

30. (1) In default of an. appointment being made by the Corporation under section 27 or 29 within a reasonable time, the President of the Union may appoint a person to fill the vacancy, and such appointment shall for all purposes be deemed to have been made by the Corporation.

(2) Pending the settlement of a permanent appointment under sub-section (1), the President of the Union may appoint a person to fill the vacancy temporarily, and may direct that the person so appointed shall receive such monthly salary and allowances as he shall think fit.

31. The Corporation shall appoint such other officers and servants as are necessary for the efficient carrying out of the purposes of this Act, and shall assign to them, such duties, and shall pay them such salaries, allowances, pensions and gratuities, and make on their behalf such payments to provident or annuity funds, as it thinks reasonable.

31A. The Corporation may, in accordance with rules made under section 230 read with section 235, grant pensions, gratuities or compassionate allowances to the widows or other dependent relations of any officers or servants appointed under sections 27, 29, 30 or 31 who have died while in the service of the Corporation.

32. (1) The Corporation may, where necessary, appoint any fit person to act in the place of an officer (other than the Commissioner) or servant absent on leave: provided that -

(i) any appointment of a person to act for any of the officers named in section 29, sub-section (1), may be disallowed by the President of the Union and from the time of being so disallowed shall be null and void; and

(ii) no person shall be appointed to act for the Health Officer unless such person possesses the qualifications specified in proviso (i) to section 29, sub-sections (1) and (2).

(2) A person appointed under this section to act for any officer or servant shall, while so acting, perform the same duties and exercise the same powers which the said officer or servant is bound to perform or may exercise, and be subject to the same liabilities, restrictions and conditions to which the said officer and servant is liable; and shall receive such pay and allowances as the Corporation thinks fit.

33. (1) Any person who:

(a) has directly or indirectly, by himself or by any partner, employer or employee, any such share or interest as is described in clause (f) of section 12, or is a director, secretary, manager or other salaried officer of an incorporated company which has any such share or interest; or

(b) has acted or is acting professionally in relation to any matter on behalf of any person having therein any such share or interest as aforesaid,

shall be disqualified for being a municipal officer or servant.

(2) Any municipal officer or servant who shall acquire, directly or indirectly by himself or by his partner, any such share or interest as aforesaid, shall cease to be a municipal officer or servant and his office shall become vacant.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, by, or on behalf of the Corporation as under the proviso to section 12 it is permissible for a councillor to have without his being thereby disqualified for being a councillor.

34. Subject to the provisions of clause (c) of sub-section (2) of, and provisos (iv) and (v) to sub-sections (1) and (2) of, section 29, any municipal officer and servant may be suspended or dismissed, or the increment to the salary of such officer or servant may be withheld for any specified period, and any, municipal officer or servant, other than the Commissioner or an officer appointed under section 29, may be fined or reduced in Status, for any breach of departmental rules or discipline or for carelessness, incompetence, neglect of duty or other misconduct, by the authority by whom such officer or servant is appointed.

35. The Corporation may, with the sanction of the President of Union, give an extraordinary pension, gratuity, or compassionate allowance -

(a) to any municipal officer or servant injured in the execution of duty; or

(b) to the family or other relatives dependent on any municipal officer or servant who is killed in the execution of his duty or whose death is due to devotion to duty.

Essential Officers and Servants.

36. (1) Every essential officer and servant shall be entitled to one month's notice before discharge or to one month's pay and allowance, in lieu thereof, unless he is discharged for misconduct or has completed the specified term of service for which he was engaged.

(3) No essential servant shall:

(a) unless he is authorized in that behalf by the terms of his contract resign his appointment or quit his employment without giving one month's notice to the authority appointing him; or

(b) otherwise than on leave duly granted and not subsequently cancelled, absent himself from duty; or

(c) neglect or refuse to perform any of his duties or willfully perform them in an inefficient manner.

(3) The expression "essential officer or servant" includes every person employed in the Municipal Fire Brigade or in connection with the municipal air compressor or pumping stations or employed in or in connection with the drainage, conservancy or water-supply of the City and any such other municipal officer or servant as may be prescribed in this behalf.

CHAPTER V

MUNICIPAL PROPERTY AND LIABILITIES

37. The Corporation shall, for the purposes of this Act, have power to acquire and hold moveable and immovable property or any interest therein, whether within or without the limits of the City.

38. (1) All property, moveable or immovable, of the nature hereinafter specified in this sub-section, shall vest in the Corporation and shall, except in the case of property of the nature described in clause (e), be held and applied by the Corporation for the purposes of this Act, namely:

(a) all property within or without the City vested in the Municipal Committee of Rangoon on the 1st August, 1922, but subject to all trusts, charges, liabilities, reservations, easements or other incumbrances at that time appertaining or attaching thereto;

(b) all property legally acquired by the Corporation and all buildings, erections and encampments constructed under this Act at the expense of the Municipal or Education Fund, whether within or without the City;

(c) all public streets within the City;

(d) subject to any special reservation in this behalf which the President of the Union may at any time make all public streams, waterways, tanks, reservoirs, cisterns, wells and springs, and land (not being privately owned) appertaining thereto; and

(e) all rubbish, offensive matter and sewage, collected within or deposited within or without the City by the Corporation or its contractors or agents:

Provided that nothing in this sub-section shall apply to any immovable property which, under section 58 of the Rangoon Development Trust Act, is vested in the Board of Trustees for the development of the City of Rangoon.

(2) All property, moveable or immovable, leased or placed at the disposal or delivered into the custody or in any other manner transferred to the Municipal Committee of Rangoon, in the possession thereof on the 1st August, 1922 [Date of commencement of this Act] shall be held by the Corporation on the terms and conditions applying thereto at such time.

39. (1) All property, endowments and funds belonging to any public institution, with the management, control and administration of which the Corporation is charged under the provisions of this Act or of any other enactment for the time being in force, shall vest in the Corporation in trust for the purpose to which such property, endowment and funds may lawfully be applied.

(2) The Corporation may, with the sanction of the President of the Union, transfer to [the State] [Substituted for the words "His Majesty" by the Union of Burma (Adaptation of Laws) Order, 1948] any property, endowments and funds so vested in it in trust under

sub-section (1): provided that no trusts of public rights subject to which such property, endowments and funds are held shall be affected by such transfer.

40. The liabilities of the Municipal Committee of Rangoon on the 1st August, 1922 in connection with any provident fund established for the benefit of municipal officers and servants under the Municipal Act and the bye-laws framed thereunder, shall be assumed and discharged by the Corporation.

(1) Whenever it is provided in this Act that the Corporation may, or whenever it is in the opinion of the Corporation necessary or expedient for the purposes of this Act to acquire any immovable property or to acquire any easement affecting immovable property already vested in the Corporation, it may, by agreement with the owner, acquire such property or easement.

(2) Where the Corporation is unable to acquire any immovable property or easement under sub-section (1) except upon terms which are in its opinion unreasonable, the President of the Union may, if he thinks fit, upon the application of the Corporation, order proceedings to be taken for acquiring the same on behalf of the Corporation, as if such property or easement were land needed for a public purpose within the meaning of the Land Acquisition Act.

(3) The amount of the compensation awarded and all other charges incurred in the acquisition of any such property or easement shall, subject to all other provisions of this Act, immediately on acquisition be paid by the Corporation and thereupon the said property or easement shall vest in the Corporation: provided that nothing done under, or in pursuance of, this section shall affect the right or title of [the State] [Submitted for thr words “His Majesty” by the Union of Burma (Adaptation of Laws) Order, 1948] in or to the said property easement.

42. The Corporation may, subject to such conditions and limitations as may be prescribed, sell, lease, convey or otherwise dispose of any property, moveable or immovable, vested in the Corporation:

Provided that:

(i) no property vested in the Corporation in trust shall be leased, sold, or otherwise conveyed in such a manner that any trust subject to which such property is held is thereby affected; and

(ii) every sale, lease or other conveyance of property vested in the Corporation shall be deemed to be subject to the conditions and limitations imposed by this Act or by any other enactment for the time being in force.

43. The Government may resume any immovable property transferred to the Corporation by the Government or by any local authority, where such property is required for a

public purpose, without payment of any compensation other than the amount paid by the Corporation for such transfer and the market value at the date of resumption of any permanent buildings or works subsequently erected or executed thereon by the Corporation:

Provided that compensation need not be paid for buildings or works constructed or erected in contravention of the terms of the transfer.

CHAPTER VI LOANS

44. (1) The Corporation may, in pursuance of any resolution, borrow by way of debenture or otherwise, on the security of any immoveable property vested in the Corporation or of all or any of the taxes, duties, tolls, fees and dues authorized by this Act, any sums of money which may be required:

- (a) for the execution of any work authorized by this Act, or
- (b) for the acquisition of land for the purposes of this Act, or
- (c) to pay off any debt due to Government; or
- (d) to repay a loan raised under this Act or any other loan or debt for the repayment of which the Corporation is liable:

Provided that:

- (i) no loan shall be raised without the previous sanction of the President of the Union;
- (ii) the terms upon, and the method in, which the loan is to be raised and repaid shall be subject to the sanction of the President of the Union;
- (iv) the period within which the loan is to be repaid shall in no case exceed sixty years.

(2) When any sum of money has been borrowed under sub-section (1):

- (a) no portion thereof shall, without the previous sanction of the President of the Union, be applied to any purpose other than that for which it was borrowed, and
- (b) no portion of any sum of money borrowed under clause (a) of sub-section (1) shall be applied to the payment of salaries or allowances of any municipal officers or servants other than those who are exclusively employed upon the works for the construction of which the money was borrowed.

(3) The amount of the loan, the period within which it shall be repaid and the terms upon, and the method in, which the loan is to be raised and paid shall be duly notified by the President of the Union.

45. (1) Notwithstanding the provisions of section 44, whenever the borrowing of any sum has been sanctioned under the said section the Corporation may, on such terms as may be sanctioned by the President of the Union, instead of borrowing such sum or any part thereof from the public or any member thereof, take credit from any Bank on a cash account to be kept in the name of "the Municipal Corporation of the City of Rangoon" to the extent of such sum or part and, with the sanction of the President of the Union, may grant mortgages of all or any of the property vested in the Corporation by way of securing the repayment of the amount of such credit or of the sums advanced from time to time on such cash account with interest.

(2) The provisions of section 44, sub-section (3), shall apply to such sum or part.

46. (1) The borrowing powers of the Corporation shall be limited so that the total loan charges payable by the Corporation in any year shall not at any time exceed thirteen per cent of the annual value of the buildings and lands in the City as defined in section 80, sub-section (2).

(2) For the purposes of sub-section (1) the total loan charges shall elude the sums annually payable for interest and for the maintenance of sinking funds and, if any loans are repayable by equal payments of principal and interest or by equal payments of principal or by annual drawings, the sums annually payable for such payments or drawings.

47. (1) All debentures issued under this Act shall be in such form as the Corporation may from time to time determine, with the previous sanction of the President of the Union.

(2) The holder of any debenture in any- form duly authorized under sub-section (1) may obtain in exchange therefore, upon such terms as the Corporation shall from time to time determine a debenture in any other so authorized.

(3) Every debenture issued by the Corporation under this Act shall be transferable in such manner as shall be therein expressed.

(4) The right to sue in respect of the moneys secured by any debenture issued by the Corporation shall be vested in the holder thereof for the time being without any preference by reason of some of such debentures prior in date to others.

48. All coupons attached to debentures issued under this Act shall signed on behalf of the Corporation in the prescribed manner, and signature may be engraved, lithographed or impressed by any process.

49. (1) When any debenture or security issued under this Act is payable to two or more persons jointly, and either or any of them dies, then, notwithstanding anything in section 45 of the Contract Act, the debenture or security shall be payable to the survivor or survivors of such persons: provided that nothing in this sub-section shall affect any claim by the legal representative of a deceased person against such survivor or survivors.

(2) When two or more persons are joint holders of any debenture or security issued under this Act any one of such persons may give an effectual receipt for any interest, or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Corporation by any other of such persons.

50. Every loan raised by the Corporation under section 44 shall be repaid within the time approved under proviso (ii) to section 44, sub-section (1), and by such of the following methods as may be approved under the said proviso, namely:

(a) by payment from a sinking fund established under section 51 in respect of the loan; or

(b) by equal payments of principal and interest; or

(c) by equal payments of principal; or

(d) by annual drawings.

51. Whenever the repayment of a loan from a sinking fund has been sanctioned under proviso (ii) to section 44, sub-section (1), the Corporation shall establish such a fund and the Corporation shall pay into it, on such dates as may have been approved under the said proviso, such sum as will, with accumulations of compound interest, be sufficient, after payment of all expense, to pay off the loan within the period approved:

Provided that if, at any time the sum standing at credit of the sinking fund established for the repayment of any loan is of such amount that if allowed to accumulate at compound interest it will be sufficient to repay the loan within the period approved, then, with the permission of the President of Union, further payments into such fund may be discontinued.

52. (1) Notwithstanding anything to the contrary contained in this Act, the Corporation may consolidate all or any of its loans, and for that purpose may invite tenders for a new loan to be called "the Rangoon Municipal Consolidated Loan, 19 [...]", and invite holders of municipal debentures to exchange their debentures for scrip of such loan.

(2) The terms of every such consolidated loan, and the rates at which exchange into such consolidated loan shall be permitted, shall be subject to the previous sanction of the President of the Union.

(3) The period for the extinction of any such consolidated loan shall not, without the sanction of the President of the Union, extend beyond the furthest date within which any of the loans to be consolidated would otherwise be repayable.

(4) The Corporation shall establish a sinking fund for the repayment of every such consolidated loan.

(5) The provisions of section 51 shall apply to each sinking fund established under sub-section (4): provided that, in calculating the sum to be paid into any such sinking fund in pursuance of section 51, any sums transferred to that fund in pursuance of the proviso to section 55 shall be taken into account.

53. (1) All money paid into a sinking fund shall as soon as possible be invested by the Corporation in:

(a) Government securities; or

(b) securities guaranteed by Government; or

(c) Rangoon Municipal debentures; or

(d) debentures issued by the Commissioners for the Port of Rangoon; or

(e) debentures issued by the Trustees for the Development of the City of Rangoon.

(2) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt, be paid into the appropriate sinking fund and invested in the manner prescribed by sub-section (1).

(3) Money standing at credit of two or more sinking funds may, at the discretion of the Corporation, be invested together as a common fund, and it shall not be necessary for the Corporation to allocate the securities held in such investments among the several sinking funds.

(4) When any part of a sinking fund is invested in Rangoon Municipal debentures or is applied in paying off any part of a loan before the period fixed for repayment, the interest which would otherwise have been payable on such debentures or on such part of the loan shall be paid into the sinking fund and invested in the manner laid down in sub-section (1).

(5) The Corporation may from time to time vary any investment made under sub-section (1), or transfer from one sinking fund to another any investment made under sub-section (1):

Provided that the former sinking fund is reimbursed the value of such investment at the time when the transfer is made.

54. (1) For the purposes of any investment which the Corporation is authorized to make by this Act (including sinking funds) the Corporation may reserve and set apart for issue at par, to and in the name of the Municipal Corporation of the City of Rangoon, any portion of the debentures to be issued on account of any loan:

Provided that the intention so to reserve and set apart such debentures shall have been specified as a condition of the loan in the notification issued in respect thereto under section 44, sub-section (3).

(2) The issue of any such debentures to the Corporation as aforesaid shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to and in the name of any other person.

(3) The purchase by, or the transfer, assignment or endorsement to, the Corporation of any debenture issued by the Corporation shall not operate to extinguish or cancel any such debenture, but the same shall be valid negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to any other person.

55. The Corporation may apply a sinking fund, or any part thereof, in or towards the discharge of the loan for which such fund was established and until such loan or part is wholly discharged, shall not apply the same for any other purpose:

Provided that when any loan, or part thereof, is consolidated under section 52, the Corporation shall transfer to the sinking fund established for such consolidated loan the sum standing at credit of the sinking fund of original loan, or, if part only of a loan is consolidated, then such part of the sum standing at credit of the sinking fund of such loan as is proportionate to the part of the original loan which is incorporated in the consolidated loan.

56. In the case of all loans raised by the Municipal Committee of Rangoon before the 1st August, 1922, [Date of commencement of this Act] the following provisions shall apply:

(i) if when such loans were raised the loans were made repayable from sinking funds, the Corporation shall establish sinking funds for the repayment of such loans and shall pay into such funds such sums on such dates as may have been fixed when the loans were raised;

(ii) all securities and cash held by the Municipal Committee of Rangoon in sinking funds established for the repayment of such loans shall be transferred to the Corporation and shall be held by it as part of the sinking funds established under clause (i);

(iii) the provisions of section 51 shall apply to such sinking funds;

(iv) if when any such loans were raised the loans were made repayable by equal payments of principal and interest or by equal payments of principal or by annual drawings, the

Corporation shall make such payments or annual drawings, on such dates and in such manner as may have been fixed when the loans were raised;

(v) the provisions of section 58 shall apply to such loans.

57. (1) All sinking funds established under this Act shall be subject to annual examination by the Accountant General, Burma, who shall ascertain whether the cash and the current value of the securities at credit of such funds are actually equal to the amount which would have accumulated had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

(2) The Corporation shall forthwith pay into any sinking fund any amount which the Accountant-General may certify to be deficient, unless the President of the Union, by general or special order, sanctions a gradual readjustment.

(3) If any dispute arises as to the accuracy of any certificate issued by the Accountant-General under sub-section (2) the Corporation may, after making the payment, refer the matter to the President of the Union, whose decision shall be final.

58. (1) If any money borrowed by the Corporation, or any interest or costs due, in respect thereof, is or are not repaid according to the conditions of the loan, the Government may, if itself the lender, and if the Government is not the lender, shall, on the application of the lender, attach the Municipal Fund or a portion thereof.

(2) After such attachment no person, except an officer appointed in this behalf by the President of the Union, shall in any way deal with the attached fund or portion thereof; but such officer may do all acts in respect thereof which any municipal authority, officer or servant might have done if such attachment had not taken place and may apply the proceeds in satisfaction of the arrear and of all interest and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the fund or portion thereof attached was previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the fund or portion thereof before any part of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made.

59. If the Corporation fails to make any payment as required by section 57, sub-section (2), the Government may attach the Municipal; Fund or any portion thereof; and the provisions of section 58, sub-section (2), shall, with all necessary modifications, be deemed to apply.

60. (1) The Corporation shall, at the end of each year, cause to be prepared a statement showing:

(a) the amount which has been invested during the year under section 53;

- (b) the date of the last investment made previous to the submission of the statement;
 - (c) the aggregate amount of the securities then in the hands of the Corporation; and
 - (d) the aggregate amount which has up to the date of the statement been applied under section 55 in or towards repaying loans.
- (2) Every such statement shall be laid before a meeting of the Corporation and shall be published in the Gazette.

CHAPTER VI REVENUE AND EXPENDITURE

Funds and Accounts.

61. (1) All moneys received by or on behalf of the Corporation under the provisions of this Act or of any other enactment for the time being in force, or under any contract;
- (b) [...];
 - (c) the annual contribution paid by the Commissioners for the Port of Rangoon under the provisions of section 46 of the Rangoon Port Act;
 - (d) all fines levied by any Magistrate in respect of any offences against the provisions of this Act, or in respect of any offence under section 41 of the Rangoon Police Act, or in respect of any offence under the Ghee Adulteration Act committed in the City, or in respect of municipal property, or in respect of offences under any other enactment the Hnes under which shall have been or may be ordered by the President of the Union to be paid to the Municipal Fund;
 - (e) all proceeds of the disposal of property by, or on behalf of, the Corporation;
 - (f) all rents accruing from any property of the Corporation;
 - (g) all moneys raised by any tax levied for the purposes of this Act;
 - (h) all fees and lines payable and levied under this Act;
 - (i) all moneys received by way of compensation or for compounding offences under the provisions of this Act;
 - (j) such proportion as the President of the Union may from time to time determine of the balance, after all necessary contingent expenses have been defrayed, of all fees for licences

for vehicles granted, by the Commissioner of Police of Rangoon under the provisions of the Rangoon Hackney Carriages Act and of the Burma Motor Vehicles Act;

(k) all moneys received by, or out behalf, of the Corporation from the Government or private individuals by way of grant or gift or deposit; and

(l) all interest and payments arising from any investment of, or from any transaction in connection with, any money belonging to the Corporation shall be credited to a fund, which shall be called "The Municipal Fund", which shall be held by the Corporation in trust for the purposes of this Act, subject to the provisions herein contained.

62. The moneys from time to time credited to the Municipal Fund shall be applied in the following order of preference:

Firstly, in making due provision for the repayment of all loans repayable by the Corporation under the provisions of Chapter VI;

[...] [This paragraph beginning "Secondly" was omitted by Act II, 1945];

Thirdly, in payment of all sums, charges and costs necessary for the purposes specified in sections 25 and 26 and for otherwise carrying this Act into effect, or of which the payment shall be duly directed or sanctioned under any of the provisions of this Act, inclusive of:

(a) the cost of auditing the municipal accounts;

(b) the expenses of every election of councilors held under this Act;

(c) the salary, allowances and contributions to pensions and leave allowances of the Commissioner or any other officer whose services may, at the request of the Corporation, be placed by Government at its disposal;

(d) the salaries and allowances of all municipal officers and servants, and all pensions, gratuities, contributions and compassionate allowances payable under the provisions of this Act;

(e) the salaries and fees of experts for service or advice in connection with any matter arising out of the administration or undertakings of the Corporation;

(f) all expenses and costs incurred by the Corporation or by any municipal officer on behalf of the Corporation in the exercise of any power conferred or the discharge of any duty imposed on it or him by this Act, including moneys which the Corporation is required or empowered to pay by way of compensation; and

(g) every sum payable:

- (i) under section 227, sub-section (1), or section 240 or 241 by order of the President of the Union or the High Court;
- (ii) under a decree or order of a civil or criminal Court against the Corporation;
- (iii) under a compromise of any suit or other legal proceeding or claim.

63. (1) All money received by the Education Board for or in the discharge of its functions under this Act shall be credited to a fund which be called "The Education Fund".

(2) The Education Fund shall, subject to the control of the Corporation, be administered by the Education Board and shall be applied to all expenditure incurred in the payment of salaries, fees and allowances (including provident fund contributions) and pensions of all officers and servants employed under such Board and any other expenses incurred by the Board in exercising any power or discharging any duty conferred or imposed on it by section 5.

64. All moneys payable to the credit of the Municipal Fund, or of the Education Fund shall be received by the authorized officer and shall forthwith paid into the Imperial Bank of India, or such other bank as be selected by the Corporation, subject to the approval of the President the Union, to the credit of an account which shall be styled "The account of the Municipal Fund of the City of Rangoon" or "The account of the Fund of the City of Rangoon", as the case may be.

65. No payment shall be made out of the Municipal Fund or out of the Education Fund except upon a cheque signed in the prescribed manner:

Provided that payment of any sum due by the Corporation, not exceeding one hundred rupees in amount, may be made in cash by the officer authorized in that behalf, cheques for sums not in excess of one thousand rupees each, signed in the prescribed manner, being drawn from time to time to cover such payments.

66. Notwithstanding anything contained in section 64 or section 65, the Corporation may remit any portion of the Municipal Fund to a bank or other agency at any place beyond the City at which it may be desirable for Corporation to have funds in deposit; and any money payable to the credit of, or chargeable against, the Municipal Fund which can, in the opinion of the Corporation, be most conveniently paid into or out of the account of the Corporation at any such bank or agency, may be so paid.

Corporation is required or empowered to pay by way of compensation; and

(a) every sum payable:

- (i) under section 227, sub-section (1), or section 240 or 241 by order of the President of the Union or the High Court;

- (ii) under a decree or order of a civil or criminal Court passed against the Corporation;
- (iii) under a compromise of any suit or other legal proceeding or claim.

63. (1) All money received by the Education Board for or in the discharge of its functions under this Act shall be credited to a fund which shall be called "The Education Fund".

(2) The Education Fund shall, subject to the control of the Corporation, be administered by the Education Board and shall be applied to all expenditure incurred in the payment of salaries, fees and allowances (including provident fund contributions) and pensions of all officers and servants employed under such Board and any other expenses incurred by the Board in exercising any power or discharging any duty conferred or imposed on it by section 5.

64. All moneys payable to the credit of the Municipal Fund or of the Education Fund shall be received by the authorized officer and shall be forthwith paid into the Imperial Bank of India, or such other bank as may be selected by the Corporation, subject to the approval of the President of the Union, to the credit of an account which shall be styled "The account of the Municipal Fund of the city of Rangoon" or "The account of the Education Fund of the City of Rangoon", as the case may be.

65. No payment shall be made out of the Municipal Fund or out of the Education Fund except upon a cheque signed in the prescribed manner:

Provided that payment of any sum due by the Corporation, not exceeding one hundred rupees in amount, may be made in cash by the officer authorized in that behalf, cheques for sums not in excess of one thousand rupees each, signed in the prescribed manner, being drawn from time to time to cover such payments.

66. Notwithstanding anything contained in section 64 or section 65, the Corporation may remit any portion of the Municipal Fund to a bank or other agency at any place beyond the City at which it may be desirable for the Corporation to have funds in deposit; and any money payable to the credit of, or chargeable against, the Municipal Fund which can, in the opinion of the Corporation, be most conveniently paid into or out of the account of the Corporation at any such bank or agency, may be so paid.

67. (1) Surplus moneys at the credit of the Municipal Funds or of any loan raised under this Act which cannot immediately or at an early date be applied for the purposes of the Act or of the loan, as the case may be, may be deposited by the Corporation at interest in such banks as may be approved the President of the Union or may be invested in public securities;

(2) The corporations may at any time withdraw any deposit so made or dispose of any securities, and re-deposit or re-invest the money so withdrawn or the proceeds of the disposal of such securities;

(3) The loss, if any, arising from any such deposit or investment shall be debited to the Municipal Fund.

68. Accounts of the receipts and expenditure of the Corporation or of the Education Board shall be kept in such manner and in such form as the President of the Union may approve.

69. The Corporation shall, as soon as may be after each first day of July, cause to be prepared a detailed report of the municipal administration of the City during the previous year, together with a statement showing the accounts of the receipts and disbursements respectively credited and debited to the Municipal Fund and Education Fund during the previous financial year and the balance at the credit of each fund at the close of the said financial year.

Budgets.

70. (1) Except as hereinafter provided, no payment of any sum shall be made out of the Municipal Fund unless the expenditure of the same is covered by a current budget grant, and a sufficient balance of such budget grant, is still available:

Provided that the following items shall be excepted from this prohibition, namely:-

(i) sums of which the expenditure has been sanctioned by the Corporation under section 74;

(ii) refunds of taxes and other moneys which the Corporation is authorized by this Act to make;

(iii) repayments of moneys belonging to the contractors or other persons held in deposit and of moneys collected or credited to the Municipal Fund by mistake;

(iv) sums which the Corporation is required or empowered by this Act to pay by way of compensation;

(v) sums payable in any of the circumstances mentioned in clause (g) of section 62;

(vi) expenses incurred by the Corporation in the exercise of the powers conferred on it by section 149; and

(vii) expenses incurred by the Commissioner in the exercise of the powers conferred on him by section 148 or 151.

(2) No payment of any sum shall be made out of the Education Fund unless the expenditure of the same is covered by a current budget grant.

(3) Where any sums have been expended under the terms of the proviso to sub-section (1), the Corporation shall take such action, if any, under section 72, 73 or 75 as is deemed necessary or expedient to meet such expenditure.

71. (1) The Corporation shall each year cause to be prepared, on or before such date as may be prescribed, and in such form and such manner as it may approve, having regard to all the requirements of this Act, budget estimates of the income and expenditure of the Municipal and Education Funds for the next financial year.

(2) Such estimates shall:

(a) provide for the repayment of all loans with interest due thereon for whose repayment the Corporation is liable;

(b) [...] [Clause (b) was omitted by Act II, 1945];

(c) provide for the payment from the Municipal Fund in convenient installments to the Education Fund of an amount not less than 5 per cent. of the estimated receipts to be derived from the "general tax" specified in clause (a) of section 80, sub-section (1); and

(d) allow for a cash-balance at the end of the said year of not less than the amount which the President of the Union may, from time to time, fix in this behalf.

(3) The Corporation shall finally adopt the budget estimates before the beginning of the year to which they relate and shall forthwith submit copies thereof to the President of the Union.

72. The Corporation may, if it thinks necessary, at any time during the financial year:

(a) reduce the amount of a budget grant; or

(b) transfer and add the amount, or a portion of the amount, of one budget grant to the amount of any other budget grant:

Provided that due regard be had when making any such reduction or transfer to all the requirements of this Act.

73. The Corporation may, from time to time, during a financial year, increase the amount of any budget grant, or make an additional budget grant, is for the purpose of meeting any special or unforeseen requirement arising during the said year, but not so that the estimated cash-balance at the close of the year shall be reduced below the amount fixed under clause (d) of section 71, sub-section (2).

74. If any portion of a budget grant remains unexpended at the close of the year in the budget estimates for which such grant was included, and if the amount thereon has not been taken into account in the opening balance of the Municipal Fund entered in the

budget estimates of the next following year, the Corporation may sanction the expenditure of such unexpended portion during the next following year for the completion, according to the original intention or sanction, of the purpose or object for which the budget grant was made, but not upon any other purpose or object.

75. (1) If it shall at any time during the financial year appear to the Corporation that, notwithstanding any reduction of budget grants that may have been made under section 72, the income of the Municipal Fund in the said year will not suffice to meet the expenditure sanctioned in the budget estimate for the said year, it shall be incumbent on the Corporation to sanction forthwith any measure which shall be necessary for adjusting the year's income to the expenditure.

(2) For this purpose the Corporation may either diminish the sanctioned expenditure of the year, so far as it may be possible so to do, with due regard to all the requirements of this Act, or have recourse, subject to the conditions and limitations prescribed by this Act, to supplementary taxation.

(3) Whenever the Corporation determines to have recourse to such supplementary taxation, it shall do so by increasing, for the unexpired portion of the said year, the rates at which any tax imposable under this Act is being levied, or by adding to the number of articles, if any, on which terminal-tax is being levied, but every such increase or addition shall be made subject to the limitations and conditions prescribed in regard to such tax.

76. The Education Board may in regard to the Education Fund exercise, to the control of the Corporation, all the powers vested in the Corporation in regard to the Municipal Fund under sections 72, 73, 74 and 75.

77. The Corporation shall cause to be conducted under its superintendence a monthly scrutiny of the municipal accounts, and to be published a monthly abstract of the receipts and expenditure of the month last preceding signed in the prescribed manner.

78. The municipal accounts shall also be examined and audited in accordance with the procedure approved by the President of the Union in this behalf. The auditors shall forthwith report to the Corporation any material impropriety or irregularity which they may at any time observe in the expenditure or in the recovery of moneys due to the Corporation or in the municipal accounts.

CHAPTER VIII
MUNICIPAL TAXATION

Taxes.

79. (1) For the purposes of this Act, taxation shall be imposed as follows, namely:

(a) property taxes, and

(b) a tax on vehicles.

(2) In addition to the taxes mentioned in sub-section (1), the Corporation may, with the previous sanction of the President of the Union, impose any other tax.

80. (1) The following taxes shall, subject to the limitations hereinafter provided, be levied on buildings and lands, and shall be called "Property Taxes", namely:-

(a) a general tax of not more than twelve per cent of their annual value, to which may be added a fire brigade tax at such percentage not exceeding two per cent of their annual value as will, in the opinion of the Corporation, suffice to provide for the expenses necessary for fulfilling the duties of the Corporation arising under clause (xvi) of section 25;

(c) a conservancy tax at such percentage of their annual value as will, in the opinion of the Corporation, suffice to provide for the collection, removal and disposal, by municipal agency, of all sewage, offensive matter and rubbish and for efficiently constructing, maintaining and repairing municipal drains for the reception and conveyance of any such matter; and

(d) a water-tax at such percentage of their annual value as the Corporation shall deem reasonable with reference to the expense of providing a water supply for the City: provided that the Corporation may direct that the water supplied for any domestic or non-domestic purpose to any buildings or lands separately assessed to water-tax shall be paid for by measurement at such rates and on such terms and conditions as it may deem reasonable and no water-tax shall be levied on any buildings or lands in respect of which such direction has been made.

(2) In this Chapter "annual value" means the gross annual rent for which buildings and lands liable to taxation may reasonably be expected to let, from year to year, and, in the case of houses, may be expected to let unfurnished.

81. (1) The general tax shall be levied in respect of all buildings and to lands except:

(a) buildings and lands or portions thereof exclusively occupied for public worship;

(b) buildings and lands vested in the Corporation;

(c) lands used as places for the disposal of the dead;

(2) Unless the Corporation, with the sanction of the President of the Union, in any particular case for any special reasons otherwise directs, the following buildings and lands or portions thereof shall not be deemed to be exclusively occupied for public worship within the meaning of clause (a) of sub-section (1), namely:-

(a) those in which any trade or business is carried on; and

(b) those in respect of which rent is derived, whether such rent is or is not applied exclusively to religious purposes.

(3) When any portion of any building or land is exempt from the general or by reason of its being exclusively occupied for public worship, such portion shall be deemed to be a separate property for the purpose of municipal taxation.

(4) The Corporation may, for special reasons, exempt any building or land belonging to the classes specified in clause (a), (b) or (c) of sub-section all or any of the property taxes other than the general tax.

82. The fire brigade tax may be levied at different rates in respect of different classes of buildings in accordance with the annual values of such the varying degrees of risk of being damaged or destroyed by fire incurred on account of the materials or methods of construction of such buildings or the goods stored or industries carried on therein.

83. The lighting-tax shall be levied only in respect of buildings and lands some part of which is less than one thousand feet from a street lamp erected and maintained by the Corporation.

84. (1) The conservancy-tax shall be levied only in respect of lands and buildings:

(a) situated in any portion of the City in which public notice has been given by the Corporation that the collection and removal of sewage, offensive matter and rubbish will be undertaken by municipal agency; or

(b) in which, wherever situate, there is a connection for the removal of sewage to a municipal drain.

(2) In any portion of the City in which underground sewers have been or may be provided by the Corporation the conservancy-tax may be levied at a higher percentage on the annual value of buildings and lands than in other portions of the City.

85. (1) The water-tax shall be levied only in respect of buildings or lands:

(a) which are connected by means of communication-pipes with any municipal water-works;

(b) which are situated in a portion of the City in which the Corporation has given public notice that sufficient water is available from municipal water-works for furnishing a reasonable supply of water for domestic purposes to all the buildings and lands in the said portion.

(2) The water-tax may be levied in respect of buildings and lands which are liable under clause (b) of sub-section (1) at a lower-rate than in respect of buildings and lands which are liable under clause (a).

86. (1) Property taxes in respect, of any building or land shall be leviable jointly and severally from all persons who have been either owners or occupiers of the building or land at any time during the period in respect of which any installments of such property taxes is payable under this Act;

(2) In the absence of any agreement to the contrary between an owner and occupier of any building or land, any general tax, in which is included the fire brigade tax, if any, paid by the occupier shall be recoverable by him from the owner, and any lighting, conservancy, or water-tax paid by the owner shall be recoverable by him from the occupier;

(3) A sum recoverable by the occupier from the owner may be deducted from the rent due or payable by him to the owner.

Exemptions.

87. Notwithstanding anything contained in this Act, no property or other tax shall be levied on any Buddhist kyaungdaik:

Provided that:

(i) unless the Corporation, with the sanction of the President of the Union, in any particular case for any special reasons otherwise directs, this exemption shall not extend to any buildings or land in which trade or business is carried on or for which rent is paid;

(ii) the Corporation shall not be bound to provide a supply of water to or to remove sewage, offensive matter or rubbish from any building or land exempted from taxation under this section except upon a guarantee of payment for the supply of such water or the removal of such sewage, offensive matter or rubbish at such rates as may be determined by the Corporation.

88. When any building or land, or any portion of any building or land, which the Corporation has treated as a separate property for the purpose of assessment under any provision of this Act, has been neither occupied nor productive of rent for a period of at least thirty consecutive days, the Corporation shall, subject to and in accordance with the terms and conditions prescribed:

(a) remit one-half of the general tax, which includes the fire brigade tax, if any, and the whole of the water-tax and conservancy-tax payable in respect of such building or land during such period; or

(b) if any tax or installment thereof has been paid and application for refund has been made within six months of such payment, refund the amount which might have been remitted under this section.

89. No tax of any kind shall be levied on land vested in the Trustees for the Development of the City of Rangoon under clause (a) of section 58, sub-section (1), of the Rangoon Development Trust Act, so long as such land is neither occupied nor productive of rent.

90. (1) The Corporation may, with the previous sanction of the President of the Union, exempt in whole or in part from the payment of any tax any person or class of persons, or any property or description of property, animals or vehicles.

(2) The Corporation may exempt in whole or in part, for any period not exceeding one year, from the payment of any tax imposed under this Act, any person who by reason of poverty may in its opinion be unable to pay the same.

Appeals and Assessments.

91. (1) The Commissioner shall, in accordance with the manner prescribed, determine the annual value of lands and buildings for the purpose of assessment thereof under section 80.

(2) An appeal against any determination made by the Commissioner under sub-section (1) shall lie to, and be heard and determined by, the Chief of the Rangoon [City Civil Court] [Substituted by Act XVI, 1946]: provided that no such appeal shall be heard by the said Judge unless a notice in writing of the intention to appeal has been left at the office of the Corporation within fourteen days from the date of the aforesaid order.

(3) When any question arises as to the liability of any building or land to assessment, or as to the basis or principle of assessment, an appeal shall lie from the decision of the said Chief Judge to the High Court, whose decision shall be final.

(4) Effect shall be given by the Commissioner to the decision of the Court under this section.

(5) The pendency of an appeal under this section shall not operate to delay or prevent the levy of any tax, or, when the tax is payable by instalments, of any instalment of any tax payable in respect of any building or land according to the assessment of the Commissioner; but, if by the final decision in the appeal it is determined that such tax or instalment ought not to have been levied in whole or in part, the Corporation shall refund to the person from whom the same has been levied the amount of such tax or instalment, or the excess thereof over the amount, properly leviable in accordance with such, final decision, as the case may be.

92. (1) The taxes specified in section 80 shall be levied on all buildings or parts thereof, the property of the State [Substituted by the Union of Burma (Adaptation of Laws) Order, 1948], which are occupied for residential purposes and the occupants of which pay tent to Government. The annual value of such buildings shall be the actual rent payable for such buildings unfurnished by the occupants to Government and all taxes levied under this sub-section shall be collected and paid by the Government.

(2) In lieu of the taxes leviable under section 80 on all other buildings and lands, the property of the State [Substituted by the Union of Burma (Adaptation of Laws) Order, 1948], there shall be paid annually by Government to the Corporation such sum as may be determined, after consultation with the Corporation, by an officer appointed by the President of the, to be fair and reasonable having regard to the extent of State [Substituted by the Union of Burma (Adaptation of Laws) Order, 1948] property in the City, and the mutual services rendered by Government and the Corporation to each other.

(3) The President of the Union shall communicate to the Corporation the name of the officer whom he proposes to appoint to perform the duty specified in sub-section (2) and shall take into consideration any representation which the Corporation may, within a reasonable period, submit with reference thereto; but the orders of the President of the Union after such consideration shall be final.

(4) The sum determined under sub-section (2) shall be paid annually by Government, for a period of five years, on the expiry of which a further enquiry shall be held to determine the sum payable for a further five years.

(5) Nothing in this section shall be deemed to affect the provisions of the Municipal Taxation Act.

93. The sum to be paid to the Corporation by the Commissioners for the Port of Rangoon under section 80 shall be an amount equal to three per centum of the total annual revenues of the said Commissioners from whatever sources derived.

CHAPTER IX CONVENIENCES

Municipal Drains.

94. For the purpose of flushing and cleansing the municipal drains the Corporation may construct or set up such reservoirs, sluices, engines and other works as it shall deem necessary.

95. The Corporation may cause all or any municipal drains to empty into the Rangoon, Pegu or Hlaing rivers or any other place, whether within or without the City, and may dispose of the sewage at any place, whether within or without the City, and in any manner, which it shall deem suitable for such purpose:

Provided that the President of the Union may prohibit the corporation from causing any municipal drain to empty into any place, or from disposing of any sewage at any place, or in any manner, which he considers unsuitable.

96. For the purpose of receiving, storing, disinfecting, distributing or otherwise disposing of sewage, the Corporation may:

- (a) construct any work within or without the City;
- (b) purchase or take on lease any land, building, engine, material, or apparatus, either within or without the City; and
- (c) enter into an arrangement with any person, for a period not exceeding twenty years for the removal or disposal of sewage within or without the City.

97. The Corporation may enlarge, arch over or otherwise improve any municipal drain, and may discontinue, close upon destroy any such drain which has, in its opinion, become useless or unnecessary:

Provided that if, by reason of anything done under this section, any person is deprived of the lawful use of any drain, the Corporation shall, as soon as may be, provide for his use some other drain as effectual as the drain which has been discontinued, closed up or destroyed.

Drainage of premises.

98. When any premises are, in the opinion of the Corporation, without sufficient means for their effectual drainage and a municipal drain or some place set apart by the Corporation for the discharge of drainage already exists or is about to be constructed within a distance not exceeding one hundred feet from some part of the said premises, the Corporation may, by written notice, require the owner or occupier of the said premises:

(a) to make a drain which will empty into such municipal drain or place so set apart;

(b) to provide and set up all such appliances and fittings as may appear to the Corporation necessary for the purpose of gathering and receiving the drainage from, and conveying the same off, the said premises and of effectually flushing such drain and every fixture connected therewith; and

(c) to remove any existing drain or other appliance or thing used or intended to be used for drainage which is, in the opinion of the Corporation, injurious to health.

99. When in any case not provided for in section 98 any premises are, in the opinion of the Corporation, without sufficient means for their effectual drainage, it may, by written notice, require the owner or occupier of the said premises:

(a) to construct a drain up to a point to be specified in such notice, but not distant more than one hundred feet from some part of the said premises;

(b) to construct a closed catch-pit or sump of such material size and description, and in such position as it may direct, and a drain or drains emptying into such catch-pit or sump.

100. It shall not be lawful to erect or re-erect any building any part of which is within one hundred feet of a municipal drain or of some place set apart by the Corporation for the discharge of drainage, or to occupy any such building newly erected or re-erected, unless and until:

(a) a drain is constructed which, in the opinion of the Corporation, shall be sufficient for the effectual drainage of such building to such municipal drain or place, and

(b) there have been provided for and set up in such building and in the premises appurtenant thereto all such appliances and fittings as may appear to the Corporation to be necessary for the purpose of gathering and receiving the drainage from, and conveying the same off, the said building and the said premises, and of effectually flushing the drain of the said building and every fixture connected therewith.

101. Whenever it is provided in this Act that steps shall or may be taken for the effectual drainage of any premises, the Corporation may require that there shall be one drain for offensive matter and sewage, and another drain for rain-water and unpolluted sub-soil water, each emptying into separate municipal drains or other places set apart by the Corporation for the discharge of drainage or into other suitable places.

102. (1) If it shall appear to the Corporation that the only means, or the most convenient means, by which the owner or occupier of any land or building can cause his drain to empty into a municipal drain or other place set apart by the Corporation for the discharge of drainage, is, by carrying the same into, through or under any land belonging to some person other than the said owner or occupier, the Corporation, after giving to the person to whom the said land belongs a reasonable opportunity of stating any objection, may, if no objection is raised, or if any objection which is raised appears to it invalid or insufficient, by an order in writing authorize the said owner or occupier to carry his drain into, through or under the said land in such manner as it shall think fit to allow.

(2) Every such order, bearing the signature of such officer as the Corporation shall prescribe, shall be a complete authority to the person whose favour it is made, or to any agent or person employed by him for this purpose, after giving to the owner of the land reasonable written notice of his intention so to do, to enter upon the said land with assistants and workmen, at any time between sunrise and sunset, and to execute the necessary work.

(3) Subject to all other provisions of this Act, the owner or occupier of any premises; or any agent or person employed by him for this purpose, may, after giving to the owner of the land, wherein a drain has been already lawfully constructed for the drainage of his said premises, reasonable written notice of his intention so to do, enter upon the said land with assistants workmen, at any time between sunrise and sunset, and construct a new drain in the place of the existing drain or repair or alter any drains so constructed.

(4) In executing any work under this section, as little damage as can be shall be done, and the owner or occupier of the premises for the benefit of which the work is done shall -

(a) cause the work to be executed with the least practicable delay;

(b) fill in, reinstate and make good, at his own cost and with the practicable delay, the ground or portion of any building or other construction opened, broken up or removed for the purpose of executing the said work; and

(c) pay compensation to any person who sustains damage by the execution of the said work.

(5) If the owner of any land into, through or under which a drain has been carried under this section, whilst such land was unbuilt upon, shall, at any time afterwards desire to erect a building on such land, the Corporation shall, by written notice, require the owner or occupier of the premises for the benefit of which such drain was constructed to close, remove or divert the same in such manner as shall be approved by it, and to fill in, reinstate and make good the land as if the drain had not been carried into, through or under the same: provided that no such requisition shall be made unless in the opinion of the Corporation it is necessary or expedient, in order to admit of the construction or the proposed building or the safe enjoyment thereof, that the drain be closed, removed or diverted.

103. Every owner of a drain, connected with a municipal drain or other place set apart by the Corporation for drainage shall be bound to allow the use of it to other persons, or to admit other persons as joint owners thereof, on such terms as may be prescribed under section 105.

104. Any person desiring to drain his premises into a municipal drain, through a drain of which he is not an owner, may make a private arrangement with the owner for permitting his use of the drain, or may apply to the Corporation for authority to use such drain or to be declared joint owner thereof.

105. (1) Where the Corporation is of opinion whether on receipt of such application or otherwise, that the only or the most convenient means by which the owner or occupier of any premises can cause the drain of such premises to empty into a municipal drain or other place set apart by the Corporation for the discharge of drainage is through a drain communicating with such municipal drain or place aforesaid, but belonging to some person other than the said owner or occupier, the Corporation, after giving the owner of the drain a reasonable opportunity of stating any objection thereto, may, with the approval of the standing committee concerned, if no objection is raised or any objection which is raised appears to it invalid and insufficient, by an order in writing authorize the said owner or occupier to use the drain, or declare him to be a joint owner thereof, on such conditions as to the payment of rent or compensation and as to connecting the drain of the said premises with the communicating drain and as to the respective responsibilities of the parties for maintaining, repairing, flushing and cleansing the joint drain or otherwise, as may appear to it equitable.

(2) Every such order, bearing the signature of such officer as the Corporation shall prescribe, shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving or tendering to the owner of the drain the compensation or rent specified in the said order and otherwise fulfilling, as far as possible, the conditions of the said order, and after giving to the owner of the drain reasonable written notice of his intention so to do, to enter upon the land in which the said drain is situated with assistants and workmen, at any time between sunrise and sunset, and subject to all provisions of this Act, to do all such things as may be necessary for:

(a) connecting the two drains; or

(b) renewing, repairing or altering the connection; or

(c) discharging any responsibility attaching to the person in whose favour the Corporation's order is made for maintaining, repairing, flushing or cleansing the joint drains or any part thereof.

(3) In respect of the execution of any work under sub-section (2) the person in whose favour the aforesaid officer's order is made shall be subject to the same restrictions and liabilities as are specified in section 102, sub-section (4).

106. (1) If it appears to the Corporation that any group or block of premises any part of which is situated within one hundred feet of any municipal drain, or of some place set apart by the Corporation for the discharge of drainage, which already exists or is about to be constructed, may be drained more economically or advantageously in common than separately, the Corporation may cause such group or block of premises to be drained by such method as appears to it to be most suitable therefore, and the expenses incurred by the Corporation in so doing shall be paid by the owners of such premises in such proportions as the Corporation may think fit.

(2) Not less than fifteen days before any work under this section is commenced, the Corporation shall give written notice to the owners of all the premises to be drained, of:

(a) the nature of the intended work;

(b) the estimated expenses thereof; and

(c) the proportion of such expenses payable by each owner.

107. (1) In the case of premises abutting on a public street in which there is a municipal drain and in the case of premises drained in pursuance of the provisions of section 98 or 106 the Corporation shall construct, at the expense of the owner of the premises for the use and benefit of which the drain is constructed, such portion of the drain of the premises to be connected with such municipal drain as it shall be necessary to lay under any part of a public street.

(2) The portion of any connecting drain so laid under a public street shall vest in the Corporation and be maintained and kept in repair by the Corporation as a municipal drain.

(3) The remainder of every drain constructed, erected, set up or continued for the sole use and benefit of any premises shall:

(a) vest in the owner of such premises;

(b) be maintained and kept in repair by the owner or occupier of such premises; and

(c) be from time to time flushed, cleansed and emptied by the Corporation at the charge of the Municipal Fund:

Provided that, where several premises are drained, in common under section 106, such remainder shall vest in the owners jointly and the cost of maintenance and repair thereof shall be distributed in the same proportions as are fixed by the Corporation under the said section.

108. (1) When a drain connecting any premises with a municipal drain or other place set apart by the Corporation for the discharge of drainage is sufficient for the effectual drainage of the said premises and is otherwise unobjectionable, but is not in the opinion of the Corporation adapted to the general drainage system of the City, or of that part of the City in which such drain is situated, the Corporation may:

(a) close, discontinue or destroy the said drain and cause any work necessary for that purpose to be done; or

(b) direct that such drain shall, from such date as it prescribes in this behalf, be used for offensive matter and sewage only, or for rain water and unpolluted sub-soil water only.

(2) No drain may be closed, discontinued or destroyed by the Corporation under sub-section (1) except on condition of its providing another drain equally effectual for the drainage of the premises and communicating with such municipal drain or other place aforesaid as the Corporation thinks fit; and the expenses of construction of any drain so provided by the Corporation and of any work done under clause (a) of the said sub-section shall be paid from the Municipal Fund.

109. (1) For the purpose of ventilating any drain, whether belonging to the Corporation or to any other person, the Corporation may erect upon any premises or affix to the outside of any building, or to any tree, any such shaft or pipe as shall appear to the Corporation necessary and cut through any projection from any building (including the eaves of any roof thereof) in order to carry up such shaft or pipe through any such projection, and lay in, through or under any land, such appliances as may in the opinion of the Corporation be necessary for connecting such ventilating shaft or pipe with the drain intended to be ventilated.

(2) Any shaft or pipe so erected or affixed shall:

(a) be carried at least fifteen feet higher than any sky-light or window situated within a distance of forty feet there from;

(b) if the same be affixed to a wall supporting the eaves of a roof, be carried at least five feet higher than such eaves; and

(c) be removed by the Corporation to some other place, if at any time the owner of the premises, building or tree upon or to, which the same has been erected or affixed is desirous of effecting any change in his property which either cannot be carried out, or cannot without unreasonable inconvenience be carried out, unless the shaft or pipe is removed.

(3) If the Corporation declines to remove a shaft or pipe under clause (c) of sub-section (2) the owner of the premises, building or tree upon or to which the same has been erected or affixed may apply to the Chief Judge of the Rangoon [City Civil Court] [Substituted by Act XVI, 1946], and the said Judge may, after such enquiry as he thinks fit to make, direct the Corporation to remove the shaft or pipe, and it shall be incumbent on the Corporation to obey such order.

(4) Where the owner of any building or land cut through, opened or otherwise dealt with under sub-section (1) is not the owner of the intended to be ventilated, the Corporation shall, so far as is practicable, reinstate and make good such building, and fill in and make good such land, at the charge of the Municipal Fund.

110. All drains, ventilation shafts and pipes, and all appliances and fittings connected with drains constructed, erected, or set up at the charge of the Municipal Fund upon premises not belonging to the Corporation, shall, unless the Corporation has otherwise determined, or shall at any time otherwise determine, vest in the Corporation.

Scavenging and Cleansing.

111. For the purpose of collecting, treating and removing rubbish and offensive matter, the Corporation shall provide public receptacles, depots and places for the temporary deposit or final disposal thereof:

Provided that the President of the Union may prohibit such final disposal in any specified place or manner.

112. When the Corporation has given public notice under clause (a) of section 84, sub-section (1), that the collection and removal of sewage offensive matter and rubbish from the buildings and lands in any portion of the City will be under taken by municipal agency, it shall forthwith take measures for the due collection and removal of such matter from any buildings and lands situated in the said portion of the City.

113. In carrying out the duties imposed on the Corporation by clauses (i), (ii) and (iii) of section 25, or exercising the power conferred thereon by sections 94, 95, 96, 97, 109, 111 and 112, the Corporation is responsible that the least practicable nuisance is created.

Water-supply.

114. Where the Corporation has under clause. (b) of section 85, sub-section (1), given public notice that sufficient water is available from municipal water-works for furnishing a

reasonable supply of water for domestic purposes, it shall forthwith take measures to ensure the supply of such water.

115. For the purpose of making provision for a supply of water proper and sufficient for public and private purposes the Corporation may:

- (a) construct and maintain water works, either within or without the City, and do any other necessary acts;
- (b) purchase or take on lease any water-work or any water or right to store or to take and convey water, whether within or without the City; and
- (c) enter into an arrangement with any person for a supply of water.

115. The Corporation may, for the purpose of inspecting or repairing or executing any work in, upon or in connection with any municipal water-work, at all reasonable times:

- (a) by any authorized person enter upon and pass through any land, within or without the City, adjacent to or in the vicinity of such water-work, in whomsoever such land may vest;
- (b) Cause to be conveyed into and through any such land all necessary men, materials, tools and implements.

117. Except with the permission of the Corporation, no person shall:

- (a) erect any building for any purpose whatever on any part of the area enclosed by the boundary-fence of any lake or reservoir from which a supply of water is-derived for a municipal water-work; or
- (b) remove, alter, injure, damage or in any way interfere with the aforesaid boundary-fence.

118. Except as hereinafter provided, no person shall:

- (a) cause or surfer to percolate or drain into or upon any municipal water-work or to be brought there into or thereupon anything, or to be done any act, whereby the water therein shall be in any way fouled or its quality altered;
- (b) alter the surface of any municipal land adjacent to or forming part of any such work by digging there into or depositing thereon any substance;
- (c) cause or suffer to enter into the water in such work any animal;
- (d) throw or put into or upon the water in such work anything;
- (e) bathe in or near such work; or

(f) wash or cause to be washed in or near such work any animal or other thing.

119. If it shall be shown that an offence against any provision of this Act has occurred on any premises to which a private supply of water is supplied by the Corporation, it shall be presumed, until the contrary is proved, that such offence has been committed by the occupier of the said premises.

General Provisions with reference to Drainage, Water-supply and other Mains.

120. The Corporation may carry any cable, wire, pipe, drain or channel of any tkind required for the establishment or maintenance of any system of drainage, water-supply or lighting through, across, under or over any street or railway or any place laid out as or intended for a street, and, after giving reasonable notice, in writing to the owner or occupier, through, across, under, over or up the side of any land or building whatsoever, within or without the City, and may place and maintain any posts, poles, standards, brackets or other contrivances for supporting cables, wires, pipes, channels and lights on any immoveable, property in the City, and may do all acts necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, channel, post, pole, standard, bracket or other similar contrivance in an effective state for the purpose for which it is intended to be used or for removing the same.

121. (1) Without the permission of the Corporation, no building, wall or other structure shall be erected or re-erected, and no street or railway or tramway shall be constructed over any municipal drain or municipal water, gas or air main.

(2) If any building, wall or other structure be so erected or re-erected, or any street or railway or tramway be so constructed, the Corporation may remove or otherwise, deal with the same as it shall think fit, and the expenses thereby incurred shall be paid by the person offending.

122. In the exercise of any power conferred by section 116 or 120 as little damage or inconvenience as can be shall be done or caused, and compensation for any damage which maybe done in the exercise of any of the said powers shall be paid by the Corporation.

CHAPTER X PUBLIC HEALTH AND SAFETY

Factories and Trades.

123. (1) No person shall:

(a) newly establish, or

(b) remove from one place to another, or

(e) re-open or renew after discontinuance for a period of not less than two years, or

(d) enlarge the area or dimensions of any factory, workshop or bakery in any area other than an area set apart for the accommodation of industries by any Act for the time being in force or by any local authority, except with the permission of the Corporation and in accordance with the terms and conditions stated in such permission.

(2) The Corporation may refuse to give such permission if it is of opinion that the establishment of such factory, workshop or bakery in the proposed position is objectionable by reason of the nature of the site thereof or the density of the population in the neighbourhood thereof or will be a nuisance to the inhabitants of the neighbourhood.

(3) The Corporation may, as a condition of granting such permission, require the owner of any such factory, workshop or bakery to provide housing accommodation sufficient for the number of persons permanently employed by him on the premises;

(4) In the event of any act being done in contravention of the provisions of sub-section (1), the Corporation may cause to be forcibly removed all persons from the premises in which the factory, workshop or bakery in respect of which the offence has been committed is situated and no person shall thereafter enter into or remain in the said premises without the permission of the Corporation.

124. No person shall, otherwise than in accordance with the provisions of this Act:

(a) store or keep in any premises any articles which are prescribed as dangerous or offensive, or as being, or likely to be, a nuisance to the public, or dangerous to life, health or property;

(b) store or keep in any premises the hide or any part of the carcass of any animal afflicted at the time of its death with infectious or contagious disease; or

(c) carry on or allow to be carried on, in any premises, any trade, manufacture, industry or operation which is prescribed as dangerous to life, health or property or as likely to create a nuisance, either from its nature or by reason of the manner in which or the conditions under which the same is, or is proposed to be, carried on:

Provided that nothing in this section shall affect the provisions of the Explosives Act or the Petroleum Act.

Markets and Slaughter-houses.

125. (1) No person shall, without, or otherwise than in conformity with the terms of, a licence granted by the Corporation in this behalf:

(a) keep open, or

- (b) newly establish, or
- (c) remove from one place to another, or
- (d) re-open or re-establish after discontinuance for a period of not less than one year, or
- (e) enlarge the area or dimensions of a private market:

Provided that the Corporation shall not refuse, cancel or suspend any licence for keeping open a private market for any cause other than the failure of the owner thereof to comply with some provision of this Act or of his licence after his attention has been drawn to such failure.

(2) When the Corporation has refused, cancelled or suspended any licence to keep open a private market it shall cause a notice of its having so done to be affixed [...] [The words “in the English and Burmese languages” were omitted by the Union of Burma (Adaptation of Laws) Act, 1948] on some conspicuous spot on or near the building or place where such market has been held.

126. (1) No person shall, without a licence from the Corporation, sell or expose for sale, any four-footed animal, or any meat or fish intended for human food, in any place other than a municipal or licensed market.

(2) Nothing in sub-section (1) shall apply:

- (a) to meat or fish sold in any hotel or eating-house for consumption on the premises; or
- (b) to fresh fish sold from, or exposed for sale on, a vessel in which it has been brought direct to Rangoon after being caught at sea or in the river.

127. No person shall, at any place other than a municipal slaughter-house except with the permission of the Corporation and in accordance with the terms and conditions of such permission, slaughter or cause or permit to be slaughtered any four footed animal, the flesh of which may be used as human food:

Provided-that, notwithstanding the provisions of section 178, sub-section (3), the Corporation shall not charge any fee for the grant of permission for the sacrificial slaughter, on the occasion of any festival or ceremony of animals, the flesh of which is not intended for sale.

128. (1) If there are reasonable grounds for believing that any animal has been or is being or is likely to be slaughtered in contravention of the provisions of section 127, any municipal officer authorized in this behalf may, at any time by day or night, enter into and inspect any such place or premises and may seize any animal or the carcass of any slaughtered animal found therein.

(2) The officer so authorized may remove and sell by auction or otherwise dispose of any animal or the carcass of any animal seized under sub-section (1), and shall place in deposit, in the Municipal Fund the proceeds of any such sale.

(3) If the owner of any animal or carcass so seized fails to appear within one month from the date of such seizure, and prove his claim to the satisfaction of the Corporation, or if such owner is convicted of an offence under this Act with respect to such animal or carcass, the proceeds of the aforesaid sale shall vest in the Corporation.

(4) If the owner of any animal or carcass so seized appears and proves his claim to the animal or carcass or to the proceeds of the sale thereof to the satisfaction of the Corporation, within one month from the date of such seizure, the Corporation shall, if it does not prosecute such owner or if as a result of the institution of a prosecution such owner is acquitted or discharged, pay to such owner the proceeds of the sale of such animal carcass.

129. The Corporation may:

(a) charge such stallages, rents and fees as it may from time to time fix for the use or occupation of any stall, shop, shed, standing, pen, lairage, or other building in a municipal market or municipal slaughter house, and for the right to expose goods for sale in a municipal market, and for weighing and measuring goods sold in any municipal market;

(b) farm the stallages, rents and fees leviable under clause (a); and

(c) put up to public auction the privilege of occupying or using any stall, shop, shed, standing, pen, lairage or other building in a municipal market or municipal slaughter-house for such period and on such conditions as it may think fit.

Weights and Measures.

130. (1) Any municipal officer authorized in this behalf may, at all reasonable times, enter into any market, building, shop, stall or place used for sale of any goods, food, drink or drugs and inspect any instruments for weighing, weights or measures found therein and test the same with other weights and measures, and may seize any such instrument for weighing, weight or measure which he reasonably suspects to be false or other than those prescribed and may cause the same to be examined or tested.

(2) Every person for the time being in charge of, or employed in, such market, building, shop, stall or place, shall, if so required by the officer authorized, produce for such inspection and comparison all instruments for weighing, weights and measures kept or used therein.

Seizure of Animals.

131. (1) Any municipal officer authorized in this behalf may:

(a) if he has reason to believe that any animal is being kept in any place or premises in contravention of any provision, of this Act, at anytime of the day or night, enter into and inspect such place or premises and seize and remove any animals so kept therein; or

(b) seize and remove any animal found in the course of importation into, or transport within, the City, in contravention of any provision of this Act.

(2) If the owner of any animal seized under sub-section (1) fails to appear within one month from the date of such seizure, and prove his claim to such animal to the satisfaction of the Corporation, the Corporation may sell such animal by auction or otherwise and the proceeds of such sale shall be credited to the Municipal Fund.

(3) If the owner of any animal seized under sub section (1) appears within one month from the date of such seizure and proves his animal to the satisfaction of the Corporation, the Corporation shall, if reasonable charges for feeding and tending are paid, return such animal to such owner and may direct the prosecution of such owner under the provisions or this Act.

Food, Drink and Drugs.

132. No person shall sell, expose for sale or keep for sale any food, drink or drug intended for human consumption or medical treatment or manufacture any such food, drink or drug which is diseased, unsound, unwholesome or unfit for human food.

Explanation: Meat into which air or water has been blown or injected shall be deemed to be unfit for human food.

133. (1) No person shall sell or expose, manufacture or store for any article of food or drink or any drug which has been adulterated;

(2) An article or drug shall be deemed to be adulterated;

(a) in the case of an article of food or drink;

(i) if any substance has been mixed or packed therewith so as to reduce or lower or injuriously affect its quality or strength;

(ii) if any valuable constituent of the article has been wholly or in part abstracted.

(b) in the case of a drug:

(i) if, when it is sold or exposed for sale under or by a name recognized in the British Pharmacopuaia, it differs from the standard of strength, quality or purity laid down in the said Pharmacopceia, unless the standard of strength, quality or purity of such drugs is plainly stated on the bottle, box or other receptacle; or

(ii) if its strength, quality or purity falls below the professed standard under which it is sold or exposed for sale:

Provided that no adulteration shall be deemed to have taken place where:

(i) the article or drug was unavoidably mixed with any extraneous matter in the process of collection or preparation; or

(ii) any matter or ingredient not injurious to health, has been added thereto or mixed therewith because such matter or ingredient was required for the production or preparation thereof as an article of commerce in a state fit for conveyance or consumption and not fraudulently to increase the bulk, weight or measure thereof or to conceal its inferior quality, if the vendor in the prescribed manner brought to the notice, of the purchaser the fact that such matter or ingredient had been so added or mixed.

(3) The President of the Union may, with reference to any particular article of food or drink, or to any drug:

(a) declare by notification what deficiency in any of the normal constituents, or what addition of extraneous substance or proportion of water;

(b) fix by notification a standard of quality, specific gravity or percentage of constituent parts, failure to conform with which;

shall for the purposes of this Act, raise a presumption, until the contrary is proved that the food, drink or drug, as the case may be, is adulterated.

134. No person shall sell or expose, manufacture or store for sale any article of food or drink or any drug to which the President of the Union has by notification applied this section unless it fulfils the conditions specified in such notification.

135. No person shall sell or expose, manufacture or store for sale, as being any specified article of food or drink or any specified drug, to which the President of the Union has by notification extended this section, any article hereinafter referred to as a "substitute" which resembles or purports to be but is different in nature, substance or quality from such notified article or drug.

136. In any prosecution under section 132, 133, 134 or 135:

(a) the Court shall presume, unless and until the contrary is proved, that any animal, food, drink or drug or substitute therefore found in the possession of any person who is or has recently been in the habit of selling that class of animal, or of manufacturing, storing or selling such food, drink or drug, or what purports or is purported to be such food, drink or drug, was being kept, manufactured or stored for sale by such person;

(b) it shall be no defence for such person to plead that he was ignorant that the animal, food, drink or drug or substitute was diseased, unsound, unwholesome or unfit for human food or was adulterated or did not fulfill the conditions specified or was a substitute, as the case may be;

(c) no offence shall be deemed to have been committed where such person proves to the satisfaction of the Court that he obtained the food, drink; drug or substitute under a warranty from the manufacturer in, or importer into, the Union of Burma, as the case may be, that the food, drink, drug or substitute had not been adulterated, did fulfill the conditions specified or was not a substitute, and that he had no reason to believe otherwise.

137. When any person has been discharged or acquitted of an offence by reason of the provisions of clause (c) of section 136, and the warranty proves to be incorrect or misleading, the warrantor shall be deemed to have committed such offence:

138. (1) Any municipal officer authorized in this behalf may at any time enter into and inspect any market, building, shop, stall or place used for the sale of any animals, food, drink or drugs intended for human consumption or medical treatment or for the preparation, manufacture or storage of the same for sale, and may inspect and examine any such animal, food, drink or drug and any utensil or vessel used for preparing, manufacturing or containing any such food, drink or drug which may be therein.

(2) If any such animal appears to such officer to be diseased, or if any such food, drink or drug appears to him to be unsound, unwholesome or unfit for human consumption or medical treatment, as the case may be, or to be adulterated, or not to fulfill the specified conditions or to be a substitute, or if any such utensil or vessel is of such kind or in such state as to render any food, drink or drug prepared, manufactured or contained therein unwholesome or unfit for human consumption or medical treatment, as the case may be, he may seize and remove such animal, food, drink, drug, utensil or vessel in order that the same may be dealt with as hereinafter in this chapter provided.

(3) The authorized officer may, instead of removing any such food, drink, drug, utensil or vessel seized under sub-section (2), leave the same in such safe custody as the Corporation directs in order that the same may dealt with as hereinafter in this Chapter provided; and no person shall remove such animal, food, drink, drug, utensil or vessel from such custody or interfere or tamper with the same in any way while so detained.

139. Any municipal officer authorized in this behalf may at any time seize any articles of food or drink or any drugs which are in course of importation into or transport within the City in contravention of the provisions of this Act.

140. (1) When any animal, food, drink, drug, utensil or vessel is seized under section 138, sub-section (2), or section 139, it may, at the discretion of the officer making the seizure and with the consent of the owner or the person in whose possession it was found, be forthwith destroyed: provided that if any food, drink or drug so seized is of a perishable nature and is

in the opinion of the officer making the seizure, diseased, unsound, unwholesome or unfit for human consumption or medical treatment, it may be destroyed without such consent.

(2) The expenses incurred on behalf of the Corporation in taking any action under sub-section (1) shall be paid by the person in whose possession such animal, food, drink, drug, utensil or vessel was at the time of its seizure.

141. (1) Any animal, food, drink, drug, utensil or vessel seized under section 138, sub-section (2) or section 139, which is not destroyed in pursuance of section 140, shall, subject to the provisions of section 138, sub-section (3), be taken before a Magistrate as soon as may be after such seizure.

(2) If it appears to the Magistrate that such animal, food, drink, drug, utensil or vessel was rightly seized, he shall cause the same:

(a) to be forfeited to the Corporation; or

(b) to be destroyed at the expense of the person in whose possession it was found at the time of its seizure.

(3) If the Magistrate is of the contrary opinion the person from whose shop or place it was taken shall be entitled to have it restored to him, and it shall be in the discretion of the Magistrate to award him such compensation, not exceeding the actual loss or expenses which he has sustained or incurred, as the Magistrate may think proper.

142. When any authority directs, in exercise of any powers conferred by this Chapter, the destruction of any animal or food, drink or drug or the disposal of the same so as to prevent its being used as food or medicine, the same shall thereupon be deemed to be the property of the Corporation.

143. Any dealer in, or purchaser of, any food, drink or drug, who submits the same to the Municipal Analyst and pays such fee as the Corporation may fix in this behalf, shall be entitled to have the same analysed by the Municipal Analyst and to receive from him a certificate of the results of his analysis.

144. (1) Any municipal officer authorised in this behalf may apply to purchase any article of food, drink or drug, which may be kept or exposed for sale, or be in course of importation into, or transport within the City, or for the regulation of the sale, importation or transport of which provision has been made under this Act, upon tendering the price for a quantity not more than reasonably requires it for the purpose of analysis, and the person in charge of such article of food, drink or drug shall, if he has authority to sell, be bound to sell such quantity.

(2) If the person in charge of any article of food, drink or drug as aforesaid shall be unable for want of authority to sell such quantity as shall be reasonably requisite as aforesaid; the

authorized officer may seize a quantity not more than reasonably requisite as aforesaid and shall grant him a certificate stating the nature and quantity of the article seized, and the date and place of seizure, and, upon claim being made, shall pay to the owner the price of the article seized.

(3) The authorized officer, after purchasing or seizing any article under sub-section (1) or sub-section (2), and any person purchasing any article with the intention of submitting the same to analysis, shall, after completing the purchase, forthwith notify to the person in charge of such article his intention to have the same analysed, and shall divide the article into three parts to be then and there separated and each part to be marked and sealed or fastened in such manner as its nature will permit.

(4) The authorized officer and any such person as is mentioned in sub-section (3) shall deliver one of the said parts to the seller or his agent, shall retain another for future comparison, and may send the third to the Analyst.

Disposal of the Dead.

45. (1) If, from information furnished by competent persons and personal inspection by an officer authorized in that behalf, the Corporation is of the opinion:

(a) that any place of public worship is or is likely to become injurious to health by reason of the state of the vaults and graves in or about the same, or of any churchyard or burial ground adjacent thereto; or

(b) that any other place used for the disposal of the dead is in such a state as to be or to be likely to become injurious to health,

it may submit its opinion, with the reasons therefore, for the consideration of the President of the Union.

(2) Upon receipt of such opinion the President of the Union, after such further inquiry, if any, as he shall deem fit to cause to be made, may, by notification published in the Gazette and the local newspapers, direct that such place of public worship or other place for the disposal of the dead be no longer used for the disposal of the dead.

(3) On the expiration of two months from the date of any such order of the President of the Union, the place to which the same relates shall be closed for the disposal of the dead.

146. (1) If the Corporation is of opinion that any place formerly used for the disposal of the dead, but closed under the provisions of section 145 or under any other law or authority, has by lapse of time become no longer injurious to health, and may without risk of danger be again used for the said purpose, it may submit its opinion, with the reasons therefore; for the consideration of the President of the Union.

(2) Upon receipt of such opinion the President of the Union; after such further inquiry, if any, as he shall deem fit to cause to be made, by notification published as aforesaid, direct that such place be re opened for disposal of the dead.

147. (1) No person shall without the permission of the Corporation under sub-section (2):

(a) make any vault or grave or interment within the wall, or underneath any passage. porch, portico, plinth or any public place of worship; or

(b) make any interment or otherwise dispose of any corpse in any place which is closed for the disposal of the dead under section 145; or

(c) build, dig or cause to be built or dug, any grave or vault, or in any way dispose of, or suffer, or permit to be disposed of, any corpse at any place not registered as a place for the disposal of the dead; or

(d) exhume any corpse.

(2) The Corporation may, in special cases, grant permission for any of the purposes aforesaid, subject to such general or special orders as the President of the Union may from time to time make in this behalf.

(3) An offence under this section shall be deemed to be a cognizable offence within the meaning of sections 149, 150 and 151 of the Code of Criminal Procedure.

Emergency Provisions.

148. In the event of the City being at any time visited or threatened with an outbreak of any dangerous disease, or in the event of any infectious disease breaking out for being likely to be introduced into the City amongst man or animals, the Commissioner, if he is of the opinion that the ordinary provisions of this Act or of any other law for the time being in force are insufficient for the purpose, may:

(a) take such special measures, and

(b) by public notice prescribe such temporary regulations to be observed by the public or by any person or class of persons,

as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

149. (1) If the Corporation is of opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease, it may, giving to the owner or occupier of such hut or shed such previous notice of its intention as may in the circumstances of the case appear to it reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

(2) Compensation may be paid by the Corporation, in any case in which it thinks fit, to any person who sustains substantial loss by the destruction of any such hut or shed; but except as so allowed by the Corporation, no claim for compensation shall lie for any loss of damage caused by any exercise of the power conferred by this section.

150. In any case in which the Commissioner is empowered to cause the disinfection of clothing, bedding or other articles which have become infected with disease, he may direct the destruction of such clothing, bedding or other articles if they are likely to retain infection, and may, in his discretion, give compensation for any article so destroyed.

151. On the occurrence of any sudden or unforeseen event, or in the threatened occurrence of any disaster involving or likely to involve extensive damage to any property, or danger to human or animal life, the Commissioner shall take such action as the emergency shall appear to him to justify or to require.

152. Whenever the Commissioner takes any action under section 148, 150 or 151 he shall immediately report to the Corporation the action he has taken, the reasons therefore and the cost incurred thereby; and he shall comply with any directions given by the Corporation in respect of such matter.

CHAPTER XI BUILDINGS AND STREETS

Buildings.

153. No person shall commence, the work of erection or re-erection of any building or of any excavation for the foundations thereof:

(a) unless and until the Corporation has either granted permission for the erection or re-erection thereof or has failed to intimate within the prescribed period its refusal of such permission; or

(b) after the expiry of one year from the date of the said order granting permission or from the end of the prescribed period, as the case may be.

154. (1) Every person who erects or re-erects any building, shall, within one month after the completion of the work of erection or re-erection, deliver or send to the Corporation notice in writing of such completion and shall give to the Corporation all necessary facilities for the inspection of such building.

(2) The Corporation shall, within seven days after the receipt of the said notice, depute an officer to commence the work of inspection of such building.

(3) The Corporation may, within seven days from the date of commencement of such inspection, by written intimation addressed to the person from whom the notice of

completion was received, and delivered at his address as stated in such notice, or, in the absence of such address, affixed to a conspicuous part of the building to which such notice relates:

(a) give permission for the occupation of the building erected or the use of the part of the building re-erected; or

(b) refuse such permission in case such building has been erected or re-erected so as to contravene any provision of this Act.

(4) No person shall occupy or permit to be occupied any such building or use or permit to be used any part affected by the re-erection of such building:

(a) until the permission referred to in clause (a) of sub-section (3) has been granted in the prescribed manner; or

(b) unless the Corporation has failed for twenty-one days after the receipt of notice of completion to intimate its refusal of the said permission.

155. (1) If any person:

(a) commences the work of erection or re-erection of any building, or of any excavation for the foundations thereof, without the permission of the Corporation; or

(b) proceeds with the work of erection or re-erection of any building or otherwise than after compliance in full with the lawful requirements of any prescribed notice by the Corporation; or

(c) occupies or permits to be occupied or uses or permits to be used any building or part of a building erected or re-erected without the permission of the Corporation under section 154; the Corporation may, after twenty-four hours' notice, direct that all persons engaged in any capacity in the work of erection or re-erection of such building or part of a building, or occupying, or using such building or part of a building, shall be removed therefrom, and may call upon the Commissioner of Police of Rangoon to enforce such removal, and the Commissioner of Police, on receipt of any such requisition, shall cause all the persons aforesaid to be removed from such building and shall take such measures as will prevent any such person from again entering into or remaining upon such building or part of a building except with the permission of the Corporation: provided that any person occupying or using such building or part of a building as a tenant shall not be removed under clause (c) unless one week's notice in writing requiring such person to vacate the same has been served on him by the Corporation.

(2) All expenditure incurred in the enforcement of the provisions of this section may be recovered from the person offending.

156. (1) If for any reason it shall appear to the Corporation that any building or part of a building intended for or used for human habitation or human occupation for any purpose whatever is unfit for such habitation or occupation, it shall give to the owner or occupier of such building notice in writing, stating such reason and signifying its intention to prohibit the further use of such building or part of a building for such purpose, and calling upon the owner or occupier of such building to state in writing any objection thereto within seven days after the receipt of such notice, and, if not objection is raised by such owner or occupier within such period as aforesaid, or if any objection which is raised by such owner or occupier within such period appears to the Corporation invalid or insufficient, it may, by an order in writing, prohibit the further use of such building or part of a building for human habitation or occupation: provided that, before such order is given, the owner or occupier of the building shall have an opportunity of appearing before the Corporation (or such standing committee as maybe prescribed in this behalf), in person or by agent, in support of his objection;

(2) When any such prohibition as aforesaid has been made, the Corporation shall cause notice of such prohibition to be served upon the owner of, and upon every person who occupies or uses for any purpose, the building or part of a building thereby affected; such notice shall specify a day, being not less than fourteen days from the date thereof, on or before which every such occupier shall remove himself and his property from the said building or part of a building, and, if on the day so appointed any occupier has failed to comply with the terms of the said notice, the Corporation may cause such occupier and his property to be removed from the said building or part of a building and may for such purpose enforce the prohibition by calling upon the Commissioner of Police of Rangoon in the manner provided for in section 155; and all expenditure incurred in such enforcement may be recovered from the person offending;

(3) When a building or part of a building has been evacuated under sub-section (2), the Corporation shall mark it in the manner prescribed and no person shall, except with the permission of the Corporation and in accordance with the terms and conditions of such permission, enter into or remain in such building or part of a building;

(4) At any time after a building or part of a building has been evacuated under sub-section (2) the Corporation may, if it considers that such building or part of a building can be rendered fit for human habitation by alterations or repairs, by notice in writing call upon the owner to execute, within a period of six months from the date of receipt of such notice, such structural alterations or repairs as it deems necessary, or may, if it considers it impossible to render such building or part of a building fit for human habitation by notice in writing call upon the owner to demolish such building or part of a building within a period of thirty days from the receipt of such notice;

(5) If at the expiration of the aforesaid period of six months such structural alterations or repairs have not been executed to the satisfaction of the Corporation it shall issue to the owner thereof a notice in writing ordering the demolition of such building or part of a building within a period of thirty days from the date of receipt of such notice;

(6) If at the expiration of the period of thirty days an order to demolish a building or part of a building, issued under sub-section (4) or sub-section (5), has not been complied with, the Corporation may direct, by an order in writing, the demolition of such building or part of a building by any municipal officer or servant or contractor and the materials of such building or part of a building shall become the property of the Corporation: provided that before such order is made, the owner of the building or part of a building shall have an opportunity of appearing before the Corporation or such standing committee as may be prescribed in this behalf, in person or by agent and of showing cause why such order should not be made;

(7) For sufficient cause, the Corporation may extend the time allowed under, or prescribed by, sub-sections (4), (5) and (6);

(8) If any building or part of a building in respect of which an order under this section has been made is the subject of a lease, such lease shall be voidable at the option of the lessee with effect from the date on which the said order comes into force.

157. (1) If any building, wall, structure or any thing affixed thereto is in a ruinous or dangerous state the Corporation may, by notice in writing, require the owner or occupier thereof forthwith either to remove the same or cause such repairs to be made thereto as it considers necessary for the public safety, if it appears to it to unnecessary in order to prevent imminent danger, it may forthwith take such steps as may be necessary to avert such danger, and such steps may include the forcible removal without notice from such building of all the occupiers thereof and their property;

(2) Any expense incurred by the Corporation under sub-section (1) shall be paid by the owner of the said building, wall structure or thing affixed thereto;

(3) No person shall enter into or remain in any building from which the occupiers have been removed under sub-section (1) except with the permission of the Corporation.

158. (1) If for any reason it shall appear to the Corporation that the level of the site of any building is so low that such building is, or is likely to become unsanitary or to create a nuisance, it shall give to the owner or occupier of such building notice in writing, calling upon such owner. or occupier to show cause in writing within thirty days after the receipt of such notice why the said site should not be reclaimed with such materials and raised to such a height and within such period, being not less than six months from the date of the notice, as it shall think fit, and shall also specify in the said notice the cost at which it is prepared to perform the work required by municipal agency, if asked so to do by the said owner or occupier;

(2) If no objection is raised by such owner or occupier within such period as aforesaid or any objection which is raised by such owner or occupier appears to the Corporation invalid or insufficient, it may, by notice in writing, direct such owner or occupier:

- (a) to carry out such reclamation and raising of the height within the period prescribed; or
 - (b) within thirty days after the receipt of the said notice to pay to the Corporation the estimated cost of performing the work by municipal agency.
- (3) In any case in which the estimated cost of the reclamation has not been paid to the Corporation, if the aforesaid owner or occupier fails to commence the work of reclamation within three months after the receipt by him of the notice under sub-section (2), or if he thereafter fails to carry on and complete the reclamation to the specified height and with the specified materials within a reasonable period, the Corporation may recover from him the estimated cost of the work as stated in the notice issued under sub-section (1), or so much thereof as it may consider necessary to complete the work, and may carry out and complete the work by municipal agency.

159. (1) If any building, the site of which is so low as to be, or to be in the opinion of the Corporation, likely to become insanitary, is demolished or destroyed by fire or by any other cause, the Corporation may, by notice in writing addressed to the owner or occupier of such site, direct that no building shall be erected thereon unless and until the said site has been raised to such height and with such materials as it may specify in such notice;

(2) No person shall erect or re-erect any building in contravention of such notice.

Public Streets.

160. The Corporation may permanently close the whole or any part of a public street:

Provided that:

- (i) no such street or part of such street shall be closed unless once month at least before the meeting at which the matter is decided a notice has been put up in the street or part of a street which it is proposed to close, informing the residents of the said proposal, not until the objections to the said proposal, if any, made in writing at any time before the date of the said meeting, have been received and considered by the Corporation;
- (ii) where the site thereof was transferred to or placed at the disposal of the Municipal Committee of Rangoon or of the Corporation by the President of the Union for use as a street, the previous sanction of the President of the Union has been obtained in that behalf.

161. Whenever any public street or part of a public street is permanently closed under section 160, the site of such street, or of the portion thereof which has been closed, may be disposed of, subject to the provisions of section 42, as land vested in the Corporation.

162. (1) Without the permission of the Corporation no person shall lay or work on, under or above any public street any railway or tramway, and no permission shall have validity unless and until it is confirmed by the President of the Union.

(2) Nothing in this section shall be deemed to affect the railway lines which were laid in or upon or in the vicinity of any public street on the 1st August 1922 [Date of commencement of this Act], or any provisions of the Railways Act, the Electricity Act or of the Tramways Act.

163. (1) No person shall, except with the permission of the Corporation and in accordance with such terms and conditions, including the payment of rent, as it may impose, erect, add to, set up or place against or in front of any premises any structure or fixture, which will:

(a) overhang, jut or project into, or in any way encroach upon or obstruct the passage of the public along any street; or

(b) jut or project into or encroach upon or cover over any drain or open channel in any street, so as in any way to interfere with the use or proper working of such drain or channel or to impede the inspection or cleansing thereof;

(2) The Corporation may, by written notice, require the owner or occupier of any premises to remove any structure, fixture or covering which has been erected, set up or placed against, or in front of, the said premises, in contravention of this section or of section 94, of the Burma Municipal Act, 1884 [Repealed by the Municipal Act, 1898 (Burma Act III, 1898)], or to alter the same in such manner as the Corporation thinks fit to direct;

(3) If the occupier of the said premises removes or alters any structure or fixture in accordance with such notice, he shall be entitled, unless the structure or fixture was erected, set up or placed by himself, to credit an account with the owner of the premises for all reasonable expenses incurred by him in complying with the said notice.

164. (1) If any such structure, fixture or covering as is described in section 163 has been erected, set up or placed against, or in front of, any premises at any time before the Burma Municipal Act, 1884 [Repealed by the Municipal Act, 1898 (Burma Act III, 1898)] came into force, the Commissioner may give notice under sub-section (2) of the said section to the owner or occupier of the said premises.

(2) No compensation shall be paid to any person who sustains loss or damage by the removal or alteration of any such structure or fixture or covering which has been so erected, set up or placed at any time since the first day of December 1884 [Date of Commencement of the Burma Municipal Act, 1884].

Private Streets.

165. Every person who intends to make or lay out a new private street, whether it is intended to allow the public a right of passage or access over such street or not, shall give written notice of his intention to the Corporation and shall, along with such notice, submit plans and sections, showing the intended level, direction and width and means of drainage of

such street, and the height and means of drainage of the buildings to be erected on each side thereof.

166. The level, direction, width and means of drainage of every new private street, and the height and means of drainage of the buildings to be erected on each side thereof, shall be fixed and determined by the Corporation.

167. (1) No person shall make or lay out any new private street, or erect any building on either side thereof, otherwise than in accordance with the directions of the Corporation under section 166.

(2) If any such new private street be made or laid out, or if any building on either side of any such street be erected, in contravention of this section, the Corporation may, by written notice, require the person who is making or laying out or has made or laid out such street, or who is erecting or has erected such buildings, on or before such date as shall be specified in such notice, by a statement in writing subscribed by him in that behalf and addressed to the Corporation, to show cause why such street or building should not be altered to the satisfaction of the Corporation or, if that is impracticable, why the same should not be demolished or removed; or may require the said person on such day and at such time and place as shall be specified in such notice to appear before the Corporation or such standing committee as may be prescribed in this behalf, either personally or by an agent, and show cause as aforesaid.

(3) If such person shall fail to show sufficient cause to the satisfaction of the Corporation why such street or building should not be so altered or demolished or removed, the Corporation may cause the street or building to be so altered or demolished or removed, and the expenses thereof shall be paid by the said person.

168. (1) If any private street be not levelled, metalled or paved, sewered, drained, channeled and lighted to the satisfaction of the Corporation, it may, by written notice, require the owners of the several premises fronting or adjoining the said street or abutting thereon, or to which access is obtained through such street or which will benefit by works executed under this section, to level, metal or pave, drain and light the same in such manner as it shall direct.

(2) If such requisition be not complied with on or before the date specified in such notice, the Corporation may cause the work to be done by municipal or other agency under its own orders, and the expenses incurred by the Corporation. in so doing shall be paid by the owners of the premises aforesaid in such proportions as the Corporation shall think fit.

(3) Not less than fifteen days before the commencement of any work under sub-section (2) the Corporation shall give written notice to all the said owners of:

(a) the nature of the intended work,

(b) the estimated expenses thereof, and

(c) the proportion of such expenses payable by each owner.

(4) Any owner who is of opinion that the proportion of expenses payable by him in accordance with the order of the Corporation under sub-section (2) is incorrect or unjust may appeal against such order to the Chief Judge of the Rangoon [City Civil Court] [Substituted by Act XVI, 1946].

(5) Effect shall be given by the Corporation to the decision of the Court.

Conversion of Private Streets into Public Streets.

169. When any private street has been levelled, metalled or paved, sewered, drained, channelled and made good to the satisfaction of the Corporation, it may, with the consent of, and shall, upon the request of the owner of any of the owners of such street, by notice put up in any part of such street, declare the same to be a public street and thereupon the same shall become a public street.

Building Schemes.

170. (1) The Corporation may give public notice of its intention to declare:

(a) that in any streets or portions of streets specified in such notice the elevation and construction of the frontage of all buildings thereafter erected or re-erected shall, in respect of their architectural features, be such as the Corporation may consider suitable to the localities; or

(b) that in any localities specified in the notice there will be allowed the construction of only detached or semi-detached buildings or both, each with not less than an area of land specified in such notice appurtenant thereto; or

(c) that in any localities specified in the notice the construction of more than a limited number of houses on each acre of land, such number being specified in the notice, will not be allowed; or

(d) that in any streets, portions of streets, or localities specified in such notice, the construction of shops, warehouses, factories, huts or buildings of a specified architectural character, or buildings destined for particular uses, will not be allowed without the special permission of the Corporation;

(2) No objection to any such declaration shall be received after a period of three months from the publication of such notice;

(3) The Corporation shall consider all objections received within the said period, and shall, within a period of two months after the receipt thereof, submit the notice with a statement of all objections received and of its opinion thereon to the President of the Union;

(4) The President of the Union may pass such orders with respect to such declaration as he may think fit: provided that such declaration shall not thereby be made applicable to any street, portion of a street or locality not specified in the notice by the Corporation under sub-section (1);

(5) The declaration as confirmed or modified by the President of the Union shall be published in the Gazette and shall take effect from the date of such publication;

(6) No person shall erect or re-erect any building in contravention of any such declaration.

171. (1) If the Corporation consider it expedient to fix for any existing or proposed public street a building line or a street alignment or both a building line and a street alignment, as the case may be, it shall give public notice of its intention so to do;

(2) Every such notice shall specify a period within which objections thereto will be received;

(3) The Corporation shall consider all objections received within the said period and may then make an order fixing a building line or a street alignment or both a building line and a street alignment, as the case may be, for such public street;

(4) A building line shall not be prescribed so as to extend farther back than the front of any building (other than a boundary wall) abutting on the street;

(5) Every order made under sub-section (3) shall be published in the Gazette and shall take effect from the date of such publication.

172. (1) No person shall erect or re-erect a building or part of a building so as to project beyond a street alignment fixed under section 171;

(2) Any owner of land who is prevented by the provisions of this section from erecting or re-erecting any building on any land may require the Corporation to make compensation for any damage which he may sustain by reason of such prevention, and, upon the payment of compensation in respect of any land situated within such street alignment; such land shall become part of the said street and shall vest in the Corporation;

(3) The Corporation may require the alteration or demolition of any building or part of a building erected or re-erected in contravention of sub-section (1).

173. (1) If the front of any building which abuts on at public street is in rear of a building line fixed under section 171 and it is proposed to erect or re-erect such building in any manner that will involve the removal of such building or of the portion thereof which

abuts on the said street, to an extent exceeding one half of such building or portion thereof above the ground level, such half to be measured in cubic feet; the Corporation, may, in any order which it issues under this Act concerning the erection or re-erection of such building; permit or require the front of such building to beset forward to the building line;

(2) Except with the permission of the Corporation, no person shall erect or re-erect any building or any portion of a building between a street alignment and a building line fixed under section 171.

174. (1) The Corporation may require any building intended to be at the corner of two streets to be rounded off or splayed off to such height and to such extent otherwise as it may determine;

(2) The owner of the site of such building may require the Corporation to compensate him for the loss of any portion of such site resulting from a requirement of the Corporation under sub-section (1) and on payment of compensation such portion of the site shall vest in the Corporation.

175. (1) The Corporation may, by notice in writing, require the owner, of any land which is intended for division into building sites to prepare and submit for its approval within a period to be specified in such notice, a plan, drawn to some convenient scale to be specified in such notice, and signed in token of having been prepared by him or under his supervision by a licensed surveyor, in which shall be shown the streets which such owner proposes to construct on such land and the position and boundaries of the building sites into which he proposes to divide such land;

(2) On receipt of any plan prepared as aforesaid the Corporation may either intimate its approval thereof or direct such alterations and amendments to be made therein as it shall think fit;

(3) If the said owner fails to submit the aforesaid plan within the period specified, the Corporation may cause such a plan as is described in sub-section (1) to be prepared in accordance with its instructions and shall cause a copy thereof to be delivered at the last known place of abode of such owner and to be affixed to some conspicuous position on the land;

(4) Such owner may appeal to the President of the Union:

(a) against an order under sub-section (1); or -

(b) against an order directing any alterations or amendments in a plan issued under sub-section (2); or

(c) against any plan prepared under sub-section (3); and the order of the President of the Union on such appeal shall be final.

(5) Such appeal shall be made:

(a) within ninety days after the date of an order under sub-section (1) or sub-section (2); or

(b) within ninety days after the date on which a copy of the plan prepared under sub-section (3) has been delivered at the last known place of abode of such owner or has been affixed to a conspicuous place on the land, whichever is earlier; and if not made within such period may be summarily rejected by the President of the Union.

(6) When a plan has been approved by the Corporation under sub-section (2) or has been prepared under the instructions of the Corporation under sub-section (3), such plan, modified in accordance with the order, if any, of the President of the Union under sub-section (4), shall be known as the “standard plan” or such land and a copy thereof, signed by such persons as may be authorised in this behalf, shall be deposited in the office of the Corporation and another copy similarly signed shall be supplied on application to the owner of such land.

(7) No person shall, except with the permission of the Corporation or otherwise than in accordance with the terms and conditions of such permission, construct any street or erect any building on such land otherwise than in accordance with such “standard plan”.

Saving as to Development Trust.

176. The President of the Union may, by notification, exempt from all or any of the provisions of this Chapter the operations of the Trustees for the Development of the City of Rangoon.

CHAPTER XII
GENERAL PROVISIONS FOR THE CARRYING ON
OF MUNICIPAL ADMINISTRATION

Validity of Contracts.

177.(1) Every contract entered into by or on behalf of the Corporation shall, if it involves an expenditure exceeding, two thousand rupees, be in writing and sealed with the common seal of the Corporation.

(2) A contract not executed in accordance with sub-section (1) shall not be binding on the Corporation.

Licences and Written Permission.

178. (1) Wherever it is prescribed that the permission of the Corporation is necessary for the doing of any act such permission shall unless it is expressly provided otherwise be in writing.

(2) Whenever it is provided in this Act that a licence or a permission may be given for any purpose, such licence or permission shall specify the period for which, and the conditions and limitations subject to which, the same is granted, and shall be signed in the prescribed manner.

(3) For every such licence or permission a fee may be charged at such rate as shall from time to time be fixed by the Corporation.

(4) Such licence or permission granted under this Act may at any time be suspended or revoked by the Corporation, if any of its conditions or limitations is infringed or evaded by the person to whom the same has been granted, or if the said person is convicted of an infringement of any of the provisions of this Act in any matter to which such licence or permission relates.

(5) When any such licence or permission is suspended or revoked, or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act, be deemed to be without a licence or permission, until the Corporation's order suspending or revoking the licence or permission is cancelled, or until the licence or permission is renewed, as the case may be.

(6) Every person to whom such licence or permission has been granted shall, at all reasonable times while such licence or permission remains in force, if so required by the Corporation, produce such licence or permission.

(7) The acceptance by the Corporation of the payment of the fee for a licence or permission shall not entitle the person making such payment to the licence or permission, as the case may be, but only to a refund of the fee in case of refusal of the licence or permission; but an applicant for the renewal of a licence or permission shall, until communication of orders on his application, be entitled to act as if the licence or permission had been renewed; and, save for a licence or permission required under the provisions of sections 123 and 124, if orders on an application for a licence or permission are not communicated to the applicant within six weeks after the receipt of the application by the Corporation, the application shall be deemed to have been allowed for the year, or for such less period as is mentioned in the application, and subject to this Act and all conditions ordinarily imposed.

Power of Entry and Inspection.

179. Any municipal officer duly authorized to make inspections or surveys or execute any works, may enter into or upon any building or land, with or without assistants or workmen, whenever in his opinion such entry is necessary or expedient for the purposes of this Act:

Provided that, except where it is in this Act otherwise expressly provided:

(i) no such entry shall be made between sunset and sunrise;

(ii) no building which is used as a human dwelling shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier not less than six hours' previous written notice of the intention to make the said entry, and, unless for any sufficient reason it shall be deemed inexpedient to furnish such information of the purpose thereof;

(iii) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed;

(iv) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

180. (1) Any municipal officer duly authorized to carry out works may deposit upon any land, adjoining, or within one hundred yards of, any such works, any, soil, gravel, sand, lime, bricks, stone or other materials necessary for such works.

(3) Such person shall, before depositing materials under sub-section (1), give the owner and occupier reasonable notice of his intention to make such entry, and of the purpose thereof, and shall, if so required by the owner or occupier set apart by sufficient fences so much of the land as may be required for the purposes mentioned, or referred to in the said sub-section.

(3) The Corporation shall not be bound to make any payment, tender or deposit before so using any land under sub-section (1), but shall do as little damage as may be, and shall pay compensation to the owner or occupier of the land for such entry and for any temporary or permanent damage that may result therefrom.

181. Any municipal officer duly authorized in that behalf may, at any time, by day or night, without notice, enter into or upon any place or premises used or intended to be used for any purpose for which any licence, leave or permission is required by or under this Act in order to satisfy himself as to whether the provision of this Act or any condition of any licence, leave or permission granted, or which any person was bound to obtain, under this Act, is being contravened, or as to whether any nuisance is created upon such place or premises.

Enforcement of Orders to execute Works.

182. (1) When any requisition or order is made by written notice by the Corporation under this Act, a reasonable period shall (where no period is prescribed by the Act) be specified in such notice for carrying such requisition or order into effect, and if, within the period so specified such requisition or order or any portion of such requisition or order is not complied with, the Corporation may take such measures or cause such work to be executed or thing to be done as shall in its opinion, be necessary for giving due effect to the requisition or order so made and the expense thereof shall be paid by the person or by any one of the persons in default.

(2) On the written request of any person who is required under any provision of this Act to supply any materials or fittings or to do any work, the Corporation may, on such person's behalf, supply the necessary materials or fittings or cause the necessary work to be done, but may refuse to do so unless a deposit is first of all made by the said person of a sum which will, in the opinion of the Corporation, suffice to cover the cost of the said materials, fittings and work.

(3) The Corporation may, if it thinks fit, cause any works required to be done under any provision of this Act to be executed by municipal or other agency under its own orders without giving the person by whom the same would otherwise have to be executed any option of doing the same. The expenses of the work so done shall be paid by the person aforesaid, unless the Corporation shall, by general or special order or resolution, sanction the execution of such work at the charge of the Municipal Fund.

183. Whenever the owner of any building of land fails to execute any work which he is required to execute under this Act, the occupier, if any, of such building or land may, with the approval of the Corporation, execute the said work and he shall be entitled to recover the reasonable expenses incurred by him in so doing from the owner and may deduct the amount thereof from the rent which, from time to time, becomes due by him to the owner.

184. No person who receives the rent of any building or land in the capacity of agent or trustee only shall be liable to do anything which is by this Act required to be done by the owner if he is able to prove to the satisfaction of the Corporation that he has not sufficient funds of or due to owner to pay for the same:

Provided that nothing in this section shall be deemed to prevent the Corporation from carrying out the necessary works and recovering the expenses so incurred from the actual owner.

Recovery of Expenses incurred by the Corporation.

185. Unless it, is otherwise expressly provided by this Act, whenever under this Act the expenses of any work executed or of any measure taken or thing done by or under the order of the Corporation are payable by any person, the same shall be payable on demand.

186. Instead of recovering any such expenses as aforesaid, the Corporation may, if it thinks fit, take an agreement from the person liable for the payment thereof to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon at the rate of nine per cent. per annum, within a period of not more than five years.

187. (1) Any expenses incurred by the Corporation under any other provision of this Act in respect of, or for the benefit of, any land or building, may, if they Corporation thinks fit, be declared to be improvement expenses.

(2) Improvement expenses shall be a charge on the land or building in respect of which, or for the benefit of which, the same have been incurred and shall be recoverable in instalments of such amounts not being less for any premises than twelve rupees per annum, and at such intervals as will suffice to discharge such expenses, together with interest thereon at the rate of nine percent per annum, within such period, not exceeding thirty years, as the Corporation may, in each case, determine.

(3) The said instalments shall be payable by the owner or occupier of the land or building on which the expenses are so charged.

(4) At any time before the expiration of the period for the payment of any improvement expenses the owner or occupier of the premises on which they are charged may redeem such charge by paying to the Corporation such part of the said expenses as may not have been defrayed by sums already levied in respect of the same.

188 (1) If, when the Corporation demands payment for any expenses under section 185, its right to demand the same or the amount of the demand is disputed, or if, in the case of expenses incurred by the Corporation or by the Commissioner in taking temporary measures in the interests of public safety under the provisions of this Act, the necessity for such temporary measures is disputed, the Corporation shall refer the case for the determination of the Chief Judge of the Rangoon [City Civil Court] [Substituted by Act XVI, 1946].

(2) Pending the Judge's decision, the Corporation shall defer further proceedings for the recovery of the sum claimed by it and, after the decision, shall proceed to recover only such amount, if any, as shall be ascertained to be due:

Provided that the Corporation or Commissioner, as the case may be, shall not, by reason only of the pendency of any dispute or reference to the said Judge, defer the execution of any temporary measures which may be necessary under any provisions of this Act.

Payment of Compensation by Corporation.

189. (1) In any case in which immovable property has deteriorated in value owing to the exercise of any power conferred by section 94, 95, 96, 97, 109, 111, 112, 148 or 151, the Corporation may pay to the owner property reasonable compensation.

(2) On receipt of the compensation referred to in sub-section (1) the owner of the property which has deteriorated in value shall be deemed to have granted the Corporation a perpetual easement to continue the exercise of its powers under the said sections in such a manner as not to create a greater nuisance than at the time when compensation was received.

190. (1) Any person who is injuriously affected thereby may complain to the President of the Union that in the exercise of any power conferred by section 94, 95, 96, 97, 109, 111 or 112 more than the least practicable nuisance has been created.

(2) Upon receipt of any such complaint, the President of the Union shall appoint an officer to enquire into the complaint, and such officer shall for the purpose of his enquiry have all the powers of a civil Court trying suit and shall submit his report to the President of the Union.

(3) Upon receipt of his report the President of the Union may, if he thinks fit, direct the Corporation -

(a) to take such measures as it shall deem practicable and reasonable for preventing, abating, diminishing or removing such nuisance;

(b) to pay to the complainant all reasonable costs of and relating to the said complaint.

The costs may include compensation for the complainant's loss of time in prosecuting the complaint.

(4) It shall be incumbent on the Corporation to obey every such order.

191. Nothing in this Act shall affect the right of any person who may suffer injury or whose property may be injuriously affected by any act done in the exercise of any power conferred by section 94, 95, 96, 97, 109, 111 or 112 to recover damages for the same.

192. If any case not otherwise expressly provided for in this Act, the Corporation may pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested in the Corporation, or vested in or delegated to the Commissioner, or to any other municipal officer or servant under this Act.

193. (1) If, in any case not falling under section 185, the Corporation or any other person is required by this Act to pay any expenses or any compensation, the amount to be so paid and if necessary, the apportionment of the same, shall, in case of dispute, be determined, except as is otherwise provided in section 217 and in the Land Acquisition Act, by the Chief Judge of the Rangoon [City Civil Court] [Substituted by Act XV, 1946] on application being made to him for this purpose at any time within one year from the date when such expenses or compensation first became claimable.

(2) If the amount of such expenses or compensation is not paid on demand by the person liable to pay the same, it shall be recoverable as if the same were due under a decree of the said Court.

Recovery of Dues.

194. (1) Any arrears of tax or any fee or other money claimable by the Corporation under this Act may be recovered as if they were arrears of land revenue.

(2) The President of the Union may, by notification, prescribe the officer by whose orders and on whose application such arrears may be recovered.

195. The Corporation may write off any sum due on account of any tax or of the costs of recovering any tax, which shall, in its opinion, be irrecoverable.

Interference with Municipal Officers.

196. No person shall prevent any person duly authorized in that behalf from exercising his power under this Act of entering on any land or into any building.

197. No person shall obstruct or molest any person with whom the Corporation has entered into a contract, in the performance or execution by such person of his duty, or of anything which he is empowered or required to do by virtue or in consequence of this Act.

198. No person shall remove any mark set up for the purpose of indicating any lawful direction necessary to the execution of works authorized by this Act.

Legal Proceedings.

199. Notwithstanding anything contained to the contrary in the [City Civil Court] [Substituted by Act XV, 1946] Act or any other enactment, the Chief Judge of the Rangoon [City Civil Court] [Substituted by Act XV, 1946] shall exercise all powers and jurisdiction conferred on, or vested in, the said Judge under the provisions of this Act, and, unless it is otherwise expressly provided by this Act, his decision on any matter in respect of which he exercises such powers or jurisdiction shall be final.

200. (1) For the purposes of any appeal, inquiry or proceeding under this Act, the High Court or the Chief Judge of the Rangoon [City Civil Court] [Substituted by Act XV, 1946] may exercise all the powers conferred on the said Court by the Code of Criminal Procedure or the Rangoon [City Civil Court] [Substituted by Act XV, 1946] Act, as the case may be, and the said Chief Judge shall observe the procedure prescribed in the said Code and Act so far as the same is consistent with the provisions of this Act.

(2) The costs of every such appeal, inquiry or proceeding, as determined by the said Court, shall be payable by such parties and in such proportions as the Court shall direct and the amount thereof shall, if necessary, be recoverable as if the same were due under a decree of the Court.

201. (1) The President of the Union may, by notification, prescribe what fee, if any, shall be paid:

(a) on any application, appeal or reference made under this Act to a civil Court; and

(b) previous to the issue, in any inquiry or proceeding of the Court under this Act, of any summons or other process:

provided that the fee, if any, prescribed under clause (a) shall not, in cases in which the value of the claim or subject-matter is capable of being estimated in money, exceed the fee at the time being levied in such Court in cases in which the value of the claim or subject matter is of like amount.

(2) The President of the Union may by a like notification determine what person any fee prescribed under clause (a) of sub-section (1) shall be payable.

(3) No application, appeal or reference shall be received by any Court until the fee, if any, prescribed under clause (a) of sub-section (1) has been paid.

202. Where no time is prescribed by this Act for the presentation of an application, appeal or reference, such application or appeal shall be subject to the provisions of section 5 of the Limitation Act, within thirty days after the date of the order in respect of or against which the application or appeal is made or preferred.

Suits.

203. No suit shall be maintainable against the Corporation or any committee or the Education Board or officer or servant or any person acting under and in accordance with the directions of such authority, officer or servant or of a Magistrate in respect of anything in good faith and with due care and attention done or intended to be done under this Act.

204. (1) No suit shall be instituted against the Corporation or against the Commissioner or any other municipal officer or servant in respect of any act done in pursuance or execution or intended execution of this Act, for in respect of any alleged neglect or default in the execution of this Act:

(a) until the expiration of one month next after notice in writing has been, in the case of the Corporation, left at the chief municipal office and, in the case of the Commissioner or of a municipal officer or servant, delivered to him or left at his office or place of abode, stating with reasonable particularity the cause of action and the name and place of abode of the intending plaintiff and of his advocate, pleader or agent, if any, for the purpose of such suit; nor

(b) unless it is commenced within six months next after the accrual of the cause of action.

(2) At the trial of any such suit:

(a) the plaintiff shall not be permitted to adduce evidence relating to any cause of action save such as is set forth in the notice delivered or left by him as aforesaid;

(b) the claim, if it be for damages, shall be dismissed if tender of sufficient amends shall have been made before the suit was instituted or if, after the institution of the suit, a sufficient sum of money is paid into Court with costs.

(3) Where the defendant in any such suit is the Commissioner or any other municipal officer or servant, payment of the sum or of any, part of any sum payable by him in or in consequence of the suit, whether, in respect of costs, charges, expenses, compensation for damages nor otherwise, may be made, with the sanction of the Corporation, from the Municipal Fund.

CHAPTER XIII PUNISHMENT OF OFFENCES

205 Whoever:

(a) contravenes any provision of any of the sections, sub-sections or clauses of this Act mentioned in the first column of the following table, or of any regulation or order made thereunder; or

(b) fails to comply with any direction lawfully given to, or requisition lawfully made upon him, under any of the said provisions;

shall be punished for each such offence with line which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation: The entries in the second column of the said table, headed "Subject", are not intended as definitions of the offences described in the sections, sub-sections and clauses mentioned in the first column, or even as abstracts of those sections, sub-sections and clauses, but are inserted merely as references on the subjects of the sections, sub-sections and clauses, the numbers of which are given in the first column:-

<i>Section, Sub-section or Clause</i>	<i>Subject</i>	<i>Fine which may be imposed</i>
Section 98	Requisition by Corporation to connect premises with municipal drain.	One hundred rupees
Section 99	Requisition to connect undrained premises situated more than a hundred feet from municipal drain.	One hundred rupees
Section 100	New buildings not to be erected without drains.	One hundred rupees
Section 103	Owners of drain to allow use thereof or joint ownership therein to others.	Fifty rupees
Section 108, sub-section (1), clause (b)	Direction limiting use of drain or notice requiring the use of a distinct drain.	One hundred rupees

<i>Section, Sub-section or Clause</i>	<i>Subject</i>	<i>Fine which may be imposed</i>
Section 121, sub-section (1)	Erection of buildings, etc, over drains, water-mains, air mains, etc, without permission.	Two hundred rupees
Section 123, sub-section (1)	Establishment, etc, of factory, etc., without permission of Corporation.	One thousand rupees
Section 124	Storing dangerous or offensive articles, and carrying on dangerous or offensive trades.	Five hundred rupees
Section 125, sub-section (1), clause (a)	Keeping open a private market.	Two hundred rupees
Section 125, sub-section (1), clauses (b) to (c)	Establishment, removal, re-opening, re-establishment and enlargement of private market without permission.	One thousand rupees
Section 126, sub-section (1)	Selling animals' meat or fish outside market without licence.	One hundred rupees
Section 127	Slaughter of animals without permission outside municipal slaughter-house.	One hundred rupees
Section 130, sub-section (2)	Failure to produce weights, measures, etc.	Fifty rupees
Section 132	Sale of diseased or unwholesome animal or article intended for human food.	Two hundred rupees for a first offence and one thousand rupees for any subsequent offence.
Section 133	Sale, etc, of adulterated food or drug.	Two hundred rupees for a first offence and one thousand rupees for any subsequent offence.
Section 135	Sale, etc, of substitutes.	One hundred rupees for a first offence and five hundred rupees for any subsequent offence.
Section 138, sub-section (3)	Removing, interfering or tampering with animal, food, drink, drug, etc, seized and left in custody.	Two hundred rupees
Section 144, sub-section (1)	Sale or surrender of articles of food, drink or drug required for purposes of analysis.	Two hundred rupees
Section 147, sub-section (1)	Prohibition of burials within places of worship and exhumations without permission.	Five hundred rupees
Section 153	Prohibition of erection or re-erection of buildings without permission of Corporation.	One thousand rupees
Section 154, sub-section (1)	Notice to be given to Corporation of completion of building.	One hundred rupees

<i>Section, Sub-section or Clause</i>	<i>Subject</i>	<i>Fine which may be imposed</i>
Section 154, sub-section (4)	Prohibition of occupation of new or re-erected building without permission of Corporation.	One thousand rupees
Section 156, sub-section (3)	Entering into or remaining in a building which has been declared unfit for human habitation.	Five hundred rupees
Section 157, sub-section (1)	Requisition to repair or remove buildings in ruinous or, dangerous state.	One hundred rupees
Section 157, sub-section (3)	Entering into or remaining in a ruinous or dangerous building from which occupants have been removed.	Fifty rupees
Section 159, sub-section (2)	Erection or re-erection of building on site declared insanitary.	One thousand rupees
Section 162, sub-section (1)	Laying a tramway or railway on a public street.	One thousand rupees
Section 163, sub-section (1)	Requisition to remove projections upon street, etc.	Two hundred rupees
Section 164, sub-section (1)	Requisition to remove projections upon street, etc.	One hundred rupees
Section 167, sub-section (1)	Laying out a private street otherwise than in accordance with the directions of the Corporation.	One thousand rupees
Section 170, sub-section (6)	Erection or re-erection of a building in contravention of a declaration published under section 170, sub-section (5).	One thousand rupees
Section 172	Constructing building beyond the street alignment without permission.	One thousand rupees
Section 173, sub-section (2)	Constructing a building within the regular line of the street without permission.	One thousand rupees
Section 175, sub-section (7)	Construction of street or erection of building otherwise than in accordance with standard plan.	One thousand rupees

206. Whoever, after having been convicted of:

(a) contravening any provision of any of the sections, sub-sections or clauses of this Act mentioned in the first column of the following table, or of any regulation or order lawfully made thereunder, or

(b) failing to comply with any direction lawfully given to, or requisition lawfully made upon, him under any of the said provisions,

continues to contravene the said provision or to neglect to comply with the said direction or requisition or falls to remove or rectify any work or thing done in contravention of the said

provision as the case may be, shall be punished for each day that he continues so to offend with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation - The entries in the second column of the said table, headed "Subject" are not intended as definitions of the offences described in the sections, sub-sections and clauses mentioned in the first column, or even as abstracts of those sections, sub-sections and clauses, but are inserted merely as references to the subject of the sections. sub-sections and clauses, the numbers of which are given in the first column:-

Section 98	Requisition by Corporation to connect premises with municipal drain.	Ten rupees
Section 99	Requisition to connect undrained premises situated more than a hundred feet from municipal drain.	Ten rupees
Section 100	New buildings not to be erected without drains.	Fifty rupees
Section 103	Owners of drain to allow use thereof or joint ownership therein to others.	Five rupees
Section 108, sub-section (1), clause (b)	Direction limiting use of drain or notice requiring the use of a distinct drain.	Ten rupees
Section 122, sub-section (1)	Erection of buildings, etc, over drains, water-mains, air-mains., etc, without permission.	Twenty rupees
Section 123, sub-section (1)	Establishment, etc, of factory, etc, without permission of Corporation.	One hundred rupees
Section 124	Storing dangerous or offensive articles and carrying on dangerous or offensive trades.	Fifty rupees
Section 125, sub-section (1), clause (a)	Keeping open a private market.	Twenty-five rupees

Section 125, sub-section (2), clauses (b) to (c)	Establishment, removal, re-opening, re-establishment or enlargement of private market without permission.	One hundred rupees
Section 126, sub-section (1)	Selling animals, meat or fish outside market without licence.	Ten rupees
Section 153	Prohibition of erection or re-erection of buildings without permission of Corporation.	One hundred rupees
Section 157, sub-section (1)	Requisition to repair or remove buildings in ruinous or dangerous state.	Ten rupees
Section 157, sub-section (3)	Erection or re-erection of building on site declared insanitary.	Five rupees
Section 159, sub-section (2)	Laying a tramway or railway on a public street.	One hundred rupees
Section 162, sub-section (1)	Requisition to remove projections upon street, etc.	One hundred rupees
Section 163, sub-section (1)	Requisition to remove projections upon street, etc.	Ten rupees
Section 164, sub-section (1)	Laying out of private street otherwise than in accordance with direction of Corporation.	Ten rupees
Section 167, sub-section (1)	Erection or re-erection of a building in contravention of a declaration published under section 170, sub-section (5).	One hundred rupees
Section 170, sub-section (6)	Constructing building beyond the street alignment without permission.	One hundred rupees

Section 172	Constructing building within the regular line of street without permission.	One hundred rupees
Section 173	Laying out of street or erection of building otherwise than in accordance with standard plan.	One hundred rupees
Section 175, sub-section (7)		One hundred rupees

207. Whoever contravenes any of the provisions of sections 117, 118, 148, 196, 197 or 198 or of any regulation or order made thereunder, or fails to comply with any direction lawfully given to, or requisition lawfully made upon him under any of the said provisions shall be punished for each such offence with imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

298. The law for the time being in force for the punishment of offences relating to the levy or payment of customs duties and the grant of drawbacks in connection therewith and for the reward of informers shall, as far as may be apply to similar offences committed in respect of the levy, payment or refund of any terminal tax which may be imposed under this Act, and any omission or misdescription in passing for export any goods in respect of which refund of such terminal tax may be claimable, shall be punishable as if such omission or misdescription had been made in passing the said goods for import.

209. Any councillor, municipal officer or servant who knowingly acquires, directly or indirectly, any share or interest in any contract or employment with, by, or on behalf of, the Corporation, not being a share or interest such as, under the proviso to section 12, it is permissible for a councillor to have without being thereby disqualified for being a councillor, shall be punishable with simple imprisonment for a term which may extend to one year, or with fine, or with both.

210. Any essential officer or servant contravening any of the provisions of sub-section (2) of section 36 shall be liable to imprisonment for a term not exceeding two months.

Procedure in Municipal Prosecutions.

211. (1) Any police-officer or any municipal officer or servant specially empowered in this behalf by the Corporation may arrest any person who commits in his view any offence punishable under this Act, if the name and address of such person be unknown to, him, and if such. person, on demand, declines to give his name and address or gives a name and address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address are ascertained, or without the order of a Magistrate for any longer time, not exceeding forty hours from the arrest, than is necessary for bringing him before a Magistrate.

212. Notwithstanding anything contained in the Code of Criminal Procedure, an offence punishable under this Act and committed outside the City may be tried by a Magistrate having jurisdiction within the City as if such offence had been committed within the city and such Magistrate shall not be deemed to be incapable of taking cognizance of any such offence, or of any offence against any enactment hereby repealed, [See Schedule V to this Act as reprinted in Volume II, Burma Code, sixth edition, 1934] by reason only of his being liable to pay any municipal tax or of his being benefited by the Municipal Fund to the credit of which any fine imposed by him is payable.

213. (1) No Court shall take cognizance of any offence punishable under this Act except on a complaint signed by some person duly authorized in that behalf.

(2) Notwithstanding anything contained in section 200 of the Code of Criminal Procedure, it shall not be necessary in respect of any offence punishable under this Act to examine the complainant when the complaint is presented in writing.

214. (1) No Magistrate shall take cognizance of any offence punishable under this Act unless complaint of such offence is made before a Magistrate:

(a) within three months next after the date of commission of such offence; or

(b) if such date is not known or the offence is a continuing one, within three months next after the date on which the commission or existence of such offence was first brought to the notice of the Corporation or of any officer or servant whose duty it is to report such offence to the Corporation.

(2) Failure to take out a licence under this Act shall be deemed, for the purpose of subsection (1), to be an continuing offence until the expiration of the period for which the licence ought to have been taken out.

215. If any person summoned to appear before a Magistrate to answer a charge of an offence punishable under this Act fails to appear at the time and place mentioned in the summons the Magistrate may, if service of summons is proved to his satisfaction and no sufficient cause is shown for the non-appearance of such person, hear and determine the case in his absence.

216. Any document, purporting to be a report under the hand of the Municipal Analyst upon any article duly submitted to him for an analysis, may be used as evidence of the facts therein stated in any enquiry or prosecution under this Act.

217. (1) If, on account of any act or omission, any person has been convicted of an offence punishable under this Act and, by reason of the same act or omission of the said person, damage has occurred to any property of the Corporation, compensation shall be payable by the said person for the said damage, in addition to any punishment to which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the Magistrate before whom he has been convicted of the said offence, and on non-payment of the amount of compensation so determined, the same shall, under a warrant from the said Magistrates, be recovered as if it were a line inflicted on the said person.

218. (1) Whenever any person is convicted of an offence in respect of the failure to obtain a licence or permission required by the provisions of this Act, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the Corporation the amount of the fee chargeable for such licence or permission.

(2) Recovery of the fee under sub-section (1) shall not entitle the person convicted to such licence or permission.

219. The Corporation may accept from any person, against whom a reasonable suspicion exists that he has committed an offence punishable under this Act, a sum of money by way of compensation for such offence, and on payment of such sum of money no further proceedings shall be taken against such person on account of the offence so compounded.

CHAPTER XIV ALTERATION OF LIMITS OF THE CITY

220. (1) The President of the Union may, by notification and in such other manner as he may determine, declare his intention:

(a) to exclude from the City any local area comprised therein and defined in the notification,
or

(b) to include within the City any local area defined in the notification.

(2) The Corporation or any inhabitant of the City or of a local area, in respect of which a notification has been published under sub-section (1), may submit to the President of the Union any objection in writing to the alteration proposed within six weeks from the publication of the notification, and the President of the Union shall take such objection into consideration.

(3) When six weeks from the date of the publication of a notification under sub-section (1) have expired and the President of the Union has considered the objections (if any) which have been submitted under sub-section (2), the President of the Union may, by a further

notification, exclude from, or include within, the City, any local area in respect of which the notification under sub-section (1) was issued or any part thereof, and Schedule VI shall be amended accordingly.

221. (1) When a local area is excluded from the City under section 220:

(a) this Act, and all rules, orders, directions, notices and powers made, issued or conferred thereunder, or in force throughout the City at the time when the local area is so excluded, shall, subject to the proviso to section 1 [...] [The word and figure “sub-section (2)” were omitted by Act II, 1945], cease to apply thereto; and

(b) the President of the Union shall, after consulting the Corporation, frame a scheme determining what portion of the balance of the Municipal Fund and other property vested in the Corporation shall vest in [the State] [Substituted for the words “His Majesty” by the Union of Burma (Adaptation of Laws) Order, 1948] for the benefit of such excluded area, and in what manner the liability of the Corporation shall be apportioned between the corporation and the Government and on the publication of the scheme in the Gazette, the property and liabilities shall vest and be apportioned accordingly.

(2) All property vested in [the State] [Substituted for the words “His Majesty” by the Union of Burma (Adaptation of Laws) Order, 1948] under sub-section (1) shall be applied under orders of the President of the Union, to discharging the liabilities imposed on the Government under that sub-section, or for the promotion of the safety, health, welfare or convenience of the inhabitants of the said excluded area.

222. When any local area is included in the City under section 220, this Act and, except as the President of the Union may by notification otherwise direct, all rules, orders, directions and powers made, issued or conferred thereunder and in force throughout the City at the time the local area is so included, shall apply in such area.

CHAPTER XV

CONTROL BY THE PRESIDENT OF THE UNION

223. The President of the Union may, by order in writing, suspend the execution of any resolution or order of the Corporation or of any municipal authority or officer subordinate thereto, or prohibit the, doing of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in the opinion of the President of the Union, such resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace or to cause serious injury or annoyance to the public or to any class or body of persons.

224. The President of the Union may at any time call upon the Corporation to furnish him with any extract from any proceedings of the Corporation or of the Education Board or of

any standing committee constituted under this Act, and the Corporation shall furnish the same without unreasonable delay.

225. (1) The President of the Union may require the Corporation to submit:

(a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Corporation;

(b) a report on any such matter;

(c) a copy of any document in its charge.

(2) The President of the Union may, on receipt of any information or otherwise, depute any officer or officers to make any inspection or examination of any department, office, service, work or thing under the control of the Corporation and to report to him the result of such inspection or examination.

(3) Any officer so deputed may, for the purpose of making such inspection or examination, inspect the condition of any part of the City, and may require the Corporation:

(a) to produce any record, correspondence, plan or other document which is in its possession or under its control, or which is recorded or filed in its office or in the office of any municipal officer or servant;

(b) to furnish any report, return, plan, estimate, statement, account or statistics.

(4) Every requisition made under this section shall be complied with by the Corporation without unreasonable delay.

226. If, on receipt of any report submitted or of any document furnished under section 225, the President of the Union is of opinion:

(a) that any of the duties imposed on the Corporation by this Act or by any other law for the time being in force has not been performed or has been performed in an imperfect, inefficient or unsuitable manner; or

(b) that adequate financial provision has not been made for the performance of any such duty;

he may, by an order in writing, direct the Corporation, within a period to be specified in the order, to make arrangements to his satisfaction for the proper performance of the duties mentioned in clause (a), or to make financial provision to his satisfaction for the performance of any such duty, as the case may be:

Provided that, unless in the opinion of the President of the immediate execution of any such order is necessary, the President of the Union shall, before making an order under this section, give the Corporation an opportunity of showing cause why such an order should not be made.

227. (1) If, within the period fixed by any order made under section 226, any action directed by such order has not been duly taken, the President of the Union may by order:

(a) appoint some person to take the action so directed;

(b) fix the remuneration to be paid to such person; and

(c) direct that such remuneration and the cost of taking such action shall be defrayed out of the Municipal Fund, and, if necessary, that any one or more of the taxes authorized by Chapter VIII shall be levied or increased, but not so as to exceed any maximum prescribed by that Chapter.

(2) The person appointed under sub-section (1) may, for the purpose of taking the action directed as aforesaid, exercise any of the powers conferred on the Corporation or on any municipal officer by this Act, which is specified in this behalf in the order. made under sub-section (1); and such powers may include the power to draw cheques on the accounts specified in section 64.

(3) The President, of the Union may, in addition to or instead of directing under sub-section (1) the levy or increase of any taxes, direct by notification that any sum of money which may, in his opinion, be required for giving effect to any order made under that sub-section, be borrowed by way of debenture or otherwise on the security of all or any of the said taxes, at such rate of interest and upon such terms as to the time of repayment and otherwise as may be specified in such notification.

(4) The provisions of Chapter VI shall apply to any loan raised in pursuance of sub-section (3).

228. (1) If at any time, upon representation made or otherwise, it appears to the President of the Union that the Corporation is not competent to perform, or persistently makes default in the performance of, any duty or duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the President of the Union may, by an order, direct that all the members of the Corporation for the time being shall retire from office as and from such date as the President of the Union may appoint and that general elections shall take place, as if such date were the day for retirement within the meaning of section 8, in accordance with the provisions of this Act, in so far as they may be applicable. Such order shall be published in the Gazette together with the reasons for making the same.

(2) The members of the Corporation so elected and appointed shall come into office immediately after their names have been published in the Gazette by the President of the Union and shall retire from office at noon on the first day of January next preceding the completion of a period of three years after they take office.

(3) All members of the Corporation shall vacate their office as such members from the date of the publication of an order under sub-section (1), and from that date until the date of the publication of the names of the new members under sub-section (2) all the powers and duties of the Corporation shall be exercised and performed by the Commissioner.

CHAPTER XVI SCHEDULES AND RULES

229. The Schedules [Schedules I, II, III and IV are not reprinted in this Code as they have been amended from time to time by the Corporation of the City of Rangoon under section 230. For these Schedules see the City of Rangoon Municipal Manual. Schedule V, which contained a list of enactments repealed, is also not reprinted in this Code. Schedule VII, which contained certain transitory provisions, has been omitted by the Burma Laws (Adaptation) Act (Burma Act XXVII, 1940). Schedule VI, which contains the boundaries of the City of Rangoon, is alone reprinted in this Code] attached to this Act as from time to time amended in accordance with the provisions of this Act shall be deemed to be part of this Act and all references in this Act to the said Schedules shall be construed as referring to such Schedules as so amended.

230. The Corporation may add to Schedules I, III, III and IV rules not inconsistent with the provisions of this Act (which expression shall in this section be deemed not to include the said Schedules) to provide for any of the matters dealt with in such Schedules, or for any of the purposes specified in section 235, and may, subject to the same limitation, amend, alter, or annul any rule in the said Schedules:

Provided that, if any rule regulating the punishment of an offence is altered or amended, the punishment to be awarded under such altered or amended rule shall not exceed the maximum prescribed in section 234.

231. In all cases where articles of food or drink produced or manufactured without the City are intended for sale or consumption, or are likely to be sold or consumed, within the City, the Corporation shall have the same powers of making rules in respect of, and the same powers of inspecting, seizing and disposing of, such articles as if they were produced or manufactured within the City:

Provided that such powers shall not extend over a place which is administered by a municipal or town committee constituted under the Municipal Act, without the sanction of the President of the Union granted subject to such conditions and limitations as he may prescribe and for reasons to be stated, and after opportunity has been given to such committee to show cause against such sanction.

232. (1) The power to make, add to, alter or rescind rules under section 230 or 231 is subject to the sanction of the President of the Union and to the condition of the rules being made after previous publication.

(2) All rules made under section 230 or 231 shall be finally published in the Gazette and shall thereupon have effect as if enacted in this Act.

(3) In addition to the publication required by sub-sections (1) and (2), the Corporation may determine in each case what further publication, if any, is required for rules which it is proposed to make and which have been made.

233. (1) The President of the Union may at any time, require the Corporation to make rules, under section 230 or 231, as the case may be, in respect of any purpose or matter, specified therein.

(2) If the Corporation fails to comply with such requisition within such reasonable time as may be fixed by the President of the Union, the President of the Union may, after previous publication, make such rules which shall, on final publication in the Gazette, have effect as if enacted in this Act.

234. In making a rule under section 230, 231 or 233, sub-sections (2) and (3) the Corporation or the President of the Union, as the case may be, may provide that any breach thereof shall be punishable:

(a) with fine which may extend to five hundred rupees, and in case of a continuing breach, with fine which may extend to twenty rupees for every day during which the breach continues after the conviction for the first breach; or

(b) with fine which may extend to twenty rupees for every day during which the breach continues after receipt of written notice from the Corporation to discontinue the breach.

235. In particular and without prejudice to the generality of the powers conferred by sections 230, 231 and 233, sub-sections, (2) and (3), rules made thereunder may provide for or regulate all or any of the following purposes and matters, namely:

(i) (a) the total number of councilors and the number to be elected;

(b) the qualifications to be possessed by an elector or councillor;

(c) deciding what associations are “public bodies” for the purpose of this Act and what “public bodies” may be represented on the Corporation;

(ii) (a) the preparation, publication, correction or revision of the register of electors;

- (b) the manner in, the conditions under, and the authority by which claims to, or objections against, registration may be made and decided;
- (c) the date on which the register of electors shall come into operation and the period for which it shall continue in operation;
- (d) the nomination of candidates, and objections to such notifications, and the authority or officer by which or by whom such objecting may be investigated or decided;
- (e) the mode of voting in the case of companies or associations;
- (f) the date and time of elections, the mode of recording votes, the management of contested elections, and the procedure in case of equality of votes or in the event of one councillor being elected to represent more than one ward or interest;
- (g) fixing of elections to fill casual vacancies;
- (h) the division of the electorate into wards or communities for the purpose of electing councilors to represent the same and the allocation of councilors thereto;
- (i) any other matter relating to the system of representation and election for which it may be expedient to provide;
- (iii) (a) the constitution and term of office of the Education Board and standing committees;
- (b) the qualifications of members of such board and committees and the mode of election, appointment or retirement of such members;
- (c) the powers and duties conferred or imposed on such board and committees and the conditions and limitations subject to which such powers may be exercised;
- (d) the dissolution and re-appointment of such board or of any such committee:
- (iv) (a) the time and place of meetings of the Corporation, the Education Board or any committee;
- (b) the manner in which notice of such meetings may be given;
- (c) the quorum necessary for the transaction of business at meetings of the Corporation, the Education Board or any committee;
- (d) the appointment and tenure of office of or election of a chairman of the Education Board or any committee;
- (e) the filling of vacancies on the Education Board or any committee;

- (f) the manner in which minutes of proceedings may be kept and published;
- (5) the manner in which any councillor or member of the Education Board may resign any office and the manner in which such resignation may be accepted, and the date as from which such resignation may have effect;
- (h) any other matter relating to the proceedings of the Corporation, Education Board or any committee, the holding and regulation of meetings, and the conduct of debate;
- (v) the exercise by the Commissioner, or by any other officer or by any of the servants of the Corporation, of the powers conferred upon the Corporation by this or any other Act, and the conditions and limitations subject to which such powers may be exercised is;
- (vi) (a) the qualifications without which no person shall be ordinarily appointed to be a municipal officer or servant;
- (b) the conditions of service of municipal officer or servants;
- (c) the procedure to be followed in dismissing or removing from his appointment or otherwise punishing or penalising any municipal officer or servant;
- (d) the amount and the nature of the security to be demanded from any municipal officer or servant from whom it may be deemed expedient to require security;
- (e) the grant of leave to municipal officers and servants;
- (f) the payment of allowances to municipal officers and servants, or to certain, of them, whilst absent on leave;
- (g) the remuneration to be paid to the person appointed to act for any of the said officers or servants during their absence on leave;
- (h) the period of service of municipal officers and servants;
- (i) the conditions under which municipal officers or servants, or any of them, shall, on retirement or discharge, receive pensions, gratuities or compassionate allowances and under which the widows or other dependent relations of any of the said officers or servants who have died while in the service of the Corporation may receive pensions, gratuities or compassionate allowances, and the amount of such pensions, gratuities or compassionate allowances;
- (j) the amount of conveyance allowance payable to municipal officer;
- (k) the travelling allowance of municipal officers or servants;

- (I) the rent to be paid by the Commissioner or other municipal officers and servants for accommodation provided for them under clause (iii) (a) of section 26;
- (m) prescribing what municipal officers and servants are “essential” a for the purposes of section 36;
- (vii) (a) maintaining a provident or annuity fund;
- (b) compelling all or any municipal officers and servants, not being in the service of the Government, to subscribe to such fund, and, if necessary, providing for the deduction of such subscription out of the salaries or emoluments of such officers and servants;
- (c) the payment of contributions to such funds by the Corporation from the Municipal Fund;
- (d) fixing the times, circumstances and conditions under which payments may be made out of any funds established under this section and the conditions under which such payments shall discharge the fund from further liability;
- (e) the settlement by arbitration or otherwise of disputes relating to such fund, or the payments or subscriptions thereto or claims thereon, between the Corporation and other persons or between persons claiming any share or interest therein;
- (f) such other matters incidental to such fund and the investment thereof as the President of the Union may approve;
- (viii) prescribing the conditions and limitations under which immoveable property vested in the Corporation may be transferred or disposed of;
- (ix) (a) the form and contents of the report and statement to be prepared under section 69;
- (b) the publication of the said report and statement;
- (c) the submission of a copy of the same by the Corporation to the President of the Union;
- (x) (a) the manner in which and the persons by whom (subject to section 177) contracts may be executed;
- (b) the security to be demanded for the due performance of contracts;
- (c) requiring estimates of works before contracts are entertained;
- (d) the examination and acceptance of tenders;

- (xi) (a) the manner in which and the person by whom payments may be made out of the municipal and education funds or cheques drawn upon the said funds may be signed;
- (b) the manner in which and the person by whom coupons attached to debentures issued under this Act may be signed;
- (xii) the custody of the common seal of the Corporation and the manner in which and the person by whom the common seal may be fixed;
- (xiii) the manner in which the budget estimate shall be prepared;
- (xiv) the classification of buildings in order to carry out the provisions of section 82;
- (xv) the classes of animals and vehicles on which, and the rate at which the tax on such animals and vehicles may be imposed;
- (xvi) the regulation of the time and mode of collection of any tax which may be imposed under section 79, sub-section (2);
- (xvii) (a) fixing the date before which, and the rates at which, municipal taxes to be levied shall be determined;
- (b) the assessment, collection, composition, remission, refund and recovery of taxes and in addition, in the case of the tax on vehicles and animals, the exemptions from such tax;
- (c) the dates on, and the manner in, which any tax or any installment, of any tax imposed under this Act shall be payable;
- (4) the place at which any Such tax or installment shall be payable;
- (e) the person to whom such tax shall be payable;
- (xviii) (a) the maintenance and improvement of existing drains;
- (b) the construction of new drains;
- (c) the alteration and discontinuance of drains;
- (d) the flushing and cleansing of drains;
- (e) the drainage of any building or land;
- (f) the drainage of private streets;

- (g) the construction and position of closet accommodation, water closets, privies, urinals and similar conveniences, public or private, and, bathing and washing places and the prevention of nuisance arising therefrom;
- (h) the construction and maintenance of a sufficient number of the aforesaid conveniences in all buildings;
- (i) A similar provision for the use of the public;
- (j) the inspection of drains;
- (k) the payment of the cost of works executed by municipal agency under the authority conferred by this Act;
- (xix) (a) the maintenance and regulation of urinals, closet accommodation, water-closets, bathing and washing places, and premises appurtenant thereto, belonging to the Corporation;
- (b) the regulation of urinals, closet accommodation, water-closets, and bathing and washing places, provided for the use in common of the inhabitants of one or more buildings;
- (xx) the scavenging of streets and the removal or disposal from all lands and buildings within the City of sewage and rubbish;
- (xxi) (a) the maintenance and management of water-works;
- (b) the inspection of water-works;
- (c) the power of access to water-works;
- (d) the protection of water-works from waste, injury or contamination;
- (e) the maintenance of fire-hydrants;
- (f) the regulation or prohibition of boating, fishing or bathing in any water-works;
- (g) the terms and conditions of the supply of water to buildings and lands and the provision of meters;
- (h) the cutting off of private water-supplies;
- (i) the prevention of fraud in connection with water-supply or the use of meters;
- (j) prohibiting or regulating the digging or construction of any new well, tank, pond, cistern or fountain;

- (k) the prevention of the pollution of water within the City;
- (xxii) (a) the maintenance and improvement of public streets;
- (b) the prohibition and regulation of projections, obstructions or encroachments and the issue of licences and the conditions under which they may be issued, including the payment of rent or fees;
- (c) the execution of works in or near public streets and the temporary occupation of public streets;
- (d) the naming and numbering of streets and the numbering of houses;
- (e) the prohibition and regulation of bill-posting and sky-signs;
- (f) dealing with dangerous places;
- (g) the lighting of public streets;
- (h) the watering of public streets;
- (xxiii) the prohibition and regulation of the use on any street, pathway or place, which the public are entitled to use or frequent, of barbed wire or any material likely to cause injury to persons or animals on any land or premises abutting on the same;
- (xxiv) the removal, trimming and cutting of trees, shrubs and hedges;
- (xxv) (a) fixing, from time to time, the number of persons who may occupy a lodging house, and rendering licences necessary for the keepers of lodging-houses;
- (b) the inspection of lodging-houses;
- (c) promoting cleanliness and ventilation in lodging-houses;
- (d) lighting of common spaces and staircases in lodging-houses;
- (e) the precautions to be taken, in the case of any dangerous or infectious disease breaking out in a lodging-house;
- (f) the general regulation and control of lodging-houses;
- (xxvi) the prevention of overcrowding, by fixing from time to time the number of persons who may occupy any building;

- (xxvii) the inspection and proper regulation of stables, camping grounds, pounds and rest-houses;
- (xxviii) prohibiting encamping or picketing of animals or the collection or parking of vehicles in any public place, or the use of such place for the halting of vehicles;
- (xxix) (a) the prohibition and regulation of they keeping of animals in the City;
- (b) the prohibition and regulation of the importation of animals into the City and the transport of animals within the City;
- (c) prohibiting the allowing of any animals to be astray, or, where any animal is likely to annoy or intimidate the public, to be at large in any street or public place;
- (d) the destruction and confiscation of swine and dogs found straying in the City;
- (e) the prevention or cruelty to animals;
- (f) the disposal of carcasses of animals dying in the City;
- (g) the destruction of any animals in the City which from old age or other causes are in a moribund or infirm state or have received such injuries or are suffering from such dangerous disease that their recovery therefrom is unlikely;
- (h) the prevention of the sale or use as human food of the carcasses of animals which die naturally or from disease;
- (i) the prohibition of importation into the City, or sale or disposal or use of any animal, or the hide or any portion of the carcass of any animal, dying or slaughtered on account of, or suffering from any contagious or infectious disease;
- (xxx) the maintenance and regulation of public wash-houses and the prohibition of the exercise of their calling by washermen at places other than those appointed or approved by the Corporation;
- (xxxi) (a) (i) determining which articles are included in the description contained in clause (a) of section 124;
- (ii) the prohibition and regulation of the storage or keeping of such articles, by rendering necessary licences or otherwise;
- (b) (i) determining which trades, manufactures, industries or operations are included in the description contained in clause (c) of section 124;

- (ii) the prohibition and regulation of the exercise of such trades, manufactures, industries or operations, by rendering licences necessary or otherwise;
- (c) the supervision and sanitary regulation of factories and workshops;
- (xxxii) (cc) the prevention and regulation of the discharge of smoke, steam, fumes and noxious vapours;
- (b) the prohibition and regulation of the use of whistles, trumpets, and noise-producing instruments operated by any mechanical means;
- (xxxiii) (a) the prohibition of the sale of the flesh of any four-footed animal not slaughtered in a municipal slaughter-house and the prohibition and regulation of the importation into the City of the flesh of any such animal-slaughtered without the City;
- (b) the prohibition of the sale of meat by any person except under and in conformity with the terms and conditions of a licence granted by the Corporation;
- (c) requiring sellers of meat to procure from the Corporation and on requisition to produce passes showing that the meat sold or exposed for sale by them has been derived from animals slaughtered in a municipal slaughter-house;
- (d) the management and sanitary condition of municipal slaughter-houses;
- (e) the management and sanitary condition of municipal markets;
- (f) the regulation of the manufacture for sale and the sale of articles of food, drink or drugs either by rendering licences necessary or otherwise;
- (g) fixing the qualifications of persons who may compound, mix, prepare, dispense or sell any drug, by rendering certificates or permissions necessary or otherwise;
- (h) the regulation of the hours and manner of importation into, or of transport within, the City of any articles of food, drink or drugs by rendering licences for such importation or transport necessary or otherwise;
- (i) fixing the places at which articles of food, drink or drugs shall be produced for inspection prior to importation, transport necessary or exposure for sale;
- (j) fixing the places in which articles of food, drink or drugs may or may not be manufactured, kept, sold or exposed for sale;
- (k) requiring notice-boards and labels to be affixed by the vendors to articles of food, drink or drugs which have been adulterated and prescribing the particulars with which such notice boards and labels shall conform;

- (l) the prohibition of the importation into, or transport within, the City of any articles of food or drink produced under such conditions as to be, or to be likely to be, injurious to the health of persons consuming the same;
- (m) the supervision and sanitary condition of bakeries, places where sweets are manufactured, public eating-houses, stalls and aerated water and ice factories, and of dairies, stables and buildings or enclosures where animals are kept, whether or not the animals therein are kept for profit;
- (n) the prohibition and regulation of the exposure of goods for sale on streets and the levying of fees from persons setting up stalls or otherwise selling or exposing for sale goods on streets;
- (o) the regulation of the manner in which food grain, whether intended for sale or for private consumption, may be stored;
- (p) the precautions to be taken for protecting milch-cattle, milk and milk-products against infection or contamination;
- (q) requiring notice to be given of the outbreak of contagious disease among animals, and prescribing precautions to be taken for preventing the spread of such disease;
- (xxxiv) (a) the construction and structural and architectural features of private markets;
- (b) the drainage, water-supply, ventilation, lighting, sanitary condition and regulation of private markets;
- (c) the prevention of cruelty, nuisances, obstruction, overcrowding in, or in the approaches to, or in the passages of, private markets;
- (d) the supervision of private markets;
- (e) the appointment and removal of superintendents of private markets;
- (f) fixing the days and the hours on, and during which, any private market may be held or kept open;
- (g) preventing undesirable or diseased persons from entering private markets;
- (h) prohibiting persons from selling in a private market the licence for which has been refused, cancelled or suspended;
- (xxxv) rendering licences necessary for pawn-brokers and determining, by public auction or otherwise, the amount to be paid for such licences;

(xxxvi) notwithstanding the provisions of the Weights and Measures of Capacity Act -

- (a) prescribing the standard weights and measures to be used within the City;
- (b) the verification and rectification of instruments for weighing, weights and measures, including the payment of fees for verifying or rectifying the same;
- (c) making the use of standard weights and measures compulsory;
- (d) preventing and detecting the use of false or defective instruments for weighing, weights and measures in any market, building, shop, stall or place used for the sale of any goods, food, drink or drug;

(xxxvii) the registration of all births and deaths which take place within the City, and the taking of a census;

(xxxviii) (a) the regulation of the sanitation of theatres, music halls, cinematograph exhibitions or other places of public entertainment or resort and the control and inspection thereof, in order to ensure the safety, health and convenience of persons employed in, or visiting, attending, or resorting to the same;

(b) rendering licences necessary for such exhibitions and entertainments;

(xxxix) (a) the information and plans to be submitted with applications for the approval of sites and for permission to erect or re-erect any building;

(b) fixing the period in which refusal to permit erection of buildings must be expressed;

(c) rendering compulsory the appointment of a person to supervise the work of erection or re-erection of buildings or of any specified class or classes of buildings and the description of the qualifications which such person shall possess;

(d) the grant of completion certificates in respect of newly erected or re-erected buildings, including the description of the cases in which, and of the persons by whom, such certificates shall be granted;

(e) the height of buildings, whether absolute or relative to the width of streets;

(f) the level and width of the foundation the level of the lowest floor or plinth, and the stability of the structure;

(g) the number and height above the ground, or above the next storey, of the storeys of which any building may consist;

- (h) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on;
- (i) the space to be left about any building to secure the free circulation of air and facilitate scavenging and for the prevention of fire;
- (j) the ventilation and drainage of buildings;
- (k) the means and appliances to be provided and maintained for egress from a building and protection of life in case of fire;
- (l) the materials to be used and method of construction to be adopted;
- (m) the position, materials and methods of construction of fire-places, smoke-escapes, chimneys, stair-cases, water closets, closet accommodation and drains in buildings;
- (n) specifying the parts or portions of building sites on which no building shall be erected and the position thereof;
- (o) the paving of any passage between two buildings or appurtenant to any building;
- (p) the restrictions on the use of inflammable materials in buildings;
- (q) the precautions to be taken for the purpose of preventing danger or injury to the public or to persons employed in the work, and of securing the stability of the various parts of the structure and of buildings and property in the vicinity thereof, during, the progress of the work or of any demolition or excavation therefore;
- (xl) (a) the removal or improvement of insanitary buildings and buildings in a ruinous or dangerous condition;
- (b) the marking of evacuated uninhabitable buildings;
- (c) the cleansing, lime-washing or painting of buildings;
- (d) compelling the owners or occupiers to take such order with abandoned, unoccupied or neglected buildings or lands as the Corporation may direct;
- (e) the prohibition and regulation of the excavation of earth, stone or other materials from any place;
- (xli) (a) the regulation of the construction, maintenance and working of passenger-lifts and all machinery and apparatus pertaining thereto;

(b) the regulation of the construction, maintenance, fencing and lighting of shafts, landings, hatches, and gates connected with passenger-lifts;

(c) the entry upon, and inspection by such person as the Corporation may authorize in this behalf of any premises containing a passenger lift;

(d) the prohibition of the use of any lift where any rule made under this sub-section has not been complied with:

provided that such rules shall not affect any provision of the Factories Act, or of the Electricity Act, nor any rules framed thereunder;

Explanation: A lift actually used as a lift by passengers is, for the purposes of this sub-section, a "passenger-lift", notwithstanding that it may not have been constructed for that purpose and that its use as a passenger-lift is not authorized by the owner or occupier.

(xlii) (a) the precautions to be taken for the prevention of danger or injury to the public during, and to persons engaged in, the demolition of buildings or parts of a building and for the protection of other parts of the same building and of other buildings in the vicinity thereof;

(b) requiring any persons intending to demolish a building or part of a building to give such previous notice to the Corporation as may be prescribed, together with particulars of the proposed demolitions and of the precautions to be taken during the progress of the work;

(c) the prohibition of the commencement of the demolition within the prescribed period except with the permission of the Corporation;

(d) the prohibition of the commencement or continuance of the demolition unless and until all precautions have been and are being taken in accordance with such rules, and with any directions and requisitions in writing which the Corporation may issue to the person in charge of the work, or to the person who submitted the notice, if any, required under such rules;

(xliii) (a) rendering licences necessary for the proprietors and drivers of vehicles or animals plying for hire in the City;

(b) limiting the rates which may be demanded for the hire of any vehicle or of any animals hired to carry loads, or for the service of any person hired to carry loads, and the loads to be carried by such vehicles, animals, or persons, when they are hired within the City for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours:

provided that no rules shall be made under this clause in respect of any vehicle to which the Rangoon Hackney Carriages Act applies:

- (xliv) holding of fairs and industrial exhibitions in the City;
- (xlv) protecting the property of the Corporation from injury or interference;
- (xlvi) the prohibition and regulation of the stacking of inflammable materials and of the lighting of fires in any specified portion of the City;
- (xlvii) fixing charges for services rendered by any municipal authority;
- (xlviii) the maintenance of a register showing charges on buildings or lands for improvement expenses under section 187;
- (xlix), determining the person by whom and the time, place and manner at or in which anything prescribed under this Act, for which no express provision is made, shall be done;
- (l) determining the cases in which inspection and copies of municipal records may be granted, and regulating the procedure and the fees for obtaining the same;
- (li) the forms of licences and notices issued under this Act and the authority entitled to sign or issue the same; and
- (lii) generally for carrying out the purposes of this Act.

236, The High Court may, in accordance with the provisions of Part X of the Code of Civil Procedure, in so far as they may be applicable, and subject to the conditions and limitations prescribed therein, make rules, consistent with the provisions of this Act, for regulating the procedure of the Rangoon [City Civil Court] [Substituted by Act XVI, 1946] in the exercise of any powers or jurisdiction conferred on, or vested in, the said Court under the provisions of this Act.

CHAPTER XVII

SUPPLEMENTAL PROVISIONS

237. Every councillor and every municipal officer or servant appointed under this Act, and every contractor or agent for the collection of any municipal tax, and every servant or other person employed by such contractor or agent, shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.

238. (1) The Commissioner of Police, Rangoon, shall, as far as may be, co-operate with the Corporation for carrying into effect the provisions of this Act and for the maintenance of good order in the City.

(2) It shall be the duty of every police-officer in the City to communicate without delay to the proper municipal officer any information which he receives of a design to commit, or of the commission of, any offence against this Act, and to assist the Commissioner and any

other municipal officer or servant reasonably demanding his aid in the lawful exercise of any power conferred on such municipal officer or servant under, this Act.

239. (1) Any informality, clerical error, omission or other defect in any assessment made, or in any notice, bill, schedule, summons, or other document issued under this Act, may at any time, as far as possible, be rectified.

(2) No such informality, clerical error, omission or other defect shall be deemed to render the assessment, notice, bill, schedule, summons, or other document invalid or illegal, if the provisions of this Act have in substance and effect been complied with; but any person who sustains any special damage by reason of any such informality, clerical error, omission, or other defect shall be entitled to recover compensation.

240. If any dispute arises between the Corporation and any local authority as regards anything done or to be done under this Act, it shall be referred to the President of the Union for decision, and such decision may include an order as to the costs of any enquiry ordered by the President of the Union and shall be final and binding on the parties and be given effect to:

Provided that nothing in this section shall be deemed to affect the provisions of the Municipal Taxation Act.

241. Where any dispute arises between the Corporation and the President of the Union as to the interpretation of any of the provisions or this Act, the President of the Union may, and at the request of the Corporation shall, draw up a statement of the case and refer it, with the opinion of the [Attorney-General] [Substituted for the word "Advocate-General" by the Union of Burma (Adaptation of Laws) Order, 1948] thereon, for the decision of the High Court which shall be final:

Provided that nothing in this Section shall derogate from the authority of the President of the Union as laid down in Chapter XV.

242-243. [...]

SCHEDULES I-V

[OMITTED]

SCHEDULE VI

[Notifications have been issued from time to time under the provisions of section 220 altering the limits of the City of Rangoon. For such notifications, see the City of Rangoon Municipal Manual]

BOUNDARIES OF THE CITY OF RANGOON

[Section 3, clause (vii)]

The City of Rangoon comprises the area enclosed within the following boundaries but excludes the areas mentioned in Exceptions (1), (2) and (3):-

North - A straight line drawn in an easterly direction from municipal boundary pillar No. 3, 5 feet west of survey station N on the northern boundary of survey block No. 38A to municipal boundary pillar.

**THE CITY OF RANGOON MUNICIPAL
(AMENDMENT) ACT (1955)**

Act No IX, 1955
[Exact date unknown]

It is hereby enacted as follows:

1. This Act may be called the City of Rangoon Municipal (Amendment) Act, 1955.
2. In sub-section (1) of section 79 of the City of Rangoon Municipal Act, for clause (b) the following shall be substituted, namely:-
 - (b) a tax on every vehicle as provided in the Vehicle Tax Rules and a toll on every vehicle entering the City and not liable to taxation under the said rules.

THE CITY OF RANGOON MUNICIPAL (AMENDMENT) ACT (1955)

Act No XLI, 1955

[Exact date unknown]

It is hereby enacted as follows:

1. This Act may be called the City of Rangoon Municipal (Amendment) Act, 1955.

2. In section 50 of the City of Rangoon Municipal Act, hereinafter referred to as the said Act, for clause (a) the following shall be substituted; namely:

“(a) by payment from a sinking fund or a consolidated sinking fund established under section 51 in respect of the loan or of all of the loans, or”

3. In section 51 of the said Act:

(i) for the period (.) at the end of the proviso thereto a colon (:) shall be substituted; and

(ii) the following shall be inserted as second proviso, namely:

“Provided further that the Corporation may, with the prior approval of the President of the Union, establish a consolidated sinking fund for all of the loans instead of establishing a sinking fund for each loan.”

**THE CITY OF RANGOON MUNICIPAL
(AMENDMENT) ACT (1958)**

Act XVII, 1958
24 March 1958

It is hereby enacted as follows:

1. This Act may be called the City of Rangoon Municipal (Amendment) Act, 1958.
2. For sub-section (2) of section 27 of the City of Rangoon Municipal Act, the following shall be substituted as sub-section (2), namely:

“(2) The Commissioner shall, under the control of the Mayor, exercise and perform such powers and duties as are conferred or imposed on him by this Act, as well as such of the powers and duties conferred or imposed on the Corporation as it may, in the manner prescribed, delegate to him.”

Signed by me in pursuance of the Constitution,

U WIN MAUNG.
President of the Union of Myanmar
YANGON, the twenty fourth day of March 1958.

By order,
PA SEIN
President's Secretary.

THE CITY OF RANGOON MUNICIPAL (AMENDMENT) ACT (1960)

Act XXXI, 1960

[Exact Date Unknown]

It is hereby enacted as follows:

1. This Act may be called the City of Rangoon Municipal (Amendment) Act, 1960.

2. In section 7 of the City of Rangoon Municipal Act hereinafter referred to as the said Act, for the word “forty”, the word “sixty” shall be substituted.

3. For sub-section (1) of section 27 of the said Act, the following shall be substituted as sub-section (1), namely:-

(1) The Corporation shall, with the prior approval of the President of the Union, appoint a fit person to be styled the Commissioner, who shall be the chief executive officer of the Corporation, and to whom all other municipal officers and servants shall be subordinate.

4. For sub-section (7) of section 29 of the said Act, the following shall be substituted as sub-section (1), namely:

(1) The Corporation shall, with the prior approval of the President of the Union, appoint fit persons to be:

(a) Health Officer, Secretary, Assessor and Chief Accountant; and

(b) Chief Engineer or Engineers in charge of separate departments of Municipal Works.

5. In section 222 of the said Act, for the period at the end a comma shall be substituted and thereafter the following shall be inserted, namely:

“and the Democratic Local Administration Act, 1953, if in force in such local area at the time it is so included, shall, together with all rules, bye-laws, orders, directions and powers made, issued or conferred under the said Act, cease to be in force therein, and thereupon such portion of the assets and liabilities of the Local Body constituted under the said Act and having jurisdiction over such local area, shall be transferred to the Corporation or to any other authority, as the President of the Union may, by special or general order, direct.”

6. For section 223 of the said Act, the following shall be substituted as section 223, namely:

“223. (1) The proceedings of the Corporation shall be in conformity with law and the President of the Union may, by order in writing, suspend, annul or modify any resolution

or order of the Corporation or of any municipal authority or officer subordinate thereto which he considers not to be in conformity with law.

(2) The President of the Union, may, by order in writing, suspend, annul or modify any resolution, order or act of the Corporation, if in his opinion, such resolution, order or act is in excess of the powers conferred by law or the execution of the resolution or order, or the doing of the act is likely to lead to a serious breach of the peace or to cause serious injury or annoyance to the public or to any class or body of persons.”

7. In sub-section (3) of section 228 of the said Act, for the words “by the Commissioner”, the words “by such person or persons as the President of the Union shall appoint in that behalf” shall be substituted.

8. For section 229 of the said Act, the following shall be substituted as section 229, namely:

“229. (1) The President of the Union may make rules consistent with this act to carry out the objects and purposes of this Act.

(2) The power to make rules tinder this section is subject to the condition of the rules being made after previous publication.

(3) All rules made under this section shall be finally published in the Gazette and shall thereupon have effect as if enacted in this Act.”

9. For section 230 of the said Act, the following shall be substituted as section 230, namely:

“230. (1) The Corporation may, from time to time, at a special meeting, make bye-laws consistent with this Act and the rules made thereunder to provide for or regulate all or any of the matters enumerated in sections 25 and 26.

(2) The power to make bye-laws under this section is subject to the approval of the President of the Union and to the condition of the bye-laws being made after previous publication.

(3) All bye-laws made under this section shall be finally published in the Gazette and shall thereupon have effect as if enacted in this Act.”

10. After section 230 of the said Act, the following shall be inserted as section 230A, namely:

“230A. Schedules I, II, III and IV, as amended from time to time shall remain in force until such time as the President of the Union may annul them.”

11. In section 231 of the said Act for the word “Corporation” the words “President of the Union” shall be substituted.

12. Section 232 of the said Act shall be deleted.

13. In section 233 of the said Act:

(a) for sub-section (1), the following shall be substituted namely:

(1) The President of the Union may, at any time, require the Corporation to make bye-laws under section 230 in respect of any purpose or matter enumerated in sections 25 and 26.”

(b) in sub-section (2) for the word “rules” the word “byelaws” shall be substituted.

(c) in the marginal note thereof, for the word “rules” the word “bye-laws” shall be substituted.

14. In section 234 of the said Act:

(a) for the expression “In making a rule under section 230, 231 or 233, sub-sections (2) and (3), the Corporation or the President of the Union”, the expression “In making a rule under section 229 or section 231 or in making a bye-law under section 230, the President of the Union or the Corporation,” shall be substituted; and

(6) in the marginal note thereof, for the word “rules” the words “rules or bye-laws” shall be substituted.

15. In section 235 of the said Act, for the expression “sections 230, 231 and 233, sub-sections (2) and (3) “ the expression “sections 229 and 231” shall be substituted.

THE CITY OF RANGOON MUNICIPAL (AMENDMENT) ACT (1961)

Act 1, 1961
17 March 1961

It is hereby enacted as follows:

1. This Act may be called the City of Rangoon Municipal (Amendment) Act, 1961

2. In section 228 of the City of Rangoon Municipal Act:

(a) for sub-section (1), the following shall be substituted as sub-section (1); namely:

“(1) If at any time, upon representation made or otherwise, it appears to the President of the Union that the Corporation is not competent to perform, or persistently makes default in the performance of, any duty or duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the President of the Union may, by an order, direct that all the members of the Corporation for the time being shall retire from office as and from such date as the President of the Union may appoint, and the President of the Union may, by that order or by a separate order, direct that general elections take place on such convenient date as may be fixed by the President of the Union. Such order shall be published in the Gazette together with the reasons for making the same.”

(b) in sub-section (2), for the word “January” the word “March” shall be substituted;

(c) as the end of sub-section (3), the following shall be inserted; namely:

“The President of the Union may also appoint an Advisory Committee to advise such person or persons.”

THE CITY OF YANGON MUNICIPAL (AMENDMENT) ACT (1991)

The State Law and Order Restoration Council Law No. 8/91
The 10th Waxing Day of Kason, 1353 M.E.

22 April 1991

The State Law and Order Restoration Council hereby enacts the following Law:

1. This Law shall be called the Law Amending the City of Yangon Municipal Act.
2. The expression “shall be punished for each such offence with fine which may extend to the amount” contained in section 205 sub-section (b) of the City of Yangon Municipal Act shall be substituted by the expression “shall be punished for each such offence with fine or imprisonment or both”.
3. The expression “Fine which may be imposed” which is the heading of the third column of the Schedule contained in section 205 of the City of Yangon Municipal Act shall be substituted by the expression “Fine or imprisonment or both which may be imposed.”
4. In the first column of the Schedule contained in section 205 of the City of Yangon Municipal Act: -
 - (a) the fines imposed in the third column in respect of section 98, section 99, section 127, section 138 sub-section (3) and section 154 sub-section (1) respectively shall be substituted by the penalties “Minimum fine kyats 500, maximum fine kyats 5,000, or minimum imprisonment 1 month, maximum imprisonment 6 months, or both”.
 - (b) the fine imposed in the third column in respect of section 100 and section 159 sub-section (2) shall be substituted by the penalties Minimum fine kyats 1,000, maximum fine kyats 5,000, or minimum imprisonment 3 months, maximum imprisonment 1 year or both”.
 - (c) the fine imposed in the third column in respect of section 103 shall be substituted by the penalties “Minimum fine kyats 500, maximum fine kyats 5,000, or minimum imprisonment 1 months, maximum imprisonment 6 months or both”.
 - (d) the fines imposed in the third column in respect of section 108 subsection (1) clause (b) shall be substituted by the penalties “Minimum fine kyats 500, maximum fine kyats 5,000”.
 - (e) the fines imposed in the third column in respect of section 121 subsection (1), section 123 sub-section (1), section 124, section 153, section 154 sub-section (4), section 162 sub-section (1), section 167 sub-section (1), section 170 sub-section (6), section 172, section 173 sub-section (2) and section 175 sub-section (7) respectively shall be substituted

by the penalties “Minimum fine kyats 5,000, maximum fine kyats 50,000, or minimum imprisonment 3 months, maximum imprisonment 1 year, or both”.

(f) the fines imposed in the third column in respect of section 125 subsection (1) clause (a) and section 144 sub-section (1) shall be substituted by the penalties “Minimum fine kyats 1,000, maximum fine kyats 10,000, or minimum imprisonment 3 months, maximum imprisonment 1 year, or both”.

(g) the fines imposed in the third column in respect of section 125 subsection (1) from clause (b) to clause (e), section 156 sub-section (3), section 157 sub-section (1) and section 157 sub-section (3) respectively shall be substituted by the penalties “Minimum fine kyats 2,000, maximum fine kyats 20,000, or minimum imprisonment 3 months, maximum imprisonment 1 year, or both”.

(h) the fines imposed in the third column in respect of section 126 subsection (1) and section 130 sub-section (2) shall be substituted by the fine “Minimum fine kyats 100, maximum fine kyats 1,000”.

(i) the fine imposed in the third column in respect of section 132 shall be substituted by the penalties “Minimum fine kyats 1,000, maximum fine kyats 5,000, or minimum imprisonment 1 month, maximum imprisonment 6 months, or both for a first offence and minimum fine kyats 2,000, maximum fine kyats 10,000, or minimum imprisonment 3 months, maximum imprisonment 1 year, or both for any subsequent offence”.

(j) the fines imposed in the third column in respect of section 133 and section 134 shall be substituted by the penalties “Minimum fine kyats 1,000, maximum fine kyats 10,000, or minimum imprisonment 1 month, maximum imprisonment 6 months, or both for a first offence and minimum fine kyats 2,000, maximum fine kyats 20,000, or minimum imprisonment 3 months, maximum imprisonment 1 year, or both for any subsequent offence”.

(k) the fine imposed in the third column in respect of section 135 shall be substituted by the penalties “Minimum fine kyats 500, maximum fine kyats 5,000, or minimum imprisonment 1 month, maximum imprisonment 6 months, or both for a first offence and minimum fine kyats 1,000, maximum fine kyats 10,000, or minimum imprisonment 3 months maximum imprisonment 1 year, or both for any subsequent offence”.

(l) the fine imposed in the third column in respect of section 147 subsection (1) shall be substituted by the penalties “Minimum fine kyats 3,000, maximum fine kyats 30,000, or minimum imprisonment 3 months, maximum imprisonment 1 year, or both”.

(m) the fine imposed in the third column in respect of section 163 subsection (1) and section 164 sub-section (1) shall be substituted by the penalties “Minimum fine kyats 1,000, maximum fine kyats 5,000, or minimum imprisonment 1 month, maximum imprisonment 6 months, or both”.

5. The expression “Certain offences punishable with fine,” in the side note shown against section 205 of the City of Yangon Municipal Act shall be substituted by the expression “Certain offences punishable with fine or imprisonment or both”.

6. In respect of the daily fines imposed in the third column of the Schedule contained in section 206 of the City of Yangon Municipal Act:

- (a) the expression “Five kyats” shall be substituted by the expression “Fifty kyats”;
- (b) the expression “Ten kyats” shall be substituted by the expression “One hundred kyats”;
- (c) the expression “Twenty kyats” shall be substituted by the expression “Two hundred kyats”;
- (d) the expression “Twenty-five kyats” shall be substituted by the expression “Two hundred and fifty kyats”;
- (e) the expression “Fifty kyats” shall be substituted by the expression “Five hundred kyats”;
- (f) the expression “One hundred kyats” shall be substituted by the expression “One thousand kyats”.

Sd./ Saw Maung
Senior General
Chairman
The State Law and Order Restoration Council

THE CANTONMENTS (HOUSE ACCOMMODATION) ACT (1923)

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THE CANTONMENTS (HOUSE ACCOMODATION) ACT

India Act VI, 1923
1 April 1923

CHAPTER I PRELIMINARY

1. (1)-(2) [....]

(3) This Act shall not become operative in any cantonment or part of a cantonment otherwise than in pursuance of a notification under section 3:

Provided that any notification made under section 3 of the Cantonments (House Accommodation) Act, 1922, in force on the 1st April, 1923, shall be deemed to be a notification made under section 3 of this Act.

2. (1) In this Act, unless there is anything repugnant in the subject or context, -

(a) [....]

(b) "Cantonment Board" means a Cantonment Board constituted under the Cantonments Act

(c) [....]

(d) "Officer Commanding the station" means the officer for the time being in command of the forces in a cantonment or, if that officer is the General Officer Commanding the Forces in the Union of Burma. The military officer who would be in command of those forces in the absence of the General Officer Commanding the Forces in the Union of Burma.

(e) [....]

(f) "house" means a house suitable for occupation by a military officer or a military mess and includes the land and buildings appurtenant to a house;

(g) "military officer" means a commissioner or warrant officer of [the Burma] military or air forces on military or air-force duty in a cantonment and includes [.....]

(h) "owner" includes the person who is receiving or is entitled to receive the rent of a house and others or as an agent or trustee, or who would so receive the rent or be entitled to receive it if the house were let to a tenant; and

(i) a house is said to be in a state of reasonable repair when:

- (i) all floors, walls, pillars and arches are sound and all roofs sound and watertight,
 - (ii) all doors and windows are intact, properly painted or oiled and provided with proper locks or bolts or other secure fastenings and
 - (iii) all rooms, out-houses and other apartment buildings are properly colour-washed or white washed.
- (2) If any question, arises whether any land or. building is appurtenant to a house, it shall be decided by the Officer Commanding the station whose decision thereon shall, subject to revision by the Collector, be final.

CHAPTER II APPLICATION OF ACT

3. (1) The President of the Union may, by notification in the Gazette declare this Act to be operative in any cantonment or part of a cantonment situate in the Union of Burma;
- (2) Before issuing a notification under sub-section (1) in respect of any cantonment or part of a cantonment, the President of the Union shall cause local inquiry to be made with a view to determining whether it is expedient to issues such notification, and what portion (if any) of the area proposed to be included therein should be excluded there from.
4. Nothing in this Act shall affect the provisions of any written instrument executed by or on behalf of the East India Company or the Government consent in writing to be bound by the terms of this Act.

CHAPTER III APPROPRIATION OF HOUSES

5. Every house situate in a cantonment or part of a cantonment in respect of which a notification under sub-section (1) of section 3 is for the time being in force shall be liable to appropriation by the Government on a lease in the manner and subject to the conditions hereinafter provided.
6. (1) Where:
- (a) a military officer who is stationed in or has been posted to the cantonment, or a [Chairman] of a military mess in the cantonment, applies in writing to the Officer Commanding the station stating that he is unable to secure suitable accommodation in the cantonment for himself or the mess on reasonable terms by private agreement, and that no suitable house or quarter belonging to Government is available for his occupation or for the occupation of the mess, and the Officer Commanding the station is satisfied on inquiry of the truth of the facts so stated; or

(b) the Officer Commanding the station is satisfied on inquiry that there is not in the cantonment a sufficient and assured supply of houses available (at reasonable rates of rent by private agreement to meet the requirements of the military officers and military messes whose accommodation in the cantonment is in his opinion necessary or expedient, the Officer Commanding the station may, with a view to enforcing the liability under section 5, serve a notice on the owner of any house which appears to him to be suitable for occupation by a military officer or a military mess, as the case may be, within the cantonment, or, if this Act is in force in part only of the cantonment, within that part; requiring the owner to permit the house to be inspected, measured and surveyed by such person and on such date, not being less than three clear days from the service of the notice, and at such time between sunrise and sunset, as may be specified in the notice;

(2) On the date and at the time so specified the owner shall be bound to afford all reasonable facilities to the person specified in the notice for the purpose of the inspection, measurement and survey of the house and, if he refuses or neglects to do so, such person may, subject to any rules made under this Act, enter on the premises and do all such things as may be reasonably necessary for the said purpose.

7. (1) If, on the report of such person as aforesaid, the Officer Commanding the station is satisfied that the house is suitable for occupation by a military officer or a military mess, he may, by notice:

(a) require the owner to execute a lease of the house to the Government for a specified period which shall not be less than five years;

(b) require the existing occupier, if any, to vacate the house; and

(c) require the owner to execute within such time as may be specified in the notice such repairs as may, in the opinion of the Officer Commanding the station, be necessary for the purpose of putting the house into a state of reasonable repair;

(2) Every notice issued under sub-section (1) shall state the amount of the annual rent proposed as reasonable for the house, calculated on the assumption that the owner will carry out the required repairs if any. It shall also contain an estimate of the cost of such repairs;

(3) The following shall be deemed to be conditions of every lease executed under sub-section (1), namely:

(a) that the house shall, on the expiration of the lease, be re-delivered to the owner in a state of reasonable repair; and

(b) that the grounds and the garden, if any, appertaining to the house shall be maintained in the condition in which they are at the time at which the lease is executed:

Provided that nothing in this sub-section shall be deemed to affect the right of the Government to avoid the lease in any such event as is specified in clause (e) of section 108 of the Transfer of Property Act.

8. [...]

9. No house in any cantonment or part of a cantonment in which this Act is operative shall, unless it was so occupied at the date of the issue of the notification declaring this Act or the Cantonments (House Accommodation) Act, 1902 as the case may be, to be operative, be occupied for the purposes of a hospital, school, school hostel, bank, hotel, or shop, or by a railway administration, a company or firm engaged in trade or business or a club, without the previous sanction of the General Officer Commanding the Forces in the Union of Burma given the concurrence of the Commissioner.

10. No notice shall be issued under section 7 if the house -

(a) was, at the date of the issue of the notification declaring this Act or the Cantonments (House Accommodation) Act 1902 as the case may be to be operative in the cantonment or part of the cantonment, or is, with such sanction as is required by section 9, occupied as a hospital, school, school hostel, bank, hotel or shop, and has been so occupied continuously during the three years immediately preceding the time when the occasion for issuing the notice arises, or

(b) was, at the date of such a notification as is referred to in clause (a) or is, with such sanction as aforesaid, occupied by a railway administration or by a company or firm engaged in trade or business by a club; or

(c) is occupied by the owner; or

(d) has been appropriated by the President of the Union for use as a public office or for any other purpose.

11. (1) If a house is unoccupied, a notice issued under section 7 may require the owner to give possession of the same to the Officer Commanding the station within twenty-one days from the service of the notice.

(2) If a house is occupied, a notice issued under section 7 shall not require its vacation in less than thirty days from the service of the notice.

(3) Where a notice has been issued under section 7 and the house has been vacated in pursuance thereof, the lease shall be deemed to have commenced on the date on which the house was so vacated.

12. If the owner fails to give possession of a house to the Officer Commanding the station in pursuance of a notice issued under section 7 or if the existing occupier fails to vacate

a house in pursuance of such a notice, the District Magistrate, by himself or by another person generally or specially authorized by him in this behalf, shall enter on the premises and enforce the surrender of the house;

13. (1) If a house, in respect of which a notice is issued under section 7, is shown to the satisfaction of the President of the Union, or is proved by a decree or order of a Court of competent jurisdiction, to have been erected under any conditions, rules, regulations or orders which were in force in Bengal prior to the eighth day of December, 1864, and conferred, on the owner the option of offering the house for sale to the military officer applying for its appropriation for his occupation or to the East India Company or the Government, then the owner shall have the option of either complying with the notice or offering the house for sale to the Government.

(2) If the owner elects to sell the house, and the Government is willing to purchase it, the question of the amount of the purchase-money to be paid shall, in the event of disagreement be referred to a civil Court in accordance with the provisions of Chapter IV.

14. (1) If a house, in respect of which a notice is issued under section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease for any term exceeding one year, the Government shall for the term of one year from the date on which the house is vacated in pursuance of the notice; or for the unexpired term or the lease, whichever is the shorter, be liable to the owner for the rent payable under this Act if the rent so fixed exceeds the rent so payable.

(2) If a house in respect of which a notice is issued under section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease from year to year, the Government shall be liable as aforesaid for the term of six months from the date on which the house is vacated in pursuance of the notice.

(3) Nothing in this section shall be deemed:

(a) to render the Government so liable unless an application in writing in this behalf is made by the owner to the Officer Commanding the station within fifteen days from the service of the notice; or

(b) to limit or otherwise affect any agreement between the Secretary of State for India in Council or the Government and the owner.

15. (1) If the owner considers that the rent stated in a notice issued under section 7 is not reasonable, he may, within a period of thirty days from the service of such notice, refer the matter to a civil Court, in accordance with the provisions of Chapter IV:

Provided that where an appeal has been made to the General Officer Commanding the Forces in the Union of Burma under section 30, the period of thirty days shall be reckoned

from the date on which the owner received notice of the result of the appeal under sub-section (2) of section 32.

(2) If the owner does not make such reference within the said period, he shall be deemed to have accepted the rent so offered.

16. (1) If the owner fails to execute any repairs to a house as required by a notice issued to him under section 7, the Officer Commanding the station may by notice require the Owner to execute the repairs within such period, not being less than thirty days, as may be specified in the notice :

Provided that where an appeal has been made to the General Officer Commanding the Forces in the Union of Burma; under section 30, the period of thirty days shall be reckoned from the date on which the owner received notice of the appeal under subsection (2) of, section 32.

(2). If the owner objects to any requisition contained in a notice issued under sub-section (1), he may, within thirty days from the service of the notice, refer the matter to a civil Court, in accordance with the provisions of Chapter IV.

(3) Every reference under sub-section (2) shall be accompanied by an estimate of the repairs, if any, which the owner considers necessary in order to put the house into a state of reasonable repair.

17. The owner fails to comply with a notice issued under sub-section (1) of section 16, the Military Engineer Services or the Public Works Department may, with the previous sanction of the Officer Commanding the station and notwithstanding any right of reference conferred by that section, cause the repairs specified in the notice to be executed at the expense of the Government, and the cost thereof, or, where a reference has been made. the amount finally determined by the civil Court, may be deducted from the rent payable to the owner.

18. Every person on whom devolves, by transfer, by succession or by operation of law, the interest of an owner in any house, or in any part of any house, situate in a cantonment or part of a cantonment in respect of which a notification under sub-section (1) of section 3 is for the time being in force, shall be bound to give notice of the fact to the Officer Commanding the station within one month from the date of such devolution, and if he, without reasonable cause, fails to do so, he shall be punishable with fine which may extend to fifty rupees.

CHAPTER IV
PROCEDURE IN REFERENCES

19. All references under this Act shall be made by application to, and tried by, the Court of the District Judge.

20. References under this Act shall be deemed to be proceedings within the meaning of section 141 of the Code of Civil Procedure and in the trial thereof the Court may exercise any of its powers under that Code.

21. The scope of the inquiry- in a reference under this Act shall be restricted to a consideration of the matters referred to the Court in accordance with the provisions of this Act.

22-28. [...]

CHAPTER V
PROCEDURE IN APPEALS

29. (1) An appeal shall lie to the High Court against the decision of the Court of the District Judge upon a reference tried by it.

(2) No appeal under this section shall be admitted unless it is made within thirty days from the date of the decision against which it is preferred.

(3) An appeal preferred under this section shall be deemed to be an appeal from an order within the meaning of section 108 of the Code of Civil Procedure.

30. The owner or any tenant of a house in respect of which a notice has been issued under section 7 may, within a period of twenty-one days from the date of the service thereof, appeal to the General Officer Commanding the Forces in the Union of Burma against the decision of the Officer Commanding the station to appropriate the house.

31. (1) Every petition of appeal under section 30 shall be in writing and accompanied by a copy of the notice appealed against.

(2) Any such petition may be presented to the Officer Commanding the station and that officer shall be bound to forward it to the authority empowered by section 30 to hear the appeal, and may attach thereto any report which he may desire to make in explanation of the notice appealed against.

(3) If any such petition is presented direct to the General Officer Commanding the Forces in the Union of Burma and an immediate order on the petition is not necessary, the General Officer Commanding the Forces in the Union of Burma may refer the petition to the Officer Commanding the station for report

32. (1) The decision on any such appeal of the General Officer Commanding the Forces in the Union of Burma shall be final, and shall not be questioned in any Court otherwise than on the ground that the house is situate in a cantonment, or part of a cantonment, in which this Act is not operative

Provided that no appeal shall be decided until the appellant has been heard or has had a reasonable opportunity of being heard in person or through a legal practitioner, and in giving a decision the General Officer Commanding the Forces in the Union of Burma shall record briefly the grounds therefore;

(2) Notice of the result of the appeal shall be given to the appellant as soon as may be, and, where the appellant is a tenant of the house, to the owner of the house also.

33. Where an appeal has been presented under section 30 within the period prescribed therein, all action on the notice shall, on the application of the appellant, be held in abeyance pending the decision of the appeal.

CHAPTER VI SUPPLEMENTAL PROVISIONS

34. Every notice or requisition prescribed by this Act shall be in writing, signed by the person by whom it is given or made or by his duly appointed agent, and may be served by post on the person to whom it is addressed, or in the case of an owner who does not reside in or near the cantonment, on his agent appointed in accordance with a bye-law made under clause 29 of section 282 of the Cantonment Act.

34A. The period for making any reference or preferring any appeal under this Act shall be computed in accordance with the provisions of the Limitation Act.

35. (1) The President of the Union may make rules to carry out the purposes and objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may define the powers of entry, inspection, measurement or survey which may be exercised in carrying out the purposes and objects of this Act or of any rule made hereunder.

36 (1) The power to make rules under section 35 shall be subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette and in such other manner (if any) as the President of the Union may direct.

(2) Any rule under section 35 may be general for all cantonments or parts as the President of the Union may direct.

(3) A copy of the rules under section 35 for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Authority.

(4) In making any rule under sub-section (2) of section 35, the President of the Union may direct that whoever obstructs any person, not being a public servant within the meaning of section 21 of the Penal Code in making any entry, inspection, measurement or survey, shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing offence, with fine which, in addition to such fine as aforesaid, may extend to five rupees for every day after the first during which such offence continues.

37. No Judge or Magistrate shall be deemed, within the meaning of section 556 of the Code of Criminal Procedure, to be a party to, or personally interested in any prosecution for an offence constituted by or under this Act merely because he is a member of the Cantonment Board or has ordered or approved the prosecution.

38. No suit or other legal proceeding shall lie against any person for anything done in good faith done or intended to be done under this Act or in pursuance of any lawful notice or order issued under this Act.

THE WATER POWER ACT (1927)

Burma Act XI, 1927
29 October, 1927

1. [...]

2. In this Act, unless there is something repugnant in the context, the term “public water” shall mean a collection of water, whether running or still, which is not the subject of private property exclusively, situate on, or flowing over or to, any land to which the State has any title in possession or in future, or in respect of which the Government has a right to use water for obtaining energy or for mining purposes.

3. When rules made under this Act prescribe licences for the use of any public water for obtaining energy or for mining operations, no person shall use, or attempt to use, any such water for any such purpose, or pollute or obstruct the flow of any such water, or discharge therein any mining refuse, except under and in accordance with the terms of such licence or any grant, lease, or licence from the President of the Union of, or in respect of, any land.

4. The President of the Union may, by notification, make rules [For the Burma Water-Power (Mining Operation) Rules, see Burma Gazette, 1949, Part, page 357:

(a) prescribing licences for the use of any public water or of public waters in any local area for obtaining energy or for mining operations;

(b) authorizing officers to make exemptions from the operation of such rules;

(c) prescribing the officers by whom, the circumstances in which, and the conditions subject to which, licences under this Act shall or may be granted, including provision for the payment of royalty or rent;

(d) prescribing the procedure for granting such licences, and the fees payable for the issue thereof;

(e) providing for appeals from orders of officers authorized to grant such licences; and

(f) generally for carrying out the purposes of this Act.

5. The Deputy Commissioner may, by written notice to any person by whom or on whose authority anything has been constructed or is maintained in contravention of this Act, order the removal of such thing and, if such person fails to comply with such order, the Deputy Commissioner may cause the thing to be removed or demolished, and the expense of such removal or demolition to be recovered from such person as if it were an arrear of land revenue.

6. Every person who contravenes any of the provisions of section 3, or who fails to comply with an order under section 5, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or both.

THE HINDU INHERITANCE (REMOVAL OF DISABILITIES) ACT (1928)

India Act XII, 1928
20 September 1928

Whereas it is expedient to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs, and to remove certain doubts;

It is hereby enacted as follows:-

1. This Act shall not apply to any person governed by the Dayabhaga School of Hindu Law;
2. Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law, other than a person who is and has been from birth a lunatic or idiot, shall be excluded from inheritance or from any right or share in joint family property by reason only of any disease, deformity, or physical or mental defect;
3. Nothing contained in this Act shall affect any right which has accrued or any liability which has been incurred before the 20th September, 1928, or shall be deemed to confer upon any person any right in respect of any religious office or service or of the management of any religious or charitable trust which he would not have had if this Act had not been passed.

THE HINDU LAW OF INHERITANCE (AMENDMENT) ACT (1929)

India Act II, 1929
21 February 1929

Whereas it is expedient to alter the order in which certain heirs of a Hindu male dying intestate are entitled to succeed to his estate; It is hereby enacted as follows:-

1. This Act applies only to persons who, but for the passing of this Act would have been subject to the law of Mitakshara in respect of the provisions herein enacted, and it applies to such persons in respect only of the property of males not held in coparcenary and not disposed of by will.

2. A son's daughter, daughter's daughter, sister, and sister's son shall, in the order so specified, be entitled to rank in the order of succession next after a father's father and before a father's brother:

Provided that a sister's son shall not include a son adopted after the sister's death.

3. Nothing in this Act shall:

(a) affect any special family or local custom having the force of law; or

(b) vest in a son's daughter, daughters daughter or sister an estate larger than, or different in kind from, that possessed by a female in property inherited by her from a male according to the school of Mitakshara law by which the male was governed; or

(c) enable more than one person to succeed by inheritance to the estate of a deceased Hindu male which by a customary or other rule of succession descends to a single heir.

THE HINDU GAINS OF LEARNING ACT (1930)

India Act XXX, 1930
25 July 1930

Whereas it is expedient to remove doubt, and to provide an uniform rule, as to the rights of a member of a Hindu undivided family in property acquired by him by means of his learning;

It is hereby enacted as follow:

1. [...]

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

(a) “acquirer” means a member of a Hindu undivided family who acquires gains of learning;

(b) “gains of learning” means all acquisitions of property made substantially by means of learning, whether such acquisitions be made before or after the 25th July, 1930, and whether such acquisitions be the ordinary or the extraordinary result of such learning; and

(c) “learning” means education, whether elementary, technical, scientific, special or general, and training of every kind which is usually intended to enable a person to pursue any trade, industry, profession or avocation in life.

3. Notwithstanding any custom, rule or interpretation of the Hindu Law, of learning shall be held not to be the exclusive and separate of the acquirer merely by reason of:

(a) his learning having been, in whole or in part, imparted to him by any member, living or deceased, of his family, or with the aid of the joint funds of his family. or with the aid of the funds of any member thereof, or

(b) himself or his family having, while he was acquiring his learning been maintained or supported, wholly or in part, by the joint funds of his family, or by the funds of any member thereof.

4. This Act shall not be deemed in any way to affect:

(a) the terms or incidents of any transfer of property made or effected before the 25th July, 1930

(b) the validity, invalidity, effect or consequences of anything already suffered or done before the said date,

(c) any right or liability created under a partition, or an agreement for a partition, of joint family property made before the said date, or

(d) any remedy or proceeding in respect of such right or liability;

or to render invalid or in any way affect anything done before the said date in any proceeding pending in a Court on the said date; and any such remedy and any such proceeding as is herein referred to may be enforced, instituted or continued, as the case may be, as if this Act had not been passed.

THE CUSTODIAN OF MOVABLE PROPERTY ACT (1945)

Burma Act X, 1945
1 November 1945

WHEREAS it is expedient to make legislative provision for the recovery and return to the owners of movable property of which the owners have been deprived of possession by circumstances arising out of the war and for the appointment of Custodians of such property ;

[...]

It is hereby enacted as follows:

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Custodian of Movable Property Act, 1945.

(2) It shall come into force on such date as the President of the Union may, by notification, appoint, and shall remain in force until the President of the Union, by notification, shall declare it to be no longer in force.
2. In this Act, unless there is anything repugnant in the subject or context:
 - (i) "Custodian" means a Custodian of Movable Property appointed under this Act, and, except in Chapter II, includes an Assistant Custodian;
 - (ii) "Owner" includes the legal representatives of a deceased owner; and
 - (iii) "Prescribed" means prescribed by rules made under this Act.
3. Where owing to circumstances arising out of the war an owner of movable property relinquished possession thereof within the Union of Burma, it shall be presumed, until the contrary is proved, that he has continued to be the owner of such property and that he has had no intention of abandoning the same or any rights thereto.
4. No proceeding, civil or criminal, shall be instituted in respect of any movable property possession of which was relinquished by the owner thereof owing to circumstances arising out of the war against any person who has come into possession of that property if such person delivers up such property to the owner or to a Custodian within such period after the commencement of this Act as may be prescribed.

CHAPTER II
APPOINTMENT OF CUSTODIANS

5. (1) The President of the Union may, either for the whole of the Union of Burma or for any particular area, appoint one or more Custodians and such number of Assistant Custodians as he thinks necessary or expedient for securing compliance with the provisions of this Act.

(2) Every Assistant Custodian shall act under the direction and control of the Custodian for the area in which he is appointed.

6. Subject to the control of the President of the Union, the Custodian for, any area shall have authority to appoint such officers (other than Assistant Custodians) and servants as may be considered necessary or proper for the effective discharge in that area of the duties, powers and functions imposed upon him by this Act.

CHAPTER III
POWERS AND DUTIES OF CUSTODIANS

7. (1) Any person who is in possession of movable property, the possession of which was relinquished by the owner thereof in the circumstances mentioned in section 3 may deliver the same to the nearest Custodian, who shall take all property so delivered to him into his custody.

(2) If a Custodian has reasonable cause to believe that any movable property of which possession was relinquished in the circumstances mentioned in section 3 is in the possession of any person other than the owner thereof, he may, by day or by night, enter and search any premises for such property and take into his custody, or by order in writing authorise any police officer not below the rank of Sub-Inspector to do so.

Provided that the provisions of this section shall cease to apply to mineral ores and metals other than gold and silver on the 1st November 1948, if they are not delivered to the Custodian or seized by him or by his order before the said date.

8. (1) The Custodian shall retain in his custody all property delivered to him or seized under section 7, and, in respect of each delivery under sub-section (1) of section 7, and of each seizure under sub-section (2) of section 7, shall issue a proclamation, containing a description of each article of which the property consists, and requiring any person who has any claim thereto to appear and establish his right to the same within such period from the date of the proclamation as may be reasonable having regard to the circumstances of each case. The proclamation shall be published in such manner and served on such persons as may be prescribed.

(2) On the expiry of the period mentioned in the proclamation, or of any further time which may be given, the Custodian shall peruse the statements (if any) put in by the claimants

to the property, hear the claimants, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he considers necessary, and shall in a summary manner decide which, if any, of the claimants is entitled to the property, or any part thereof, under this Act.

(3) If the Custodian decides that one or more of the claimants is entitled to any part of the property, the Custodian shall deliver to each such claimant the property to which he is entitled under the order of the Custodian.

(4) If any property delivered or seized under section 7 is subject to speedy and natural decay, or if the Custodian is of opinion that its sale would be for the benefit of the owner thereof, or that its value is less than ten rupees, the Custodian may at any time direct it to be sold, and the net proceeds of such sale shall be held for the benefit of the person who may establish his title to the property.

(5) If no person establishes his claim to any property delivered or seized under section 7 within a period of three years from the date of the proclamation issued under sub-section (1), such property, or the sale proceeds thereof if sold, shall vest in the Government.

[...]

9. (1) Any person who has relinquished possession of any movable property in the circumstances mentioned in section 3, and who knows or has reasons to believe that such property or any part thereof is in the possession of any other person, may apply to the Custodian to recover possession of such property from such person:

Provided that the property can be identified, either in whole or in part, and can be separated from any combination.

(1a) Notwithstanding anything contained in sub-section (1), no application made under the said sub-section shall be entertained by the Custodian after the 31st October 1948.

(2) On receipt of an application under sub-section (1), the Custodian shall cause a notice to be served on the party in whose possession the property is alleged to be, and on any other person who appears from the statement of the applicant to be interested in the property, requiring him or them to attend at the time and place fixed for hearing the application, for the purpose of determining the title to the said property under this Act.

(3) If, after receipt of a notice under sub-section (2), any party in whose possession the property is alleged to be disposes of such property in any manner with a view to defeating the objects of this Act he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(4) The Custodian may, if he thinks fit, at any time after the presentation of the application, exercise his powers under sub-section (2) of section 7 to search for and seize the property mentioned in the application, and may, pending the conclusion of the enquiry under sub-section (2), pass such orders for the proper custody of the property as he thinks fit.

(5) If the applicant or his agent fails to appear at the time and place fixed for hearing the application, or at any subsequent time or place to which the hearing may be adjourned, and there is no sufficient cause for his non-appearance, the Custodian may dismiss the application.

(6) If the opposite party or any other person interested in the property after having been served with notice, does not attend at such time and place, or at any subsequent time or place to which the hearing may be adjourned, the application may be heard and determined in his absence.

(7) On the date fixed, or on any subsequent date to which the hearing may be adjourned, the Custodian shall peruse the statements (if any) put in, examine the parties, receive all such evidence as may be produced by them respectively and consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and shall in a summary manner decide whether the applicant or any other person is entitled to the property or any part thereof under this Act.

(8) If the Custodian decides that the applicant or any other person is entitled to the property or any part thereof, and the property or such part is in the custody of the Custodian he shall deliver the property or such part to the applicant the Custodian, he shall proceed to enforce his order under section 10.

(9) The provisions of sub-section (4) of section 8 shall apply to any property in the custody of the Custodian under the provisions of this section.

(10) Any property in the custody of the Custodian under the provisions of this section to which no person establishes a claim within a period of three years from the date on which it came into the custody of the Custodian, or the sale proceeds thereof, if sold, shall vest in the Government.

10, (1) Any order passed by the Custodian under sub-section (2) of section 8 or sub-section (7) of section 9 may be enforced in the following manner, namely, by serving a notice on the person in possession of the property, or his agent, requiring him, within such time as the Custodian may deem reasonable after the receipt of the said notice, to make over possession of said property to the person entitled under the order thereto, and if such notice is not obeyed, by seizing, or authorizing by order in writing any police officer not below the rank of Sub-Inspector to seize, the said property from the possession of that person or his agent and delivering it to the person entitled thereto.

(2) If the officer shall be resisted or obstructed by any person in seizing any such property, the Custodian may issue a warrant for the arrest of such person, and on proof of the facts of such resistance or obstruction may sentence such person to imprisonment for any period not exceeding thirty days, or to fine which may extend to one hundred rupees, or to both:

Provided that no person sentenced under this sub-section shall be liable to be prosecuted under section 183, section 186 or section 188 of the Penal Code or under sub-section (1) of section 15 of this Act in respect of the same facts.

THE PUBLIC PROPERTY PROTECTION ACT (1947)

Burma Act LXXXIII, 1947

24 December 1947

It is hereby enacted as follows:

1. This Act shall remain in force until such date as the President of the Union may by notification declare it to be no longer in force.

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

(i) "Public property" means any store or equipment or any other property whatsoever belonging to, or consigned to, or intended for the use of the army, naval or air forces serving in the Union of Burma or belonging to, or consigned to, or intended for the use of, the Government of the Union of Burma or any local authority constituted under any; and

(ii) "prejudicial act" means the following acts:

(a) any act directly or indirectly connected with, or relating to, any unlawful activity having for its object the smuggling of any property in and out of the Union of Burma in contravention of import and export orders and rules duly made by the Government under the Control of Imports and Exports (Temporary) Act, 1947; or

(b) any act which directly or indirectly abets or incites or facilitates the commission of any offence in respect of any Public property or the contravention of any rule or order made under this Act, the Control of Imports and Exports (Temporary) Act, 1947, the Public Utilities Protection Act, 1947, the [Foreign Exchange Regulation Act, 1947] the Essential Supplies and Services Act, 1947; or

(c) out of willful negligence, mismanagement or default on the part of a person who has, or has had, the custody, charge or control of any Public property, resulting directly or indirectly in loss, deterioration or destruction of any such Public property;

(d) and dealing by any person directly or indirectly in any Public property which gives rise to a suspicion that the person concerned has obtained such Public property either by commission of theft, misappropriation, mischief, breach of trust or by any wrongful means.

3. If any person finds any Public property which he has cause to believe to have been lost or abandoned and that, prior to the loss or abandonment, was in the possession of a person who was serving with an armed force or under the Government, the person so finding such property:

(a) shall report the nature and situation thereof, or if such property is a document, cause it to be delivered to some member of the army, naval or air forces serving in the Union of Burma, on duty in the neighborhood, or to the Officer-in-Charge of a police station in the neighborhood; or if such property is found outside the Union of Burma, shall take such steps as are practicable to secure that the nature and situation thereof are reported, or, if

such property is a document, that it is delivered as soon as may be, to some person in the service of the Government; and

(b) shall not, save as aforesaid, remove or tamper with such property, except with the permission of the President of the Union.

4. The President of the Union may by order direct that the obligation and restriction imposed by section 3 shall not apply to any Public property of such description as may be specified therein or as may be specified by such authority as the President of the Union may appoint in this behalf.

5. If any person contravenes any of the provisions of section 3, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

6. (1) Notwithstanding anything contained in any other law for the time being in force, if any person is in authorized possession of any Public property, or commits theft, misappropriation or mischief in respect of any Public property, he shall be punishable with imprisonment for a term which may extend to seven years, or with whipping, or with both imprisonment in whipping, and shall also be liable to fine.

(2) In any prosecution under sub-section (1) the burden of proving that the possession is authorized shall lie on the person in whose possession any such Public property is found.

7. (1) Any police officer not below the rank of a sub-inspector or any other officer of Government empowered in this behalf by general or special order by the President of the Union may, with the prior approval of such authority as may be prescribed by the President of the Union, arrest without warrant any person whom he suspects of having committed or of committing any of the offences mentioned in sub-section (1) of section 6 in respect of any Public property.

(2) Any officer authorized in this behalf by general or special order by the President of the Union may arrest without warrant any person whom he suspects of having committed or of committing any prejudicial act;

(2A) Any officer authorized in this behalf by general or special order by the President of the Union, may, if he is satisfied with respect to any particular person that circumstances exist which render it necessary to arrest him with a view to preventing him from committing any offence mentioned in section 6 (1) or an offence of criminal breach of trust in respect of any Public property, or any prejudicial act, do so without warrant;

(3) Any officer who makes an arrest in pursuance of sub-section (1) or sub-section (2) [or sub-section (2A) or who makes an arrest for an offence of criminal breach of trust in respect of any Public property] shall forthwith report the fact of such arrest to the President of the Union, and pending the receipt of the orders of the President of the Union, he may, by an order in writing, commit any person so arrested to such custody as the President of the Union may, by general or special order, specify:

Provided:

(i) that no person shall be detained in custody under this sub-section for a period exceeding fifteen days without the order of the President of the Union;

(ii) that no person shall be detained in custody under this sub-section for a period exceeding six months.

(4) If any person arrested under sub-section (1) or sub-section (2) is prepared to furnish security, the officer who has arrested him may, subject to such general or special instructions as may from time to time be issued by the President of the Union or any person authorized by the President of the Union in this behalf, release him on his executing a bond, with or without sureties, undertaking that he will conform to such conditions or directions as the President of the Union may from time to time make.

(5) On receipt of any report made under sub-section (3), the President of the Union may, by order, direct, subject to the second proviso to sub-section (3), that a person arrested under this section be detained for such period as he may deem necessary for the purpose of making an investigation.

(6) When security has been taken in pursuance of the provisions of sub-section (4), the bond shall be deemed to be a bond taken under the Code of Criminal Procedure 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 Code of Criminal Procedure shall apply accordingly.

(7) The order of detention under sub-section (5) shall not be deemed to authorize the continued detention of the person in respect of whom it had been made after he is sent up for trial before any competent Court; but the Court before which the trial or enquiry is held, shall not release the accused on bail unless it is established that the accused, if released on bail, is not likely to suborn any witness cause of the disappearance of any evidence or secret or destroy any document which may be used as evidence against him.

8. (1) Notwithstanding anything contained in any other law for the time being in force, where any person is arrested or detained under section 7, the Inspector-General of Police, on the Commissioner of Police, Rangoon or any other office of the Government empowered by the President of the Union in this behalf may, if he thinks fit so to do:

(a) inspect or cause, in writing, to be inspected, by an officer not below the rank of District Superintendent of Police whose name is specified therein, any book belonging to, or under the control of, a bank; or

(b) direct the manager or agent of the bank to supply a certified copy of any entry in the book of the bank or give any information in the possession of the bank, relating to the account of such person or to any other person dependent on him, or relating to any property kept in the safe custody of the bank in the name of such person or of any other person dependent on him; or

(c) prohibit the manager or agent of the bank from making any payment from the amount standing to the credit of such person or of any other person dependent on him or from

delivering any property kept in the safe custody of the bank in the name of such Person or any other person dependent on him without an order in writing of the officer making the prohibition.

(2) The expressions “bank” and “certified copy” shall have the same meanings as are assigned to them under the Bankers’ Books Evidence Act.

(3) If the manager or agent of a bank, as the case may be, fails or refuses to allow inspection of any book belonging to, or under the control of, the bank, or to comply with any direction or prohibition issued under sub section (1), he shall be liable to punishment with imprisonment of a term which may extend to three years, or with fine, or with both.

9. Any person who attempts to contravene, or abets, or attempts to abet, or does any act preparatory to, a contravention of any of the provisions of this Act, shall be deemed to have contravened that provision.

10. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything done or intended to be done in pursuance of this Act.

11. The State Property Protection Act, 1947, Burma Act No. XLIII of 1947, is hereby repealed; but notwithstanding such repeal anything purported to be done or any action purported to be taken in exercise of any power conferred by or under the said Act shall be deemed to have been done or taken in exercise of the powers under this Act.

THE REQUISITIONING (EMERGENCY PROVISIONS) ACT (1947)

Burma Act XXXVIII, 1947

28 July, 1947

WHEREAS it is expedient to make provisions for requisitioning lands and premises in certain respects;

[..]

It is hereby enacted as follows:-

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

(2) It shall remain in force until such date as the President of the Union may, by notification, direct that it shall cease to be in force.

2. (1) The President of the Union may by order in writing requisition any land, building, part of a building, or other premises, together with any fixtures, fittings, furniture or other things therein, or any water-supply system connected or pertaining to such land or premises, and may make such further orders as appear to the President of the Union to be necessary or expedient in connection with the requisitioning:

Provided that no land, premises or things used for the purpose of religious worship shall be requisitioned under this Act:

Provided also that no land, premises or things shall be requisitioned under this Act for any person who is not a public servant, or whose work or duty is not connected with the Government, or in respect of whom the Government is under no obligation to make a requisition, or who is not a representative, or a member of the diplomatic mission, of another country, or a visitor from a foreign State.

(2) Where the President of the Union has requisitioned any land, premises water-supply system or thing under sub-section (1), the President of the Union may use such land, premises, water-supply system or thing in such manner as he may consider necessary or expedient, but shall have no power to dispose of any such land, premises, water-supply system or thing.

(3) The President of the Union may by order:

(a) require the owner or occupier of any land, building, part of a building, or other premises to furnish to such authority as may be specified in the order such information in his possession relating to the land, building, part of a building, or other premises, or to any fixtures, fittings, furniture or other things therein, or to any water-supply system connected or pertaining thereto, it may be so specified;

(b) direct that such owner or occupier shall not, without the permission of the President of the Union, dispose of such land, building, or other premises, or of any fixtures, fittings, furniture, or other things therein, or of any water-supply system connected or pertaining thereto, till the expiry of such period as may be specified in the order.

(4) If any person contravenes any order made in pursuance of this section, he shall be punishable with imprisonment for a term which may extend to three years, or within fine, or within both.

3. (1) The President of the Union may by order in writing require the owner, or the person having the management, of any warehouse or cold storage depot to place at the disposal of Government the whole or any part of the space or accommodation available in such warehouse or cold storage depot and to employ such space or accommodation for the storage of any articles or things specified in the order and such an order may require the said owner or person to afford such facilities, and maintain such services, in respect of the storage of such articles on things, as may be specified.

(2) Whenever in pursuance of an order made under sub-section (1) any space or accommodation in a warehouse or cold storage depot is placed at the disposal of the Government the owner of such warehouse or cold storage depot shall be paid therefor at such rates as the President of the Union may by order made in this behalf determine.

(3) If any person contravenes any order made in pursuance of this section he shall be punishable within imprisonment for a term which may extend to six months, or with fine, with both.

4. (1) The Government may cause any reasonable repair to be made to any building which is requisitioned under this Act and deduct the expenses of the repair from the rent, or otherwise recover it from the lessor.

(2) The provisions of sub-section (1) shall apply to the requisitions of the buildings made or purported to have been made under Rule 76 of the Defense of Burma Rules before the commencement of this Act, as if the said requisitions had been validly made under the provisions of this Act.

4A. The President of the Union may, by order, direct that any power-which is conferred upon him by section 2, section 3 and section 4 shall, subject to such conditions as may be specified therein, be exercised by such officer or authority as he may specify.

5. Notwithstanding anything contained in any other law, all requisitions of property or things made or purported to have been made under Rule 76 and Rule 79 of the Defense of Burma Rules before the commencement of this Act shall be deemed to have been made under the provisions of this Act, as if this Act were in force at the time the requisitions were made; and no such requisitions shall be deemed to be invalid by reason only that they were made in contravention of the provisions of the provisos to the said Rule 76 (1).

6. (1) Where any property or thing is requisitioned, or is deemed to have been requisitioned, under the provisions of this Act, the owner of such property or thing shall be paid such compensation for any loss he may have sustained as a result of such requisitioning as may be fixed in accordance with the provisions of this section.

(2) In default of argument between the Government and the owner of the property, the President of the Union shall, by general or special order, specify the authority or person through which or whom any claim for compensation under sub-section (1) shall be submitted and the authority or person by which or whom any such claim shall be adjudged or awarded.

(3) The President of the Union may further, by general or special order, prescribe the conditions to which the authority or person responsible for adjudging or awarding claim for compensation shall have regard which determining the amount of compensation payable, and may give such supplementary orders as to the assessment and payment of compensation as may appear to him to be necessary or expedient.

(4). No compensation shall be payable under the provisions of this section unless the owner of the property or thing, requisitioned or deemed to have been requisitioned under the provisions of this Act, submits his claim for such compensation within ninety days from the date on which the said property or thing was de-requisitioned.

6A. (1) Where any requisitioned land, building, part of a building or other premise is to be released from requisition, the President of the Union may, after making such inquiry, if any, as Inc considers necessary, specify by order in writing the person to whom possession of the said land, building, part of a building or other premise shall be given.

(2) The delivery of possession of the requisitioned land, building, part of a building, or other premises to the person specified in an order made under sub-section (1) shall be a full discharge of the President of the Union from all liability in respect of such delivery, but shall not prejudice any rights in respect of the said land, building, part of a building or other premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the said land, building, part of a building or other premises is so delivered.

(3) Where the person to whom possession of any requisitioned land, building, part of a building or other premises is to be given cannot be found and has no agent or other person empowered to accept delivery on his behalf, the President of the Union shall cause a notice, declaring that the said land, building, part of a building or other premises is released from requisition, to be affixed on some conspicuous part of the said land, building, part of the building or other premises and publish the notice in the Gazette.

(4) When notice referred to in sub-section (3) is published in the Gazette, the land, building, part of a building or other premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof; and the President of the Union shall not be

liable for any compensation or other claim in respect of the said land, building, part of a building or other premises for any period after the said date.

7. The provisions of this Act shall be deemed to supersede the provisions of all other laws in so far as the latter are inconsistent with or repugnant to the provisions of this Act.

THE LAND NATIONALISATION ACT (1953)

[Unofficial Translation]

[Exact date unknown]

[Appended with ACT No. 75 of 1953 (October 26, 1953); Amendment Act No. 22 of 1954 (March 30, 1954), Amendment Act No. 54 of 1955 (October 19, 1955); and Amendment Act No. 49 of 1957 (October 16, 1957)].

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THE LAND NATIONALISATION ACT

CHAPTER 1 PREAMBLE

It is hereby enacted as follows:

1. (1) This Act may be called the Land Nationalization Act, 1953.
2. The Act shall come into force the whole area of the Union of Burma.
3. In this Act, unless there is anything repugnant in the subject or context:
 - (a) “Adult” means a person who has completed his eighteenth year;
 - (b) “agricultural land” means land which is occupied or is ordinarily utilized, or has been leased, for the purposes of agriculture or horticulture or husbandry or for purposes subservient to agriculture, horticulture or husbandry and includes the sites of buildings, dwelling houses and other structures on such land; but does not include land that is within a town or village and is occupied as the site of a dwelling;
 - (c) “Agriculturist” means a person:
 - (i) Who works, or who habitually worked prior to that year, any agricultural land, as his principle means of subsistence;
 - (ii) With his own hands as a land-holder or as a tenant or as an agricultural laborer;
 - (d) “lease of agricultural land” or “rent of one’s own land for cultivation” means a transfer of a right to enjoy such land, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised or of money, a share of crops, service or any other thing of value or without any such price to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms;
 - (e) “agriculturist family” means a group of persons, related by blood or marriage, living together and depending for its maintenance on the earnings of one or more senior members thereof, who shall be an agriculturist or agriculturists;

Explanation:

families living together but feeding separately shall be regarded as separate families.

- (f) “Chief of a family” mean seniors of a family who lead families’ businesses;

(g) “Family still living together and they haven’t separated their possession yet” means all agricultural land is registered with a person’s title, but all family members jointly share entitlement and the benefits produced from the land;

(h) “possession” means, prior to enforcement of this law, the occupation of agricultural land by any person, or by his servant, agent, tenant, company, bank, association, or mortgagee or by some other person holding under him, or jointly owned by a Hindi family, or by religious building, or after enforcement of this law, possession of the land by prescription of this law;

Provided that:

notwithstanding anything contained in any other law for the time being in force, an agricultural land under a use of usufructuary or English mortgage or a mortgage by conditional sale, shall be deemed to be in the possession of the mortgagee:

If the mortgagee still holds the agricultural land continuously until January 4, 1948 or until the date of sharing land, it assumes the mortgagee owns the land;

(i) “Tenant” means a person or organization that occupies land and is liable to pay rent for the said land;

(j) “constitutional improvement” means any work by which the value of the agricultural land has been permanently increased by the cost of or by the labor of the person in possession of the said agricultural land or his predecessor in interest, and includes any building erected on the agricultural land for the dwelling of a cultivator or for any other person subservient to agriculture; drainage works, irrigation channels, tanks, wells, embankments, roads or other permanent improvements; but does not include the clearance of land for purposes of cultivation, the construction of kazins or improvements not of a permanent nature;

(k) “Guardian” means a person who is appointed by any respective authoritative court taking care of juvenile person or mentally unsound person, or their possession or both person and his or her possession;

(l) “Agriculturalist association” means agriculturalist association formed by this act to pursue development of rural economy;

(m) “The land which can be tilled by a pair of oxen drawing a harrow” (Ta-ton-Hton) means an extent of land measured by bye-law of this act;

(n) “Religious servant” means a person acknowledged by a bye-law of this act;

(o) “Religious building” means a building acknowledged by bye-law of this act;

(p) “Land revenue” means;

(Ka Ka) In the region affected by “The Upper Burma Land and Revenue Regulation”;

(Kar Kar) Land revenue collected according to soil class rate by the Upper Burma Land and Revenue Regulation and the Canal Act, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess calculated by full soil class rate by 1947-48 assessment season;

(Khar Khar) Land revenue collected according to flat rate by the Upper Burma Land and Revenue Regulation and the Canal Act, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)] , except cess calculated by flat rate by 1947-48 assessment season;

(Gar Gar) Although paragraphs of (Kar Kar) and (Khar Khar) describe soil class rate and flat rate of the land, if the State President considers the land could not be taken revenue accordingly, land revenue, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess collected usually prior to 1947-48 assessment season;

(Ghar Ghar) Land revenue collected according to fixed demand by the Upper Burma Land and Revenue Regulation and the Canal Act, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess calculated by fixed demand prior to 1947-48 assessment season;

(Ngar Ngar) If the land is different from descriptions in paragraphs (Kar Kar), (Khar Khar), (Gar Gar), and (Ghar Ghar), land revenue collected normally from the land, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess prior to 1947-48 assessment season;

(Kha Kha) In the region affected by “The Land and Revenue Act”:

(Kar Kar) Land revenue collected according to soil class rate by the Land and Revenue Act and the Canal Act, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess calculated by full soil class rate by 1947-48 assessment season;

(Khar Khar) Land revenue collected according to flat rate by the Land and Revenue Act and the Canal Act, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess calculated by flat rate by 1947-48 assessment season;

(Gar Gar) Although paragraphs of (Kar Kar) and (Khar Khar) describe soil class rate and flat rate of the land, if the State President considers the land could not be taken revenue accordingly, land revenue, including [water revenue] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], except cess collected usually prior to 1947-48 assessment season;

(Ghar Ghar) If the land is different from descriptions in paragraphs (Kar Kar), (Khar Khar), and (Gar Gar), land revenue collected normally from the land, including [water revenue]

[added by Amendment Act No. 22 of 1954 (March 30, 1954)] , except cess prior to 1947-48 assessment season;

Explanation:

Land revenue collected normally from the land, including [water revenue], except from last taken cess, means it is not including with fallow rate and reduced rate for the damaged lands.

CHAPTER 2 PROHIBITION OF (LAND) TRANSFER AND CONFISCATION

4. It is prohibited, as from the commencement of this Act, to mortgage, or to sell or to transfer by some other means or to divide the lands, if the act is against this Act or against bye-laws of this Act.

Exemption: [added by Amendment Act No. 54 of 1955 (October 19, 1955)]

However, the description of this section is:

(Ka) no involvement with confiscation of the land according to this Act, or redeeming of the land prior to exemption; and

(Kha) no involvement with transfer of the land to the State.

5. (1) The President shall, as from the commencement of this Act resume possession of all agricultural lands with the exception of the agricultural lands, mentioning in (schedule) table 1 of Section 6 of this Act.

5. (2) The President shall resume the lands, mentioned in Section 5 (1), by issuing order, declaring the above mentioned lands will be reclaimed by the State in specified regions by specified dates.

5. (3). The State shall, as from the commencement of this Act resume possession of all agricultural lands with exception of the agricultural lands specified in the sub-section 5 (1) and to the extent specified in the said schedule and sub-section 5 (2), notwithstanding anything contained in any other law for the time being in force or in any agreement, contract, deed, grant, lease of license, all rights whatsoever existing therein before the commencement of this Act other than the rights of the State shall thereupon cease absolutely; and no rights whatsoever other than the rights of the State shall, save as expressly provided in section 10, hereafter accrue on such land.

CHAPTER 3
EXEMPTION

6. (1) The following agriculturalist families or individuals, who are in possession of any agricultural lands and extent, mentioned in paragraphs I, II and III or IV of agricultural lands specified in Schedule I, shall be granted exemption from land confiscation by section 5:

(Ka) The family suitable with the following criteria:

(Ka Ka) The family must be agriculturalist family.

(Kha Kha) One of the family members must possess the land continuously since January 4, 1948.

(Ga Ga) One of the family chief or chiefs of the family must have been living as agriculturalist since January 4, 1948.

(Gha Gha) Most of the family members must be citizens of Union of Burma.

Exemption:

However, an adult family member has inherited the the land from the ancestor chief of the family, who owned the land since January 4, 1948, that person can be considered possessing the land since January 4, 1948.

(Kha) The family, living together and undivided for their possession yet, suitable with the following criteria:

(Ka Ka) The family must be agriculturalist family.

(Kha Kha) A family chief or chiefs must possess the land continuously since January 4, 1948.

(Ga Ga) One of the family chief or chiefs of the family must have been living as agriculturalist since January 4, 1948.

(Gha Gha) Most of the family members must be citizens of Union of Burma.

First exemption:

However, a family shall enjoy more privileges of exemption, rather than ordinary exemption of State confiscation of land, the family must have four adult working as agriculturalists, these adults must be working on the land in family possession.

Second exemption: However, an adult family member has inherited the the land from the ancestor chief of the family, who owned the land since January 4, 1948, that person can be considered possessing the land since January 4, 1948.

(Ga) A juvenile suitable with the following criteria:

(Ka Ka) The juvenile person must be lost one of his or her parents.

(Kha Kha) The person must be a member of agriculturalist family mentioned in Sub-section (Ka).

(Ga Ga) The person must be inherited the agricultural land after January 4, 1948, but ancestor owner must possess the land continuously since January 4, 1948.

(Gha Gha) The person must be still under guardianship of someone.

(Gha Gha) The person must be Union of Burma's citizen.

(Gha) A mentally ill person suitable with the following criteria:

(Ka Ka) The person must be a member of agriculturalist family mentioned in Sub-section (Ka).

(Kha Kha) The person must be owner of the agricultural land.

(Ga Ga) The person must be acknowledged by an authoritative court as mentally ill and he or she must be under someone's guardianship.

(Gha Gha) The person must be Union of Burma's citizen.

(Nga) A non-agriculturalist family, headed by a family chief, suitable with the following criteria:

(Ka Ka) The person must possess the land continuously since January 4, 1948, or the person must be inherited the agricultural land after January 4, 1948, but ancestor owner must possess the land continuously since January 4, 1948.

(Kha Kha) The person must be living permanently in the ward or village, where the agricultural land is situated.

(Ga Ga) The person must make commitment in written letter that he or she will work on the agricultural land, according to the prescribed method and within a certain period of time, according to Section 3, sub-section (Ga).

(Gha Gha) The person must be Union of Burma's citizen.

Exemption:

However, a President or any authority appointed by the President for that particular purpose, shall exempt or pardon the paragraph (Kha Kha), if that person living permanently outside of the village or ward where the agricultural land is situated, is not a reason infringing Statement mentioning in paragraph (Ga Ga).

(Sa) A family suitable with the following criteria:

(Ka Ka) The family must be agriculturalist family.

(Kha Kha) A family member must possess the land continuously since June 22, 1953.

(Ga Ga) The family chief or chiefs must have been living as agriculturalist since January 4, 1948.

(Gha Gha) Most of the family members must be citizens of Union of Burma.

Exemption:

However, an adult family member of the above mentioned family has inherited the the land from the ancestor chief of the family, who owned the land since June 22, 1953, that person can be considered possessing the land continuously since June 22, 1953.

First exemption of Sub-section (1): [added by Amendment Act No. 22 of 1954 (March 30, 1954)]

Any agricultural family which is in possession of agricultural lands coming within the paragraphs 1, 2, 3, and 4 of the Schedule I shall be entitled to claim exemption from the operation of this sub-section, the total limit for such exemption shall be computed according to the proportion prescribed in respect of each class of such lands in the Schedule I.

Second exemption of Sub-section (1): [added by Amendment Act No. 22 of 1954 (March 30, 1954). Second exemption of Paragraph (Nga) becomes Second exemption of Sub-section (1).]

Any agricultural family which is in possession of agricultural lands coming within the the paragraphs 1, 2, 3, and 4 of the Schedule I shall be entitled to claim exemption from the operation of this sub-section in respect of one or more such classes of agricultural lands, provided that if the claim is in respect of more than one class of such agricultural lands, the total limit for such exemption shall be computed according to the proportion prescribed in respect of each class of such lands in the Schedule I.

Third exemption of Sub-section (1): [added by Amendment Act No. 54 of 1955 (October 19, 1955)]

Any agricultural family which is in possession of agricultural lands coming within the paragraphs 1, 2, 3, and 4 of the Schedule I shall be entitled to claim exemption from the operation of this sub-section, but the exemption shall be considered in respect of the agricultural family's or individual's cultivating land size, their labor forces, and their capacity, and the exemption can be made less to the extent of land prescribed in the paragraphs 1, 2, 3, and 4 of Schedule I.

6. (2) The land owned by religious institution, according to the following criteria, can be exempted from confiscation by Section 2 of this Act, Schedule I:

(Ka) The agricultural land is;

(Ka Ka) categorized as "sacred ground" or land donated for religious purposes; or

(Kha Kha) known to be donated by Burmese kings for religious purposes; or

(Ga Ga) granted officially for exemption of taking land revenue for religious purposes; or

(Gha Gha) recorded at the respective Land Record Department as the agricultural land is donated to the religious institution, prior to June 22, 1953. However, if the land is situated in one of the States or in Chin Autonomous Division or [in any area where there is no Land Record Department is operating] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], the owner must submit reliable document to the President that the land was donated to the religious institution prior to June 22, 1953. Moreover:

(Kha) The income or products from the land must be used only for religious purposes; and

(Ga) The agricultural land must be managed by the institution's trustees.

6. (3) The land owned by religious personal, according to the following criteria, can be exempted from confiscation by Section 5 of this Act, mentioned in Schedule I:

(Ka) The person must own the land;

(Kha) The land recorded at the respective Land Record Department as the agricultural land is donated to that religious personal, prior to June 22, 1953. However, if the land is situated in one of the States or in Chin Autonomous Division or [in any area where there is no Land Record Department is operating] [added by Amendment Act No. 22 of 1954 (March 30, 1954)], the owner must submit reliable document to the President that the land was donated to the religious institution prior to June 22, 1953;

(Ga) The income or products from the land must be used only for religious purposes; and

(Gha) The person must be Union of Burma's citizen.

6. (4) Any type of agricultural land specified in Paragraph 5, 6 or 7 of Schedule I, shall be exempted from confiscation, in accordance with the specified limit mentioned in Schedule I, Section 5.

CHAPTER 4 DISTRIBUTION OF AGRICULTURAL LAND

7. (1) Apart from the land required by the State and if anything repugnant to Section 8 of this Act, the State shall redistribute the agricultural land resumed by Section 5 of this Act, according to its bye-laws and prescribed priorities to agricultural families until to the extent mentioned below.

(Ka) An agricultural family which cannot enjoy exemption under Section 6 shall be allotted until area of agricultural land as can be served by one yoke of cattle, or a plot of land which can be tilled by a pair of oxen drawing a harrow (Ta-ton-Hton). If the agricultural family consisting of more than four adults who are capable of working that area, for each extra individual adult, the family can enjoy allotment, one-fourth (1/4) more area of previously allotted Ta-Ton-Hton field.

(Kha) (If an agricultural family cannot enjoy exemption under Section 6), the agricultural area of the family, granted for exemption of confiscation under Section 6 is less than an area of Ta-Ton-Hton field, the family shall enjoy land distribution until the area of Ta-Ton-Hton field.

First exemption: [added by Amendment Act No. 54 of 1955 (October 19, 1955)]

Although an agricultural family deserves exemption of land confiscation (by this Act), but the area where the family is cultivating is yet implementing this Act of Land Nationalization, and for that reason the family cannot enjoy such right, the agricultural family shall be granted the area of land until permitted in paragraph (Ka) temporarily where the family members are working.

Second exemption: [added by Amendment Act No. 54 of 1955 (October 19, 1955)]

The family deserves the exemption right under description of first exemption, and the family members can appeal for permission of exemption of land confiscation. However, if the family doesn't want to make appeal, the family must hand over the land to the State. If the family makes appeal to the State for exemption of land confiscation, the family temporarily must hand over the distributed land to the State.

7. (2) Although whatever mentioned in Sub-section (1), if the President or other officials appointed by the President may deem necessary, can redistribute lands (land resumed possession by the State under sub-section (1), and other farrow lands under control of

the State) to families according to bye-laws of this Act and managed by agriculturalist associated founded by section 13 of this Act.

7. (3) Although whatever mentioned in Sub-section (1) and (2), if the President considers it is not possible for redistribution of the land, he or she can manage the land in whatever means, for the land the Presidents resumed possession of the State by reliable reason.

8. Agriculturalist families specified in section 7 shall follow these regulations.

The chief of the family:

(Ka) has been working on agricultural land in accordance with Section 3, Paragraph (Ga);

(Kha) must commit in written agreement that he or she will follow the guidance of the President or any officials appointed by the President for that particular purpose, and to participate in agriculturalist associations founded by bye-laws of this Act and Section 13 of this Act. Moreover:

(Ga) he or she must be a citizen of Union of Burma.

CHAPTER 5 RIGHTS ON EXEMPTED LANDS AND DISTRIBUTED LANDS

9. (1). The individual or religious institution who owns the land by section 6 of this Act, shall enjoy the following rights, if they are not contradicting against State rights and prescriptions in Paragraphs 1, 2, 3, and 4 of Section 6 and Section 11 of this Act.

(Ka) The rights to possess the land, cultivating on it and to enjoy all the benefits arising therefrom;

(Kha) The rights to sell, transfer possession, and or donation to religious institution and religious personal, to any agricultural association, any agriculturalist, or any non-agriculturalist who commit in written agreement that the land will be used in accordance with the means prescribed in Section 3, paragraph (Ga) of this Act; and,

(Ga) The rights to divide, or to exchange the land with other agricultural land;

First Exemption:

However, the specified rights mentioned in paragraph (Kha) and (Ga) are enjoyable, if they are along with bye-laws of this Act, and by permission of President or authority appointed by President for this particular matter.

Second Exemption:

The agricultural land in the possession of a religious institution or a member of the religious order, is allowed to rent to someone for cultivation, if the action is not against existing law and other laws.

9. (2) If any person in possession of any agricultural land exempted under section 6, not contravening any provision of State rights and provision in Schedule I and Section 6, sub-section (1) and (4) or if it is not from any agricultural land in the possession of a religious institution or a member of the religious order, can be allowed to inherit someone;

Exemption:

If someone inherited the agricultural land, who is non-agriculturalist and who fails to commit in written agreement to work on the land by prescribed means and within specified period, according to the procedure mentioned in Section 3, sub-section (Ga), the President shall resume the land.

10. (1) The individual or chief of an agriculturalist family in possession of the distributed land, received either by Section (7) or (52) of this Act, shall enjoy the following rights, if they are not contradicting against State rights and prescriptions in Section (12) of this Act.

(Ka) The rights to possess the land, cultivating on it and to enjoy all the benefits arising therefrom;

(Kha) The rights to sell or transfer possession, to any agriculturalist association, where the chief of that agriculturalist family is a member;

(Ga) The rights to divide, or to exchange the land with other agricultural land;

Exemption:

However, the specified rights mentioned in paragraph (Kha) and (Ga) are enjoyable, if they are along with bye-laws of this Act, and by permission of President or authority appointed by President for this particular matter;

10. (2) If any person in possession of any agricultural land received by distribution according to Section (7) and (52) of this Act, can be allowed to inherit someone, if the action is not against State rights and other provisions of this Act;

Exemption:

If someone inherited the agricultural land, who is non-agriculturalist and who fails to commit in written agreement to work on the land by prescribed means and within specified

period, according to the procedure mentioned in Section 3, sub-section (Ga), the President shall resume the land.

CHAPTER 6
REGULATIONS RELATING TO EXEMPTED
LANDS AND DISTRIBUTED LANDS

11. (1). If the family chief of an agriculturalist family to which agricultural land has been exempted or allotted under section 6 of this Act, the person shall abide the following regulations in regards of the agricultural land.

(Ka) The person shall not mortgage, or sell, or transfer the agricultural land by other means to someone, if it is conflicting against provision in section 9 and bye-laws of this Act;

(Kha) The person shall not divide, or exchange the agricultural land, if it is conflicting against provision in section 9 and bye-laws of this Act;

(Ga) The person is oblique to work on the land, with the prescribed means by section (3) paragraph (Ga) of this Act;

(Gha) The person shall pay all impositions of the State;

(Nga) The person shall not cease to be an agriculturalist family;

(Sa) The person shall not be left such land fallow without sufficient cause; and

(Hsa) The person shall not mortgage, sold or otherwise transfer to any other person to such land.

11. (2) If the family chief of an agriculturalist family, living together and undivided for their possession yet, to which agricultural land has been exempted or allotted under section 6 of this Act, the person shall abide the following regulations in regards of the agricultural land:

(Ka) The person shall follow provisions in sub-section (1); and

(Kha) If the person own extra area of exempted land, rather than normally exempted and allotted land from State resumption; the agriculturalist family consists more then four adults and the four adults must work on the family's agricultural land.

11. (3) If a juvenile or mentally ill person, to which agricultural land has been exempted or allotted under section 6 of this Act, the guardian of that person shall abide the following regulations in regards of the agricultural land.:

(Ka) The person shall follow provisions in sub-section (1), paragraph (Ka), (Kha), (Gha), (Sa), and (Hsa); and

(Kha) The guardian or agent of that person is oblique to work on the land, with the prescribed means by section (3) paragraph (Ga) of this Act.

11. (4) If the non-agriculturalist family chief, to which agricultural land has been exempted or allotted under section 6 of this Act, the person shall abide the following regulations in regards of the agricultural land:

(Ka) The person shall follow provisions in sub-section (1); and

(Kha) The person is oblique to work on the land, with the prescribed means by section (3) paragraph (Ga) of this Act, from the consecutive season of the year of granting exemption under section (6), or from the late harvesting season the granted year, or from the specified harvesting season which the authority appointed by the President considered.

11. (5) If a member of religious order, to which agricultural land has been exempted or allotted under section 6 of this Act, the person shall abide the following regulations in regards of the agricultural land:

(Ka) The person shall not mortgage, or sell, or transfer the agricultural land by other means to someone, if it is conflicting against provision in section 9 and bye-laws of this Act;

(Kha) The person shall not divide, or exchange the agricultural land, if it is conflicting against provision in section 9 and bye-laws of this Act;

(Ga) The person shall not cease from being a member of religious order;

(Gha) The person shall pay all impositions of the State;

(Nga) The person shall use the benefits and outcomes resulted from the agricultural land only for religious purposes;

(Sa) The person shall not be left such land fallow without sufficient cause.

Exception:

However, the President can pardon any of the regulations mentioned in this sub-section to a member of religious order on favorable reason.

11. (6) If a religious institution, to which agricultural land has been exempted or allotted under section 6 of this Act, the trustees of the religious institution shall abide the following regulations in regards of the agricultural land:

(Ka) The trustees shall not mortgage, or sell, or transfer the agricultural land by other means to someone, if it is conflicting against provision in section 9 and bye-laws of this Act;

(Kha) The trustees shall not divide, or exchange the agricultural land, if it is conflicting against provision in section 9 and bye-laws of this Act;

(Ga) The trustees shall not cease from being a member of religious order;

(Gha) The trustees shall pay all impositions of the State;

(Nga) The trustees shall not be left such land fallow without sufficient cause; and

(Sa) The trustees shall use the benefits and outcomes resulted from the agricultural land only for religious purposes;

Exception:

However, the President can pardon any of the regulations mentioned in this sub-section to trustees of any religious institution on favorable reason.

12. (1) If the family chief of an agriculturalist family to which agricultural land has been distributed under section (7) or section (52) of this Act, the person shall abide the following regulations in regards of the agricultural land:

(Ka) The person shall not mortgage, or sell, or transfer the agricultural land by other means to someone, if it is conflicting against provision in section 10 and bye-laws of this Act;

(Kha) The person shall not divide, or exchange the agricultural land, if it is conflicting against provision in section 10 and bye-laws of this Act;

(Ga) The person is oblique to work on the land, with the prescribed means by section (3) paragraph (Ga) of this Act;

(Gha) The person shall not cease to be an agriculturalist family;

(Nga) The person shall pay all impositions of the State;

(Sa) The person shall not be left such land fallow without sufficient cause;

(Hsa) The personal shall not rent in tenancy or lease to any other person to such land; and

(Za) The person is oblique to participate in agriculturalist association formed by provisions of this Act and bye-laws of this Act.

12. (2) If a adult family member of an agriculturalist family, or minor, or mentally ill person, to which agricultural land has been distributed under section (7) or section (52) of this Act, the adult person, or guardian of minor, or guardian of mentally ill person, shall abide the following regulations in regards of the agricultural land:

(Ka) The person shall not mortgage, or sell, or transfer the agricultural land by other means to someone, if it is conflicting against provision in section 10 and bye-laws of this Act;

(Kha) The person shall not divide, or exchange the agricultural land, if it is conflicting against provision in section 10 and bye-laws of this Act;

(Ga) The adult person, or guardian, or agent of guardian, is oblique to work on the land, with the prescribed means by section (3) paragraph (Ga) of this Act;

(Gha) The person shall not cease to be an agriculturalist family;

(Nga) The person shall pay all impositions of the State;

(Sa) The person shall not be left such land fallow without sufficient cause;

(Hsa) The personal shall not rent in tenancy or lease to any other person to such land; and

(Za) The person is oblique to participate in agriculturalist association formed by provisions of this Act and bye-laws of this Act.

CHAPTER 7 AGRICULTURALIST ASSOCIATION

13. (1) The President shall promulgate regulations relating to formation and administration of agriculturalist associations by this Act and other agriculturalist organizations, which President may deem necessary.

13. (2) The agriculturalist associations shall write their own rules and regulations, if they are not conflicting against this Act and bye-laws of this Act.

CHAPTER 8 LAND COMMITTEES

14. The President shall appoint a Central Land Committee. Moreover, the President shall assign one of the following authorities or all power to the committee to implement the matters mentioned in this Act:

(Ka) Authority of planning for agricultural land distribution;

(Kha) Authority of formulating projects to form agriculturalist associations;

(Ga) General authority for directing guidance to other land committees;

(Gha) General authority for administering to other land committees; and

(Nga) Other authority assigned by President according to bye-laws.

15. The President shall appoint a District Land Committees, when he or she may deem necessary in some districts. Moreover, the President shall assign one of the following authorities or all power to the committee to implement the matters mentioned in this Act.

(Ka) Authority to organize elections for selecting village land committee or ward land committee, as provided in bye-laws;

(Kha) General authority for directing guidance to village land committees or ward land committees;

(Ga) General authority for administering to village land committees or ward land committees;

(Gha) Authority to eject someone from specified agricultural land, either from exempted land or distributed land by this Act or the land which is under issued instructional order to work in some specific ways; [added by Amendment Act No. 49 of 1957 (October 16, 1957)]

(Nga) Authority to removal of building constructed on specified agricultural land, either which is on exempted land or on distributed land by this Act or on the land which is under issued instructional order to work in some specific ways; [added by Amendment Act No. 49 of 1957 (October 16, 1957)] and

(Sa) Other authority assigned by President according to bye-laws.

16. The President shall either appoint or elect Village/ Ward Land Committees, when he or she thinks is some regions. Moreover, the President shall assign one of the following authorities or all power to the committee to implement the matters mentioned in this Act:

(Ka) Exemption power by Section 6;

(Kha) Distribution power by Section 7;

(Ga) Power for forming agriculturalist associations by section 13; and

(Gha) Other authority assigned by President according to bye-laws.

CHAPTER 9
COUNCILS

17. (1) The President shall form the following councils to promote rural economy, with representatives from agriculturalist associations and professionals whom, the President considers, are suitable for the works:

(Ka) Union Land and Rural Development Council;

(Kha) Division Land and Rural Development Council;

(Ga) District Land and Rural Development Council.

17. (2) The President shall promulgate required bye-laws for forming these councils;

Exception:

However, the President can appoint other organizations and to assign authorities to these organizations in order to work for promotion of rural economy, by promulgating regulations and bye-laws.

Authority of Union Land and Rural Development Council

18. The President shall assign one of the following authorities or all power to the Union Land and Rural Development Council.

(Ka) Authority of planning for founding Division Land and Rural Development Councils and District Land and Rural Development Councils;

(Kha) Authority of formulating projects for the functions of above mentioned councils and other agriculturalist associations;

(Ga) Authority of coordination for functions of above mentioned councils and other agriculturalist associations;

(Gha) General authority for directing guidance to above mentioned councils and agriculturalist associations; and

(Nga) Other authority assigned by President according to bye-laws.

Authority of Division Land and Rural Development Council

19. The President shall assign one of the following authorities or all power to the Division Land and Rural Development Councils:

(Ka) Authority of coordination for functions of District Land and Rural Development Council and other agriculturalist associations;

(Kha) General authority for directing guidance to above mentioned councils and agriculturalist associations; and

(Ga) Other authority assigned by President according to bye-laws.

Authority of District Land and Rural Development Council

20. The President shall assign one of the following authorities or all power to the District Land and Rural Development Councils:

(Ka) Authority of coordination for functions of agriculturalist associations;

(Kha) General authority for directing guidance to these agriculturalist associations, and

(Ga) Other authority assigned by President according to bye-laws.

21. Occasionally, if the President may deem necessary, he or she shall demarcate the areas of Divisions and Districts for the promotion of rural economy.

CHAPTER 10

APPOINTMENT OF AUTHORITIES AND EXECUTIVE COUNCIL MEMBERS

22. The President shall appoint authorities or form executive councils, if may deem necessary. Moreover, the President shall promulgate rules and regulations for assigning authority to these authorities or executive councils in order to implement this Act.

CHAPTER 11

STATUS AND AUTHORITY OF COMMITTEES, COUNCILS, EXECUTIVE COUNCILS AND OFFICIALS

23. The councils, or executive councils, or appointed committees, or authorities, may sit at such times and in such places as it may deem fit and shall have the powers vested in a Civil Court under the Code of Civil Procedure in respect of the following matters:

(Ka) discovery and inspection of relating subjects and contracts;

(Kha) enforcing attendance of witnesses and ordering to pay for witness fees;

(Ga) compelling the production of documents;

(Gha) examining witnesses on oath;

(Nga) Issuing appointment dates;

(Sa) reception of evidence taken on affidavit;

(Hsa) Sending commission to examine the witnesses who couldn't come to the court; and

(Za) Examining the places;

and the Commission shall be deemed to be a Civil Court within the meanings of sections 480 and 482 of the Code of Criminal Procedure.

24. Anyone appointed person or any authority or any executive member or any committee or any appointed council, shall be exempted from any form of liability (whether civil law suit or criminal law suit) by performing any activity sincerely under this Act, or any activity seemingly conducting under this Act sincerely.

25. Any person or authority, or a member of a Land Committee or other Body, appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.

CHAPTER 12 EVICTION AND CANCELLATION

26. If any committee member, or any council member, or any executive council member, repeatedly fails to perform his or her duties, or uses of excessive power, or abuse his or her power assigned to him or her under this Act, the President shall order to investigate him according to bye-laws under this Act and the President may expulse the committee member or the council member or the executive council member. Otherwise, the President shall suspend him or her for certain period, he or she may deem suitable. Or the President shall withdraw all or any of his or her power.

27. If any committee, or council, or executive body formed or appointed under this Act, repeatedly fails to perform its duties, or uses of excessive power, or abuse its power assigned to them under this Act, the President shall order to investigate the body according to bye-laws under this Act and the President may cancel the committee or council or the executive body. Otherwise, the President shall suspend the body for certain period, or the President shall withdraw all or any its power.

28. When the President orders either to suspend or cancel the committee or council or the executive body, or to retain certain power from the body under this Act, the President shall assign the functions and power of the above mentioned bodies to some suitable authorities rather to perform the functions or to exercise the power. Moreover, the President shall appoint an advisory body to consult to the assigned authority.

CHAPTER 13
STATE RECLAIMING THE EXEMPTED OR DISTRIBUTED
AGRICULTURAL LAND BY FAILURE TO FOLLOW REGULATIONS

29. If anyone, who is oblique to follow provision under Section (11), fails to observe any of the conditions specified in Section (11), except provisions in Sub-section (1) and (5) (Kha), (Gha) and (Sa), the authority appointed by President for this matter, shall investigate the matter under bye-laws of this Act, and all the rights under this Act relating to such agricultural lands of those who breach the regulations shall be forfeited to the State without compensation.

29. (2). If anyone, who is oblique to follow provision under Section (4), fails to observe any of the conditions specified in Section (4), the authority appointed by President for this matter, shall investigate the matter under bye-laws of this Act, and all the rights under this Act relating to such agricultural lands of those who breach the regulations shall be forfeited to the State without compensation.

29. (3). The President or the authority appointed by President for this matter, observes if someone owns more area of agricultural land illegally, rather than exempted area previously granted to him or her under this Act, the extra field shall be forfeited to the State without compensation.

State reclaiming the land by failure to follow some regulations of Section 11 repeatedly

30. If anyone, who is oblique to follow provision under Section (11) sub-section (1), or sub-section (5) paragraph (Kha) or (Sa), fails to observe any of the conditions repeatedly, the authority appointed by President for this matter, shall investigate the matter under bye-laws of this Act, and all the rights under this Act relating to such agricultural lands of those who breach the regulations shall be forfeited to the State without compensation.

31. If anyone, who is oblique to follow provision under Section (12), fails to observe any of the conditions, except provisions in Section (12) sub-section (1) paragraphs (Kha) (Nga) and (Sa), and sub-section (2) paragraphs (Kha) (Gha) and (Nga), the authority appointed by President for this matter, shall investigate the matter under bye-laws of this Act, and all the rights under this Act relating to such agricultural lands of those who breach the regulations shall be forfeited to the State without compensation.

State reclaiming the land by failure to follow some regulations of Section 12 repeatedly

32. If anyone, who is oblique to follow provision under Section (12) sub-section (1) paragraph (Kha) or (Sa), or Section (12) sub-section (2) paragraphs (Kha) or (Nga), fails to observe any of the conditions repeatedly, the authority appointed by President for this matter, shall investigate the matter under bye-laws of this Act, and all the rights under this Act relating to such agricultural lands of those who breach the regulations shall be forfeited to the State without compensation.

33. If anyone who possesses land under this Act, fails to pay revenue imposed by the State, the revenue shall be collected as unpaid land revenue by existing law.

CHAPTER 14 APPEAL, REVISION AND REPARATION

34. The President shall promulgate bye-laws for the following matter:

(Ka) Conferring power to someone or authorities as he may deem necessary to provide for appeals, revision and reparation to orders/ decision made by appointed committee, or authority, or formed council, or body;

(Kha) Deciding time frame for the appeal, revision and reparation cases; and

(Ga) Other matters as the President may deem necessary.

35. Whenever the President may deem necessary, he or she may approve the decisions/ orders made according to this Act and bye-laws of this Act, or revise, or revoke the orders/ decisions.

CHAPTER 15 PROHIBITION OF JURISDICTION POWER OF CIVIL LAW COURTS AND OTHER AUTHORITY

36. Whatever mentioned in the existing laws, the civil law court shall not contravene in jurisdictions of other matters under this Act, except on the dispute cases of who deserves to receive compensation and dispute on appointing guardian.

37. Any agricultural land shall not be posted a legal warrant on properties concerned or sold to someone either by orders or degrees of civil law courts or other orders made by any existing laws.

CHAPTER 16 USE OF AGRICULTURAL LAND

38. (1) If the President may deem benefitable to the State or to the agriculturalists, by growing some specific crops in some areas and by using specific means to agricultural lands, the President may deem to apply or ask to apply specific crops or specific means to use on agricultural land respectively.

38. (2) The President shall promulgate bye-laws to implement the provision in Section 38 sub-section (1).

39. However, other provisions of this Act mentioned, the President or authority appointed by the President for this particular matter, may deem necessary, any agricultural land can be summoned to use specific mean or method.

40. (1). Whatever mentioned in other existing laws and under this Act, the President or the authority appointed by the President for this matter, shall manage on his or her will on the use of alluvial land, village common land and arable land in State possession, according to bye-laws of this Act.

40. (2). The President or the authority appointed by the President for this matter, shall continue to preserve the grazing grounds and village common lands, except for demanding them by other orders.

CHAPTER 17 ADMINISTRATION OF AGRICULTURAL LANDS

41. Whatever mentioned in the existing laws, the President shall promulgate bye-laws according to this Act to administer the agricultural lands.

CHAPTER 18 COMPENSATION

42. (1). Except where agricultural lands are liable to be resumed possession by the State for default or conditions prescribed under any other law for the time being in force, compensation in respect of agricultural land resumed possession by the State under section (5) and section 9 sub-section 2 exception, shall be paid in accordance with the provisions of this section and the Schedule II. [added by Amendment Act No. 22 of 1954 (March 30, 1954)]

Exception:

However, if the average compensation for an acre of land for total land resumed by the State, according to this sub-section is less than 1. 50 Kyat, the compensation should be raised until 1. 50 Kyat for an acre.

42. (2). In respect of agricultural lands over which rights have been acquired by a grant or lease and for which a premium was paid to Government at the time of the grant or the lease the premium so paid shall be payable to the person in possession of the said land, in addition to any compensation payable under the need succeeding sub-section (1).

42. (3). Except in respect of the compensation payable for constructional improvements of the land referred in sub-section (1), the compensation shall be paid for constructional works. Constructional improvements shall be valued on the following formula:

First cost of construction plus cost of improvements on the original construction minus the value depreciation minus the value of damage.

42. (4). The President shall pay the compensation according to this Act, by cash or by bonds or by other suitable means, either by lump-sum payment or in multiple installments.

42. (5). The President may make rules for carrying out the purposes of this Act.

43. The President may, where he is satisfied necessary, someone who is eligible to receive compensation under section (42) of this Act, can enjoy other form of relief other than the grant of exemption under section 6, as he may deem fit, additional to compensation.

44. (1). The President shall appoint a Commission consisting of at least ten members to make suggestions to the President to determine the basis of compensation and the manner of payment of the compensation.

44. (2). The commission may be deemed to be Civil Courts within the meaning of section 480 and section 482 of the Code of Criminal Procedure. The commission may sit their office in any suitable place and any suitable time and the President may invest such commission with the following powers of Civil Courts:

(Ka) discovery and inspection of relating subjects and contracts;

(Kha) enforcing attendance of witnesses and ordering to pay for witness fees;

(Ga) compelling the production of documents;

(Gha) examining witnesses on oath;

(Nga) Issuing appointment dates;

(Sa) reception of evidence taken on affidavit;

(Hsa) Sending commission to examine the witnesses who couldn't come to the court, and

(Za) Examining the places.

45. (1) The President shall appoint compensation officers in order to receive applications for compensation and make decisions according to provisions in section (42) and Schedule II and shall assign power to these officers the President may deem necessary.

45. (2) The President shall promulgate regulations and bye-laws under this Act, to follow while accepting and examining compensation applications and calculating and deciding for compensation.

CHAPTER 19
PUNISHMENTS

46. Anyone who breach provisions in section (4), he or she can be fined until 500 Kyats.
47. Whoever obstructs any Committee, Body, or council, or executive body, or authority appointed to implement the functions of this Act, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one thousand Kyats or with both.
48. Whoever fails to follow the orders issued by any Committee, Body, or authority appointed under this Act, except order issued from District Land Committee by provision of section 15, Paragraph (Gha), or any summon, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two hundred Kyats or with both. [added by Amendment Act No. 49 of 1957 (October 16, 1957)]
48. (Ka). Whoever fails to follow the eviction orders issued by District Land Committee by the provision of section (15) Paragraph (Ga), from the exempted land under this Act or from the distributed land, or from land relating to specific land use order, shall be punishable with imprisonment for a term which may extend to two years with fine. [added by Amendment Act No. 49 of 1957 (October 16, 1957)]
49. If five or more persons organize themselves with the common intention of committing an offence under section 47 or section 48 and if any one of them, in furtherance of their common intention, commits an offence under section 47 or section 48, each of such persons shall be punishable with imprisonment for a term which may extend to three years.

CHAPTER 20
GENERAL PROVISIONS

50. (1) The President may make rules for carrying out the purposes of this Act.
50. (2). In particular, and without prejudice to the generality of the foregoing power, such rules may:
- (Ka) prescribe the manner in which the agricultural lands are to be resumed under this Act;
 - (Kha) prescribe the conditions referred to in section 6;
 - (Ga) prescribe the procedure to be followed in section 7;
 - (Gha) prescribe the procedure to be followed in section 43;
 - (Nga) provide for election, if any, referred to in section 16;

(Sa) prescribe the area of the land as Ta-Ton-Hton, (the land which can be tilled by a pair of oxen drawing a harrow); and

(Hsa) Other matters which the President may deem necessary.

51. The President shall issue order, and in such order, the President can pronounce termination of 1953 Tenancy Act on the specified dates in some specified areas. If the Act is expired according to the order, the provisions in Section. 5 of Burma's General Clauses Act, provisions relating to termination of an Act, will give effect.

52. Whatever mentioned in the provision of this Act and bye-laws under this Act, in an area where the agricultural lands resumed possession by the State because of violations of provisions of this Act and bye-laws under this Act, the President shall distribute such agricultural lands to agriculturalist families and agriculturalist associations, as he deem suitable means.

53. (1) The Land Nationalization Act, 1948 Act No. 60, is hereby revoked.

53. (2) Even though the Land Nationalization Act 1948 is revoked, temporary District Land Committees, or other Land Committees, or organizations, or body, or authority, appointed under the 1948 Act and bye-laws of that Act, shall be considered appointed under this Act and bye-laws under this Act. If so, the unfinished cases or disputes may submit to those temporary District Land Committees, or other Land Committees, or organizations, or body, or authority in accordance with the provisions of this Act and bye-laws of this Act. Or it may consider that the cases or disputes are handled for the beginning.

The temporary District Land Committees, or other Land Committees, or organizations, or body, or authority, shall continue to manage upon the cases and disputes until the committee, or body, or authority appointed by this Act starts their functions.

54. The activities implementing in Syrium (Than Hlyin) Township under 1948 Land Nationalization Act, shall be considered invalidated since on the day of this Act comes into effect.

SCHEDULE I

1. Agricultural land, classified as Rice land in the records of the Land Records Department or where no such record is maintained, ordinarily utilized for cultivation of paddy and in continuous possession of an agriculturist family:

(Ka) if the agricultural family is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Ka), up to the extent of fifty acres;

(Kha) if the agricultural family is living together and undivided the possession yet, and in accordance with the specified provision of Section (6) sub-section (1) paragraph (Kha),

sub-paragraphs (Ka Ka), (Kha Kha) and (Ga Ga), up to the extent of fifty acres; and if the agricultural family consists more than four adults and the family is in accordance with the specified provision of section (6) sub-section (1) paragraph (Kha)'s first exemption, up to 12. 50 acres to individual adult extra to four people;

(Ga) if the agricultural land in possession of a minor, is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Ga), up to the extent of ten acres;

(Gha) if the agricultural land in possession of a mentally ill person, is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Gha), up to the extent of ten acres;

(Nga) if the agricultural land in possession of non-agriculturalist family, is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Nga), up to the extent of twenty acres;

(Sa) if the agricultural family is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Sa), up to the extent of twenty acres.[added by Amendment Act No. 22 of 1954 (March 30, 1954)]

Exception:

However, if appeal for exemption of land under sub-paragraph (Ga) is for more than one minor of the agricultural family, the total area of exempted land must be up to the extent of fifty acres.

2. Agricultural land, classified as (S) in Kyauk Se district, since chilies are growing on these lands, or classified as Ya land or chili land in the in the records of the Land Records Department or where no such record is maintained, ordinarily utilized for cultivation of Ya crops and in continuous possession of an agriculturist family:

(Ka) if the agricultural family is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Ka), up to the extent of 25 acres;

(Kha) if the agricultural family is living together and undivided the possession yet, and in accordance with the specified provision of Section (6) sub-section (1) paragraph (Kha), sub-paragraphs (Ka Ka), (Kha Kha) and (Ga Ga), up to the extent of 25 acres; and if the agricultural family consists more than four adults and the family is in accordance with the specified provision of section (6) sub-section (1) paragraph (Kha)'s first exemption, up to 6. 25 acres to individual adult extra to four people;

(Ga) if the agricultural land in possession of a minor, is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Ga), up to the extent of ten acres;

(Gha) if the agricultural land in possession of a mentally ill person, is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Gha), up to the extent of ten acres;

(Nga) if the agricultural land in possession of non-agriculturalist family, is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Nga), up to the extent of ten acres;

(Sa) if the agricultural family is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Sa), up to the extent of ten acres. [added by Amendment Act No. 22 of 1954 (March 30, 1954)]

Exception:

However, if appeal for exemption of land under sub-paragraph (Ga) is for more than one minor of the agricultural family, the total area of exempted land must be up to the extent of twenty-five acres.

3. Agricultural land, classified as (KA) in Mandalay and Shwe Bo districts and as (YT) in Myin-Gyan district, or classified as Kaing land in the in the records of the Land Records Department, or classified as (KA) and (YT) in the records of Land Records Department, or where no such record is maintained, ordinarily utilized for cultivation of Kaing crops and in continuous possession of an agriculturist family;

(Ka) if the agricultural family is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Ka), up to the extent of ten acres;

(Kha) if the agricultural family is living together and undivided the possession yet, and in accordance with the specified provision of Section (6) sub-section (1) paragraph (Kha), sub-paragraphs (Ka Ka), (Kha Kha) and (Ga Ga), up to the extent of ten acres; and if the agricultural family consists more than four adults and the family is in accordance with the specified provision of section (6) sub-section (1) paragraph (Kha)'s first exemption, up to 2.50 acres to individual adult extra to four people;

(Ga) if the agricultural land in possession of a minor, is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Ga), up to the extent of three acres;

(Gha) if the agricultural land in possession of a mentally ill person, is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Gha), up to the extent of three acres;

(Nga) if the agricultural land in possession of non-agriculturalist family, is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Nga), up to the extent of six acres;

(Sa) if the agricultural family is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Sa), up to the extent of six acres. [added by Amendment Act No. 22 of 1954 (March 30, 1954)]

Exception:

However, if appeal for exemption of land under sub-paragraph (Ga) is for more than one minor of the agricultural family, the total area of exempted land must be up to the extent of ten acres.

4. Agricultural land, classified as sugar cane land in the in the records of the Land Records Department, or where no such record is maintained, ordinarily utilized for cultivation of Sugar cane crops and in continuous possession of an agriculturist family:

(Ka) if the agricultural family is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Ka), up to the extent of ten acres[added by Amendment Act No. 22 of 1954 (March 30, 1954)];

(Kha) if the agricultural family is living together and undivided the possession yet, and in accordance with the specified provision of Section (6) sub-section (1) paragraph (Kha), sub-paragraphs (Ka Ka), (Kha Kha) and (Ga Ga), up to the extent of ten acres [added by Amendment Act No. 22 of 1954 (March 30, 1954)]; and if the agricultural family consists more than four adults and the family is in accordance with the specified provision of section (6) sub-section (1) paragraph (Kha)'s first exemption, up to 2. 50 acres to individual adult extra to four people; [added by Amendment Act No. 22 of 1954 (March 30, 1954)]

(Ga) if the agricultural land in possession of a minor, is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Ga), up to the extent of five acres; [added by Amendment Act No. 22 of 1954 (March 30, 1954)]

(Gha) if the agricultural land in possession of a mentally ill person, is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Gha), up to the extent of five acres; [added by Amendment Act No. 22 of 1954 (March 30, 1954)]

(Nga) if the agricultural land in possession of non-agriculturalist family, is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Nga), up to the extent of five acres; [added by Amendment Act No. 22 of 1954 (March 30, 1954)]

(Sa) if the agricultural family is in accordance with the specified provision of Section (6) sub-section (1) paragraph (Sa), up to the extent of five acres; [added by Amendment Act No. 22 of 1954 (March 30, 1954)]

Exception:

However, if appeal for exemption of land under sub-paragraph (Ga) is for more than one minor of the agricultural family, the total area of exempted land must be up to the extent of ten acres. [added by Amendment Act No. 22 of 1954 (March 30, 1954)]

5. Agricultural land, classified as Dhani land in the in the records of the Land Records Department or where no such record is maintained, ordinarily utilized for cultivation of Dhani to the extent of the whole.

6. Agricultural land, classified as (KG) in Pokukku district and as (BV) in Hin-tha-da (Hanzada) district in the records of Land Records Department, or classified as Orchard or Garden lands in the in the records of the Land Records Department or where no such record is maintained, ordinarily utilized for the cultivation of garden crops to the extent of the whole.

7. All agricultural lands classified as (RR) in granted land for rubber plantation in the records of the Land Records Department as being cultivated with Rubber in the records of Land Records Department or where no such record is maintained, ordinarily utilized for the cultivation of Rubber to the extent of the whole.

8. All agricultural lands belonging to a religious institution or a member of the religious order to the extent of the whole.

SCHEDULE II

[added by Amendment Act No. 22 of 1954 (March 30, 1954)]

<i>Description of Land</i>	<i>Extent of Compensation</i>
<p>1. (A). Agricultural land defined as State land under the Upper Burma Land and Revenue Regulation, 1889, and situated in areas where the aforesaid Regulation is applicable.</p> <p>1. (B). Agricultural land defined as State land situated in states</p>	<p>(1) Compensation equal to the land revenue</p>
<p>2. (A) Other agricultural land, apart from land defined as State land under the Upper Burma Land and Revenue Regulation, 1889, and situated in areas where the aforesaid Regulation is applicable.</p> <p>2. (B) Other agricultural land, apart from land defined as State land situated in states.</p>	<p>(2) From the total area of agricultural land, which is transferred and registered prior to June 22, 1953, or registered in Land Record Department prior to that date, which is owned by the individual land owner, or bank, or company, or organization, or joint-venture, or a Hindi family whose possessions are not divided until on that date, and the land is qualified to be resumed by the state under this Act;</p> <p>(A) for the first 100 acres, compensation equal to twelve times of the land revenue, (B) for the next extra 100 acres, compensation equal to eleven times of the land revenue, (C) for the next extra 100 acres, compensation equal to ten times of the land revenue, (D) for the next extra 100 acres, compensation equal to nine times of the land revenue, (E) for the next extra 100 acres, compensation equal to eight times of the land revenue, (F) for the next extra 100 acres, compensation equal to seven times of the land revenue, (G) for the next extra 100 acres, compensation equal to six times of the land revenue, (H) for the next extra 100 acres, compensation equal to five times of the land revenue, (I) for the next extra 100 acres, compensation equal to four times of the land revenue, (J) for the next extra 100 acres, compensation equal to three times of the land revenue, (K) for the next extra 100 acres, compensation equal to two times of the land revenue, (B) for the remaining acres, compensation equal to the amount of the land revenue.</p>

<i>Description of Land</i>	<i>Extent of Compensation</i>
<p>3. Agricultural land over which rights have been created under sections 7 of the Land and Revenue Act and situated in areas where the aforesaid Act is applicable.</p>	<p>(3) From the total area of agricultural land, which is transferred and registered prior to June 22, 1953, or registered in Land Record Department prior to that date, which is owned by the individual land owner, or bank, or company, or organization, or joint-venture, or a Hindi family whose possessions are not divided until on that date, and the land is qualified to be resumed by the state under this Act;</p> <p>(A) for the first 100 acres, compensation equal to twelve times of the land revenue, (B) for the next extra 100 acres, compensation equal to eleven times of the land revenue, (C) for the next extra 100 acres, compensation equal to ten times of the land revenue, (D) for the next extra 100 acres, compensation equal to nine times of the land revenue, (E) for the next extra 100 acres, compensation equal to eight times of the land revenue, (F) for the next extra 100 acres, compensation equal to seven times of the land revenue, (G) for the next extra 100 acres, compensation equal to six times of the land revenue, (H) for the next extra 100 acres, compensation equal to five times of the land revenue, (I) for the next extra 100 acres, compensation equal to four times of the land revenue, (J) for the next extra 100 acres, compensation equal to three times of the land revenue, (K) for the next extra 100 acres, compensation equal to two times of the land revenue, (B) for the remaining acres, compensation equal to the amount of the land revenue.</p>
<p>4. Agricultural land other than land over which rights under sections 7 of the Land and Revenue Act have been created and situated in areas where the aforesaid Act is applicable.</p>	<p>(4). Compensation equal to the land revenue.</p>

THE URBAN RENT CONTROL ACT (1960)

[Unofficial Translation]

Act No.8, 1960

[Exact date unknown]

This Act is prescribed as follows:

1. (1) This Act shall be called the Urban Rent Control Act, 1960.

(2) This Act shall extend to all urban areas in the Union of Burma, but not against the texts in Section 3.

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

(a) "The City of Rangoon" means the City of Rangoon according to the Rangoon Municipal Act.

(b) "Inspector" means an inspector who is appointed according to this Act.

(c) "Landlord" means a house/building owner (or) a person working for an owner (or) an agent of an owner (or) a person working for an owner's profit (or) a person who is trusted by an owner and keeps the house on behalf of an owner (or) a person who acts as guardian of the house (or) a person who acts as a butler, who let the house or part of the house to the tenant and has the right to earn the rent appropriately.

In this clause, a legal agent/representative who is recognized according to the civil law suit practice of code (or) a tenant acts as sub-landlord (or) persons who related with landlord act as sub-landlords are included.

(d) "The environs of house" means:

(1) Land on which a house/building exists (or) a house for renting for any purposes (or) a house/building for living or intended to be rented (or) part of such building.

In this clause, shops in the market or in any other building to sell goods in retail (or) such building (or) part of such building together with rented land and furniture or other equipments are included.

(2) For any purposes, for rented or living or the land intended for living or renting means as environs of house/building.

(e) "Fixed" means recognised according to this Act which produces bylaws.

(f) For any environs of house, "standard rental" means the following rentals:

(1) According to the separate cases in Section 27, for the City of Rangoon, not against the order of Chief Judge of Rangoon civil law court (or) according to the Section 32 for other cities, not against the order of judges, the inspector has the right to decide the rentals.

(2) In the other cases:

(aa) Rental for those environs of buildings which were rented on 1st of September 1939.

(bb) If the environs of building was not rented on 1st of September 1939, previous rate of rental shall be.

(cc) If the environs of building was rented after 1st of September 1939 and before 1st of January 1941 for the first time, the first rental rate shall be.

(dd) On 1st of September 1939, if the environs of building was rented with an agreement of increasing rental for periodically on contract:

(1) During the validity of contract, according to the agreement of increasing rental periodically, the inspector shall decide.

(2) After expire of validity of agreement, the rent shall be same of last period of agreement.

(ee) If the environs of building was rented on contract on 1st September 1934 or last five years before that date or more than five years contract, if the contract was expired just after 1st of September 1939, rental shall be decided in the time of 1st September 1939.

However, the President of Union of Burma has the right to identify the type of environs of building and fix the rental not more than 25% higher, if he considers according to the existing economic situation and the meanings of sub-paragraphs (aa), (bb), (cc), (dd) (2) and (ee) for any urban area.

(g) "Tenant" means any person who directly rent an environs of building or through someone and has to pay for rent. In this clause, according to the meaning of civil law suit practice of code, a legal agent or a person who has the right to earn rental shall continue to let the building to the long term/permanent tenant with or without the consent of landlord.

(h) "Urban area" means Rangoon or an area which was already declared by order of notification as urban area according to Section 2 of Municipal Act, declared municipal area and Section 246 of municipal Act, and cantonment area is declared according to the military Act, cities are declared according to the city Act, the President of State has the right to issue an order of notification to recognize an area as urban area.

3. (1) According to this Act, fully or partially, the President of State has the right to issue an order of notification in which separate area or type of environs building are not recognized

as urban areas. In the future, this order of notification may be abolished or amended by the President.

(2) If any environs building is not entitled in urban area or not included by the order of notification according to the Section 1 of this Act or not entitled in the case of any type of environs of building, the decision of President of State is final approval.

(3) If any environs of building is arranged for tenants both in accommodation and food and if the building is declared as hotel by the President of State's order of notification, such kind of environs of building is not affected by Section 9, 10 or Section 13.

4. The inspector and deputy inspector or both can be appointed by the State President's order of notification in the declared urban areas. In addition, by the special decree, deputy inspector can be appointed together with full or partial power of inspector.

5. (1) The rate of rental is increased more than standard rental or increased later time or although any existence of contract which agrees to pay both standard and increased rental, according to this Act, increased rental can not be demanded.

However, any text in this Section is not affected with any following rental:

(a) Rental before the approval of this Act.

(b) Rental in contract which agrees to pay increased rental periodically before 1st of September 1939. Or:

(c) Rental in the contract before 1st of September 1939 and on that day, the validity of contract is still active.

(2) For some cases, rental will be paid day by day according to the Sub-Section 1.

6. From the day of 1st September 1939, when the landlord renovated the environs of building, expenses of renovation is costly, because of construction materials are expensive, or renovated the building to be better or changing the shape of building (excluding of expenses for renovation or fixing), landlord can write to the inspector to change the rate of standard rental.

7. (1) Prior to the changing principles of renting environs of building, the landlord obeys the following:

the rights of the tenant is generally lesser than before which against the previous agreement or increasing the rental money or not to increase the rental, according to the meaning of this Act, it is recognized that rental is increased.

(2) Prior to the changing principles of renting environs of building, the rights of the tenant is generally same as before according to the previous agreement, money paid for rental is increased or not increased, the meaning of this Act, it is recognized that rental is not increased.

8. The landlord pays municipal tax, revenues or other taxes, in regards of municipal tax, revenues and other taxes, if the landlord paid more taxes during the time of tax collection including the time of 1st September 1939, he can write to the inspector to increase the rental.

9. (1) According to the texts in this Act, in the case of increasing rental for environs of building, landlord is not allowed to increase rental to the tenant before end of the month by showing the notification of increasing rental which will be submitted to the inspector and standard rental paper.

(2) If the notification of increase rental is already affected on the tenant, landlord can demand the same rental from the new tenant without submitting new notification again.

10. Any environs of building which is rented or re-rented or to continue the renting, the landlord is not allowed to demand fine money, advanced money or other fines. Or the landlord is allowed to demand one month deposit money, but not more than one month.

However, any text in this Section is not affected on contract agreement and paying money which were done before 1st of September 1939.

11. (1) Whatever the other laws mean, according to the Section 13(1), if the tenant submits a letter to the inspector that the environs of building is needed to be repaired as proper living home or fixing various things in the house or for water supply or for electricity or plumbing and sanitation pipes, the inspector can summon and issue an order of notification to the landlord to do so. However, water supply or electricity or plumbing and sanitation pipes must have been existed before 1st January 1941.

Clarification:

The word "Repair" in this sub-Section means buildings for the tenants must be well maintained. In addition, according to the proper contract which was made, for any repairing, if the tenant guarantees to repair, the landlord has no responsibility for such.

(2) This sub-Section is affected on renting environs of building before and after 8th October 1946.

(3) After receiving the notification, landlord has to start the repairing in appropriate time. If the landlord fails or ignores to do so, tenant who wants to do repairing himself can submit a letter to the inspector to allow him to do so. Then, the inspector will take necessary assessment to estimate the expenses of repairing. After that the inspector will issue order

of notification to the tenant for repairing and tenant is allowed to do so, but expenses of repairing are not more than the estimation. For the expenses of repairing, tenant can take some money from the rental or tenant can ask the expenses from the landlord in other ways.

12. (1) Regardless of the provisions of the the Transferring Act and Promise/Agreement Act or Rangoon civil law court Act, to regain environs of building which is affected with this Act or to remove tenant from building, no order and decree can be applied except only for the following cases:

(a) When civil government came in administration after the war with Japan, according to the law, to collect the rental from the tenant, rental seeking letter which is registered at the post office will be sent to the tenant. Within three weeks from the day of sending the letter, if the tenant doesn't pay rental or doesn't pay to the inspector, or regarding to the renting according to the rental promise/ agreement or the text of this Act, if the tenant breaks those laws or fails to do so.

(b) After the war with Japan, before civil government back in the administration, during that time, to earn the rental from the tenant, in this case, civil law court decided that tenant has to pay the rental, but fail to do so.

Or:

(c) Where a tenant or a person who staying together with tenant or other person staying in environs of building disturbs next door neighbors or embarrasses surrounding people or using the environs of building for despicable or unlawful business or being received verdict for guilty of those businesses by the court or environs of building is damaged by someone and ignorance of someone.

(c) Where the environs of building is land, the landlord honestly wants to get back the land to build a building or buildings or rebuild the building, to build a building within a year after the day of tenant leaves the building and landlord submits a bail with appropriate amount of money which is agreeable by the court.

Or:

(e) Where the landlord honestly claims to get back the building or part of the building for his own living under the affect of this Act, landlord has to submit a bail with appropriate amount of money to the court and guarantee to accomplish his moving within three months just after the day when tenant leaves.

However, in this clause, the word "landlord" means a person who must own the building on the day of 1st May 1945 or a person who heritages the building after 1st May 1945. Otherwise, such person is not regarded as a landlord.

In addition, according to the rent contract or bilateral agreement or a decree decided by the court, renting during the proposed time and before the end of renting period or before the end of renting term by allowing the decree, such case is not affected by this Section.

(2) To reoccupy the environs of building or to remove a tenant, the landlord or responsible person must submit a letter to the inspector according to sub-section (1), paragraph (d), (c) or section (f), or provide a copy of decree according to sub-section (1), paragraph (d), (c) or paragraph (f) or a contract of agreement will be submitted. However, where the landlord or responsible person fails to use the environs of building according to his submitted letter to the inspector within the period decided by the inspector, the tenant may submit to the court or the inspector may submit to the court and the government accordingly may confiscate the deposit money from the landlord or the court may decide that the landlord shall pay a certain amount of money to the tenant as compensation. However, where the landlord can show concrete evidence to the court why he is not able to use the building, and the court accepts his explanation, this case will not be accepted.

(3) Where the court decides that the landlord must pay compensation, according to sub-section (2), the tenant may reclaim the environs of building according to the principles in the contract of agreement.

(4) The court may approve the decree which orders the landlord to pay compensation according to the civil law suit or to confiscate the guarantee money.

13. (1) By the order of the President, in any area which is affected by this section, to any type of environs of building, anyone who is not a normal tenant, but who is living or working in the environs of building in an honest way, such person may apply to the inspector to continue to live in the environs of building. Where this person submits a letter to the inspector in which he promises to pay rent for his living, the inspector may issue a letter which allows such person to live in such environs of building. Furthermore, the landlord or agent of the landlord shall be notified by the inspector, if the inspector knows where they live.

(2) According to section (14), not against the decisions of the court, according to the sub-section (1), a decision which allows such person to continue to stay in such environs of building means, as long as location of environs of building or type of environs of building relates to this section, the decision will remain for a certain period and such decision will be in the same order for a further three months.

However, the person who won the case according to the decision of the court leaves the environs of building voluntarily, the inspector may cancel the decision according to the submission of the landlord. After that, such decision shall not be approved again.

14. (1) Although where law provides, according to section (13), to reoccupy the environs of building where someone is allowed to stay or to get rid of such person, no order and decree will be applied for any case except for following cases:

(a) In a case, a person who is allowed to stay in the environs of building by the inspector, the registered letter which is posted from postal office and asking for rental for landlord for such a period of time, if the tenant does not follow according to the letter within seven days, such amount of rental money shall not be paid to the landlord or to the inspector.

(b) In a case, where a person or any person who is staying together with such person disturbs the neighbors or embarrasses the surrounding people, or uses the environs of building for despicable or unlawful business or having a verdict by the court for such case or damaging the environs of building by tenant's ignorance and carelessness.

(c) Occasionally, in an honest way, the tenant wants himself or any of his family member to stay in such environs of building, the tenant makes a contract to the court with the appropriate amount of money which is viewed appropriate by the court, the tenant oaths to implement within a period of time which is allowed by the court.

(d) Such kind of order which was already abolished according to section 13 (2).

(2) To reoccupy the environs of building, according to sub-section (1), section (8), order or decree is issued by the court, the court describes separately why the landlord wants to reoccupy his building. In addition, a copy of the landlord's contract and decree will be sent to the inspector according to sub-section (1), section (8). If the landlord uses the environs of building against the contract and decree or fails to use the building, with the approach of inspector, the court can declare that government can confiscate the money which is part of contract. The court can order the landlord to compensate the tenant with relevant amount of money decided by the court. However, declaration and summoning will not be conducted by the reason which is inline with the court.

(3) According to sub-section (2), instead of the decision to pay compensation or apart from such decision, the court itself can allow the person to continue to stay in the environs of building according to the agreement before issuing such decree if the person agrees.

(4) According to this section, the degree which allows the confiscation of the guarantee money or the landlord will be ordered to pay compensation, according to civil law suit of code.

15. (1) To reoccupy the environs of a building which is related to this Act or to remove the tenant or a person who has right to stay in that building according to section (13), when the time of order or decree is issued, or before this Act was activated or not activated, although this order or decree was already issued, the landlord submits to the court to approve such order or decree, the tenant or a person who has the right to stay according to section 13 (1), both apply to the court to not to approve such order, this decree on unapproved case, the court, except in such cases related to section 12 (1), paragraph (8) or section 14 (1) paragraph (b), issuing the decree must be halted or postponed. Or the court may delay the day when the environs of building is returned, the tenant or a person who was given verdict,

who has to pay the rest of the rental or after overdue the time of rent. In addition, if the tenant obeys the principles, the court will abolish such order or decree.

However, in section 12, sub-section (1) paragraph (d), (c), or section (f), Section 14, sub-section (1) paragraph (8), for any particular reason, civil law suit may remove someone or reoccupy the environs of the building, such approved decision or decree will not be abolished.

(2) Before this Act is not approved or approved, section 12, sub-section (1) or section 14, sub-section (1), order or decree are issued but not approved, in addition, when the time of order or decree were issued, section 12 or section 14 were in force, or related with such order and decree, the court sees those order and decree would have not issued, the court will abolish such decree according to submission of the tenant and according to section 13 (1). Or to activate this Act, the court may change in the relevant manner. In addition, section 12, sub-section (1) or section 14, sub-section (1) must be related with civil law suit which issued such order or decree.

16. (1) Concerning the environs of the building, according to section 12 (1), paragraph (a) or section 14 (1) paragraph (a), even though the landlord doesn't ask for rental, or where the landlord refuses to accept rental from tenant, the tenant will:

(a) pay the rental to the inspector. In addition:

(b) where the landlord doesn't send notification or other means to the tenant that he wants to accept the rental, the tenant will pay the remainder of the rental to the inspector.

(2) According to the sub-section (1), when rental is paid, the inspector sends a notification letter to the landlord that he receives the rental. In this case, the notification letter will be reached in the hand of the landlord or agent of the landlord. If the inspector can not find the landlord or agent of the landlord, the registered notification letter must be sent from the post office to the last known address of the landlord or agent of the landlord. According to section 42, sub-section (2) paragraph (f) and not against that section, the landlord or agent of the landlord can withdraw the rental money from the inspector by submitting a letter.

17. (1) The landlord or the tenant or their representatives shall correctly produce a receipt showing that they received rental from a tenant or sub-tenant. The receipt must be correctly signed. Or if there is a book for rental, the rental or receiving money shall be correctly signed in the book.

(2) Any person who acts in violation of sub-section (1) shall be fined up to five hundred kyats.

18. To reoccupy the environs of building which is affected by this Act or to remove a tenant, a civil law suit or paper form shall be submitted. Where a decree from one of the

Rangoon Central judges or one of the District judges outside of Rangoon is not satisfied, the landlord can appeal to the Jury of Supreme Court.

19. Any environs of building affected by this Act, a civil law suit case of rental which needs to be claimed after approving this Act, no judicial court accepts such kind of case, or to ask the rental according to the Rangoon city court Act 22, an application form for confiscation warrant will not be accepted by any court. However, regarding standard rental, if a proved letter from inspector attached with this application form is submitted, such application form will be accepted.

20. (1) Any environs of building except living building is vacant or having reason to be vacant or to build new building except living building, in addition, landlord intends to rent the building to the tenant, to get the permitted letter for rent, landlord has to apply to the inspector.

Further, where the tenant intends to rent the building except living building to sub-tenant or this building or part of the building, to get permitted letter of sub-renting, the tenant shall apply to the inspector.

(2) According to sub-section (1), the application form must contain the following:

(a) Details of the environs of building, for example, room number, floor number, house number, name of street or if the environs of building is a land, number of piece of land, block number, etc.

(c) The name and address of landlord.

(c) The name of tenant or sub-tenant, job and address.

(d) The intended rate of monthly rental.

(e) Where possible, the receipt of monthly rental for month of September 1939 or the rate based on collection tax by the Rangoon municipal corporation or Rangoon municipal for year 1939-1940.

(f) The current monthly rental.

(g) The type of building (brick or wooden or bamboo house).

(h) The type of place (for running a business or living).

(i) The estimated date for renting the environs of building or sub-renting.

(j) Where the confession letter is needed for salami or promise to give salami or similar demand is not demanded or not received. [Salami is a Hindi word and the meaning is “advanced money”, but not to return to the tenant when tenant leaves the building].

(3) According to sub-section (1), when the application form is received, the inspector shall briefly investigate, if the inspector is satisfied and believes that there is no concrete reason to oppose it, an approval letter shall be issued immediately. In the case of sub-renting, when the inspector issues the approval letter, at the same time, a registered copy of the approval letter shall be sent by post office to the landlord.

However:

(a) In the case of a building which is vacant or just beginning the time of being vacant, if the inspector agrees, the tenant or sub-tenant must pay the rental on the day of living. According to sub-section (1) if the building is vacant for a period prior, the tenant or sub-tenant shall pay the rental from the time of the applying form.

(b) In the case of sub-renting, a tenant shall not divide the space separately for sub-tenant, for that space, sub-tenant has to pay rental to the tenant. In addition, the tenant shall always pay rental for the whole building to the landlord.

(c) In the case of sub-renting for the whole building or separate room, the sub-tenant shall pay the rental to the original tenant and in addition, the building must be recognized as sub-renting to the sub-tenant.

21. (1) The landlord:

(a) When notification letter of stop renting a building for living is delivered or received; or

(b) For any reason, the tenant intends to leave the environs of building or after tenant left, the building is vacant or having information that anyone is living in the building without the permission of inspector after 21st of October 1950; or

(c) When building a new building or extending or renovating the building for the reason of accommodating more people or developing the building;

The landlord has to inform the inspector by sending a letter. The same applies for the tenant who is living in the environs of the building:

(d) Regarding the building, giving notification letter which ceases renting; or

(e) Leaving the building;

The tenant shall send the letter to the inspector.

(2) Without any concrete reason, notification letter intended in sub-section (1):

(a) In the case which related to sub-section (1) paragraph (a) or paragraph (d), giving notification letter or sending letter within three days after receiving.

(b) In the case which related to sub-section (1) paragraph (b) or paragraph (e), landlord has to send a letter within three days after receiving information or within three days after tenant left the building.

(c) In the case which related to sub-section (1) paragraph (c), after three days of completion of building, repairing, changing or renovating, letter has to be sent.

(3) When sending the letter, the landlord has to send the separate information related to section 20, sub-section (2), paragraph (a), (b), (d), (e), (f), (g), (h) and (i).

(4) According to sub-section (1), the tenant has left or is about to leave or when the tenant has left the building, anyone who is living in the building without the permission of the inspector after the time of 21st October 1950, when the inspector received such letter, or received the information by other ways, according to the consultancy of board of director which was set up by the President of State, order of notification will be issued for the landlord, in which the building is vacant or tenant has left, it will be rented to intended person or persons, by the order of inspector.

(5) According to the sub-section (4), any instruction through notification letter will be sent to the tenant. When such notification letter is already sent, the landlord shall follow according to this instruction.

(6) According to the sub-section (4), if there is no appropriate tenant for the building, the inspector has to inform the landlord. In that case, the landlord has the right to rent the building to anyone.

However, according to sub-section (4) and (5), instruction or information given to the landlord is related to tenant's leaving, this instruction or information will be sent to the landlord within ten days, after receiving landlord's letter according to the sub-section (1).

(7) Where any tenant or anyone living in the building fails to return the building to the landlord, for intended person or persons who are supposed to be tenants according to sub-section (4), the current person who is living in the building will be immediately removed.

Explanation:

According to this section and section 20 and related cases, living environs of building means, building only used for living or used the building for living mainly and using for reasonable business or academic purposes at the same time.

22. Anyone who acts in violation of section 20, sub-section (1) or sub-section (2), or section 21, sub-section (1), (2), (3) or sub-section (5), will be imprisoned for a period of three months without labor or fined 2,000 Kyats or both.

However, according to the information, if any person acts in violation against this section, the inspector can investigate and make law suit at the court against such person who committed such crime.

23. (1) Any person who is sentenced according to section 22 or helping such crime and sentenced, tenants who have no permission from the inspector shall be removed from the environs of building immediately.

(2) Where the inspector sends a notification letter expelling the tenants or other persons who will be removed immediately, according to sub-section (1) of this section or section 21, sub-section (7), the tenants shall move their belongings from the building within seven days. If the tenant or person living in the building fails to do so, the inspector may summon the district police chief to remove them. Where the district police chief receives such summons letter, the district police chief shall remove the tenant or person and their belongings. Any such person is not permitted to enter in or live in the building again without the permission of the inspector or will be charged not to continue to stay.

24. Where sections 20, 21 and 23 are in contradiction to any existing law, they shall be approved.

25. (1) After the approval of this Act, in the case of after paying for the rental, if this money is not allowed to pay back according to the texts in the Act, the tenant has the right to collect the money back from landlord who received the money within six months. Or the tenant can deduct the money to the landlord within six months on what tenant has to pay.

(2) In this section, the word “landlord” means that where the building is co-owned by family members, when the landlord dies, the landlord’s family members are included.

26. (1) After this Act is in force, in the case of standard rental, if the tenant has not paid more than 300 Kyats which is more than the standard rental, within six months from the date of paying, the tenant applies to the judge that the tenant wants money back, without affecting anything, according to civil law suit code, the tenant has the right to demand the money back, furthermore, the landlord shall pay back after deduction to the tenant on what landlord received from tenant.

(2) In the case regarding sub-section (1), if there is a proof that rental is correct as standard rental with the signature of inspector, before showing proof that standard rental for the building is not accordance with proof, judge recognizes it as it is.

27. (1) Application from landlord or tenant to the inspector, the inspector issues a proof letter with signature that rental is a real standard rental.

(2) According to the application of landlord or tenant, the inspector, according to the texts of this Act and related things, has to approve the rate of standard rental and can approve relevant and fair standard rental.

(a) In the case where, the whole environs of building or part of the building is rented or tenant has rented the whole building or part of the building to sub-tenant or a case which affecting this Act for any reason and in any difficult situation.

(b) Environs of building together with furniture including food cost, in this kind of case, to be effective to this Act, rental money which needed to be split for rental for furniture and food, such kind of case.

(c) Environs of building which is rented without rental or with very small amount of rental, rental for something except building rental, such kind of case.

(d) Rental which was paid on 1st of September 1939 or environs of building was not rented on that day, the last rate of rental before on that day, rental is too low considered by the inspector, such kind of case.

(e) The case of changing the condition of building or the cost of construction materials is rising up and cost more or after 1st of September 1939, municipal tax and tax rates are getting higher for building, such kind of case.

(f) Rented a building for the first time after 1st of January 1941, such kind of case.

(g) From the day of 1st September 1939, the building condition is getting bad or other concrete reasons, rented the building on 1st of September 1939 or after that day, rented for the first time and rental is too high or unfair considered by the inspector, such kind of case.

However:

(1) According to sub-section (d), for rental, any time between 1st of September 1934 and 1939 September the 1st, the highest rate of rental or the lowest rate of rental and plus 25% of lowest rate of rental, according to the highest and lowest rentals, rental is not more than such highest rental.

(2) According to sub-section (E), according to the rate of rental mentioned in section 6, the cost for repairing the building for good condition or changing the shape, related to this cost, the inspector may not increase the rate of rental not more than 6% a year.

(3) According to sub-section (G), standard rental is, related to the self-own land for any purposes, similar purposes near that land, similar rented land, government or Rangoon municipal or Rangoon municipal corporation or similar local organization may not increase the rental rather than current rental.

(4) According to sub-section (F) or (G), environs of building is a land and rented, if the land owner is government or Rangoon municipal or Rangoon municipal corporation or similar local organization, standard rental will be decided according to the decision of government or Rangoon municipal or Rangoon municipal corporation or similar local organization.

28. (1) According to section 21, except given powers, before applying any power according to this Act, the inspector has to inform the landlord or tenant or a person who living in the building that he will use this power, in addition, within given period of time which was shown in the letter, any concerned person has to systematically consider about the application form they received.

(2) According to this Act, all orders of inspector will be written on paper.

(3) The person who is related to the order of inspector, period of payment by the President's order, the order of copy is claimed as genuine by the signature of inspector and the person has the right to receive this copy. This copy with the signature of inspector must be accepted at any court as a proof.

29. According to this Act, in order to inspect or investigate, the inspector or any person who is systematically appointed by the written letter of inspector has the right to enter any building or land from 6 in the morning to 6 in the evening together with or without assistance persons.

However, if there is no notification before 24 hours, inspector or his appointee can not enter any environs of building for living without the permission of tenant or person living in the building.

30. (1) To investigate cases according to this Act, the inspector can summon anyone by the letter of order as follows:

(a) Any environs of building in 1934 or after that year, renting the building with any rate of rental, case related to investigation, all the subjects shown separately in order of letter will be sent to.

(b) Financial records, receipts for rental, books or other letters or papers which are related to investigation will be available to be checked or investigated within given time according to the order of letter, or given to a person who is described in the order of letter.

(2) The inspector, not against the laws of this Act, in addition, to implement the texts in this Act, needs the powers and by the civil law suit code, using the ways for the court, power

to summon the witnesses and must have power to force the witnesses to come to the court, in addition, must have power to show the records of letters by force.

(3) Any person who is summoned according to the sub-section (1), according to penal law Act 176 and 177, summon letter must be sent to them.

31. The inspector can reconsider the order which is issued by him or others. Texts in order no.47 of civil law suit code will be related to such reconsideration as much as possible.

32. (1) If the rate of standard rental for environs of building approved by the inspector is denied, according to the section 27, if the building is located in the city of Rangoon, the case file will be submitted to Chief judge of Rangoon City judicial court or the building is located in any city affected with this Act, to the judge who is recognized by the President of State.

However, when submitting according to this sub-section, if the chief judge of Rangoon city judicial court or any recognized judge considers it not to be charged by himself, application form will be transferred to any judge who is in the district affected with this Act. The judge who received the transferred form can accept the form and must have power to hear the case.

(2) The copy of order of inspector is submitted together with transferred form.

(3) 50 Pyas stamp of court tax must be attached with the transferred form paper.

(4) This transferred form must be submitted within 30 days after the order of inspector. However, the period for getting the copy of order of inspector is not included.

(5) The verdict decided by the chief judge of Rangoon city judicial court or one of the above mentioned judges is a final decision.

33. When the cases which were decided by the inspector are in hearing, according to the rulings which are practiced by Rangoon city courts or rulings for civil cases, the judge can obey such rulings as much as possible.

34. (1) Anyone who accepts the rental money more than the rated standard rental directly or indirectly for the environs of building with or without acknowledgement, for such committing for the first time, will be fined 500 Kyats or second time or more will be fined 2,000 Kyats.

(2) Anyone who accepts any valuable item which price is more than rated standard rental as rental, such person will be considered as accepting the rental which is more than standard rental.

35. (1) Anyone who disturbs or threatens the tenant who is living in the building by the order of inspector according to the contexts of section 13, to leave the environs of building

or disturbs the tenant intentionally, for the first time, such person will be fined 200 Kyats by the judge and second time or more, will be fined up to 1,000 Kyats.

(2) Not against the general meaning of above mentioned section, without any concrete reason, if the landlord fails to maintain the condition of environs of building from protecting weather conditions by the time of validity of this Act, or according to the separate contract of agreement or according to the customary laws, the landlord has the responsibility to do maintenance for the building or part of the building, such case will be considered as disturbance on purpose.

36. Not against the texts of this Act, the tenant who is ordered or decreed according to the law to return the building to the landlord, the tenant will not be allowed to continue to stay in that building or tenant is still staying in the building, according to the penal code section 441 and 442, tenant will be considered as committing tress passing, in addition, will be fined the amount of money not more than two months rental and also will be jailed.

37. (1) Anyone who against the text of section (10), such person will be jailed for six months or fined for 2,000 Kyats or both.

(2) If anyone who is obviously guilty according to this section and ordered to pay fine, the court which decided the verdict, according to the civil law suit code 545, can order such person to pay all amount of fine or partially as compensation for any lost.

38. Anyone who attempts to reoccupy the environs of building is stopped from doing so by the order or decree according to the section 12 or section 14, in this case, without the permission of inspector or order of municipal which allows to repair or demolish the building immediately, intentionally disturbing any benefits attached with environs of building, or destroy any thing which is supposed to be used permanently together with the building or postpone bills for water and electricity of the building or postpone any service for the building, for the first offense, such person will be fined 500 Kyats or related to such environs of building or another building, committed second time or more, will be fined up to 2,000 Kyats.

39. Related to this case, within nine months after the day of accusation, if the case is submitted without the advanced permission of inspector, no court will sentence to anyone who is accused any crime.

However, the inspector will conduct an immediate investigation, from reliable source of information, if anyone committed the crime, according to the section (10) or section (34), in addition, if the case is obvious, such person who committed the crime will be put on trial at court by the inspector.

40. To remove a tenant or anyone who is allowed to stay according to the section (13) or the case for reoccupying the building, in such case, the President of State can decide the

amount of tax to the court. In addition, it is no matter how the Act of tax of court explains, the amount of tax to the court will be paid by the decision adopted by the President.

41. (1) For the case which is done sincerely, according to the powers of this Act, the inspector or deputy inspector or anyone who is aiming to do honestly, civil law suit, criminal law suit or any other law suit against them are not permitted.

(2) According to this Act or order adopted by this act, for doing or attempting to do in honest way or any possible damages, no one is allowed to sue civil law suit or any other law suit against the government.

42. (1) To perform the texts in this Act, the President of the State can issue the bylaws by the order of notifications.

(2) Not against the meanings of above mentioned texts in act, the following cases are identified in the bylaws:

(a) Any urban area or any type of environs of building, according to the meaning of section 2 (F) (2), paragraph (aa), (bb), (cc), (dd) (2) and (ee), the case for increasing the standard rental.

(b) According to this Act, to adopt the policy and principles for investigations which are conducted by the inspector, such kind of case.

(c) Any urban area, after the war against Japan, to fix the date of civilian government resuming in administration, according to this Act.

(d) To fix the rate of expenses and rentals, in addition, to demand the expenses and rentals or be exempted from debts and taxes.

(e) To fix the ways of accepting or withdrawing the rental according to the section 16.

(f) To fix number of consultants in consultant board, necessary number of consultants for holding the meeting and principles abided in the meetings, salaries for member consultants.

43. Any text in this Act, government or government department or Rangoon municipal or Rangoon municipal corporation or rural autonomy administration Act or other local organizations which charges on landlord for environs of building or according to the reoccupying land Act is not related to the law for owned or to be owned by the decision of government or government department or Rangoon municipal or Rangoon municipal corporation or municipal Act or rural autonomy administration or other local organizations.

However, an exemption according to this section is not related to sub-rented land or part of this land according to the contract or other rights of ownership from government or any local organization.

44. Although the Urban Rent Control Act, 1948 has been repealed and is no longer in force:

(a) Any decision or order made under that Act before this Act comes into force or any law suit or any criminal conduct committed, provided it is not in contravention to this Act, will continue to be in force. All decisions made and recognized under the previous Act shall continue in force.

(b) At the time that this Act comes into force, at the court or the the inspector who is appointed under this Act, all unfinished civil law suit cases, except for criminal related cases, and other cases, will be finished according to the provisions of this Act. In addition, order of notifications or statements, orders, bylaws and position of appointments according to the previous Act, will continue to be enforced as long as this Act is in force.

URBAN RENT CONTROL (AMENDMENT) ACT (1960)

[Unofficial Translation]

Act No. 20, 1960

[Exact date unknown]

The Act is prescribed as follows:

1. This Act shall be called the Urban Rent Control (Amendment) Act, 1960.
2. The following shall be substituted as paragraph (d) after paragraph (c) of section 42, sub-section (2) of the Urban Rent Control Act, 1960:

“(d) In any urban area, transferring the decision by the inspector, according to the section 32, which level of judge can accept, such kind of case.”

URBAN RENT CONTROL (AMENDMENT) ACT (1961)

[Unofficial Translation]

Act No. 31, 1961

[Exact date unknown]

This Act is prescribed as follows:

1. This Act shall be called the Urban Rent Control (Amendment) Act, 1961.
2. The phrase in section 21, sub-section (4) “The President of the State is working according the suggestion of consultant board which was formed for such case” shall be removed.
3. Paragraph (G) from sub-section (2) of section 42 shall be removed.

THE TENANCY LAW (1963)

[Unofficial Translation]

Law No. 8, 1963

[Exact Date Unknown]

The Chairman of the Union of Burma Revolutionary Council has prescribed the following Law.

1. This law shall be called the Tenancy Law, 1963.
2. This Law shall extend to the whole of the Union of Burma and shall come into force at once.
 - (a) "Government land" means the present land or land for agricultural purpose.
 - (b) "Agricultural Land" means either land used for cultivation or possessed for an agricultural purpose.

Explanation 1: The expression includes what in common usage are identified as paddy or hillside fields, or silt land; or rubber or palm plantations, or orchards; or vegetable or flower gardens; or island or alluvial lands.

Explanation 2: The expression does not include private residences, religious buildings and compounds, or unused public cultivation plots inside a township or village boundary.

Explanation 3: The expression is inclusive of structures built upon agricultural land.

- (c) "Rent for cultivation" means wages given to a land owner because of the benefit gained by cultivating on the land.
- (d) "Land tax" means supervision fees (levy) of the government according to government land and tax law or Upper Burma land and Tax regulation law. According to Irrigation Act law it does not include the supply of water to the field.
- (e) "Tenant farmer" means the responsible person who pays rent for cultivating on the land.

Explanation: The expression includes a relevant organization.

- (f) "Landlord" means a person or an organization who owned the field or farm according to the Land and Tax act law or Upper Burma Land and tax regulation law. Landlord includes the representative of the land owner.
- (g) "Demarcate" means fixing according to this law and bye-law.

3. In applying the provisions of this Act, the decision of the authority appointed by the government is final.

4. The government may announce the renting of any field or land from a specific date specified in the announcement. At that date the right to rent of the landlord will end.

(1) The tenant farmer of the government or landlord must pay tax to the landlord at the following rates:

(a) Renting fee is the same wage as cultivating rice for the year.

(b) Renting fee is three times the wage for cultivating Chili, Onion and Virginia in the year or the special crop rate of Sugar cane.

(c) Renting fee is two times the wage of cultivating Chili, Onion and Virginia in the year.

(2) As prescribed in sub-section (1), the rent for cultivating a farm is noted as the renting fee for the whole year of cultivation. The tenant farmer is not responsible to pay additional rent fees for cultivating multiple crops or subsidiary crop on that land in the same year.

(3) The Renting fee shall be paid in cash.

5. The specified compensation fee should be given to the landlord, where the benefit to the landlord is decreased due to the tenant's failure to do a normal task or other reason which leads to the destruction of the paddy dike, drain, well and pond.

6. The government may specify the rules and regulations for the tenant cultivating on government land.

The government may specifically appoint any person or organization to carry out the provisions of this Act and such persons may hand over the power assigned to them to another person or organisation except the bylaw.

Lay down order by power transferred person or organization or once again power transferred people or organization by section (7), cannot refuse to accept in any civil court or revenue office. Appeal can make in any legally specified organization.

No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act,

Any person or organization who has transferred power or once again transferred power in accordance with Section (7) can be sentenced to six months in prison or fined three hundred kyat or both if fails to cultivate on the rented land without sufficient reason or rent to another person.

Any person or organization who has transferred power or once again transferred power in accordance with Section (7) can be sentenced to six months in prison or fined three hundred kyat or both if inhibit the working process of this law by himself.

Any person may issue directives for daily working process according to this law or bye-law.

(1) The government may issue directives for the daily working processes under this law or relevant bye-laws.

(2) The government may hand over the conferred power to any person or organization under sub-section (1).

The government may issue bye-laws and notifications to carry out the works of this Act.

7. The 1953 Renting Land for Cultivation Act is hereby repealed.

(1) Works carried out under the 1953 Renting Land for Cultivation Act are not nullified. Unfinished works may be resolved.

THE TENANCY (AMENDMENT) LAW (1965)

[Unofficial Translation]

Law No. 2, 1965

[Exact date unknown]

The Chairman of the Union of Burma Revolutionary Council has prescribed the following Law:

1. This Law shall be called the Law Amending the Tenancy Law, 1965.
2. This Law shall extend to the whole of the Union of Burma and shall come into force at once.
3. For section 4 of the Tenancy Law, 1963 the following shall be substituted:
“4. If there are any outstanding government-imposed tenancy fees or landlord-imposed tenancy fees on agricultural lands, those tenancy fees need not be paid to the landlords.”
4. The laws provided in the schedule of this Law are hereby repealed.

SCHEDULE

[See section 3]

<i>Name</i>	<i>No.</i>	<i>Year</i>
The Tenancy Standard Rates Act, 1950	42	1950
The Tenancy Standard Rates (Amendment) Act, 1951	3	1951
The Tenancy Standard Rates (Amendment) Act, 1954	68	1954
The Tenancy Standard Rates Amending Law, 1963	25	1963

THE LAW SAFEGUARDING PEASANT RIGHTS (1963)

[Unofficial Translation]

Law No. 9, 1963

[Exact Date Unknown]

The Chairman of the Union of Burma Revolutionary Council makes the following Law:

1. (1) This Law shall be called the Law Safeguarding Peasant Rights, 1963.
- (2) This Law shall extend to the whole of the Union of Burma and shall come into force at once.
2. In this law, unless there is anything repugnant in the subject or context:
 - (a) "Agricultural Land" means either land used for cultivation or possessed for an agricultural purpose.

Explanation 1: The expression includes what in common usage are identified as paddy or hillside fields, or silt land; or rubber or palm plantations, or orchards; or vegetable or flower gardens; or island or alluvial lands.

Explanation 2: The expression does not include private residences, religious buildings and compounds, or unused public cultivation plots inside a township or village boundary.

Explanation 3: The expression is inclusive of structures built upon agricultural land.

(b) "peasant" means either a person who works agricultural land by one's hand as the primary means of livelihood; or a person who has always worked by one's hand; or who throughout the work time of the relevant year has worked agricultural land by hand as the primary means of livelihood.

3. (1) Notwithstanding anything elsewhere contained in any existing law, a Civil Court shall not make a decree or order for:

(a) A warrant of attachment for or confiscation of agricultural land; neither for employed livestock and implements, harrows and implements, other animate and inanimate implements, nor the produce of agricultural land.

(b) Prohibition of work upon or entry into agricultural land.

(c) Prohibition of movement or sale in whole or part or use of employed livestock and implements, harrows and implements, other animate and inanimate implements, or the produce of agricultural land.

- (d) Arrest and detention of a peasant in connection with any matter included in paragraphs (a) (b) and (c).
- (2) The provisions of subsection (1) do not apply to:
 - (a) Actions taken for the obtaining of government revenue;
 - (b) Actions taken over events concerning inheritance rights; or,
 - (c) Government actions taken for law and order.
- (3) The provisions of subsection (1) do not apply to rubber plantations.

THE ELECTRICITY LAW (1984)

[Unofficial Translation]

Act No. 7

[Exact date unknown]

The People's Parliament (PyiThu Hluttaw) hereby enacts the following law:

CHAPTER 1 TERMS AND DEFINITIONS

1. This law is concerning the exploration, production, transmission, distribution and usage of electricity and involves inspection matters for the safe use of electricity.
2. In this law, unless there is anything repugnant in the subject or context:
 - (a) "Electricity" means the energy that is acquired and produced from steam engine, hydro-power engine, fuel engine, natural gas engine, nuclear-power engine and by production from other alternative means.
 - (b) "Authority upon electricity" means exploration, production, transmission and distribution of electricity.
 - (c) "Exploration of electricity" means exploring or acquiring electricity power for the benefit of the state, or for public interest or, for usage in state-owned enterprises, for usage in co-operatively owned factories, or in private production facilities, and or for other purposes.
 - (d) "Electricity production" means generating electricity systematically whether from a steam engine, or a hydro-power engine, or fuel engine, or natural gas engine, or nuclear-power engine, or other way of productive engine.
 - (e) "Transmission of electricity" means systematic transmission of electricity from generating facilities to practical using area by cables and transmission lines according to the acknowledged voltage and power of electricity.
 - (f) "Distribution of electricity" means systematic distribution of electricity according to the acknowledged voltage and flow to public end-users.
 - (g) "Usage of electricity" means using electricity according to acknowledged voltage and power of electricity according to the regulation of the government.
 - (h) "Inspection of electricity" means inspection for the generating and using of electricity safely according to the regulation of the government.

(i) “Chief Inspector of electricity” means the person, appointed by the respective ministry who is responsible to take charge the duty of chief inspector of electricity.

(j) “Inspector” means the persons, appointed by the respective ministry, to serve the duty of electricity inspectors according to the law.

(k) “Electricity user” means the person who uses the electric-power whether for his or her own purpose, or for factory or business use, acquired from the organizations and private enterprises which have permission to generate electricity.

(l) “Professional electrician certificate” means the permission for the person who maintains experiences and qualification in the related fields of handling electricity.

(m) “Professional electrician” means the person who has the professional electrician certificate or the person who has the electrical experience and working in practice.

CHAPTER 2 ELECTRICITY AUTHORITY

4. The Board of ministry (Cabinet) shall allow the following as electricity authority:

(a) Government electrical power corporation or the organization descended from government electrical power corporation;

(b) Factories, workshops, and all departments under respective ministry;

(c) Registered co-operative organizations in accordance with the Co-operative Organization Act;

(d) Registered private businesses in accordance with the Private Business Act; and

(e) Other specific organizations.

5. The minister who is authorized by the Board of Ministers (cabinet) shall give the order (permission) or withdraw the order (permission) to the organizations in accordance with section 4(a) for the exploration, generation, transmission, distribution and usage of electricity.

6. The minister or chief inspector who is authorized by the minister shall give the order or withdraw the order to organizations in accordance with section 4(b), (c), (e), and to private businesses in accordance with section 4(d) for the exploration, generation, transmission, distribution and usage of electricity.

7. All orders (permissions) can be withdrawn by any of the following reasons:

- (a) Violation or failure to follow the requirements of this electricity law;
- (b) Violation or failure to follow the regulations mentioned in the relevant permission (order);
- (c) Inability to generate the electricity in the limited time frame or inability to implement continuously or inability to generate the electricity.

8. Notwithstanding that the organizations in accordance with section 4(c), (e), and private businesses in accordance with section 6(d), have previously been authorized to explore, generate, transmit, distribute and use the electricity, the minister or the chief inspector or inspector who has the authority given by the minister can revoke the order (permission) if the state decides it will take responsibility for that sector by itself.

9. The board of the ministers (cabinet) shall permit to some organizations for the extraordinary electricity authority by imposing some rules and regulations upon them.

10. In accordance with section 4, the person who is authorized for electricity related affairs can not co-operate with any other person who wants to generate electricity or any other person who has already been authorized for generating electricity, without prior agreement from board of ministers.

11. The person who is authorized for electricity related affairs, can not sell, pawn, borrow, exchange or in any other way hand over the order of authority or his work or any parts of his work without prior agreement from the board of ministers.

12. Any person who does not have an official professional electrician certificate can not practice electrical installation and repairing work.

CHAPTER 3

DUTY AND AUTHORITY OF THE ELECTRICAL AUTHORIZED PERSON

13. The person who is authorized for electricity affairs according to the Section 4, must follow the following rules:

- (a) Exploring for electricity must be in accordance with the law;
- (b) For generation, transmission, and distribution of electricity:
 - (1) Such person shall produce the permitted electricity amount according to the order of electrical authority;
 - (2) Such person shall enable use of electricity generated for electricity users;

(3) Such person shall use electricity measuring indicators and safety equipments systematically;

(4) Such person shall follow the rules and principles of electricity when the electricity measuring indicators and safety equipment are installed;

(5) The electrical authorized person has the authority to collect the bills of electricity from electricity users;

(6) The electrical authorized person has the authority to terminate transmission of electricity if the bill can not be paid in limited time.

14. For safe use of electricity, the following rules must be followed in generation, transmission, distribution and usage of electricity:

(a) Such person must avoid destroying any properties of the airport, railway, tram-way, road, trolley-bus lane, tunnel, river, stream, port, dockyard, jetty and irrigation canal;

(b) Such person must avoid blocking the run way of the airport, railway, road, trolley-bus lane, tunnel, river, and stream;

(c) Such person must avoid interfering or destroying the system of telegraph, telephone, electrical telegraph, signal telegraph, cables using in telegraph transmission, and air waves.

15. If any person or any animal is injured or disable or dead by the process of electricity generation, transmission, distribution and usage; the electrical authorized person must report to the chief inspector or related department immediately.

CHAPTER 4 DUTIES AND RESPONSIBILITIES OF THE INSPECTOR

16. The Inspector must follow in regards of electrical works as the rules mentioned below:

(a) The Inspector must report to the chief inspector for permission of “safety order” after inspecting for safety measures in government factories, factories owned by co-operatives, private owned factories, people gathering places such as schools, hospitals, cinema halls, theatre halls and government sponsored ceremonies;

(b) The Inspector must report to the chief inspector for permission of “safety order” after inspecting for safety measures in elevator, escalator, electronic train, trolley-bus and other electronic equipments;

(c) The Inspector must report to the chief inspector to take action on electricity generators usage according to the rules and principles of private business law;

(d) The Inspector must report to the chief inspector for permission of “safety order” after inspecting the local and overseas made electrical products according to the prescribed standards;

(e) The Inspector must report to the chief inspector for preparing electrical standards regarding the safe use of electricity.

17. Responsibilities of the Inspector are as follow:

(a) According to the instruction of the minister, the Inspector has the authority to issue or withdraw an order for permission of exploring, generating, transmitting, distributing and using electricity;

(b) The Inspector has the authority to receive the costs on electrical equipment inspection and examination according to procedure;

(c) The Inspector has the authority to ask overdue costs (fine) in accordance with the principles of the electricity law if any person fails to pay the costs of electrical equipment inspection and examination within the due date;

(d) The Inspector has the authority to report to the chief inspector or to terminate transmitting electricity to factories, public gathering areas and other electricity using areas if he or she sees danger by electricity in that areas.

CHAPTER 5

DUTIES AND RESPONSIBILITIES OF THE CHIEF INSPECTOR

18. The chief inspector must undertake electrical safety inspection according to the prescribed duties and responsibilities.

19. The chief inspector has the following authority in regarding with the exploration, generation, transmission, distribution and usage of electricity:

(a) The chief inspector has the authority to issue or revoke “permission order” according to the instruction of the related minister for exploration, generation, transmission, distribution and usage of electricity;

(b) The chief inspector has the authority to enter and inspect any place for the purpose of inspecting electrical standards;

(c) The chief inspector has the authority to give permission to the inspector on behalf of him or other inspection officer for electrical standard inspection in anywhere and any place;

(d) The chief inspector has the authority to decide, to revise, to instruct and to terminate electricity if he or she thinks it is necessary according to the report of the inspector by section 16(e) or by section 17(d) of this law;

(e) The chief inspector has the authority to issue the “permission order” concerning with the reports of inspector according to the section 16 of this law;

(f) The chief inspector has the authority to make a decision on the case of injury or death of any person or animal caused by electricity, to decide who is responsible for the case;

(g) The chief inspector has the authority to grant the professional electrician certificate to the qualified person;

(h) The duty of the chief inspector is to issue the electrical standards and inspection techniques;

(i) The chief inspector shall report to the minister in regards of the issuing rate of charge and revising the rate of charge for electrical equipment inspection;

(j) The chief inspector shall report to the minister in regards the issuing rate of charge and revising the rate of charge for electrical installation and repair work;

(k) The chief inspector has the authority to give permission for electrical inspection to any inspector in any area.

20. The chief inspector has the authority to question the related persons for the case of injury or death of any person or animal caused by the electrical power.

21. For the purpose of controlling dangerous situations in electrical generation, transmission, distribution and usage, the chief inspector has the authority to give instruction to all related field officers for terminating electricity distribution in any public areas, factories and other places.

22. If the dispute or disagreement occurs between the electricity producer and electricity user on the use of electrical equipments, the chief inspector must give the decision for that case and his or her decision will be final.

CHAPTER 6 CRIME AND PUNISHMENT

23. Any person who procures or wastes or uses electricity illegally or in an improper way, will be recognized as a criminal thief of electricity according to the criminal law.

24. If any person who wastes or turns electricity current into somewhere or cuts the electrical cable or destroys the electricity production facilities or attempts to do such action, such

person shall be punished by two to five years imprisonment or a fine of at least 5,000 kyats to 10, 000 kyats or both imprisonment and fine.

25. If any person conducts the electricity relating works, such as exploration, generation, transmission, and distribution of electricity without permission from the authority issued by section 4 and section 6 of this law, such person shall be fined at least 2,000 kyats to 3,000 kyats and if any evidence shows that he or she is committing similar offence again after the punishment, this person shall be fined 300 kyats on daily basis.

26. If any person violates section 10 and section 11 of this law, such person shall be fined at least 3,000 to 5,000 kyats.

27. If any person violates section 12 of this law, such person shall be punished by at least one month to three months imprisonment or shall be fined at least 500 to 1,000 kyats or shall be subject to both imprisonment and fine.

28. If any government properties or co-operative organization properties are destroyed by any person who procures or uses or wastes electricity illegally or in an improper way or any person who wastes or turns electricity current into somewhere or cuts the electricity cable or destroys the electricity production facilities or any person who produces electricity without permission issued by section 4, section 5 and section 6, such person must compensate the real current prices of properties to the government or co-operative organization according to the relevant section.

CHAPTER 7 FINES AND COMPENSATION

29. Any person who gets injured or disabled or dies by reason of electric-shock or fire breaking out from the electric equipments, by negligence or failure to serve the duty of someone who has authority for electricity production or installation, such victim can claim compensation from the person who has the authority for electricity production or installation according to the following rules:

(a) If the person or victim is eligible with the criteria of the labor law, this victim can claim compensation in accordance with the prescription of the labor law;

(b) If the person or victim is not concerning with the labor law, the victim can claim compensation according to the stated procedure.

30. Any person who destroys the state electrical equipments, such person will be charged in accordance with the existing laws and moreover, the related state organization shall claim the damaged cost of the electrical equipments as compensation from the person.

31. Any person who transfers electrical equipments to other people without permission from related governmental organization, and by this act, cause damages to some state

organizations, such person shall pay compensation, the amount decided by the related minister for the damages.

CHAPTER 8 BOARD OF ADVISERS

32. The board of ministers (cabinet) can organize the board of advisers with the representatives from the other appropriate organizations for providing advice to implement the prescriptions of this law.

33. All members of the “Board of advisers” shall enjoy the rights and privileges set out by the Board of ministers (cabinet).

34. Duties and responsibilities of the Board of advisers are as follows:

(a) Providing advice to the assigned minister or the Board of ministers (cabinet) regarding with the following matters:

1. Matters relating to exploring, generating, transmitting, distributing and using of electricity;

2. Matters relating to fees and bills for electricity usage;

3. Matters relating to setting out regulations and principles, which the people with authority for electricity production must follow; and

4. Matters relating to adopting rules and principles for electricity usage:

(b) Proposing necessary advice after observing the rules and principles of law and procedure of law;

(c) In case of fine or compensation, the member of (board of advisors) giving advice to the assigned minister for making decision and in other matter for negotiation with the related executive committee of People council;

(d) Giving advice to the authority on the assigned subject, to the related minister or the minister who has assigned authority for the task by the Board of ministers (cabinet).

CHAPTER 9 ELECTRICAL STANDARDS AND INSPECTION TECHNIQUES

35. According to the law, procedures and instructions, the electrical inspection department is responsible for adopting modern electrical standards and inspection techniques in order to ensure the safe use of electricity.

36. The electrical inspection department must keep a laboratory in order to use for electrical inspection, for resolution of disputes relating to electricity affairs, for research purposes and for inspection of electrical equipments producing from local and oversea, and for assisting to adopt modern electrical standards and inspection techniques.

37. The electrical inspection department can issue the electrical standards and inspection techniques occasionally in accordance with the procedure of this law.

38. Only the results, coming out from the electrical standards and inspections are the final acceptable ones.

CHAPTER 10 GENERAL PROVISIONS

39. In order to implement the instructions of this law:

(a) The respective ministry shall issue the necessary directives and regulations with the agreement of the Board of the ministers (cabinet);

(b) The respective ministry shall issue necessary orders and instructions.

40. The “Electricity Act” is hereby withdrawn.

THE LAW AMENDING THE ELECTRICITY LAW (1990)

The State Law and Order Restoration Council Law No. 3/90

The 12th Waxing Day of Tabaung, 1351 M.E

7 March 1990

The State Law and Order Restoration Council hereby enacts the following Law:

This Law shall be called the Law Amending the Electricity Law.

Section 30 of the Electricity Law shall be substituted by the following section:-

(30). Whoever commits any act mentioned below, shall, in addition to being prosecuted under this Law or under any other law for the time being in force pay as compensation to the State-owned organization concerned the market value of the destroyed electrical materials and equipment or for the loss arising out of the act the amount as prescribed under the procedures:

- (a) destruction of State-owned electrical materials and equipment;
- (b) transferring without a permit of the State-owned organization concerned of the electrical materials and equipment owned by the State to any other person;
- (c) consumption of electrical energy by theft;
- (d) consumption of electrical energy by way of relaying and sub transmitting without a permit of the State-owned organization concerned;
- (e) using for commercial purpose electrical energy connected from domestic or domestic power meters;
- (f) consumption of electrical energy beyond the energy load limit of the industrial power meter.

Section 31 of the Electricity Law shall be substituted by the following section:-

(31). (a) Compensation payable under section 29, sub-section (h) and under section 30 shall be recovered as arrears of land revenue.

(b) A person authorised by the Ministry concerned for the purpose of sub-section (a) shall exercise the powers of the Collector under the existing laws.

Sd./ Saw Maung General

General Chairman

The State Law and Order Restoration Council

THE TRANSFER OF IMMOVEABLE PROPERTY RESTRICTION ACT (1987)

[Unofficial Translation]

Pyithuhlyuttaw Act 1, 1987
[Exact date unknown]

CHAPTER 1 TITLE AND DEFINITION

1. This law shall be called the Transfer of Immoveable Property Restriction Act.
2. The following expressions contained in this Law shall have the meanings given hereunder:-
 - (a) “State” means Union of Socialist Republic of Burma.
 - (b) “Foreigner” includes the following –
 - (i) According to the Burmese Citizen Act, any person who is not a citizen of the Union; any person who is not a guest citizen or any person who is not allowed to be a citizen.
 - (ii) According to the Burmese Citizen Act, any person whose citizenship has ceased or any person who has withdrawn their citizenship, guest citizenship or their allowance to be a citizen.
 - (c) “Foreigner owned company” means a company or partnership organization whose administration and control is not vested in the hands of the citizens of the Union or whose major interest or shares are not held by citizens of the Union.
 - (d) “Immoveable property” means land, benefits from the land, building and things constructed or situated on that land and things installed on those buildings.
 - (e) “Transfer”, “loan”, “sell”, “give away”, “pawn” and “exchange” shall have the meanings assigned to them in the Transfer of Property Act.
 - (f) “Give away” shall include donation or “entrusted in believe”.

CHAPTER 2 RESTRICTIONS ON IMMOVEABLE PROPERTY

3. No person shall sell, buy, give away, pawn, exchange or transfer by any means immovable property with a foreigner or foreigner owned company.
4. No foreigner or foreign owned company shall acquire immovable property by way of purchase, gift, pawn, exchange or transfer.

5. No person shall grant a lease of immovable property, for a term exceeding one year:

(a) To a foreigner or foreigner owned company.

(b) No foreigner or foreigner owned company shall receive a lease of immovable property, for a term exceeding one year.

6. Whenever a foreigner dies or departs totally to a foreign country or is deported, the relevant Ministry shall scrutinize each case with the relevant procedures and, as regards any relevant immovable property owned by the foreigner, either:

(a) Allow inheritance according to the law.

(b) Confiscate the immovable property as state-owned property.

7. If the inheritance is allowed according to Section 6 subsection (a), the heir who will inherit the immovable property should be in accordance with any Court decision made under the Inheritance Act or agreement between the inheritors.

CHAPTER 3 REGISTRATION

8. A foreigner or foreigner owned company must register any immovable property and the location of such immovable property in the state concerned to the respective Township People Council according to the relevant procedure.

9. Prior to the enactment of this law, any foreigner who is staying abroad or a foreigner owned company must register their immovable property and the location of such to the respective Township People Council according to the relevant procedure through their agent.

10. Executive members of Township People Council must inquire and investigate any concealment of registration mentioned under Section 8 and 9, according to the relevant procedure.

CHAPTER 4 PENALTIES

11. Whoever contravenes the provisions of section 3 or 4 shall be sentenced to a minimum of three years and a maximum of five years imprisonment and the relevant immovable property shall be confiscated as public property.

12. Whoever contravenes the provisions of section 5 shall be punished with a fine not exceeding three times the rent agreed upon for the entire period of the lease and the relevant immovable property shall be confiscated as public property.

13. Whoever if found, after enquiry by the Township People Council, to have contravened the registration provisions in section 8 or section 9, shall be sentenced to a minimum of one year and a maximum of three years imprisonment and the relevant immoveable property in the case shall be confiscated as public property.

CHAPTER 5 GENERAL

14. The relevant Ministry may allow exemptions from the provisions of this Act to a foreign government for the use of its diplomatic mission accredited to the Union of Burma or to United Nations' organizations or to any other organizations of individuals.

15. The provision of this Act do not apply to companies or organizations that have relevant beneficial contracts with the state.

16. The relevant ministry, assigned by the cabinet of ministers, can scrutinize and decide to allow registration or not of immoveable property that was in the registration office before this act was prescribed.

17. Prior permission from the relevant ministry is required prior to any prosecution of offences committed under this Act.

18. To carry out the provisions of this act, the relevant ministry shall:

- (a) Issue necessary procedures with the agreement of the cabinet of ministers.
- (b) Issue necessary orders and directives.

19. The following enacted law and bye-law are hereby withdrawn.

- (a) The Transfer of Immoveable Property (Restriction) Act, 1947.
- (b) The Transfer of Immoveable Property (Restriction) Act, 1956.

THE LAW AMENDING THE TRANSFER OF IMMOVEABLE PROPERTY RESTRICTION LAW (2005)

The State Peace and Development Council Law No. 1/2005
The 4th Waxing Day of *Pyatho*, 1366 M.E

13 January 2005

The State Peace and Development Council hereby enacts the following law:-

1. This law shall be called the Law Amending the Transfer of Immoveable Property Restriction Law.
2. The expression “Executive Committee of the Township People’s Council” contained in section 8 and section 9 of the Transfer of Immoveable Property Restriction Law shall be substituted by the expression “Township Registration Committee”.
3. Section 10 of the Transfer of Immoveable Property Restriction Law shall be substituted as follows:-

“10. The relevant Township Registration Committee shall investigate in accordance with the procedures as to whether or not there is failure to register the immoveable property under section 8 or section 9, whether or not there is correctness in registration and whether or not there is concealment and submit its findings to the District Administrative Officer.”

4. Section 13 of the Transfer of Immoveable Property Restriction Law shall be substituted as follows:-

“13. If any person who is responsible for registering immoveable property under section 8 or section 9 fails to register or willfully makes false statement in registration or makes concealment, he shall, on conviction be punished with imprisonment for a minimum term or one year to a maximum term of three years, and the immoveable property involved in the offence shall also be confiscated.”

(Sd.) Than Shwe
Senior General
Chairman
The State Peace and Development Council

THE UNION OF MYANMAR FOREIGN INVESTMENT LAW (1988)

STATEMENT ON FOREIGN INVESTMENT LAW OF MYANMAR

The Government of the Union of Myanmar has been striving hard to promote all round development of national economy to improve provisions of food, clothing and shelter for the people so as to ameliorate their living standards. In this connection steps have been taken to ensure mass participation with maximum utilization of the faculties of people and induce foreign investment on the basis of equality and mutual benefit.

The Government has also envisaged such policy objectives as exploitation of abundant resources of the country with a view to catering to the needs of the nation in the first instance; exporting whatever surplus available; creation of new employment as the economic activities expand so that especially young people would have great job opportunities and privileges of learning on job training as well as technical training both inland and abroad; economic and social development of various regions of the State along with expansion and improvement of transport and communications.

Foreign investors who invest and operate on equitable principles would be given the right to enjoy appropriate economic benefits, to repatriate them, and to take their legitimate assets back home on closing of their business. They would also be given proper guarantee by the Government against nationalization of their business in operation. All these rights and privileges would be granted in the interest of the Union of Myanmar and its people.

At present, enquiries are being made by foreign companies and persons wishing to make investments in the State in a reasonable manner. Similarly, enquiries and contacts are also being made by citizens. It is desirable that a Commission of a high calibre be formed so as to scrutinize the proposals and to co-ordinate all matters concerning enterprises which may be permitted.

As it is necessary to make legal provisions for the above-mentioned matter, the State Law and Order Restoration Council has enacted the Foreign Investment Law.

THE UNION OF MYANMAR FOREIGN INVESTMENT LAW

The State Law and Order Restoration Council Law No. 10/88
The 7th waning day of Tazaungmon 1350 B.E

30 November 1988

The State Law and Order Restoration Council hereby enacts the following Law:-

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the Union of Myanmar Foreign Investment Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) “Commission” means the Union of Myanmar Foreign Investment Commission;
 - (b) “Government” means the Government of the Union of Myanmar;
 - (c) “Citizen” includes an associate citizen or a naturalized citizen. The said expression also includes an economic organization formed with local investment only;
 - (d) “Foreigner” means a person who is not a citizen. The said expression also includes an economic organization formed with foreign investment only;
 - (e) “Promoter” means any citizen or any foreigner submitting an investment proposal to the Commission;
 - (f) “Proposal” means the prescribed application submitted by a promoter to the Commission for approval of an intended investment and the accompanying draft contract;
 - (g) “Permit” means the order in which the approval of the Commission of a proposal is expressed;
 - (h) “Foreign Capital” includes the following which are invested in an economic enterprise by any foreigner under a permit:
 - foreign currency; property actually required for the enterprise and which is not available within the State such as machinery equipment, machinery components, spare parts and instruments;
 - rights which can be evaluated such as licences, trade marks and patent rights;
 - technical know-how;

- re-investment out of benefits accrued to the enterprise from the above or out of share of profits;

(i) "Investor" means a person or an economic organization making an investment under a permit;

(j) "Bank" means any bank of the State.

CHAPTER II APPLICABLE ECONOMIC ACTIVITIES

3. This Law applies to economic activities prescribed by the Commission from time to time with the prior approval of the Government.

CHAPTER III BASIC PRINCIPLES

4. Foreign investments shall be made in accordance with the following basic principles:

(a) promotion and expansion of exports;

(b) exploitation of natural resources which require heavy investment;

(c) acquisition of high technology;

(d) supporting and assisting production and services involving large capital;

(e) opening up of more employment opportunities;

(f) development of works which would save energy consumption;

(g) regional development.

CHAPTER IV FORM OF ORGANIZATION

5. Foreign investment may be made in any of the following forms:--

(a) investment made by a foreigner to the extent of one hundred per cent foreign capital;

(b) joint-venture made between a foreigner and a citizen.

6. (a) In forming under section 5:-

(i) a sole proprietorship, a partnership and a limited company may be formed;

(ii) if a joint-venture is formed the foreign capital shall be at least 35 per cent of the total capital.

(b) In forming as mentioned above, in carrying out the business and in liquidation on the termination of business, other existing laws of the State shall be complied with.

CHAPTER V FORMATION OF THE COMMISSION

7. The Government shall form the Commission.

CHAPTER VI DUTIES AND POWERS OF THE COMMISSION

8. The Commission may accept any proposal which in its opinion will promote the interests of the State and which is without prejudice to any existing law.

9. The Commission shall in scrutinizing a proposal take into consideration facts such as financial credibility, economic justification of the business enterprise and appropriateness of technology.

10. The Commission shall issue a permit to a promoter on a proposal being accepted.

11. In case an extension, relaxation or amendment of the term of the permit or the agreement is submitted by those concerned, the Commission may show thereof as it may deem appropriate.

12. The Commission shall take necessary and prompt action in respect of complaints made by investors on failure to receive fully, benefits entitled to under this Law.

13. The Commission may, at any time require a promoter or an investor to furnish such evidence or facts as the Commission may deem necessary.

14. The Commission may, for the purpose of carrying out the provisions of this Law form such committees and bodies as may be necessary.

15. The Commission may prescribe the bank which shall transact financial matters under this Law.

16. The Commission shall, from time to time report its performance to the Government. It shall also recommend to the Government measures necessary to facilitate and promote foreign investments.

CHAPTER VII CONTRACTS

17. In forming an economic enterprise under a permit, contracts shall be executed as may be necessary.

18. The Commission may, upon application by those concerned allow the extension, relaxation or amendment of the term of a contract or agreement as may be appropriate.

CHAPTER VIII INSURANCE

19. All economic organization formed under a permit shall effect insurance with the Myanmar Insurance Corporation in respect of the prescribed types of insurance.

CHAPTER IX APPOINTMENT OF PERSONNEL

20. In appointing personnel in an economic organization formed under a permit, preference shall be given to citizens, provided that the Commission may, if necessary, allow the appointment of experts and technicians from abroad.

CHAPTER X EXEMPTIONS AND RELIEFS

21. The Commission shall, for the purpose of promoting foreign investments within the State, grant the investor exemption or relief from taxes mentioned in sub-section (a) out of the following exemptions or reliefs from taxes. In addition the Commission may grant any or more than one or all of the remaining exemptions or reliefs from taxes:

(a) in respect of any enterprise for the production of goods or services, exemption from income-tax for a period extending to 3 consecutive years, inclusive of the year of commencement of production of goods or services; in case where it is beneficial for the State, exemption or relief from income tax for a further reasonable period depending upon the success of the enterprise in which investment is made;

(b) exemption or relief from income-tax on profits of the business if they are maintained in a reserve fund and re-invested therein within 1 year after the reserve is made;

(c) right to accelerate depreciation in respect of machinery, equipment, building or other capital assets used in the business, at the rate fixed by the Commission to the extent of the original value for the purpose of income-tax assessment;

(d) if the goods produced by any enterprise are exported, relief from income-tax up to 50 percent on the profits accrued from the said export;

(e) right of an investor to pay income-tax payable to the State on behalf of foreigners who have come from abroad and are employed in the enterprise and the right to deduct such payment from the assessable income;

(f) right to pay income-tax on the income of the above-mentioned foreigners at the rates applicable to the citizens residing within the country;

(g) right to deduct from the assessable income, such expenses incurred in respect of research and development relating to the enterprise which are actually required and are carried out within the State;

(h) right to carry forward and set-off up to 3 consecutive years from the year the loss is sustained in respect of such loss sustained within 2 years immediately following the enjoyment of exemption or relief from income tax as contained in sub-section (a), for each individual enterprise;

(i) exemption or relief from customs duty or other internal taxes or both on machinery, equipment, instruments, machinery components, spare parts and materials used in the business, which are imported as they are actually required for use during the period of construction;

(j) exemption or relief from customs duty or other internal taxes or both on such raw materials imported for the first 3 years' commercial production following the completion of construction.

CHAPTER XI GUARANTEES

22. The Government guarantees that an economic enterprise formed under a permit shall not be nationalized during the term of the contract or during an extended term, if so extended.

23. On the expiry of the term of the contract, the Government guarantees an investor of foreign capital, the rights he is entitled to, in the foreign currency in which such investment was made.

CHAPTER XII FOREIGN CAPITAL

24. The Commission shall evaluate the foreign capital in terms of kyat in the manner prescribed, and register it in the name of the investor. In so registering, the types of the foreign capital and the type of the foreign currency evaluated shall be stated.

25. In the event of termination of business, the person who has brought in foreign capital may withdraw foreign capital which he is entitled to withdraw as prescribed by the Commission within the time stipulated.

CHAPTER XIII RIGHT TO TRANSFER FOREIGN CURRENCY

26. The following shall be transferable abroad in the relevant foreign currency through the bank prescribed by the Commission at the prevailing official rate of exchange:

- (a) foreign currency entitled to by the person who has brought in foreign capital;
- (b) foreign currency permitted for withdrawal by the Commission to the person who has brought in foreign capital;
- (c) net profits after deducting from the annual profits received by the person who has brought in foreign capital, all taxes and the prescribed funds;
- (d) legitimate balance, after causing payment to be made in respect of taxes and after deducting in the manner prescribed, living expenses incurred for himself and his family, out of the salary and lawful income obtained by the foreign personnel during performance of service in the State.

CHAPTER XIV MATTERS RELATING TO FOREIGN CURRENCY

27. An economic organization formed under a permit shall open in the bank prescribed by the Commission, a foreign currency account in the type of foreign currency accepted by the bank, and a kyat account and carry out all financial transactions relating to the business enterprise.

28. Foreigners serving in any such economic organization shall open a foreign currency account and a kyat account in any bank prescribed by the Commission.

CHAPTER XV GENERAL PROVISIONS

29. The Commission shall hold meetings in the manner prescribed.

30. The decisions of the Commission made under the powers conferred by this Law shall be final and conclusive.

31. No suit, prosecution or other proceeding shall lie against any member of the Commission or committee or body or any public servant for any act done in good faith under this Law.

32. For the purpose of carrying out the provisions of this Law the Government may prescribe such procedures as may be necessary, and the Commission may issue such orders and directives as may be necessary.

(Sd) Saw Maung

General

Chairman

The State Law and Order Restoration Council

PROCEDURES RELATING TO THE UNION OF MYANMAR FOREIGN INVESTMENT LAW (1988)

The Government of the Union of Myanmar Notification No. 11/88
The 14th waning day of Tazaungmon, 1350 B.E

7 December 1988

In exercise of the powers conferred under section 3, of the Union of Myanmar Foreign Investment Law, the Government of the Union of Myanmar prescribes the following procedures:-

CHAPTER I TITLE AND DEFINITION

1. These procedures shall be called procedures relating to the Union of Myanmar Foreign Investment Law.
2. The expressions contained in these procedures shall have the same meaning as are assigned to them in the Union of Myanmar Foreign Investment Law. In addition, the following expressions shall have the meanings given hereunder:
 - (a) "Law" means the Union of Myanmar Foreign Investment Law;
 - (b) "Form" means the form attached to these procedures;
 - (c) "Member" means the Chairman or member of the Union of Myanmar Foreign Investment Commission.

CHAPTER II FORMATION OF THE COMMISSION

3. The Commission shall consist of the following persons:-
 - (a) Minister, Ministry of Planning and Finance (Chairman)
 - (b) Minister, Ministry of Trade (Member)
 - (c) Minister, Ministry of Industry No.(1) (Member)
 - (d) Minister, Ministry of Industry No.(2) (Member)
 - (e) Minister, Ministry of Energy (Member)
 - (f) Minister, Ministry of Agriculture and Forests (Member)

(g) Minister, Ministry of Transport and Communications (Member)

(h) Minister, Ministry of Mines (Member)

(i) Minister, Ministry of Construction (Member)

(j) Minister, Ministry of Livestock Breeding and Fisheries (Member)

(k) Minister, Ministry of Co-operative (Member).

4. The Secretary of the Commission shall be appointed and assigned duties by the Chairman of the Commission.

CHAPTER III ECONOMIC ACTIVITIES WHICH MAY BE CARRIED OUT

5. The Commission shall with the prior approval of the Government publish a list showing types of economic activities in which foreign investment may be made. In connection with this matter replies shall also be given when enquiries are made.

CHAPTER IV SUBMISSION OF PROPOSAL

6. A promoter shall state the following particulars in submitting a proposal:

(a) name of promoter, citizenship, address, place of business, place of incorporation, type of business;

(b) if investment is to be made by joint-venture, particulars mentioned in sub-clause (a) relating to the persons wishing to participate in the joint-venture;

(c) evidence in support of sub-clause (a) or sub-clause (b);

(d) commercial and financial references of the promoter or persons wishing to participate in the joint-venture;

(e) particulars relating to production or services enterprise in which investment is to be made;

(f) intended form of organization in which investment is to be made in the State;

(g) if a partnership is to be formed, draft partnership agreement, the ratio and amount of capital to be contributed by the partners, the profit sharing ratio and the rights and liabilities of the partners;

(h) if a limited company is to be formed, draft contract, drafts of the Memorandum of Association and Articles of Association, authorised capital of the company, types of shares, the number of shares to be subscribed by the shareholders;

(i) name, citizenship, address and designation of the executives of the organization in which investment is to be made;

(j) the total capital of the organization in which investment is to be made, the ratio of local and foreign capital, total amount of foreign capital to be brought into the State, the value of the various types of foreign capital and the period within which such foreign capital is to be brought in;

(k) the intended term of investment, the period of construction:

(l) place or places in the State where investment is to be made;

(m) techniques and systems to be used in the production and sale;

(n) the type and quantum of energy to be used;

(o) the quantity and value of the main machineries, equipment, raw materials and similar materials required to be used during the period of construction;

(p) the type and area of land required;

(q) volume and value of annual production of the enterprise and volume and value of services;

(r) annual requirement of foreign exchange to carry on the business and the estimated amount of foreign exchange earnings;

(s) volume and value of goods to be sold locally and abroad annually;

(t) the number, category and tenure of personnel required locally and from abroad;

(u) economic justification.

7. An application containing the above particulars shall be made in the attached Form (1) and shall be signed in person by the promoter and submitted. In addition, draft contract shall also be submitted together with the said application.

8. If it is an economic enterprise in which foreign capital to the extent of one hundred per cent is brought to the State and invested, the promoter shall submit together with the application, draft contract to be executed with an organization determined by the Ministry concerned.

CHAPTER V
SCRUTINY OF PROPOSAL

9. The Commission shall scrutinize financial credibility in the following manner:-

- (a) in cases where necessary, to examine the audited annual final accounts of the person who will bring in foreign capital;
- (b) to require Myanmar Foreign Trade Bank to make enquiries through its foreign correspondent banks regarding the business standing of the person who will bring in foreign capital;
- (c) to call for supporting evidence and to scrutinize the same as to whether any citizen subscribing capital actually has sufficient capital or not.

10. The Commission shall scrutinize the following particulars with regard to the economic justification of enterprise in which investment is to be made:-

- (a) estimated annual net profit;
- (b) estimated annual foreign exchange earnings and requirements;
- (c) recoupment period;
- (d) prospects of new employment;
- (e) prospects of increased national income;
- (f) local and foreign market conditions;
- (g) requirement for local consumption;
- (h) prospects of foreign exchange savings.

11. The Commission may form technical bodies as may be necessary in order to scrutinize the appropriateness of technology.

12. The Commission shall scrutinize application containing the proposal and the draft contract after obtaining the opinion of departments or organizations concerned.

CHAPTER VI
ISSUE OF PERMIT

13. On approval of the proposal by the Commission, a permit in the attached Form (2) shall be issued.

CHAPTER VII
TERMINATION OF BUSINESS BEFORE THE EXPIRY OF ITS TERMS

14. On submission of a desire to terminate the business by mutual agreement before the expiry of the term of the contract, the Commission may, based upon the following particulars scrutinize as to whether or not it is correct and justified, and allow the termination:-

- (a) substantial and continuous losses in the enterprise;
- (b) breach of the terms of contract by one of the parties to the same;
- (c) occurrence of force majeure;
- (d) incapability of implementing the original aims and objects of the enterprise.

CHAPTER VIII
INSURANCE

15. An economic organization formed under a permit:-

(a) Shall effect the following types of insurance with the Myanmar Insurance Corporation:-

- (1) Machinery Insurance;
- (2) Fire Insurance;
- (3) Marine Insurance;
- (4) Personal Accident Insurance.

(b) May effect the following types of insurance, if so desired, with the Myanmar Insurance Corporation:

- (1) Contractors' All Risks Insurance;
- (2) Erection All Risks Insurance;
- (3) Electronic Equipment Insurance;
- (4) Other insurance accepted by the Myanmar Insurance Corporation.

16. In effecting insurance the details shall be worked out in consultation with the Myanmar Insurance Corporation.

CHAPTER IX
APPOINTMENT OF PERSONNEL

17. An economic organization formed under a permit shall allow its personnel to enjoy, at least, the workmen's rights contained in the existing laws of the State.

18. The Commission shall, in permitting the appointment of foreign experts and technicians, carry out the following:-

(a) prescribing the type, number and term of the required foreign experts and technicians according to the individual business organization;

(b) in cases where necessary, obtaining the opinion of the Ministry of Labour.

19. An economic organization formed under a permit shall have the right to fix the salary and wage rates of its local personnel and foreign experts and technicians, to determine the payment of such salary and wages in kyat or foreign currency after consultation, and to terminate the services of such personnel.

20. An economic organization formed under a permit shall make arrangements for local and foreign training so as to ensure its local personnel proficiency in their work and promotion to higher ranks of services.

CHAPTER X
EXEMPTIONS AND RELIEFS FROM TAXES

21. The Commission may, either by notifying on its own motion or on the application of the promoter or the investor, grant exemptions or reliefs from taxes. In so granting, the type of exemption or relief shall be specified. In necessary cases the period for such enjoyment shall be stipulated. Where rates of depreciation have been prescribed and allowed on capital goods, such rates shall also be specified.

22. The Commission on receiving the application may, after necessary scrutinization as to whether it is justified or not, grant such exemption or relief and period thereof, as may be appropriate. Such exemption or relief shall be intimated to the promoter or investor, and the departments and organizations concerned.

23. In allowing a deduction of expenses for research and development relating to the enterprise from the assessable income, the said allowance shall pertain only to those works of research and development which cannot be conducted by any department or organization of the State.

CHAPTER XI
EVALUATION AND REGISTRATION OF FOREIGN CAPITAL

24. In evaluating foreign capital in terms of kyat for the purpose of registration by the Commission the following shall be carried out:

(a) to cause to be brought in foreign currency in any type of foreign currency acceptable to the Myanmar Foreign Trade Bank, and to evaluate the same at the prevailing official rate of exchange;

(b) to cause the value of the types of foreign capital other than the foreign currency to be stated in any type of foreign currency acceptable to the Myanmar Foreign Trade Bank and to scrutinize whether the value of the respective foreign currency so stated is appropriate or not, and -to, evaluate such values so scrutinized at the prevailing official rate of exchange.

25. The Commission shall register the type of re-invested foreign capital in terms of kyat and in any type of foreign currency acceptable to the Myanmar Foreign Trade Bank.

CHAPTER XII
RIGHT TO TRANSFER FOREIGN CURRENCY

26. Foreign currency entitled to be transferred abroad under section 26 of the Law shall be transferred through the Myanmar Foreign Trade Bank.

27. In determining the net profits transferable abroad the following funds shall be deducted:-

(a) employees' bonus fund;

(b) contribution made by the employer to the employees' provident fund;

(c) employees' social and welfare fund;

(d) enterprise development fund;

(e) such other funds as are required to be reserved according to commercial practice.

28. In deducting the living expenses of the foreign personnel and of his family, the Myanmar Foreign Trade Bank shall scrutinize on the basis of the following:-

(a) cost of accommodation;

(b) cost of messing;

(c) salary and wages paid to menials such as domestic help, cook and driver;

(d) household, medical and other expenses.

CHAPTER XIII
MATTERS RELATING TO FOREIGN CURRENCY

29. An economic organization formed under a permit shall, for the purpose of carrying out financial transactions such as depositing, withdrawing and transferring foreign currency and kyat relating to the business, open a foreign currency account and a kyat account in the Myanmar Foreign Trade Bank.

30. Foreigners serving in any such economic organization shall open a foreign currency account and a kyat account in the Myanmar Foreign Trade Bank.

CHAPTER XIV
MEETINGS

31. The Commission shall hold meetings at least twice a month.

32. The Chairman of the Commission shall preside at the meetings. When the Chairman is unable to attend, any member assigned by him may preside at the meeting.

33. Two-thirds of the members present at a meeting shall constitute the quorum.

34. The Commission shall make decision by majority vote of the members present at the meeting.

35. The Commission may invite to the meeting such persons as are required.

By Order,
(Sd) Maung Ko
Secretary, The Government of the Union of Myanmar

THE CITY OF YANGON DEVELOPMENT LAW (1990)

The State Law and Order Restoration Council Law No. 11/90
The 6th Waning Day of Kason, 1352 M.E.

14 May 1990

The State Law and Order Restoration Council hereby enacts the following

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the City of Yangon Development Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:-
 - (a) "Committee" means the City of Yangon Development Committee formed under this Law;
 - (b) "Head of Office" means the Head of the Service Personnel of City of Yangon Development Committee Office.

CHAPTER II FORMATION

3. In order to carry out the development works of the City of Yangon effectively, the Chairman of the State Law and Order Restoration Council shall form the City of Yangon Development Committee comprising a minimum of 7 members and a maximum of 15 members. If necessary, the number of members may be increased. Such formation shall be made with suitable citizens.
4. In forming the Committee under Section 3, the Chairman of the State Law Order Restoration Council shall, at the same time determine the Chairman Secretary of the Committee.
5. The Chairman of the Committee is the Mayor of Yangon.
6. The Head of Office is the Joint Secretary of the Committee.

CHAPTER III DUTIES AND RESPONSIBILITIES OF THE COMMITTEE

7. The Committee shall, in respect of the following duties and responsibilities, lay down the policy, give guidance, supervise or implement:-

- (a) preparation of civil projects and establishment of new towns within the limits of the City of Yangon Municipality;
- (b) administration of lands within the limits of the City of Yangon Municipality;
- (c) determining only the population which should be allowed to settle properly in the City of Yangon;
- (d) construction, repairing and demolition of buildings;
- (e) demolition and re-settlement of squatter huts, squatter buildings and squatter wards;
- (f) construction of roads, bridges and maintenance thereof;
- (g) stipulation of conditions for traffic and parking of vehicles and Slow-moving Vehicles;
- (h) construction of gardens, parks, playgrounds and recreation centres and maintenance thereof;
- (i) carrying out works for lighting of roads;
- (j) carrying out works for water supply;
- (k) construction of reservoirs and pipelines and maintenance thereof;
- (l) carrying out works for sanitation;
- (m) carrying out works for public health;
- (n) construction, maintenance and administration of markets;
- (o) stipulation of conditions in respect of roadside stalls;
- (p) carrying out precautionary measures against fire.

8. The committee shall, in addition to the duties and responsibilities contained in Section 7 also carry out other duties and responsibilities prescribed by the City of Yangon Municipal Act, rules and bye-laws.

CHAPTER IV
POWERS OF THE COMMITTEE

9. The powers of the Committee are as follows:-

- (a) demarcation and re-demarcation of the territorial limit of the City of Yangon Municipality;
- (b) having the right to operate works independently with funds owned by the Committee;
- (c) prescribing, revising, assessing and collecting duties and taxes and their rates relating to development works, in accordance with the existing laws;
- (d) having the right to apply the foreign currency derived from the lease of buildings, lease of lands or by other means, for development works;
- (e) having the right to carry out works contributing to city development by making contacts with local and foreign organizations and with local and foreign individuals;
- (f) having the right to take loans and grants from the Government or from foreign organizations on its own responsibility;
- (g) having the right to carry out works by forming sub-committee work-wise;
- (h) arranging modern methods and systems in order to carry out development works more effectively;
- (i) exercising the powers conferred under the City of Yangon Municipal Act, rules and bye-laws;
- (j) exercising the powers conferred from time to time by the Chairman of the State Law and Order Restoration Council.

10. Notwithstanding anything contained in the existing City of Yangon Municipal Act, State Housing and Town and Country Development Board Act and other existing laws, powers in respect of formulation and implementation of civil projects, establishment of new towns and administration of town lands within the limits of the City of Yangon Municipality, shall vest in the Committee.

11. The Committee may, in carrying out its duties and responsibilities act in consultation with the departments concerned if necessary.

CHAPTER V
FINANCE

12. The Committee shall subsist on its own funds. In addition, it shall take responsibility for all its financial matters.

13. The Committee shall open a separate bank account for its funds and shall have the power to apply such funds for development works. Funds not immediately required for use may be invested in a suitable manner.

14. The Committee shall open a separate bank account for foreign currency accrued to it and shall have the power to apply such foreign currency for development works.

15. The Committee shall submit and report to the Chairman of the State Law and Order Restoration Council annual budget estimates prepared and submitted by the Head of Office and the progress of the annual finance and auditing work within 90 days of the end of the financial year.

CHAPTER VI
ORGANIZATIONAL SET-UP

16. The Committee shall draw and confirm the necessary organizational set-up based on the duties and responsibilities.

17. The Committee may, in preparing the organizational set-up under Section 16 include the following personnel contributing to the development works, after consultation with the departments concerned:-

- (a) service personnel carrying out the duty of precautionary measures against disease;
- (b) service personnel carrying out the duty of precautionary measures against fire;
- (c) members of Municipal Police Force and other service personnel carrying out the duty of security and maintenance of discipline.

18. The Committee, in appointing service personnel:-

- (a) has the power to appoint within the organizational set-up, in accordance with the existing regulations and bye-laws;
- (b) may appoint by transfer service personnel who would be able to carry out effectively the development works, in consultation with the departments concerned.

19. In appointing service personnel, the Committee shall not apply in excess of 30 per cent of the annual income accrued.

20. In order that the Head of Office may manage the service personnel, the Committee shall confer as may be necessary powers relating to service affairs to the Head of Office.

CHAPTER VII MAINTENANCE OF FUND AND AUDITING OF ACCOUNTS

21. In order that the Head of Office may maintain the accounts systematically and to enable auditing thereof, the Committee shall prescribe accounts procedures in consultation with the Auditor-General. Accounts shall be maintained in accordance with the accounts procedures so prescribed.

22. The Committee shall cause the accounts maintained by the Head of Office to be audited by the person assigned responsibility by the Auditor-General.

CHAPTER VIII MISCELLANEOUS

23. The Committee has the right to carry out the development works at its discretion. However, works involving policy shall be carried out only after obtaining the approval of the Chairman of the State Law and Order Restoration Council.

24. The Committee shall operate under its own name and common seal, and shall have perpetual succession and power to sue and be sued in its corporate name.

25. In order to have speedy trial and disposal of municipal cases involving commission of offences for which proceedings have been instituted in respect of the City of Yangon Municipal Act, rules, bye-laws, orders and directives, the Committee shall carry out in consultation with the Supreme Court for opening of Courts at appropriate places within the limits of the City of Yangon Municipality.

26. Funds owned by the previous Yangon City Development Committee or Board, moveable and immoveable property, works in the process of execution, works which have been completed, assets and liabilities shall devolve respectively on the Committee.

27. The Committee shall apply the following existing laws, rules, bye-laws and orders in so far as they are not contrary to the spirit and concepts of this Law:-

(a) The City Development Law and orders issued hereunder;

(b) The City of Yangon Municipal Act, rules, bye-laws and orders.

28. For the purpose of carrying out the provisions of this Law, the Committee:-

(a) may, with the approval of the Chairman of the State Law and Order Restoration Council, issue necessary rules;

(b) may issue necessary orders, directives and procedures.

Sd./ Saw Maung

Senior General

Chairman

The State Law and Order Restoration Council

THE LAW AMENDING THE CITY OF YANGON DEVELOPMENT LAW (1995)

The State Law and Order Restoration Council Law No. 5/95
The 6th Waxing of Kason, 1357 ME

4 May 1995

The State Law and Order Restoration Council hereby enacts the following Law;

1. This Law shall be called the Law Amending the City of Yangon Development Law.
2. After section 27 of the City of Yangon Development Law, the following shall be inserted, as section 28, Section 29, section 30, section 31 and section 32:

“28. Whoever violates or fails to comply with any rule made under this Law shall, on conviction be punished with imprisonment for a term which may extend to 1 years or with fine which may extend to Kyats 50,000 or with both.

29. A person convicted under section 28 who continues to violate or fail to comply with such rule shall be punished with fine which may extend from a minimum of Kyats 200 to a maximum of Kyats 1,000 for each day during which the violation or failure continues.

30. Whoever violates or fails to comply with any order issued in accordance with this Law by the Committee shall, on conviction be punished with imprisonment for a term which may extend to 3 months or with fine which may extend to Kyats 10,000 or with both.

31. A person convicted under section 30 who continues to violate or fail to comply with such order shall be punished with fine which may extend from a minimum of Kyats 100 to a maximum of Kyats 500 for each day during which the violation or failure continues.

32. Notwithstanding any provision for punishment of any offence in the City of Yangon Municipal Act if such offence is covered by the rules or order issued under this Law, only the punishment prescribed under this Law shall be imposed.”

3. Section 28 of the City of Yangon Development Law shall be prescribed as section 33.

Sd/Than Shwe

Senior General, Chairman, The State Law and Order Restoration Council

THE LAW AMENDING THE CITY OF YANGON DEVELOPMENT LAW (1996)

The State Law and Order Restoration Council Law No. 1/96
The 6th Waxing Day of Tabodwe, 1357 M.E

25 January 1996

The State Law and Order Restoration Council hereby enacts the following Law:-

1. This Law shall be called the Law Amending the City of Yangon Development Law.

2. After the word “the Chairman” contained in Section 4 of the City of Yangon Development Law, the word “the Vice-Chairman” shall be inserted.

3. Section 5 of the City of Yangon Development Law shall be substituted by the following:-

“5. The Chairman of the Committee is the Mayor of Yangon and the Vice Chairman of the Committee is the Vice-Mayor of Yangon.”

Sd./ Than Shwe

Senior General

Chariman The State Law and Order Restoration Council

DUTIES AND RIGHTS OF THE CENTRAL COMMITTEE FOR THE MANAGEMENT OF CULTURABLE LAND, FALLOW LAND AND WASTE LAND (1991)

The Union of Myanmar
The State Law and Order Restoration Council
Notification No. 44/91
7th Waxing Day of Tazaungmon, 1353 M.E.

13 November 1991

Prescribing Duties and Rights of the Central Committee for the Management of Culturable Land, Fallow Land and Waste Land

1. The duties and rights of the Central Committee for the Management of Culturable Land, Fallow land and Waste Land, constituted by the State Law and Order Restoration Council letter No. 023/1-1/Na Wa Ta, dated 26-9-91 are herewith prescribed.

2. The duties of the Central Committee for the Management of Culturable land, Fallow land and Waste land are as follows:-

(a) to systematically scrutinize all applications submitted to grant the right to cultivate land/right to utilize land by State-owned Economic Organizations and Cooperative Societies, Joint-Ventures, other organizations and private individuals for commercially using culturable land, fallow land and waste land for the purpose of carrying out agriculture, livestock breeding, aquaculture enterprises or other affiliated economic development enterprises and to grant the right to cultivate land/right to utilize land for those purposes in accordance with the existing land laws;

(b) to instruct those persons who are granted the right to cultivate land/right to utilize land to furnish the prescribed security depending upon the type of enterprise at the commencement of business;

(c) to assist those persons who are granted the right to cultivate land/right to utilize land, to acquire technology, quality seeds and other assistance that may be necessary depending upon the type of enterprise;

(d) in the event that those persons who are granted the right to cultivate land/right to utilize land for those purposes should require loans for investment capital or the assistance of materials and services, to vet their requests and make necessary recommendations and co-ordinate those matters with the relevant Ministries;

(e) to propagate widely information regarding the above mentioned matters via the public media i.e. radio, television and newspapers, so that those persons desiring to undertake commercial enterprises may be fully informed.

3. The rights of the Central Committee for the Management of Culturable land, Fallow land and Waste land are as follows:-

(a) the right to grant up to 5,000 acres of culturable land, fallow land or waste land to those persons who are desirous of investing in commercial enterprises concerning agriculture, livestock breeding, aquaculture or other affiliated economic enterprises in accordance with the existing land laws;

(b) the right to fix the duration of the right to cultivate land/right to utilize land for those purposes depending upon the type of enterprise and may prescribe land rental rates and revenue rates as follows after scrutiny:-

(i) a maximum period of thirty years may be granted for the right to cultivate land/right to utilize land;

(ii) to grant exemption from payment of land revenue for a period of 2 to 8 years based upon the type of agricultural crops, livestock breeding or aquaculture enterprise;

(iii) to grant exemption from payment of income tax based upon the type of agricultural crops/livestock breeding or aquaculture enterprise in accordance with law;

(c) to form committees, separate bodies as required depending upon the enterprise sector to carry out detailed scrutiny and appraisals and co-ordinate matters related to the right to cultivate land/right to utilize land for those purposes submitted to the Central Committee for Management of Culturable land, Fallow land and Waste land and to prescribe the duties and rights for those committees, separate bodies as necessary;

(d) the right to prescribe conditions that are to be adhered to regarding land which has been granted the right to cultivate/right to utilize;

(e) the right to delegate suitable individual organization with powers of inspection to ensure whether those persons who are granted the right to cultivate land/right to utilize land for those purposes are capable of implementing their undertaking or not according to prescribed conditions;

(f) the right to call for situation reports and work completion reports from those persons who are granted the right to cultivate land/right to utilize land for those purposes;

(g) the right to revoke the right to cultivate land/right to utilize land for those purposes in the event that those persons who are granted such rights fail to adhere or violate the prescribed conditions or fail to fulfill their commitments.

4. The Central Committee for the Management of Culturable land, Fallow land and Waste land may issue necessary procedures or directives relating to its duties and rights.

Sd/—

Khin Nyunt

Major-General

Secretary (1)

The State Law and Order Restoration Council

PROCEDURES CONFERRING THE RIGHT TO CULTIVATE LAND/ RIGHT TO UTILIZE LAND (1991)

The Government of the Union of Myanmar

The Central Committee for the Management of Culturable Land, Fallow Land and Waste Land

Notification No. 1/91

6th waxing Day of Nadaw, 1353 M.E

12 December 1991

The Central Committee for the Management of Culturable Land, Fallow Land and Waste Land, Government of the Union of Myanmar, with the approval of the Government prescribes the following procedures:-

CHAPTER I TITLE AND DEFINITION

1. These procedures shall be called procedures conferring the right to cultivate land/right to utilize land for agricultural and livestock breeding purposes.

2. The following expressions contained in the procedures shall have the meanings given hereunder:

(a) "Committee" means The Central Committee for the Management of Culturable Land, Fallow Land and Waste Land;

(b) "Security Fees" mean fees prescribed by the Committee payable by persons who are granted the right to cultivate land / right to utilize land in accordance with the type of enterprise;

(c) "Forms" mean the forms attached to these procedures.

CHAPTER II RIGHTS

3, The Central Committee for the Management of Culturable Land, Fallow Land and Waste Land may grant to citizens for agricultural and livestock breeding purposes the right to cultivate/right to utilize culturable land, fallow land and waste land up to the extent mentioned below:

(a) Agriculture

(i) Plantation Crops 5000 acres;

- (ii) Orchard 3000 acres;
- (iii) Seasonal Crops 1000 acres;
- (b) Livestock, Poultry Farming and Aquaculture
 - (i) aquaculture 2000 acres;
 - (ii) Livestock and Poultry Farming
 - (aa) buffalo, cattle, horse, 5000 acres;
 - (bb) sheep, goat 1000 acres;
 - (cc) poultry, pig 500 acres.

4. If an application is submitted by organization consisting of foreigners for the right to cultivate/right to utilize land, the matter is to be referred to the Foreign Investment Commission.

CHAPTER III FILING APPLICATION

5. Any organization or private person may apply to carry out agriculture and livestock breeding on culturable land, fallow land and waste land with investment, if in conformity with the following conditions:-

- (a) an applicant shall be a citizen of the Union of Myanmar. All members of the organization shall be citizens of the Union of Myanmar. Such organization shall be constituted in accordance with the existing law. For organizations consisting of foreigners an application is to be submitted with the approval of the Foreign Investment Commission;
- (b) a supporting document that a substantial investment for the enterprise can be provided shall be furnished with the application by an individual or organization;
- (c) a work programme for implementing proposed work shall be submitted by an individual or organization in the application.

6. In applying for agriculture and livestock breeding on culturable land, fallow land and waste land, application shall be made to the secretary of the Committee, in the prescribed forms.

7. Two copies of map, certified by the Department of Land Records concerned, shall be attached to the application in respect of the land applied for.

Note: If the land has no Holding Number, two copies of sketch map shall be attached to the application.

CHAPTER IV OPENING OF PROCEEDING AND ENQUIRY

8. On receiving an application, the Committee shall open proceeding and transfer the proceeding to the Settlements and Land Records Department concerned to call for objection and to carry out necessary enquiry.

9. On receipt of proceeding, the Settlements and Land Records Department shall notify in prescribed form soliciting objections if any, on the application to be made within 30 days from the date of notification.

10. If other applications are received in respect of the said land during the time allowed for objection, an enquiry shall be made for those applications together with the original application.

11. During the time allowed for objection, the Settlements and Land Records Department shall make a detail enquiry together with other related departments on the following matters:-

(a) whether the applicant or organization conforms to the conditions prescribed in above paragraph 5;

(b) detail facts about the land applied for such as whether it is actually a culturable land, fallow land or a waste land;

(c) whether the applicant or organization is really qualified and have ability to cultivate land/utilize land;

(d) whether the land applied for the proposed purpose of the enterprise is feasible and whether it is detrimental to other enterprises and environment.

12. If the Settlements and Land Records Department receive more than one application in respect of the same plot of land or a part of the same plot of land, an enquiry shall be made relating to matters mentioned in above paragraph 11 and a report with remarks shall be submitted to the Committee.

CHAPTER V RESOLUTION AND REGISTRATION

13. The Committee shall on receipt of the proceeding submitted scrutinize the matter and make a resolution as to whether permission should be granted or not. Only after a deposit

of 10% of the investment as security fees has been paid, an order permitting the right to cultivate/right to utilize the land shall be granted.

14. After the resolution, orders conferring the right to cultivate/right to utilize land shall be issued in prescribed form with conditions mentioned therein.

15. The Committee shall distribute certified copies of orders conferring right to cultivate/right to utilize land to respective departments and regional authorities.

CHAPTER VI EXEMPTION OF LAND REVENUE AND INCOME-TAX

16. Lands, subject to develop/to utilize under investment shall be exempted from assessment of land revenue in the following manner:

(a) Agriculture

(i) for plantation crops , up to 8 years including the commencement year;

(ii) for orchard, up to 6 years including the commencement year;

(iii) for seasonal crops, up to 3 years including the commencement year;

(b) Livestock, Poultry Farming and Aquaculture

(i) for aquaculture up to 3 years including the commencement year;

(ii) for land used for Livestock and Poultry Farming -

(aa) for buffalo, cattle and horse, up to 8 years including the commencement year;

(bb) for sheep , goat, up to 4 years including the commencement year;

(cc) for pig, up to 3 years including the commencement year;

(dd) for poultry, up to 2 years including the commencement year.

17. For any production or servicing enterprise carried out on lands developed under investment, at least 3 years income-tax exemption may be granted from the year of commencement, until commercial production or servicing stage is attained and if the enterprise is beneficial to the state, suitable tax-exemption or tax-relief for further suitable period may be extended in line with success made on investment.

CHAPTER VII
CONDITIONS

18. The following conditions shall be complied with in respect of lands permitted to use under above-mentioned paragraph 13:-

- (a) the land granted shall be used for the purpose granted and not for any other purpose. If any change of cultivation or utilization is desired, prior approval shall be obtained;
- (b) the enterprise shall carry out on the land granted to cultivate/to utilize within the prescribed time;
- (c) land granted shall not be mortgaged, sold or otherwise transferred or divided without the permission of the Committee;
- (d) rents and taxes assessed by the State shall be paid;
- (e) after the right to cultivate land/right to utilize land is granted, if the enterprise programme is not carried out within the prescribed period, the security fees deposited shall be forfeited to the State.

CHAPTER VIII
PRESCRIBING THE DURATION FOR RIGHT TO
CULTIVATE LAND / RIGHT TO UTILIZE LAND

19. Prescribing the duration for right to cultivate land/right to utilize land with investment shall be as follows:-

- (a) for plantation crops and orchard, if there is no breach of prescribed condition, the duration for right to cultivate is thirty years from the year of grant;
- (b) for seasonal crops, duration for right to cultivate shall continue so long as there is no breach of conditions;
- (c) for aquaculture, if there is no breach of prescribed conditions, the duration for right to utilize, is thirty years from the year of grant;
- (d) for Livestock and Poultry farming, if there is no breach of prescribed conditions, the duration for right to utilize is thirty years from the year of grant.

CHAPTER IX
DISCIPLINARY MEASURES

20. If respective departments, receive from the Committee a copy of the order granting the right to cultivate/right to utilize on culturable land, fallow land and waste land under above

mentioned paragraph 15, entries shall be made in its register, and supervision shall be made whether any prescribed conditions has been complied with, or not.

21. If any breach of condition is found by respective departments, a report for necessary action shall be submitted to the Committee.

CHAPTER X REPORTING

22. The respective departments shall submit Quarterly Report of Progress to the Committee on matters concerning right to cultivate / right to utilize land for permitted enterprises.

23. The Committee shall report to the Government half-yearly, on matters relating to management and progress of culturable land, fallow land and waste land.

CHAPTER XI GENERAL

24. Economic enterprises affiliated to agriculture and livestock, poultry farming and aquaculture enterprises shall abide by existing laws and procedures.

sd/

Chit Sue

Lieutenant-General

Chairman

The Central Committee for the Management of Culturable land, Fallow Land and Waste Land.

PROCEDURES CONFERRING THE RIGHT TO CULTIVATE LAND / RIGHT TO UTILIZE LAND FOR AGRICULTURAL AND LIVESTOCK BREEDING PURPOSES (AMENDMENT) (1998)

The Government of the Union of Myanmar

The Central Committee for the Management of Culturable Land, Fallow Land and Waste Land

Notification No. 1/98

Yangon, the Waxing Day of Thadingyut, 1360 ME

28 September 1998

The Central Committee for the Management of Culturable Land, Fallow Land and Waste Land for the Government of the Union of Myanmar, issues the following Amendment of Procedures with the approval of the Government:-

1. These Procedures shall be called the Procedures Amending the Procedures Conferring the Right to Cultivate Land/Right to Utilize Land for Agricultural and Livestock Breeding Purposes.

2. In the Procedures Conferring the Right to Cultivate Land/Right to Utilize Land for Agricultural and Livestock Breeding Purpose issued by the Central Committee for the Management of Culturable Land, Fallow Land and Waste Land under Notification No 1/91 Dated 12th December, 1991.

(a) Sub-paragraph (a) (i) of paragraph 3 shall be substituted as follows:-

(i) in the case of Perennial Plants - 5,000 acres at a time and whenever cultivation is completed of the said 5,000 acres at a time up to a total of 50,000 acres for cultivation of the prescribed perennial plants;

(b) Paragraph 4 shall be substituted as follows:-

4. The Committee has the right to administer any of the following matters only with the permission of the Myanmar Investment Commission:-

(a) in a case where application for permission is made for cultivating an additional 5,000 acres at a time on completion of cultivation on the first 5,000 acres under sub-paragraph (a) (i) of paragraph 3:-

(b) in a case where application for permission of cultivation is made by a foreigner or by an organization consisting of foreigners in areas determined by the Ministry of Agriculture, in which land development operations are to be carried out.

(c) In sub-paragraph (a) of Paragraph 5, the expressions “for organizations consisting of foreigners an application is to be submitted with the approval of the Foreign Investment Committee” shall be deleted.

(d) The following sub-paragraph shall be inserted as sub-paragraphs (f), (g), (h) and (i) after sub-paragraph (e) of paragraph 18:-

(f) the authorized land for agriculture shall be used solely for agriculture and economic enterprises related thereto;

(g) natural resources above and below the ground shall not be extracted;

(h) if natural resources are found in the authorized land and the Government being desirous of extracting the same on a commercial basis resumes the area required therefrom it shall be surrendered as directed by the Government.

(e) Sub-paragraphs (f), (g), (h) and (i) mentioned in above sub-paragraph (d) shall be renumbered and as paragraphs 8, 9, 10 and 11 respectively after paragraph 7 of Annexures (4), (5) and (6);

(f) Annexure (1-A) (Application for granting right to extensive cultivation of perennial plan on the culturable land, fallow land and waste land) attached herewith shall be inserted after Annexure (1);

(g) Paragraph 10, 11 and 13 of Annexure (1-A) shall be renumbered and substituted as paragraph 9, 10 and 12 respectively of Annexure (1).

Sd/

Gen Nyunt Tin

Major-General

Chairman

The Central Committee for the Management of Culturable Land,

Fallow Land and Waste Land

THE LAW FOR THE REPEAL OF LAWS (1992)

The State Law and Order Restoration Council Law No. 1/92
The 1st Waning Day of Tabodwe, 1353 ME

19 February 1992

Whereas it is expedient to provide for the repeal of certain laws from among existing laws, which on scrutiny have been found to be no longer in conformity with the changing circumstances, laws which have not been in use for a very long time and laws for which there are no reasons for use in future, the State Law and Order Restoration Council hereby enacts this Law.

1. This Law shall be called the Law for the Repeal of Laws.

2. The following laws are hereby repealed:

- (1) The State Prisoners Regulation;
- (2) The Slavery Act;
- (3) The Apprentices Act;
- (4) The Societies Registration Act;
- (5) The Waste Lands Claims Act;
- (6) The Native Converts' Marriage Dissolution Act;
- (7) The Foreign Recruiting Act;
- (8) The Dramatic Performances Act;
- (9) The Opium Act;
- (10) The Municipal Taxation Act;
- (11) The Land Improvement Loans Act;
- (12) The Agriculturists Loans Act;
- (13) The Births, Deaths and Marriages Registration Act;
- (14) The Tramways Act;

- (15) The Metal Tokens Act;
- (16) The Sugar Cane Act;
- (17) The Charitable Endowments Act;
- (18) The Railway Companies Act;
- (19) The Inland Bonded Warehouses Act;
- (20) The Leprosy Act;
- (21) The Church of Scotland Kirk Session Act;
- (22) The Foreign Marriage Act;
- (23) The Fisheries Act;
- (24) The Yangon Zoological Gardens Act;
- (25) The Seditious Meetings Act;
- (26) The White Phosphorus Matches Act;
- (27) The Motor Spirits Duties Act;
- (28) The Post Office Cash Certificates Act;
- (29) The Water Hyacinth Act;
- (30) The Ghee Adulteration Act;
- (31) The Local Authorities Pensions and Gratuities Act;
- (32) The Maintenance Orders Enforcement Act;
- (33) The Emigration Act;
- (34) The Myanmar Income-Tax Act;
- (35) The Disposal of Police Officers' Estates Act;
- (36) The Police (Incitement to Disaffection) Act;
- (37) The Anti-Boycott Act;

- (38) The Cotton Cess Act;
- (39) The Soldiers Litigation Act;
- (40) The Provident Funds Act;
- (41) The Cotton Industry Statistics Act;
- (42) The Expulsion of Offenders Act;
- (43) The Insurance Companies Act;
- (44) The Betting Tax Act;
- (45) The Food and Drugs Act;
- (46) The Financial Commissioners Act;
- (47) The Child Marriage Restraint Act;
- (48) The Dangerous Drugs Act;
- (49) The Silver (Excise Duty) Act;
- (50) The Lac Cess Act;
- (51) The Provisional Collection of Taxes Act;
- (52) The Cigarettes Duty Act;
- (53) The Finance Supplementary and Extending Act, 1931;
- (54) The Picketing Act;
- (55) The Children (Pledging of Labour) Act;
- (56) The Sugar (Excise Duty) Act;
- (57) The Matches (Excise Duty) Act;
- (58) The Iron and Steel Duties Act;
- (59) The Land Alienation Act;
- (60) The Volunteer Forces (Protection in Civil Employment) Act;

- (61) The Myanmar Naval Volunteer Reserve (Discipline) Act;
- (62) The Myanmar Laws (Adaptation) Act, 1940;
- (63) The Myanmar Volunteer Air Force (Discipline) Act;
- (64) The Myanmar Land Purchase Act;
- (65) The Births, Deaths and Marriages Registration Act, 1943;
- (66) The Women's Auxiliary Service (Myanmar) Act;
- (67) The Myanmar Indemnity and Validating Act, 1945;
- (68) The Companies (War-Time Provisions) Act, 1945;
- (69) The Myanmar Military Nursing Service Act;
- (70) The Myanmar Daylight Saving Act;
- (71) The Present War Termination (Definition) Act, 1946;
- (72) The Tenancy Act, 1946;
- (73) The Sanction for Prosecution (War-Time Offences) Act, 1946;
- (74) The War-Time Crimes (Exemption) Act, 1946;
- (75) The Monthly Leases (Termination) Act, 1946;
- (76) The Accrual of Interest (War-Time Adjustment) Act;
- (77) The Myanmar Stamp (Amendment) (Validating) Act;
- (78) The Railways (Motor Transport Services) Act;
- (79) The Agricultural Debts Moratorium Act, 1947;
- (80) The Japanese Currency (Evaluation) Act;
- (81) The Bankers' Books (Inspection) Act;
- (82) The Entertainment Tax Act;
- (83) The Savings Stamps Act;

- (84) The Search (Special Power) Act;
- (85) The Union Constabulary Act;
- (86) The Union of Myanmar (Adaptation of Laws) Order, 1948;
- (87) The Union President (Salaries and Allowances) Act;
- (88) The Union President Seal Act;
- (89) The Union Government (Member Ministers' Salaries) Act;
- (90) The Parliamentary Secretaries Act;
- (91) The Exemption of Designations of Members of State Government, Chairman and Vice-Chairman of State Council from Class of Beneficiary Designations Act;
- (92) The Parliament Office Act;
- (93) The Parliament Election Act;
- (94) The Electricity Supply Act;
- (95) The Hotel and Restaurant Tax Act;
- (96) The Union President Election Act;
- (97) The Expiring Laws Continuance Act;
- (98) The Union of Myanmar Right to Exploitation (Permitted) of Natural Resources Act;
- (99) The Suppression of Opium Den Act;
- (100) The National Health Council Act
- (101) The Buddhist Religious Association Act;
- (102) The State Timber Board Act;
- (103) The Union of Myanmar Railways Administration Board Act;
- (104) The Special Civil Court Act;
- (105) The Salaries of President and Vice-President of the Union Parliamentary Chamber of Nationalities and Chairman and Vice-Chairman of the Parliament Act

- (106) The Members of Parliament (Salaries and Allowance) Act;
- (107) The Expansion of the Karen State Act of 1952;
- (108) The Sale Tax Act of 1952;
- (109) The Allowances of the Chin Affairs Councilors Act of 1952;
- (110) The Monetary Basic Rate (References) Act;
- (111) The Salaries and Allowances of Chairman and Vice-Chairman of the Chin Affairs Council Act of 1954;
- (112) The Amnesty and Maintenance Act of 1954;
- (113) The Union of Myanmar Cultural Council Act of 1955;
- (114) The Compulsory Registration of Opium Consumers Act of 1955;
- (115) The Borrowing and Securing for Borrowed Money (International Rehabilitation and Development Bank) Act of 1956;
- (116) The Amnesty and Maintenance Act of 1956;
- (117) The Life Assurance Business (Prohibition) Act of 1957;
- (118) The Registration of Private Nursing Clinics Act of 1957;
- (119) The Suspension of Payment of Debt by the Government Servants Act of 1957;
- (120) The Relief of Debt of the Government Servants Act of 1957;
- (121) The Powers and Privileges of Members of Parliament Act of 1959;
- (122) The Compulsory Indirect Insurance System Act of 1961;
- (123) The State Urban Planning Act of 1961;
- (124) The Union of Myanmar Economic Development Corporation Act of 1961;
- (125) The (International Rehabilitation and Development Bank) Insurance Act of 1961;
- (126) The Election Commission Act of 1961;
- (127) The Industrial Expansion Corporation Law;

- (128) The Loan for Artists Act;
- (129) The Union of Myanmar Medical Research Council Law;
- (130) The Union of Myanmar Sarpay Beikman Administration Board Law of 1963;
- (131) The Union of Myanmar Road Transport Board Law of 1963;
- (132) The Union of Myanmar Motion Pictures Enterprise Board Law of 1963;
- (133) The Chemicals Exploration and Production Corporation Law of 1965;
- (134) The Law Relating to Infringement of Party Discipline;
- (135) The Revocation from Duty Law;
- (136) The Goods and Services Tax Law;
- (137) The Resignation and Substitute Election Law.

Sd./

Saw Maung

Senior General, Chairman, The State Law and Order Restoration Council

THE FOREST LAW (1992)

The State Law and Order Restoration Council Law No. 8/92
The 9th Waning Day of Tazaungmon, 1354 M.E

3 November 1992

The State Law and Order Restoration Council hereby enacts the following Law:

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the Forest Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) “Reserved Forest” means land constituted as a reserved forest under this Law;
 - (b) “Protected Public Forest” means land declared to be protected public forest under this Law;
 - (c) “Forest Land” means land including reserved forest and protected public forest;
 - (d) “Land at the disposal of the Government” means other land with the exception of land in which a Government department, organization or any person has acquired right of cultivation, right of possession, right of use and occupancy, beneficial enjoyment, heritable right or transferable right under any existing Law;
 - (e) “Forest Produce” means trees, leaves, flowers and fruits grown on or found in forest land or land at the disposal of the Government and their by-products. This expression also, includes wild animals and insects, their parts and their by-products;
 - (f) “Minor Forest Produce” means forest produce declared as a minor forest produce under this Law;
 - (g) “Tree” includes root, stump, stem, branch, bush, creeper, bamboo, cane, orchid and seedling;
 - (h) “Reserved Tree” means a teak tree and any tree declared as a reserved tree under this Law;
 - (i) “Timber” means a tree which has fallen or which has been felled and wood or log, whether cut up, fashioned or hollowed out;
 - (j) “Firewood” means a tree, part or piece of timber suitable only for use as fuel;

- (k) “Domestic Animal” means animals raised by man including elephants;
- (l) “Removal Pass” means a permit issued under this Law to move forest produce from one township to another within the country;
- (m) “Permit” means an order permitting extraction of forest produce or an order permitting right of operating relating to forest produce. This expression also includes an agreement executed to permit extraction of forest produce;
- (n) “Minister” means the Minister of the Ministry of Forestry;
- (o) “Director-General” means the Director-General of the Forest Department;
- (p) “Forest Officer” means the Head of the State/Divisional, District or Township Forest Department;
- (q) “Forest Staff” means the forest administrative staff different levels from a Forest Guard to the Director-General of the Forest Department.

CHAPTER II BASIC PRINCIPLES

3. This Law shall be implemented in accordance with the following basic principles:
- (a) to implement the forestry policy of the Government;
 - (b) to implement the environmental conservation policy of the Government;
 - (c) to promote the sector of public co-operation in implementing the forestry policy and the environmental conservation policy of the Government;
 - (d) to develop the economy of the State, to contribute towards the food, clothing and shelter needs of the public and for perpetual enjoyment of benefits by conservation and protection of forests;
 - (e) to carry out in accordance with international agreements relating to conservation of forests and conservation of environment;
 - (f) to prevent the dangers of destruction of forest and bio-diversity, outbreak of fires, infestation of insects and occurrence of plant disease;
 - (g) to carry out simultaneously conservation of natural forests and establishment of forest plantations;
 - (h) to contribute towards the fuel requirement of the country.

CHAPTER III
CONSTITUTION OF RESERVED FOREST AND
DECLARATION OF PROTECTED PUBLIC FOREST

4. In order to conserve the environmental factors and to maintain a sustained yield of the forest produce, the Minister may, with the approval of the Government constitute the following categories of reserved forest by demarcation on land at the disposal of the Government:

- (a) commercial reserved forest;
- (b) local supply reserved forest;
- (c) watershed or catchments protection reserved forest;
- (d) environment and bio-diversity conservation reserved forest;
- (e) other categories of reserved forest.

5. The Minister may, with the approval of the Government declare as protected public forest, specifying limits on land at the disposal of the Government, outside reserved forests for the following purposes;

- (a) protection of water and soil;
- (b) conservation of dry-zone forests;
- (c) conservation of mangrove forests;
- (d) conservation of environment and bio-diversity;
- (e) conservation for sustainable production.

6. The Minister shall:

- (a) before constituting a reserved forest or declaring a protected public forest, declare in the manner prescribed that it is proposed to constitute any land a reserved forest or to prescribe any land a protected public forest;
- (b) in respect of constituting a reserved forest appoint a Forest Settlement Officer to inquire into and determine in the manner prescribed the affected rights of the public in the relevant land and to carry out demarcation of the reserved forest;

(c) in respect of specifying a protected public forest delegate the Director-General to inquire into and determine in the manner prescribed the affected rights of the public which may arise under the prohibitions contained in the declaration;

(d) publish a notification constituting a reserved forest after consideration of the report submitted through the Director-General by the Forest Settlement Officer after carrying out in accordance with sub-section (b);

(e) publish a notification determining a protected public forest after consideration of the report submitted by the Director-General after carrying out in accordance with sub-section (c).

7. The Minister may, with the approval of the Government:

(a) alter the category of the whole or a portion of the reserved forest; cancel the category of being a reserve forest; convert into a protected public forest;

(b) cause the whole or a portion of the protected public forest which no requires conservation to cease to be a protected public forest.

8. (a) A standing teak tree wherever situated in the State is owned by the State;

(b) The Minister may declare, alter or cancel according to the locality the species of reserved trees which are to be conserved by the Forest Department.

CHAPTER IV MANAGEMENT OF FOREST LAND

9. The functions and responsibilities of the Forest Department are as follow:-

(a) implementation of the forestry policy of the Government;

(b) implementation of the plans relating to conservation of water, bio-diversity and environment, sustained yield of forest produce and protection of forest covered land;

(c) management of forest land in accordance with the provision of this Law;

(d) submitting proposals to the Minister for the determination, alteration or cancellation of reserved forest, protected public forest and species of reserved trees;

(e) establishing and managing schools and training courses relating to forestry and sending trainees abroad;

(f) administering Forestry Institute;

(g) collecting inventory data of forest resources;

(h) carrying out forest research.

10. In order to carry out the forest and environment conservation work successfully, in accordance with the basic principles contained in this Law, the Director-General shall draw up the following plans and submit to Minister:-

(a) plan relating to the forest sector, to be used as a guideline in the Government departments, organizations and private enterprises;

(b) plan relating to forest administration.

11. The Director-General shall, in respect of the plans contained in section 10;-

(a) report the work progress annually to the Minister;

(b) review from time to time and if requirements warrant alteration submit a proposal to the Minister;

(c) collect and collate necessary forest resources data in prescribed manner every ten years.

12. Whoever, within a forest land and forest covered land at the disposal Government:

(a) is desirous of carrying out any development work or economic scheme shall obtain the prior approval of the Forestry Ministry;

(b) is desirous of carrying out educational or research work or conducting a training course or a study tour shall obtain the prior sanction of the Director-General or the Forest Officer empowered by him.

CHAPTER V ESTABLISHMENT OF FOREST PLANTATION

13. The Director-General may, with the approval of the Minister, establish the following plantations on a forest land or land at the disposal of the Government:

(a) commercial plantation;

(b) industrial plantation;

(c) environmental conservation plantation;

(d) local supply plantation;

(e) village firewood plantation;

(f) other plantation.

14. If permission is obtained from the Government:

(a) the Government and any person or any organization have the right to carry out in joint venture;

(b) any person or any organization has the right to carry out in accordance with the stipulation, cultivation and maintenance of forest plantations with the exception of village-owned firewood plantations cultivated by the villagers for their use.

15. The Director-General may grant permission to establish with stipulation the following village-owned firewood plantations in a reserved forest or protected public forest or on land at the disposal of the Government in the vicinity of the village:-

(a) firewood plantation established by the Forest Department for a certain period and then transferred to be maintained and used as village-owned;

(b) village-owned firewood plantation established, maintained and used by the villages by collective labour.

16. A person having obtained the right to extract forest produce on a commercial scale who has the responsibility of establishing forest plantations or carrying out natural regeneration under a permit for the State shall carry out the same at his own expense and in accordance with stipulation.

CHAPTER VI PERMISSION FOR EXTRACTION OF FOREST PRODUCE

17. Forest produce may only be extracted after obtaining a permit. However, if it is for domestic or agricultural or piscatorial use not on a commercial scale, forest produce may be extracted in an amount not exceeding the stipulated quantity, without obtaining a permit.

18. In permitting the extraction of forest produce the Forest Department shall use the competitive bidding system if the extraction is on a commercial scale. However, extraction for the following purposes may be permitted without using the competitive bidding system:-

(a) where extraction of forest produce and sales in and outside the country are carried out as a State-owned enterprise;

(b) where the Minister is empowered by the Government in respect of the extraction of forest produce;

- (c) where minor forest produce is permitted to be extracted on a commercial scale;
- (d) where forest produce to be used in the following works not on a commercial scale is permitted to be extracted:-
 - (i) research and educational work;
 - (ii) work beneficial to the public or religious work.

19. (a) In respect of permission for extraction of forest produce on a commercial scale:-

- (i) the Minister may grant permission for a period of 5 years and above;
 - (ii) the Director-General may grant permission for a term extending from over 2 years to 4 years;
 - (iii) the State/Divisional Forest Officer may grant permission for a term which may extend to 1 year.
- (b) The person granting permission for extraction of forest produce under sub - section (a) may, for sufficient reason, extend the term of the permit for not more than 6 months at a time and not more than twice.

20. The Director-General may, with the approval of the Minister, determine the following in respect of the permission for extraction of forest produce:

- (a) variety of minor forest produce;
- (b) rate of royalty and other fees;
- (c) the quantity of each forest produce, the extraction of which is allowed by the Forest Officers, without a permit for domestic or agricultural or piscatorial use not on a commercial scale;
- (d) penalty to be imposed for breach of condition contained in the permit;
- (e) terms and conditions.

21 A person who has obtained permission for extraction of forest produce shall:-

- (a) abide by the conditions contained in the permit;
- (b) abide by the orders, directives, prohibitions and restrictions issued by the Forest Department in accordance with this law;

(c) pay the royalties, security deposits and advances due;

(d) affix the mark after measuring in the manner prescribed or affix the property-mark which has been registered.

22. The Forest Officer may permit the construction of charcoal kiln and burning of royalty-paid firewood into charcoal extracted from forest land and land at the disposal of the Government subject to prescribed conditions.

CHAPTER VII REMOVAL OF FOREST PRODUCE

23. (a) Whoever is desirous of moving any forest produce from one township to another within the country shall apply for a removal pass from the Forest Officer empowered by the Director- General for this purpose.

(b) The provision of sub-section (a) shall not apply to the following cases:

(i) moving forest produce within the area permitted for extraction thereof;

(ii) moving minor forest produce not exceeding the prescribed quantity and not on a commercial scale;

(iii) moving from one township to another in a City Development area.

24. The Forest Department may establish the required revenue stations to examine forest produce in transit and to collect the royalties due.

25. A person moving forest produce shall:-

(a) carry the removal pass together with him;

(b) submit to the examination and assessment of royalty at the relevant revenue-stations.

26. (a) The Director-General shall determine the rafting stations where timber is to be rafted and floated;

(b) A person moving forest produce shall float timber below the rafting station only in rafts under control.

CHAPTER VIII
DISPOSAL OF DRIFT, STRANDED AND WAIF TIMBER

27. Raft or timber floated below a rafting station without control is deemed to be “adrift”.

28 (a) The following timber shall be deemed to be waif timber unless and until any person establishes his right thereto within the prescribed period:-

- (i) timber found adrift, stranded or sunk;
- (ii) timber to which a registered property-mark has not been affixed;
- (iii) timber on which a registered property-mark has been obliterated.

(b) The forest staff has the right to collect timber mentioned in sub-section (a) and bring to the revenue stations or timber depots.

29. The Forest Officer shall dispose of the drift and waif timber in the manner prescribed.

CHAPTER IX
ESTABLISHMENT OF WOOD-BASED INDUSTRY

30. A private entrepreneur who is desirous of establishing a sawpit, sawmill, tongue-and-groove mill, plywood mill, veneer mill or a wood-based industry with the exception of wood-based cottage industries and furniture industries has the right to establish the same only after obtaining a permit from the Forest Officer empowered for this purpose.

31. The Director-General may, with the approval of the Ministers determine the rates of royalties, terms and conditions of the permit for the purpose of section 30.

CHAPTER X
SEARCH, ARREST AND ADMINISTRATIVE ACTION

32. Powers relating to search, arrest, seizure and disposal of exhibits, which forest staff are authorized to exercise under this Law shall be prescribed by rules.

33.(a) A Forest Officer may pass any order relating to the following administrative action in respect of forest produce seized:

- (i) in case of seizure of teak timber not exceeding 1 ton or timber from a reserved tree not exceeding 3 tons, causing payment to be made of a penalty not exceeding kyats 10,000 and confiscating the timber;

(ii) in case of seizure of timber other than timber from teak or reserved tree not exceeding 3 tons, causing payment to be made of a penalty not exceeding kyats 10,000 and double the local value of the timber and releasing the timber;

(iii) in case of seizure of other forest produce the local value of which does not exceed kyats 5000, other than timber, causing payment to be made of a penalty not exceeding kyats 10,000 and double the local value of such forest produce and releasing the same;

(iv) in case of seizure of immovable forest produce, causing payment to be made of a penalty not exceeding kyats 10,000 and double the local value of such produce and releasing the same;

(b) No legal proceeding shall be instituted under this Law against a person who abides by the order passed under sub-section (a). Legal proceeding shall only be instituted under this Law against a person who fails to abide by the same.

34. If a person who has obtained permission to extract forest produce or his agent or his labourer violates any condition of the permit, the person granting permission to extract forest produce may pass any of the following orders:

(a) causing the suspension of the whole or any portion of the work carried out under the permit;

(b) causing payment of the prescribed penalty to be made and permitting the work to be carried on;

(c) cancelling the permit;

(d) cancelling the permit and confiscating the security deposit and advances; if it is considered necessary causing payment of the prescribed penalty.

35. The Forest Officer may cause payment of a penalty not exceeding kyats 5000 to be made by a person who moves without a removal pass forest produce lawfully owned under this Law and allow the forest produce to be moved. If there is failure to pay the penalty, the forest produce shall be confiscated.

36. (a) The forest staff may, in respect of any forest produce, keep in custody such forest produce until and unless the royalties and penalties payable to the Forest Department have been recovered.

(b) In case of failure to pay the royalties and penalties within the prescribed period, the Forest Officer shall dispose of the forest produce kept in custody under sub-section (a) in the manner prescribed.

CHAPTER XI
APPEAL

37. (a) A person dissatisfied with an order or decision made by the Township Forest Officer under this Law may file an appeal to the relevant District Forest Officer or State I Divisional Forest Officer as may be prescribed, within 30 days from the date of such order or decision.

(b) The District Forest Officer or the State/Divisional Forest Officer may confirm, alter or set aside the order or decision made by the Township Forest Officer.

38. (a) A person dissatisfied with an order or decision made by the District Forest Officer or the State / Divisional Forest Officer may file and appeal to the Director-General within 60 days from the date of such order or decision.

(b) The Director-General may confirm, alter or set aside the order or decision made by the District Forest Officer or the State/Divisional Forest Officer.

39 (a) A person dissatisfied with an order or decision made by a Forest Settlement Officer or the Director-General may file an appeal to the Minister within 60 days from the date of such order or decision;

(b) The Minister may confirm, alter or set aside the order or decision made by the Forest Settlement Officer or the Director-General.

(c) The decision of the Minister shall be final and conclusive.

CHAPTER XII
OFFENCES AND PENALTIES

40. Whoever commits any of the following acts shall, on conviction be punished with fine which may extend to kyats 5,000 or with imprisonment for a term which may extend to 6 months or with both:

(a) trespassing and encroaching in a reserved forest;

(b) pasturing domestic animals or permitting domestic animals to trespass in a reserved forest;

(c) breaking up any land, clearing, digging or causing damage to the original condition of the land without a permit in a reserved forest;

(d) causing damage to a water-course, poisoning in the water, using chemicals or explosives in the water in a reserved forest;

(e) catching animals, hunting or fishing in a reserved forest;

(f) kindling, keeping, carrying any fire or leaving any fire burning which may set fire to the forests in a reserved forest;

(g) moving forest produce without submitting to examination at the revenue station;

(h) violating any provision of the rule, procedure, order, directive or notification issued under this Law.

41. Whoever commits any of the following acts shall, on conviction, be punished with fine which may extend to kyats 10,000 or with imprisonment which may extend to 1 year or with both:

(a) extracting, moving, keeping in possession unlawfully any forest produce, with the exception of timber from teak and reserved tree, without a permit;

(b) selling or utilizing in other works, forest produce extracted under section 18 sub-section (d), without the prior permission of the person authorized to grant permission for extraction.

42. Whoever commits any of the following acts shall, on conviction, be punished with fine which may extend to kyat 20,000 or with imprisonment for a term which may extend to 2 years or with both:

(a) felling, cutting, girdling, marking, lopping, tapping or injuring by fire or otherwise any tree in a reserved forest;

(b) extracting, moving or keeping in possession unlawfully timber from reserved tree other than teak without a permit;

(c) establishing and operating a saw pit, sawmill, tongue and groove mill, plywood mill, veneer mill or a wood-based industry with the exception of wood-based cottage industries and furniture industries without a permit;

(d) constructing a charcoal kiln or burning charcoal without a permit.

43. (a) Whoever fells, cuts, girdles, marks, lops, taps, injures by fire or otherwise any teak tree in a forest land or land at the disposal of the Government or extract, moves or keeps in possession unlawfully any teak timber without a permit shall be punished with fine which may extend to kyats 50,000 or with imprisonment for a term which may extend to 7 years or with both.

(b) If the commission of offence under sub-section (a) is in respect of teak timber or teak tree growing or standing upon land other than forest land and land at the disposal of the Government, such person shall be punished with fine which may extend to kyats 5,000 or with imprisonment for a term which may extend to 6 months or with both.

44. Whoever commits any of the following acts shall, on conviction, be punished with fine which may extend to kyats 30,000 or with imprisonment for a term which may extend to 3 years or with both:

(a) having in his possession or counterfeiting a marking hammer used by forest staff; having in his possession a counterfeit marking hammer or affixing a mark on the forest produce with counterfeit marking hammer;

(b) unlawfully affixing a mark on the forest produce with a marking hammer used by forest staff or with a property marking hammer;

(c) altering, defacing or obliterating any mark affixed on the forest produce by the forest staff or by a person delegated by him;

(d) altering, moving, destroying or defacing any boundary-mark of a forest land without permission.

45. Any forest staff who, by misusing the power conferred on him under this Law, vexatiously seizes any forest produce without valid reason shall be punished with fine which may extend to kyats 10,000 or with imprisonment for a term which may extend to 1 year or with both.

46. Any forest staff who, by reason of his power accepts from any person cash or kind in a corrupt manner or in contravention of the Law and participates and conspires in extracting, moving or unlawfully having in possession forest produce in a wrongful manner shall be punished with imprisonment which may extend from a minimum of 1 year to a maximum of 7 years.

47. The convicting Court shall, in respect of any legal proceeding instituted under this Law, award punishment for the relevant offence and in addition:

(a) shall pass order for confiscation of all forest produce in respect of which the offence has been committed;

(b) may pass order for the confiscation of vehicles/vessels, animals and other machinery tools and implements used in the commission of the offence;

(c) may pass order for the value of the loss and damage to the Forest Department as a result of the commission of the offence, to be paid by way of compensation to the Forest Department.

48. The Court:-

(a) shall hand-over the confiscated forest produce to the Forest Department;

(b) may pay as damages to the person whose property has been wrongfully seized, the whole or any portion of the fine imposed under section 45.

CHAPTER XIII
MISCELLANEOUS

49. (a) The Minister may reduce, waive or exempt from payment of any royalty due, in respect of forest produce permitted to be extracted under this Law.

(b) The Director-General may reduce, waive or exempt from payment of any royalty due, in respect of forest produce permitted to be extracted under section 18 sub-section (d).

50. The Director-General may delegate the powers conferred on him under this Law to the Forest Officers.

51. All money payable to the Forest Department under this Law shall be recovered as if it were an arrear of land revenue. A Forest Officer who has been assigned responsibility by the Ministry of Forestry for this purpose shall exercise the powers of a Collector under the existing laws.

52. When a request is made by the Forest staff for assistance in the performance of their duties, the People's Police Force shall render necessary assistance.

53. If an exhibit relating to any legal proceeding instituted under this Law is not easily produceable before the Court, such exhibit need not be produced before the Court. However, a report or other relevant documentary evidence as to the manner of custody the same may be submitted. Such submission shall be deemed as if it were a submission of the exhibit before the Court and the relevant Court may dispose of the same in accordance with law.

54. In a case where administrative action is taken or, in a case where a legal proceeding is instituted under this Law, the burden of proving lawful ownership or lawful right of possession in respect of the forest produce shall lie on the person against whom action is taken.

55. The reserved forests existing under the Forest Act, 1902 shall be deemed to be reserved forests constituted under this Law.

56. Before the issuance of rules, procedures, notifications and directives under this Law, rules, notifications, directives and circulars issued under the Forest Act, 1902 may continue to be applicable in so far as they are not inconsistent with this Law.

57. For the purpose of carrying out the provisions of this Law:

(a) the Ministry of Forestry may issue rules and procedures as may be necessary with the approval of the Government;

(b) the Ministry of Forestry and the Forest Department may issue orders, directives and notifications as may be necessary.

58. The Forest Act, 1902 is hereby repealed.

Sd/.

Than Shwe

General Chairman The State Law and Order Restoration Council

THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES LAW (1993)

The State Law and Order Restoration Council Law No.1/93
The 5th Waxing Day of Tabodwe, 1354 ME

27 January 1993

The State Law and Order Restoration Council hereby enacts the following Law:-

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the Narcotic Drugs and Psychotropic Substances Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:-
 - (a) “Narcotic Drug” means any of the following:
 - (i) poppy plant, coca plants, cannabis plant or any kind of plant which the Ministry of Health has, by notification declared to be a narcotic drug, substances and drugs derived or extracted from any such plant;
 - (ii) drugs which the Ministry of Health has, by notification declared to be a narcotic drug, and substances containing any type of such drug.
 - (b) Psychotropic Substance means drugs which the Ministry of Health has, by notification declared to be a psychotropic substance;
 - (c) Production means production designed to transform poppy plant, coca plant, cannabis plant and any kind of plant which the Ministry of Health has, by notification declared to be a narcotic drug, into a narcotic drug or psychotropic substance; processing preparation and manufacture by a mixture of the substance so produced with chemicals or with any other type of substance;
 - (d) Possession means the holding of a narcotic drug or psychotropic substance by anyone on his person, in his residence, premises, vehicle/vessel and property. This expression also includes holding or causing to be held under the arrangement of such person;
 - (e) Drug User means a person who uses a narcotic drug or psychotropic substance without permission in accordance with the law;
 - (f) Central Body means the Central Body for the Prevention of the Danger of Narcotic Drugs and Psychotropic Substances formed by the Government under this Law.

CHAPTER II

AIMS

3. The aims of this Law are as follows:-

- (a) to prevent the danger of narcotic drugs and psychotropic substances, which can cause degeneration of mankind, as a national responsibility;
- (b) to implement the provisions of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances;
- (c) to carry out more effectively measures for imparting knowledge and education on the danger of narcotic drugs and psychotropic substances and for medical treatment and rehabilitation of drug users;
- (d) to impose more effective penalties on offenders in respect of offences relating to narcotic drugs and psychotropic substances;
- (e) to co-operate with the States Parties to the United Nations Convention, international and regional organizations in respect of the prevention of the danger of narcotic drugs and psychotropic substances.

CHAPTER III

FORMATION OF THE CENTRAL BODY AND THE FUNCTIONS AND DUTIES OF THE CENTRAL BODY

4. The Government shall form the Central Body for the prevention of the Danger of Narcotic Drugs and Psychotropic Substances.

5. In forming the Central Body:

- (a) it shall consist of the Minister of the Ministry of Home Affairs as Chairman and persons from the relevant Ministry, Government departments and organizations as members;
- (b) the Vice-Chairmen, Secretary and Joint Secretary of the Central Body shall be determined.

6. The functions and duties of the Central Body are as follows:-

- (a) laying down the policies in respect of the prevention of the danger of narcotic drugs and psychotropic substances and coordinating; with the relevant boards of authority, Ministries and non-Governmental organizations;

(b) being able to co-operate with States Parties to the United Nations Convention, international and regional organizations in respect of the prevention of the danger of narcotic drugs and psychotropic substances;

(c) determining and coordinating as may be necessary the functions and duties of the working bodies and regional bodies in order to carry out successfully the functions and duties of the Central Body;

(d) laying down and carrying out programmes in respect of reclamation of land, allotment of land, contribution of materials and aids and rendering of assistance as may be necessary, in order to carry out substitute crops cultivation and livestock breeding;

(e) laying down and carrying out programmes in respect of medical treatment of drug users, imparting knowledge and educative incitement;

(f) organizing by laying down plans and rendering suitable assistance in respect of rehabilitation of drug users and persons serving sentences; causing to be taught means of livelihood to enable them to resume their normal lives;

(g) scrutinizing, supervising and guiding in order to ascertain whether or not the programmes laid down by the Central Body are systematic and successful;

(h) destroying or causing to be destroyed narcotic drugs and psychotropic substances in accordance with the stipulation;

(i) directing as may be necessary to seize as exhibits immovable property involved in an offence under this Law, money, property and benefits derived from the transfer and conversion of property involved in the offence;

(j) directing the attachment and sealing of immovable property involved in the offence, which have been seized as exhibits under this Law; directing the removal of the attachment; disposing of as may be necessary in accordance with the final order of the relevant Court in the offence prosecuted;

(k) directing by passing an order responsible persons of the relevant bank and financial institutions to allow relevant persons authorized to search and seize to inspect financial records relating to an offence under this Law, to make copies thereof and to seize the same as exhibits;

(l) disposing of as may be necessary ownerless narcotic drugs and psychotropic substances which have been seized as exhibits;

(m) taking such measures as may be necessary for giving reward in respect of an offence against which action has been taken under this Law, with the approval of the Government;

(n) reporting from time to time to the Government on the progress of the work of prevention of the danger of narcotic drugs and psychotropic substances;

(o) carrying out the functions and duties as are assigned by the Government from time to time.

CHAPTER IV FORMATION OF WORKING BODIES AND REGIONAL BODIES

7. The Central Body shall form the following working Bodies and shall determine the functions and duties thereof respectively:-

- (a) Body for Supervision of Prevention and Suppression;
- (b) Body for Prevention and Suppression;
- (c) Body for Substitute Crops Cultivation;
- (d) Body for Livestock Breeding;
- (e) Body for Medical Treatment;
- (f) Body for Rehabilitation;
- (g) Body for Imparting Knowledge to Young Students;
- (h) Body for Educative Incitement of the Working People;
- (i) Body for Disposal of Narcotic Drugs and Psychotropic Substances Seized;
- (k) Other Working Bodies as may be required.

8. The Central Body shall form the following Regional Bodies and shall determine the functions and duties thereof respectively:

- (a) State/Divisional, District, Township, Ward and Village Tract Bodies for the Prevention of the Danger of Narcotic Drugs and Psychotropic Substances;
- (b) Special Bodies for the Prevention and Suppression of the Danger of Narcotic Drugs and Psychotropic Substances.

CHAPTER V
REGISTRATION, MEDICAL TREATMENT AND
CANCELLATION OF REGISTRATION OF A DRUG USER

9 (a) A drug user shall register at the place prescribed by the Ministry of Health or at a medical centre recognised by the Government for this purpose, to take medical treatment;

(b). The Ministry of Health shall lay down and carry out programmes as may be necessary in respect of medical treatment for a registered drug user;

(c) A registered drug user undergoing medical treatment shall abide by the directives issued by the Ministry of Health.

10. Cancellation of the registration of a drug user shall be carried out in accordance with the stipulations.

CHAPTER VI
REHABILITATION

11. The Ministry of Social Welfare, Relief and Resettlement shall, in respect of the rehabilitation and aftercare of drug users carry out the following measures in accordance with the stipulations:-

(a) rendering assistance and protection as may be necessary to persons undergoing medical treatment and the families dependent on them;

(b) providing for rehabilitation, teaching of means of livelihood as may be necessary, resettlement and aftercare to enable persons who have undergone medical treatment to resume their normal lives;

(c) conducting expertise training course for the relevant persons in order to implement systematically and effectively work of rehabilitation of drug users.

12. The Ministry of Home Affairs shall provide for the teaching of means of livelihood as may be necessary to persons serving sentences under section 15, in accordance with the stipulations.

CHAPTER VII
SEARCH, ARREST AND SEIZURE OF EXHIBITS

13. Action taken under this Law in respect of the following matters shall be done in accordance with the rules:-

(a) search and seizure of narcotic drug, psychotropic substance, money, property and implements involved in an offence and arrest of the offender;

- (b) search and seizure of money, property and benefits derived from transfer, conversion and transformation of property involved in an offence;
- (c) inspection and making copies of financial records kept at the bank and financial institutions;
- (d) laboratory analysis in respect of narcotic drugs and psychotropic substances.

14. Notwithstanding anything contained in any existing law, responsible persons from the bank and financial institutions shall, on receipt of an order issued by the Central Body in respect of money and property involved in an offence under this Law:

- (a) permit the inspection of financial records and making copies thereof and seizure of the exhibits;
- (b) pending the conclusion of a case in which action is being taken, take custody of the financial records, money and property involved in the offence, in accordance with the stipulations, without returning or transferring the same to anyone.

CHAPTER VIII OFFENCES AND PENALTIES

15. A drug user who fails to register at the place prescribed by the Ministry of Health or at a medical centre recognised by the Government for purpose or who fails to abide by the directives issued by the Ministry of Health for medical treatment shall be punished with imprisonment for a term which may extend from a minimum of 3 years to a maximum of 5 years.

16. Whoever is guilty of any of the following acts shall, on conviction be punished with imprisonment for a term which may extend from a minimum of 5 years to a maximum of 10 years and may also be liable to a fine:-

- (a) cultivation of poppy plant, coca plant, cannabis plant or any kind of plant which the Ministry of Health has, by notification declared to be narcotic drug;
- (b) possession, transportation, distribution and sale without permission under this Law of materials, implements and chemicals which the relevant Ministry has, by notification declared to be materials used in the production of a narcotic drug or psychotropic substance;
- (c) possession, transportation, transmission and transfer of a narcotic drug or psychotropic substance;
- (d) transfer of a narcotic drug or psychotropic substance by a person who possesses the same with permission in accordance with law to a person who is not so permitted;

(e) inciting, inducing, deceiving, coercing, using undue influence or any other means to cause abuse of a narcotic drug or psychotropic substance;

(f) misappropriating, causing to disappear, destroying, removing or transferring any property which has been seized or attached under this Law.

17. A responsible person from the bank or financial institutions, who is guilty of any of the following acts in respect of money, property and benefits involved in an offence under this Law shall, on conviction be punished with imprisonment for a term which may extend from a minimum of 5 years to a maximum of 10 years and may also be liable to a fine:

(a) transferring of accounts, causing to disappear, altering and amending relevant financial records so that action may not be taken against the offender;

(b) refusing to allow a person authorized to search and seize in accordance with an order passed by the Central Body under section 6 sub-section (k) to inspect the relevant financial records, make copies thereof and seize the exhibits;

(c) returning and transferring without the permission of the Central Body or the relevant Court financial records relating to the offence and money, property and benefits seized as exhibits.

18. A person authorized to search, arrest, seize exhibits and investigate in respect of any offence under this Law, who is guilty of any of the following acts shall, on conviction be punished with imprisonment for a term which may extend from a minimum of 5 years to a maximum of 10 years and may also be liable to a fine:

(a) asking and accepting any money and property as gratification either for himself or for another person;

(b) accepting a narcotic drug or psychotropic substance unlawfully;

(c) replacing another person for the offender; concealing the offender without taking any action;

(d) causing to disappear, altering by wrongful means, substituting, mixing the material involved in the offence, stating incorrectly the weight, volume or quantity of the material.

19. Whoever is guilty of any of the following acts shall, on conviction be punished with imprisonment for a term which may extend from a minimum of 10 years to a maximum of an unlimited period:-

(a) possessing, transporting, transmitting and transferring a narcotic drug or psychotropic substance for the purpose of sale;

(b) offering for sale, agreeing thereto or communicating to market a narcotic drug or psychotropic substance;

(c) concealing and causing to disappear money, property and benefits derived from the commission of any offence contained in this Law, so that action may not be taken;

(d) transferring and converting money, property and benefits involved in an offence, so that it may appear to have been acquired from a legitimate source.

20. Whoever is guilty of any of the following acts shall, on conviction be punished with imprisonment for a term which may extend from a minimum of 15 years to a maximum of an unlimited period or with death:

(a) production, distribution and sale of a narcotic drug or psychotropic substance;

(b) importing and exporting a narcotic drug or psychotropic substance; communicating to effect such import and export.

21. Whoever attempts, conspires, organizes, administers or provides financial assistance to commit any offence contained in this Law or abets the commission of any such offence shall be liable to the punishment provided in this Law for such offence.

22. If any of the acts provided in sections 16 to 21 have been committed under any of the following circumstances the offender shall be liable to the maximum punishment provided for such offence:

(a) being a member of a local or foreign organization or group which commit crimes involving narcotic drugs or psychotropic substances or communicating with and participating in such organizations or groups;

(b) handling and using arms or explosives in the commission of the offence;

(c) making use of children who have not completed the age of 16 years in the commission of the offence;

(d) committing or causing to commit an offence by making use of the influence or power of a public servant.

23. Whoever is guilty of any of the acts provided in sections 16 to 21 shall, after a prior conviction for the same offence be liable to the maximum punishment provided for such subsequent offence.

24. The Court shall:

(a) in passing a sentence for any offence provided in sections 16 to 21 pass an order for the confiscation or destruction or disposal in accordance with the stipulations of the narcotic drug, psychotropic substance, money, implements, moveable property, vehicles/vessels and animals involved in the offence;

(b) in passing a sentence under section 19 or section 20 pass an order for confiscation of the immoveable property involved in the offence, which have been seized as exhibits.

25. The Court shall:

(a) in respect of a person who habitually commits or is notorious of committing any offence contained in this Law pass an order for execution of a bond for good behaviour during a period not exceeding 3 years, in accordance with the rules;

(b) if there is violation of the condition of the bond passed under sub-section (a) or if there is failure to execute the bond in accordance with the order passed for execution of a bond punish such person with imprisonment for a term which may extend from a minimum of 1 year to a maximum of 3 years.

CHAPTER IX MISCELLANEOUS

26. Whoever possesses or transports, transmits or transfers any of the following narcotic drug or psychotropic substance of the weight, volume or quantity or in excess of the weight, volume or quantity shown against each shall be deemed to possess for the purpose of sale and to transport, transmit or transfer for the purpose of sale :-

(a) in the case of heroin - three grammes;

(b) in the case of morphine - three grammes;

(c) in the case of mono-acetyl morphine - three grammes;

(d) total of the narcotic drugs contained in sub-sections (a), (b) and (c) - three grammes; or total of two types out of the said three - three grammes;

(e) in the case of crude opium or processed opium or total of the two - one hundred grammes;

(f) in the case of cannabis or essence of cannabis or total of the two - seventy-five grammes;

(g) in the case of coca leaf - one hundred grammes;

(h) in the case of cocaine - three grammes;

(i) the weight, volume or quantity which the Ministry of Health has, by notification from time to time prescribed for any narcotic drug or psychotropic substance.

27. If an exhibit involved in any offence prosecuted under this Law is not easily produceable before the Court, such exhibit need not be produced before the Court. However, a report or other relevant documentary evidence as to the manner of custody of the same may be submitted. Such submission shall be deemed as if it were a submission of the exhibit before the Court and the relevant Court shall pass an order for disposal of the same in accordance with law.

28. The provisions of this Law shall not apply to the following cases:-

(a) production of narcotic drug or psychotropic substance and carrying out works or research thereof, with the consent of the relevant Ministry;

(b) use, possession, transportation, transmission, transfer, sale, import, export and external dealing in respect of narcotic drug or psychotropic substance in the manner prescribed for the purpose of production, work of research or medical treatment, with the consent of the relevant Ministry;

(c) use, possession and transportation of a narcotic drug or psychotropic substance permitted by the Ministry of Health under the direction of any registered medical practitioner, in accordance with the stipulations.

29. Rules, notifications, orders and directives issued under the Narcotics and Dangerous Drugs Law, 1974 which is repealed by this Law may continue to be applicable in so far as they are not inconsistent with this Law.

30. For the purpose of carrying out the provisions of this Law:-

(a) the relevant Ministry may issue rules and procedures with the the approval of the Government;

(b) the relevant Ministries and the Central Body may issue notifications, orders and directives as may be necessary.

31. The Narcotics and Dangerous Drugs Law, 1974 is hereby repealed.

Sd./ Than Shwe

General

Chairman

The State Law and Order Restoration Council

DEVELOPMENT COMMITTEES LAW (1993)

The State Law and Order Restoration Council Law No. 5/93
The 10th Waxing Day of Hnaung Tagu, 1354 M.E.

1 April 1993

The State Law and Order Restoration Council hereby enacts following Law:-

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the Development Committees Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:-
 - (a) “Development Committee” means an organization formed carry out the development works within the specified bound and limit, This expression includes committee and service organization;
 - (b) “Ministry” means the Ministry of Home Affairs;
 - (c) “Minister” means the Ministry for Home Affairs;
 - (d) “Department” means the Department of General Administrator;
 - (e) “Director General” means the Director General of the Department of the General Administration;
 - (f) “Officer in charge of State/ Division” means the Officer of the State/ Division Department of the General Administration;
 - (g) “Committee” means the Development Committee constituted under this Law;
 - (h) “Service Organization” means the service personnel of the Development Committee Office;
 - (i) “Executive Officer” means the Head of the service personnel of the Development Committee Office;
 - (j) “Bye-laws” means the bye-laws issued by the Ministry or the Department in respect of works prescribed under this Law;

(k) "Dangerous Trade" means any work which may cause danger to human life or its health, destruction or obstruction to property either due to the nature of the work or the manner it is carried out;

(l) "Tax" means any tax assessed under this Law. This expression also includes taxes, rates, duties and fines;

(m) "Slow-moving Vehicle" means any vehicle such as side-car, push-cart, peddled or pushed by a person or cart drawn by animals and used or hired for the purpose of transporting passengers and merchandise on payment of fare;

(n) "The Driver of Slow-moving Vehicle" means any person who peddles, pushes, pulls or drives a Slow-moving Vehicle;

(o) "Ferry Service" means any public undertaking whereby passengers, merchandise, animals and vehicles are transported across a river, a channel or a lake by boat, mechanically powered river craft or ship etc. on payment of a fare or hire, The expression also includes ferry, jetty, ferry terminal, ferry terminal buildings.

CHAPTER II FORMATION OF DEVELOPMENT COMMITTEES

3. The Ministry, except within the limits of the City of Yangon Development and the City of Mandalay Development areas may form Committees in the remaining areas in the manner:-

(a) development committees either for a township or for adjoining townships collectively forming for the purpose development work;

(b) in forming under sub-section (a) specify the Town Development boundary limit for the purpose of carrying out works, in the Township Development areas.

CHAPTER III FORMATION OF COMMITTEE

4. The Ministry shall form the Development Committee with suitable citizens in order to carry out the duties and functions of the Committee.

5. In forming the Committee, the Ministry shall at the same time, appoint the Chairman of the Committee.

6. The Executive Officer is the Secretary of the Committee.

7. When the Ministry is unable to form the Committee or the Committee is unable to carry out its duties and powers, the Executive Officer or a suitable citizen may be assigned with responsibilities to carry out the duties and powers of the Committee.

8. The Committee shall be a body corporate, operate under its own name and have a common seal and perpetual succession and right to sue and be sued in its corporate name.

CHAPTER IV DUTIES AND FUNCTION

9. The Committee shall, in respect of the following duties and functions, implement and supervise in accordance with the existing laws:-

- (a) drawing up plans and carrying out town planning;
- (b) carrying out works for water supply;
- (c) carrying out works for sanitation;
- (d) carrying out works for disposal of sewage;
- (e) carrying out works for lighting of roads;
- (f) construction, supervision and maintenance of markets owned by the Committee;
- (g) granting permission for the establishment of privately-owned markets and supervising them;
- (h) establishing cattle markets and supervising them;
- (i) stipulation of conditions in respect of roadside stalls;
- (j) stipulation of conditions in respect of bakeries and restaurants;
- (k) stipulation of conditions in respect of dangerous trade;
- (l) carrying out precautionary measures against fire, flood, storm and natural disaster;
- (m) establishing cattle slaughter houses, granting permission for slaughtering of cattle for public consumption and supervising sale of meat;
- (n) administration of ferries;
- (o) stipulation of conditions in respect of small loan business;

- (p) administration of Slow-moving Vehicles;
- (q) construction and maintenance of roads, bridges;
- (r) prescribing road bye-laws and the use of road, name of road and number for the building;
- (s) construction and maintenance of buildings under the charge of the Committee;
- (t) granting permission for construction of private buildings within the Development Committee boundary limit and supervision thereof;
- (u) with the approval of the Ministry, granting permission for the construction and supervision of private buildings in rural area outside the Development Committee boundary limit specified by notification;
- (v) demolition of squatter buildings;
- (w) granting permission for opening lodging houses and supervision thereof;
- (x) supervising the keeping and breeding of animals within the Development area and disposal of carcasses;
- (y) arresting of wandering insane persons, lepers, beggars and handing over to the authority concerned;
- (z) rounding-up, keeping in custody of wandering animals and disposing them;
- (aa) construction and maintenance of gardens, parks, play grounds, swimming pools, public baths and recreation centres;
- (bb) allotting and supervising cemeteries, constructing and maintaining crematoriums;
- (cc) with the approval of the Ministry, demolishing of cemeteries and using of land for other purposes;
- (dd) executing other development works in the public interest;
- (ee) carrying out other duties assigned by the Ministry from time to time.

CHAPTER V POWERS OF THE COMMITTEE

10. The Committee may, with the sanction of the Ministry, carry out the following:-

- (a) prescribing, revising, assessing and collecting various duties and taxes and their rates relating to development works in accordance with the existing laws and rules;
- (b) having the right to take loans and grants from the Government or from local or foreign organizations on its own responsibility;
- (c) having the right to carry out works contributing to the development of the town area or township area by making contact with local and foreign organizations or with local and foreign individuals;
- (d) having the right to use the foreign currency delivered from the lease of buildings or lands or by any other means for development works;
- (e) inspecting and submitting reports in respect of construction and maintenance of State-owned buildings except those buildings relating to the defence of the State or those classified as secret.

11. The Committee may carry out the following:-

- (a) drawing up bye-laws in respect of development works in accordance with existing laws and rules;
- (b) implementing works with funds owned by the Committee in accordance with existing laws and rules;
- (c) carrying out works if necessary, by forming sub-committees;
- (d) applying modern and advanced methods and technique in order to execute the development work more effectively;
- (e) consulting and coordinating, if necessary, with government departments and organisations concerned in the execution of its duties and functions;
- (f) exercising the powers conferred from time to time by the Ministry.

CHAPTER VI COLLECTION OF TAXES

12. The Committee may, with the sanction of the Ministry, levy the following taxes either within the township development area or in town area:-

- (a) building and land tax;
- (b) water tax, street lighting tax, garbage tax and public sewage tax;

- (c) taxes collected on vehicles, beasts of burden and domesticated pets;
- (d) tax on vehicles and beasts of burden parking or stopping within the town area;
- (e) other taxes related to development permitted by this Law.

13. The Committee shall assess and collect taxes based on the following:-

- (a) to assess not more than 10 percent of the annual value of the rent in the case of buildings and lands;
- (b) to balance income and expenditure in assessing taxes on utility services;
- (c) to expand and improve development works;
- (d) to assess and collect taxes on buildings and lands from the owner and taxes on utility services from the occupants;
- (e) to assess not more than 5 percent of the total income derived from the privately owned land and building under Government management.

14. The Committee may prescribe or revise the annual rental value of the land and building from time to time for the purpose of assessing and collecting taxes on land, building and utility services.

15. The Committee may from time to time prescribe, revise and collect licence fees for trade connected with the development works, rent for stalls owned by the Committee, taxes on market and licence fees for grant of establishment of private markets.

16. The Committee in connection with abolishing any tax or exempting or remitting payment of any tax may carry out in the following manner:-

- (a) temporally suspending the abolishing or revising or collecting any tax assessed with the approval of the Ministry;
- (b) exempting, remitting or abolishing of tax payable by a tax payer on sufficient grounds.

17. The Executive Officer may, in respect of arrears of taxes, carry out in the following manner:-

- (a) recovery of arrears of taxes as if they were arrear of and revenue;
- (b) exercising powers of the Collector under existing Laws in order to execute the matter under sub-section (a).

CHAPTER VII
ADMINISTRATION OF DEVELOPMENT WORKS

18. The Committee may direct the owner of any building or land or the occupant thereof to comply with the following matters in respect of any building located within the town area in accordance with the relevant Laws, rules and bye-laws:-

- (a) suspending or altering or demolishing the construction or renovation of any building which has been carried out without prior permission or without compliance with the specifications contained in the permission;
- (b) removing any building or part of any building which encroaches upon any public road, drain, water supply pipe, sewage, etc;
- (c) removing any building or part of any building which obstructs the construction or repair of public roads and bridges;
- (d) repairing, demolishing or removing any dangerous building or building unfit for human habitation or any part thereof;
- (e) white-washing or painting buildings and fences;
- (f) erecting fences around unfenced land or repairing of unrepaired fences;
- (g) clearing and removing any noxious or untidy trees, bushes and undergrowth and also filling up ravines, pitches.

19. If the present occupant is directed to comply with section 18 subsections (e), (f) and (g) the occupant shall comply as directed. If the occupant is the lawful tenant he has the right to request such expenses from the owner or set-off from the rent.

20. The Committee may direct the owner of the building or land or the occupant thereof to comply with the following matters in respect of surface well, lake, drainage and sewage in accordance with the relevant laws, rules and bye-laws:-

- (a) erecting enclosure or repairing any dangerous surface well, lake or pool of water;
- (b) cleaning, repairing, filling tip or covering up any unhygienic surface well, lake, water storage tank or receptacle used for storing water;
- (c) constructing or repairing drains, drainage pipe or drains for proper flow of water discharged from factories, workshops buildings and so as not to damage any street or public property;

- (d) repairing and improving the lay-out of the earth-work so as to drain off water properly from factories, workshops and buildings;
- (e) maintaining flushing-type toilet with, flush tank water-closet, sewage pipe and septic tank in factories, workshops, buildings and compounds;
- (f) closing or demolishing or altering and repairing the toilet with flush tank, water-closet, sewage pipe and septic tanks which have been installed either without prior permission or without compliance with the specifications contained in the permission;
- (g) constructing of sewage pipe or water pipe passing through adjacent land owned by some other person;
- (h) compensating for damages if any, incurred to the owner in constructing sewage or water pipe passing through another person's land.

21. The Committee may direct the owner of the building or land or the occupier thereof within the town area to comply with the following matters in accordance with the provisions contained in the relevant laws, rules and bye-laws:-

- (a) keeping and maintaining suitable garbage bins for the collection of rubbish and offensive matters prior to their disposal;
- (b) prohibiting the use of public or private water supply system found to be unhygienic;
- (c) maintaining the rest house room or room rented in whole to be in a clean and sanitary condition;
- (d) keeping and maintaining the buildings used for public entertainment in clean and sanitary condition as well as to ensure safety from fire hazards;
- (e) prohibiting the use of or altering or maintaining the work premises dealing in dangerous enterprises if it becomes dangerous or nuisance to the neighbourhood.

22. The Committee may direct the owner or relevant organization of the unsuitable cemetery land to comply with the relevant law, rules and bye-laws regarding the following matters:-

- (a) not to permit to use as cemetery land and to close it;
- (b) with the permission of the Ministry to transfer or demolish the burial place.

CHAPTER VII
ADMINISTRATION OF SLOW-MOVING VEHICLES

23. The Committee may carry out the following in respect of Slow-moving Vehicles:-

- (a) drawing up and submitting bye-laws with regard to Slow-moving Vehicles classwise;
- (b) prescribing licence fees for Slow-moving Vehicles and assessing and collecting thereof;
- (c) prescribing the driving licence fees for Slow-moving Vehicles and assessing and collecting thereof;
- (d) issuing, suspending and cancelling licence for Slow-moving Vehicles;
- (e) issuing, suspending and cancelling driving licence for Slow-moving Vehicles;
- (f) inspecting and controlling the Slow-moving Vehicles;
- (g) inspecting and controlling the drivers of Slow-moving Vehicle.

24. Only a person who obtains a licence issued by the Committee has the right to operate the business of Slow-moving Vehicle.

25. Only a person who obtains a licence issued by the Committee has the to drive a Slow-moving Vehicle.

26. The owner and the driver of Slow-moving Vehicle shall comply with the bye-laws as prescribed.

CHAPTER IX
ADMINISTRATION OF FERRIES

27. The Committee may as controller of ferries within the township area, carry out in accordance with the bye-laws in respect of ferries as follows:-

- (a) granting permission to establish ferry business or cancelling thereof;
- (b) demarcating and revising the ferry limit;
- (c) controlling ferry business;
- (d) regulating the route for ferry;
- (e) cancelling ferry licence on sufficient grounds;

(f) deciding payment of compensation and assessing the amount of compensation for ferry licence the cancellation of which is not due to violation of bye-laws;

(g) prescribing fares for ferry service;

(h) exempting Government Service personnel travelling on duty, departmental vehicles, animals and goods from payment of ferry charges for their transportation;

(i) remitting ferry licence fees or exempting thereof on sufficient ground.

28. The Officer in charge of State/Division may, as the controller of ferry service and in respect of ferry service serving two or more adjoining Townships, carry out the following in accordance with the bye-laws:-

(a) granting permission for establishment of ferry service or cancelling thereof;

(b) prescribing and revising the ferry limit;

(c) controlling the ferry service;

(d) regulating ferry route;

(e) allocating income from ferry service proportionately among the Committees which have adjoining ferry limits;

(f) cancelling ferry licence on sufficient grounds;

(g) appointing as the Controller of ferry service suitable Executive Officer of a Committee;

(h) deciding payment of compensation and assessing the amount of compensation for ferry licence cancellation of which is not due to violation of bye-laws;

(i) prescribing fares for ferry service;

(j) exempting Government Service personal travelling on duty, departmental vehicles, animals and goods from payment of ferry charges for their transportation;

(k) remitting ferry licence fees or exempting thereof on sufficient grounds.

29. The Executive Officer shall be responsible as the administrator of the ferry service. The administrator of the ferry service may, in respect of ferry service, carry out as follows:-

(a) administering the ferry service;

(b) selling the ferry service licences In the prescribed manner;

(c) requiring the ferry service licensee to make arrangements to ensure the safety and convenience for the general public;

(d) selling again the ferry service licences which are cancelled due to violation of the by-laws.

30. Only a person who obtains the ferry service business licence has the right to operate within the ferry service limit.

31. The ferry service licensee shall comply with the instruction issued by the administrator of the ferry service regarding the proper maintenance and repair of either ferry boat or the equipments concerned thereof.

32. The ferry service licensee shall comply with the instruction of the administrator of the ferry service to discontinue the use of unsuitable boat or unsuitable equipments concerned thereof.

33. The Director General may decide disputes between one State/Division and another in respect of location of ferry service.

34. If the decision or order passed by the administrator of ferry service in respect of any provision contained in section 29 or section 31 or section 32 is not satisfied, appeal may be submitted to the Controller concerned of the ferry service within 30 days from the date of passing such decision or order.

35. (a) If the decision or order passed by the Controller of the ferry service under section 27 or section 28 is not satisfied, appeal may be submitted to the Director General within 60 days from the date of passing such decision or order;

(b) If the decision or order passed by the Controller of the ferry service under section 34 is not satisfied, appeal may be submitted to the Director General within 60 days from the date of passing such decision or order.

CHAPTER X ADMINISTRATION OF ANIMAL SLAUGHTER

36. The Committee may grant permission for the slaughter of buffalo, cow, horse, sheep, goat and pig in animal slaughter house owned by the Committee for the purpose of consumption by the general public and sale of meat thereof at specified places in accordance with the regulations.

37. The Staff Officer of Township General Administration Department may, under the supervision of the Officer in charge of State/Division concerned, grant permission for the slaughter of cattle, at anywhere, for religious and other occasions other than for the purpose of public consumption under specified conditions.

38. The Committee and Staff Officer or Township General Administration Department shall in granting permission for cattle slaughter carry out, in accordance with the instruction, to prevent the wastage of cattle used in agriculture.

39. The Ministry may issue necessary instruction in respect of animal slaughter.

40. Only person with permission granted under section 36 or section 37:-

(a) may slaughter, cattle, sell meat, or possess meat and skin;

(b) may slaughter horse, sheep, goat, pig and sell meat.

CHAPTER XI SUPERVISION

41. The Minister may confirm, revise or cancel the decision or measure made by the Director General or Officer in charge of State/Division or the Committee in respect of development works.

42. The Director General shall after scrutinizing the execution of works by the Officer in charge of State/Division or the Committee, submit to the Minister.

43. The Director General shall supervise the development works.

44. The Officer in charge of State/Division shall carry out the following in respect of the development works:-

(a) scrutinizing and submitting to the Director General annual budget estimates, short-term and long-term projects drawn up and submitted by the Committee;

(b) supervising the budget and for efficient development works in exercising powers conferred by the Director General;

(c) co-ordinating development functions so as to be in conformity with the law, rules, bye-laws and directives;

(d) inspecting works, buildings, proceedings, documents and accounts relating to the Committee and reporting to the Director General;

(e) suspending the Committee's decision, order, action or directive when it is found. to be illegal and reporting the finding to the Director General.

CHAPTER XII

APPEAL

45. If any decision or order made by the Committee under section 14, 18(c) (e) (f), 20 (c) (d) (g) (h), 21(b) (e), is not satisfied an appeal may be submitted to the Officer in charge of State/Division concerned within 30 days from the date of such order or decision.

46. If any decision or order passed by the Officer in charge of State/Division concerned section 45 is not satisfied, appeal may be submitted to the Director General within 30 days from the date of such order or decision.

47. In respect of the appeal:-

(a) no legal action to be taken against the person concerned pending appeal;

(b) the decision of the Director General is final.

CHAPTER XIII

FINANCE

48. The Minister shall approve the budget of the Committee. Collection and expenditure may be made only in accordance with the budget approved by the Minister.

49. The Committee shall:-

(a) scrutinise and submit to the Director-General, the annual budget which has been submitted to him by the Executive Officer through the Officer in charge of State/ Division;

(b) submit the annual financial and auditing situation to the Director General through the Officer in charge of State/ Division within 90 days of the expiry of the financial year.

50. The Committee shall open a separate bank account for its funds and use the funds for development works. The funds which are not required immediate use may be utilised as prescribed.

51. The Committee may open a separate Foreign Exchange Account and may utilise it in accordance with the existing laws and regulations with the permission of the Director General.

CHAPTER XIV

ORGANIZATIONAL SET-UP

52. The Ministry shall prepare and maintain as prescribed the necessary organizational set-up based on the duties and function of the development works and the amount of its

income. In preparing the organizational set-up, if necessary, service personnel carrying out disciplinary measure may be included.

53. The Ministry has the power to appoint the service personnel within the organizational set-up in accordance with the existing regulations. The Executive Officer may be delegated with power to exercise over the matters related to affairs of certain level of service personnel.

54. The expenditure on service personnel shall not be incurred more than 30 per cent of the annual income accrued.

55. The Ministry may appoint by transfer service personnel who are capable of carrying out the development works effectively in co-ordination with other Ministries concerned.

CHAPTER XV MAINTENANCE OF FUND AND AUDITING OF ACCOUNTS

56. In order that the Executive Officer may maintain the accounts systematically and to enable auditing thereof, the Ministry shall prescribe the accounting procedure in consultation with the Auditor-General. Accounts shall be maintained in accordance with the accounting procedures so prescribed.

57. The accounts maintained by the Executive Officer shall be audited by the person assigned for this purpose by the Auditor-General.

CHAPTER XVI PROHIBITIONS

58. No person shall, within the limit of the town area, without the permission or without being in conformity with the specifications contained in the permission of the Committee or without being in conformity with the terms and conditions issued:

- (a) erect any building or part of a building encroaching on public street, drain, water pipe or sewage pipe;
- (b) spread, hang any textile or mat or other thing road, drain, water pipe or sewage pipe causing obstruction thereof.

59. No person shall, within the limit of the town area, without the permission of the Committee or without being in conformity with the specifications contained in the permission or without being in conformity with the terms and conditions issued:-

- (a) play any kind of game on public road;
- (b) sell any merchandise or other things kept on display on a table, bench, box or any receptacle by placing them either on the road or over the drain causing obstruction thereof;

(c) dispose garbage, offensive matters, etc on the road or in any place not specified for such disposal;

(d) build private road;

(e) erect any building on land where there is no entrance or exit.

60. No person shall, within the limit of the town area, without the permission of the Committee or without being in conformity with the specifications, contained in the permission or without being in conformity with the terms and conditions issued:-

(a) erect, re-erect, renovate or extend a building;

(b) make use of water from public water supply system owned by the Committee;

(c) establish private water supply system for gain;

(d) establish camping ground or bathing places for the public.

61. No person shall, within the limit of the town area without the permission of the Committee or without being in conformity with the specifications contained in the permission or without being in conformity with the terms and conditions issued:-

(a) keep a corpse unburied or uncremated beyond the specified period;

(b) keep a corpse unburied or uncremated beyond 12 hours if the cause of death was due to contagious disease;

(c) bury or cremate a corpse at no other place than that specified as cemetery.

62. No person shall, within the limit of the town area, without the permission of the Committee or without being in conformity with the specifications, contained in the permission or without being in conformity with the terms and conditions issued:-

(a) establish a lodging house;

(b) open restaurant, tea shop and shop for selling milk;

(c) establish bakeries and manufacture candies and all kinds of preserved fruit.

63. No person shall in a building within the limit of the town area, without the permission of the Committee or without being in conformity with the specifications, contained in the permission or without being in conformity with the terms and conditions issued :-

(a) engage in enterprise which may involve danger;

(b) store and sell merchandise and related materials which may involve danger.

64. No person shall, within the limit of the town area, without the permission of the Committee or without being in conformity with the specifications, contained in the permission or without being in conformity with terms and conditions issued:-

(a) keep or raise animals;

(b) dispose of carcasses in a manner not being specified.

65. No person shall, without the permission of the Committee or without being in conformity with the specifications, contained in the permission or without being in conformity with the terms and conditions issued:-

(a) establish private market or shift the market from one place to another or re-establish a market previously closed or expand the permitted area of the market;

(b) sell anything by using incorrect weights, scale and measures;

(c) sell anything in the market owned by the Committee in violation of the bye-laws;

(d) establish cattle market and effect sale thereof;

(e) establish ice factories and aerated water plants;

(f) establish small loans enterprise.

66. No person shall within the limit of the town area:-

(a) prohibit the Committee or a member of the Committee or any duly authorized service personnel from entering any land or building in the day time to carry out their duties under this Law or under the rules and bye laws made under this Law;

(b) hinder or obstruct a contractor who is under contract with the Committee from carrying out the development works or any other work connected therewith without legal authority.

CHAPTER XVII IMPOSITION OF ADMINISTRATIVE PENALTY

67. The Committee or the Chairman of the Committee or Executive Officer may impose administrative penalty on a person who fails to comply with or violates any provision contained in the Schedule under section 72 and the relevant rules and bye-laws.

68. Notwithstanding any provision contained in section 72, the Committee or the Chairman of the Committee of Executive Officer may compose an administrative penalty of a minimum sum of K 100 to a maximum sum of K 1000 on the first Offender.

69. Any offence for which administrative punishment has already been imposed shall not be prosecuted again in a Court of Law.

70. On failure to pay fine ordered for an administrative punishment such fine shall be recovered as if it were an arrear of and revenue.

71. The Ministry may prescribe the procedures for imposing administrative penalty.

CHAPTER XVIII OFFENCES AND PUNISHMENTS

72. If any person fails to comply with or violates any of the provisions of the following sections or sub-sections or rules and bye-laws concerned, he shall be fined on conviction for a minimum sum of K 500 to a maximum sum of K 5000.

<i>Section, sub-section</i>	<i>Brief Provision</i>
(1)	(2)
18 (e)	Required to paint or whitewash the building, and/or fence;
18 (g)	Required to clear trees undergrowth and to fill up the uneven ground;
20 (a)	Required to erect or repair fences around dangerous surface wells, lakes or pools of water;
20 (b)	Required to clean up surface wells, lakes, reservoir, water tank and pools of water or to fill with water and cover up;
20 (c)	Required to construct or repair channel, drainage pipe or drains for water discharged from factories, workshops, buildings and high ground so not to damage any street or public property;
20 (f)	Required to close, demolish or repair flush type toilet, water-closet, sewage pipe or septic tanks;
20 (g)	Required the owner of the land to allow the construction of sewage pipe or water pipe owned by another person passing through his land if it necessary;
21 (a)	Required to keep and maintain garbage bins for the disposal of rubbish;
21 (d)	Required to keep and maintain buildings used for entertainment in accordance with the prescribed regulations;
24	Prohibiting to operate the business of Slow-moving Vehicles without licence;

<i>Section, sub-section</i>	<i>Brief Provision</i>
25	Prohibiting the driving of Slow-moving Vehicles without licence;
26	Requiring the owner and the driver of Slow-moving Vehicles to comply with prescribed bye-laws;
40 (b)	Prohibiting the slaughtering of horse, sheep, goat, pig and selling the meat without permission;
58 (b)	Prohibiting the spreading or hanging of anything obstructing the street, drains, water pipe or sewage pipe;
59 (a)	Prohibiting the playing of games or sports on public roads;
59 (b)	Prohibiting the display and sale of merchandise over the drains obstructing thereof;
59 (c)	Prohibiting disposal of garbage, offensive matters, etc. on the road or in any place not specified for such disposal;
60 (b)	Prohibiting the securing of water against the bye-laws from public water supply system owned by the Committee;
64 (a)	Prohibiting the keeping or raising of animals;
65 (b)	Prohibiting the sale of using incorrect weights, scales and measures;
65 (c)	Prohibiting the sale of merchandise in the market owned by the Committee in violation of the bye-laws.

Explanation. The statements mentioned above the heading “Brief provision” in column (2) of the above Schedule are not the definitions of the offences but are mere reference to the subject matters contained in the section and subsections.

73. If any person fails to comply with or violates any of the provisions of the following sections or sub-sections or any directive contained in the rules and bye-laws concerned, he shall be fined on conviction for a minimum sum of K. 1000 to a maximum sum of K. 10000.

<i>Section, sub-section</i>	<i>Brief Provision</i>
(1)	(2)
18 (a)	Requiring to suspend, renovate or demolish the construction of buildings against the bye-laws;
18 (b)	Requiring to remove building which encroaches upon road, drain, water pipe and sewage pipe;
18 (c)	Requiring to remove building which obstructs the construction or repair of roads and bridges;

<i>Section, sub-section</i>	<i>Brief Provision</i>
18 (d)	Requiring to repair or demolish dangerous building and to evacuate the occupants thereof;
20 (d)	Requiring to repair and improve the ground work for the efficient drainage of water discharged from factories, workshops and buildings;
20 (e)	Requiring to maintain flush-type toilet, water closet sewage pipe and septic tank in factories and workshops;
20 (h)	Requiring to pay compensation for the injury due to construction of sewage pipe or water pipe passing through the land owned by another person;
21 (b)	Requiring to close the unhygienic water supply system;
21 (c)	Requiring to carry out the maintenance of rest house or lodging house in accordance with the prescribed bye-laws;
22 (a)	Causing the closure of the cemetery land which is not proper for use;
58 (a)	Prohibiting the erection of building encroaching on street, drain, water pipe or sewage pipe.
59 (d)	Prohibiting the construction of private road;
59 (e)	Prohibiting the erection of buildings on land where there is no entrance or exit there from;
60 (a)	Prohibiting the erection, renovation or extension of a building;
60 (c)	Prohibiting the establishment of private wafer supply system for gain;
60 (d)	Prohibiting the establishment of camping ground or bathing places for the public;
61 (a)	Prohibiting the keeping of a corpse for more than the specified period;
61 (b)	Prohibiting the keeping of a corpse for more than 12 hours if the cause of death is due to epidemic disease;
61 (c)	Prohibiting the burial or cremation of corpse at no other place than that specified as cemetery;
62 (a)	Prohibiting the establishment of lodging house;
62 (b)	Prohibiting the opening of restaurant;
62 (c)	Prohibiting the establishment of bakeries and manufacturing candies and all kinds of preserved fruit;
65 (a)	Prohibiting the establishment of private market or shifting the market or re-opening already closed market or the expansion of the permitted area of the market;
65 (d)	Prohibiting the establishment of cattle market and sale thereof;

<i>Section, sub-section</i>	<i>Brief Provision</i>
65 (e)	Prohibiting the establishment of ice factories and aerated water plants;
65 (f)	Prohibiting the establishment of small loan enterprises.

Explanation. The statements mentioned under the heading “Brief provision” in column (2) of the above Schedule are not the definitions of the offences but are mere reference to the subject matters contained in the sections and sub-sections.

74. If any person fails to comply with or violates any of the provisions of the following sections or sub-sections or any directive contained in the rules and bye-laws concerned, he shall be fined for a minimum sum of K. 2000 to a maximum sum of K. 20000 or punishable with imprisonment for a term which may extend to one year or both.

<i>Section, sub-section</i>	<i>Brief Provision</i>
(1)	(2)
21 (e)	Prohibiting the use of work-premises in respect of dealing in dangerous trade or requiring the necessary repair to the premises if it becomes dangerous;
22 (b)	Demolishing the cemetery land which is. not proper for use;
63 (a)	Prohibiting the engagement in dangerous trade;
63 (b)	Prohibiting the storage and sale of merchandise related to dangerous trade;
64 (b)	Requiring to dispose of carcasses as prescribed.

Explanation. The statements mentioned under the heading “Brief provisions” in Column (2) of the above Schedule are not the definitions of the offences but are mere reference to the subject matters contained in the sections and sub-sections.

75. Whoever contravenes any of the provisions under sections 30, 31 and 32 or fails to comply with the rules and bye-laws concerned, shall be punished on conviction with fine which may extend from a minimum sum of K.1000 to a maximum sum of K. 10000.

76. Whoever contravenes any of the provisions contained in the Schedule mentioned under section 72 or fails to comply with the rules and bye-laws concerned and after being convicted for commission of aforesaid offences, shall be punished for each day that he continues so to contravene or for noncompliance with a fine of K. 50.

77. Whoever contravenes any of the provisions contained in the Schedule mentioned under section 73 or fails to comply with the rules and bye-laws concerned and after being convicted for commission of aforesaid offences, shall be punished for each day that he continues so to contravene or for noncompliance with a fine of K. 100.

78. Whoever contravenes any of the provisions contained in the Schedule mentioned under section 74 or fails to comply with the rules and bye-laws concerned and after being convicted for commission of aforesaid offences, shall be punished for each day that he continues so to contravene or for noncompliance with a fine of K. 200.

79. Whoever contravenes any of the provisions under section 66 shall be punishable on conviction with fine which may extend from a minimum sum of K. 2000 to a maximum sum of K. 20000.

80. (a) Whoever slaughters buffalo or cow or keeps in possession meat or skin of buffalo or cow shall be punished with imprisonment which may extend to one year and may also be fined.

(b) In prosecuting under this section the burden of proof is on the person to show that the meat is that of buffalo or cow slaughtered with the permission of the authority concerned or that the meat found in possession is that of buffalo or cow slaughtered lawfully or the meat is that of buffalo or cow that have died from any other cause.

81. (a) The Staff Officer of the Township General Administration Department concerned shall prosecute the cases for violation of section 37;

(b) The Committee concerned or the person delegated by the Committee shall prosecute the cases other than those mentioned in sub-section (a).

82. The Committee may, in carrying out its duties and powers under this Law, request for the assistance from the Police Department if it is necessary. The Police Department shall give the assistance on such request.

CHAPTER XIX MISCELLANEOUS

83. If any development work is connected with two or more than two Committees, the two or more than two Committees concerned may, in carrying out the operation, co-operate among them with the approval of the Ministry.

84. Notwithstanding anything contained under any existing law, the Ministry may co-ordinate with the other Ministry concerned for the allocation of suitable proportion of taxes for the Committee out of taxes levied by other Government Departments in respect of development works performed by other Government Departments.

85. Funds owned by the Municipality, formed under the laws which are repealed by this Law, moveable and immoveable property, works in the process of execution, work which has been completed assets and liabilities shall devolve respectively on the Committee.

86. The department concerned shall give advance information to the Committee concerned regarding their work programme in respect of construction or demolition of State-owned buildings except buildings related to the security of the State or classified as secret.

87. The existing bye-laws orders and directives in respect of development works shall remain in force so long as they are not repugnant to the provisions of this Law.

88. The City of Mandalay Development Committee may apply the provisions of this Law in so far as they are not contrary to the City of Mandalay Development Committee Law.

89. In order to be able to carry out the provisions of this Law:

(a) the Ministry may, with the approval of the Government, issue necessary rules and procedures;

(b) the Ministry or the Department may issue the necessary bye-laws, orders and directives.

90. The following laws are repealed by this Law:

(a) The Hackney Carriage Act, 1879;

(b) The Government Management of Private Estates Act 1892;

(c) The Municipal Act, 1898;

(d) The Ferries Act, 1898;

(e) The Government Buildings Act, 1899;

(f) The Local Authorities Loans Act, 1914;

(g) The Myanmar Rural Self Government Act, 1921;

(h) The Local Authorities (Suspension) Act, 1946;

(i) The Buildings (Regulation of Construction and Repair) Act, 1946;

(j) The Cattle Slaughter Prohibition Act, 1947.

Sd./

Than Shwe

General Chairman

The State Law and Order Restoration Council

THE LAW AMENDING THE DEVELOPMENT COMMITTEES LAW (1997)

The State Peace and Development Council Law No. 2/97
The 10th Waxing Day of Nadaw, 1359 M.E
9 December 1997

The State Peace and Development Council hereby enacts the following law:

1. This law shall be called the Law Amending the Development Committees Law.
2. Sub-section (b), sub-section (c), sub-section (d), sub-section (e) and sub-section (f) of section 2 of the Development Committees Law shall be substituted by the following sub-sections:
 - (b) “Ministry” means the Ministry of Progress of Border Areas and National Races and Development Affairs;
 - (c) “Minister” means the Minister for the Ministry of Progress of Border Areas and National Races and Development Affairs;
 - (d) “Department” means the Department of Development Affairs;
 - (e) “Director General” means the Director General of the Department of Development Affairs;
 - (f) “Head of State/Division” means the Head of the service personnel of the State/Division Development Committee.

3. Section 37 of the Development Committees Law shall be substituted as follows:-

37. The Township Administrative Officer of the Township General Administration Department may, in accordance with the directive of the Ministry of Home Affairs grant permission for the slaughter of cattle in any area for religious and other purposes other than for public consumption.

4. Section 39 of the Development Committees Law shall be substituted as follows:-

39. The Ministry may issue necessary stipulations in respect of animal slaughter and sale of meat.

Sd. Than Shwe

Senior General, Chairman, The State Peace and Development Council

THE CHILD LAW (1993)

The State Law and Order Restoration Council Law No. 9/93
The 11th Waning Day of Oo Waso, 1355 M.E

14 July 1993

The State Law and Order Restoration Council hereby enacts the following Law:

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the Child Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) “Child” means a person who has not attained the age of 16 years;
 - (b) “Youth” means a person who has attained the age of 16 years but has not attained the age of 18 years;
 - (c) “Committee” means the National Committee on the Rights of the Child formed under this Law;
 - (d) “Child in need of Protection and Care” means a child mentioned in section 32;
 - (e) “Juvenile offence” means an offence under any existing law, for which a child is sent up for prosecution to a juvenile court;
 - (f) “Juvenile Court” means a court where the sittings of a judge on whom power to try juvenile offences is conferred are held;
 - (g) “Guardian” means a person who takes custody of a child under a law or social obligation;
 - (h) “Custodian” means a person undertaking responsibility for the custody and care of a child in need of protection and care in accordance with this Law;
 - (i) “Training School” means a training school established by the Social Welfare Department to which a child in need of protection and care or a child who has committed an offence is sent for custody and care under this Law. This expression also includes a home recognized as a training school by the Social Welfare Department;
 - (j) “Home” means premises, school, centre or department established by a voluntary social worker or non-governmental organization with the objective of taking custody and care of a child in need of protection and care;

(k) “Temporary Care Station” means a temporary care station established by the Social Welfare Department for temporary custody and care of a child accused of having committed a crime, during the trial of the case. This expression also includes a home recognized by the Social Welfare Department as a temporary care station;

(l) “Probation Officer” means a person assigned responsibility under this Law as a Probation Officer;

(m) “Ministry” means the Ministry of Social Welfare, Relief and Resettlement;

(n) “Minister” means the Minister of the Ministry of Social Welfare, Relief and Resettlement;

(o) “Director-General” means the Director General of the Social Welfare Department;

(p) “Social Welfare Officer” means an officer of the Social Welfare Department who has been assigned duties of a Social Welfare Officer under this Law or a person who has been assigned duties under section 60.

CHAPTER II

AIMS

3. The aims of this Law are as follows:

(a) to implement the rights of the child recognized in the United Nations Convention on the Rights of the Child;

(b) to protect the rights of the child;

(c) to protect in order that children may enjoy fully their rights in accordance with law;

(d) to carry out measures for the best interests of the child depending upon the financial resources of the State;

(e) to enable custody and care of children in need of protection and care by the State or voluntary social workers or nongovernmental organizations;

(f) to enable a separate trial of a juvenile offence and to carry out measures with the objective of reforming the character of the child who has committed an offence.

CHAPTER III
FORMATION OF THE COMMITTEE

4. The Government:-

(a) shall form the National Committee on the Rights of the Child consisting of the following persons, in order to implement effectively and successfully the provisions of this Law:

(i) Minister, the Ministry of Social Welfare, Relief and Resettlement Chairman;

(ii) Heads of relevant Government departments Members and organizations Members;

(iii) representatives from non-governmental Members organizations who are carrying out work in the interests of children;

(iv) voluntary social workers who are interested in the affairs of children Members;

(v) a person assigned responsibility by the Secretary Chairman.

(b) may determine the Deputy Chairman and Joint Secretary as may be necessary in forming the Committee;

(c) may determine the tenure of the Committee.

CHAPTER IV
DUTIES AND POWERS OF THE COMMITTEE

5. The duties and powers of the Committee are as follows:-

(a) protecting and safeguarding the rights of the child;

(b) giving guidance as may be necessary in order that the relevant Government departments and organizations may implement effectively and successfully the provisions of this Law;

(c) co-operating and coordinating as may be necessary activities of government departments and organizations, voluntary social workers and non-governmental organizations relating to a child; reviewing from time to time the progress made;

(d) obtaining assistance and co-operation of the United Nations Organizations, international organizations, voluntary social workers or non-governmental organizations for the interests of the child;

(e) giving guidance and supervision in obtaining donations and property from local and foreign voluntary donors and to enable effective utilization of such donations and property in the interests of children;

- (f) laying down and carrying out work programmes in order to take preventive measures against occurrence of juvenile crimes;
- (g) collecting from relevant government departments and organizations and complying the required reports and statistics;
- (h) reporting to the Government from time to time on the activities of the Committee;
- (i) carrying out functions and duties in respect of the child, as are assigned by the Government.

6. The Committee may:-

- (a) from the State, Divisional, District or Township Committees on the Rights of the Child and determine the functions and duties thereof;
- (b) supervise, guide and assists in the activities of the Committees on the Rights of the Child formed under sub-section (a).

7. (a) The office work of the Committee shall be undertaken by the Social Welfare Department.

(b) The expenditures of the Committee shall be borne out of the budget of the Social Welfare Department.

CHAPTER V RIGHTS OF THE CHILD

8. The State recognizes that every child has the right to survival, development, protection and care and to achieve active participation within the community.

9. (a) Every child has the inherent right to life;

(b) The parents or guardian shall register the birth of the child in accordance with law.

10. Every child shall have the right to citizenship in accordance with the provisions of the existing law.

11. (a) Maintenance, custody and care of children, cultivating and promoting the all-round physical intellectual and moral development of the child shall be the primary responsibility of parents or guardian;

(b) The child shall be entitled to a monthly allowance for maintenance from his parents who fail or refuse to maintain him.

12. Every child:-

(a) shall have the right to live with and be brought up by both parents or any one parent if they are alive;

(b) shall not be separated forcibly from his or her parents, except in a case where in accordance with law, separation is necessary for the best interests of the child;

(c) shall have the right to maintain contact on a regular basis with parents lawfully separated, if it is not prejudicial to the interests of the child;

(d) has the right to guardianship in accordance with law, in respect of his person or property.

13. (a) Every child who is capable of expressing his or her own views in accordance with his age and maturity has the right to express his own views in matters concerning children;

(b) The views of the child shall be given due weight in accordance with his age and maturity, by those concerned;

(c) The child shall be given the opportunity of making a complaint, being heard and defended in the relevant Government department, organization or court either personally or through a representative in accordance with law, in respect of his rights.

14. Every child shall, irrespective of race, religion, status, culture, birth or sex:-

(a) be equal before the law;

(b) be given equal opportunities.

15. Every child:-

(a) has the right to freedom of speech and expression in accordance with law;

(b) has the right to freedom of thought and conscience and to freely profess any religion;

(c) has the right to participate in organizations relating to the child, social organizations or religious organizations permitted under the law.

16. (a) In order that every child shall not be subjected to arbitrary infringement of his honour, personal freedom and security, relevant Government departments and organizations shall provide protection and care in accordance with law;

(b) Security of the property of every child shall be protected by law;

17. (a) Every child shall have the right to be adopted in accordance with law:

(b) The adoption shall be in the interests of the child;

(c) The adoptive parents shall be responsible for the care and custody of the child to ensure that there is no abduction to a foreign country, sale or trafficking unlawful exploitation, unlawful employment, maltreatment, pernicious deeds and illegal acts.

18. (a) A mentally or physically disabled child:-

(i) has the right to acquire basic education (primary level) or vocational education at the special schools established by the Social Welfare Department or by a voluntary social worker or by a non-governmental organization;

(ii) has the right to obtain special care and assistance from the State.

(b) The Social Welfare Department shall lay down and carry out measures as may be necessary in order that mentally or physically or disabled children may participate with dignity in the community, stand on their own feet and promote self-reliance.

19. (a) Every child has the right to enjoy health facilities provided by the State:-

(b) The Ministry of Health shall:

(i) lay down and carry out measures for the survival of the child, immunization of child, breast - feeding of the child, family planning, adequate nutrition for the child, elimination of iodine deficiency disease, school health and family health;

(ii) lay down and carry out appropriate measures for the gradual abolition of traditional practices prejudicial to the health of the child;

(iii) carry out measures to minimize the child mortality rate and to maximize the population of healthy children.

20. (a) Every child shall:-

(i) have opportunities of acquiring education;

(ii) have the right to acquire free basic education (primary level) at schools opened by the State;

(b) The Ministry of Education shall:

(i) have an objective of implementing the system of free and compulsory primary education;

(ii) may down and carry out measures as may be necessary for regular attendance at schools and the reduction of untimely drop-out rates;

(iii) make arrangements for literacy of children who are unable for various reasons to attend schools opened by the States.

21. Every child shall have the right to maintain his or her own cherished language, literature and culture, to profess his or her own religion and to follow his or her own traditions and customs.

22. (a) Every child shall have the right of access to literature contributory to his or her all-round development and to acquire knowledge;

(b) The Ministry of Information shall:

(i) produce and disseminate children's books which are of cultural benefit to children, which promote and keep alive patriotism which are aimed at the promotion of the children's moral well-being; encourage the production and dissemination of children's books by non-governmental organizations and private publishers; collect and maintain by special arrangement children's books at the libraries established by the Information and Public Relations Department;

(ii) educate and disseminate by mass media to ensure that children and their parents or guardians are made familiar with the rights and ethics of the child and that children have access to national and international news and information concerning them.

23. Every child has the right to:-

(a) rest and leisure and to engage in play;

(b) participate in sports activities appropriate to his age;

(c) participate in cultural and artistic activities.

24. (a) Every child has:

(i) the right to engage in work in accordance with law and of his own volition.

(ii) the right to hours of employment, rest and leisure and other reliefs prescribed by law;

(b) The Ministry of Labour shall protect and safeguard in accordance with law to ensure safety of children employees at the place of work and prevention of infringement and loss of their rights.

25. Every child has, in accordance with law:-

- (a) the right of inheritance;
- (b) the right of possessing and holding property;
- (c) the right to sue and be sued.

26. In order that every child may enjoy fully the rights mentioned in this Law:-

- (a) the Government departments and organizations shall perform their respective functions as far as possible;
- (b) voluntary social workers or non-governmental organizations also may carry out measures as far as possible, in accordance with law.

27. Persons having responsibility in respect of the affairs of children shall have as their objective the best interests of children under the principle 'First Call for Children' regarding protection and care of every child by the community.

CHAPTER VI EXEMPTION FROM PENAL ACTION

28. (a) Nothing is an offence which is done by a child under 7 years of age;

(b) Nothing is an offence which is done by a child above 7 years of age and under 12, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

29. No action shall be taken under any Criminal Law against any child who has escaped from a training school, temporary care station or a custodian.

CHAPTER VII ETHICS AND DISCIPLINE OF A CHILD

30. Every child shall abide by the following ethics and discipline, according to his age:-

- (a) upholding and abiding by the law;
- (b) obeying the advice and instruction of parents or guardian;
- (c) obeying the instruction of teachers and pursuing education peacefully;
- (d) abiding by the school discipline, work discipline and community discipline;

(e) cherishing and preserving the race, language, religion, culture, customs and traditions concerned with him;

(f) abstaining from taking alcohol, smoking, using narcotic drugs or psychotropic substances, gambling and other acts which tend to affect the moral character.

31. Parents teachers and guardians shall give guidance to ensure that the practice of abiding by the ethics and discipline mentioned in section 30 is infused into the children.

CHAPTER VIII

CHILD IN NEED OF PROTECTION AND CARE

32. The following child is a child in need of protection and care:-

(a) one who has no parents or guardian;

(b) one who earns his living by begging;

(c) one who is of so depraved a character that he is uncontrollable by his parents or guardian;

(d) one who is in the custody of a cruel or wicked parents or guardian;

(e) one who is of unsound mind;

(f) one who is afflicted with a contagious disease;

(g) one who uses a narcotic drug or a psychotropic substance;

(h) one who is determined as such from time to time by the Social Welfare Department.

33. (a) Whoever is of the opinion that any child mentioned in section 32 should be protected and cared by the State may intimate the relevant Social Welfare Officer stating the facts of the case;

(b) The Social Welfare Officer shall, on receipt of the intimation under sub-section (a) or if he has personally received information in any manner make investigations in the manner prescribed to determine whether or not the child needs the protection and care of the State and submit his findings together with his opinion to the Director General;

(c) The Social Welfare Officer has the following powers in respect of the investigation under sub-section (b):

(i) informing the parents, guardian or police officer and causing the child to be brought before him;

- (ii) entrusting the child to the parents or guardian on execution of a bond or sending the child to a temporary care station, before receiving the decision of the Director General;
- (iii) calling and examining necessary witnesses;
- (iv) hearing the explanation of the parents, guardian or the child, if necessary.

34. The Director General shall lay down and carry out any of the following arrangements if he finds, on scrutiny that the child needs the protection and care of the State according to the report submitted by the Social Welfare Officer:-

- (a) in the case of a child whose character needs to be reformed, sending the child to any training school till he attains the age of 18 years as a maximum period;
- (b) in the case of a child in need of custody and care, entrusting the child to a home or to a custodian till he attains the age of 18 years as a maximum period;
- (c) in the case of a child needing supervision, causing the child to be supervised by a Probation Officer for a period not exceeding 3 years;
- (d) in the case of a child of unsound mind, sending the child to the Mental Hospital and making arrangements for medical treatment;
- (e) in the case of a child who is afflicted with a contagious disease, sending the child to the relevant hospital and making arrangements for medical treatment.

35. The Director General may direct the relevant Social Welfare Officer:-

- (a) to implement the arrangement laid down under section 34 in the manner prescribed;
- (b) to entrust the child to the care of the parents or guardian on execution of a bond to the effect that they will take good care and control of the child, in the case of a child who has parents or guardian and who is found, on scrutiny to need only the custody and care of such parents or guardian;
- (c) to entrust the child to the care of the parents or guardian, with or without execution of a bond, in the case of a child who is found, on scrutiny to have complied with the arrangement laid down under section 34, sub-section (a) or sub-section (c) for at least one year and whose moral character has improved.

36. The Director General may:-

- (a) exercise the power mentioned in section 35 sub-section (c) at his discretion or on the submission of the Principal of the relevant training school or Probation Officer or the parents or guardian;

- (b) alter as may be necessary any arrangement laid down under section 34 sub-section (b), sub-section (d) or sub-section (e), if there is sufficient reason to do so;
- (c) transfer a child committed to one training school to another training school, if there is sufficient reason to do so;
- (d) grant the following rights in the manner prescribed to a child committed to a training school:-
- (i) right to leave a training school as a temporary arrangement to be placed under the management and supervision of a home or a custodian;
- (ii) right to travel on an emergency parole licence for the period required to visit his parents, guardian or near relative who is seriously ill;
- (iii) right to live out on a parole licence;
- (iv) right to live outside the training school with any suitable person under the management and supervision of the training school;
- (e) delegate the powers conferred on him under this section to a Social Welfare Officer or a Principal of a training school.

CHAPTER IX TAKING ACTION AGAINST A CHILD FOR AN OFFENCE

37. Police Officer or a person authorized to take cognizance shall abide the following when arresting a child accused of having committed an offence:-

- (a) shall not handcuff the child or tie with a rope;
- (b) shall not keep the child together with adult prisoners; if it is a girl, shall keep her, with a woman guard;
- (c) shall not maltreat or threaten the child;
- (d) shall not send the child together with adult prisoners from one place to another; if it is a girl, shall send her with a woman guard;
- (e) shall inform the parents or guardian concerned as soon as possible;
- (f) shall send up the arrested child to the relevant juvenile court as soon as possible;
- (g) shall release the child on execution of a bond, if the child cannot be sent up as soon as possible to the juvenile court under sub-section (f);

(h) shall send the child to a temporary care station or to another appropriate place, if the child is not released on a bond under sub-section (g).

38. A Police Officer or a person authorized to take cognizance:

(a) shall send up the juvenile case for prosecution to the relevant juvenile court;

(b) in a case of joint commission of offence by a child and an adult, shall send up the child for prosecution to the relevant juvenile court and the adult to the relevant court;

(c) in sending up a child for prosecution, supporting evidence in respect of his age shall be sent together.

39. A Police Officer or a person who is authorized to take cognizance, in respect of a child who has escaped from a training school, home, temporary care station or a custodian:-

(a) may arrest him without a warrant;

(b) shall, after arrest, commit him back to the custody of the training school, home, temporary care station or custodian;

(c) may commit him to the custody of any other appropriate place, before being able to commit the child back to the custody of a training school, home, temporary care station or a custodian under sub-section (b).

CHAPTER X TRIAL OF JUVENILE CASES

40. The Supreme Court may:-

(a) establish juvenile courts in appropriate local areas and appoint juvenile judges;

(b) in local areas where juvenile courts under sub-section (a) have not been established confer powers of a juvenile judge on a Township Judge.

41. The Juvenile Court shall:-

(a) on receiving a juvenile case, first and foremost scrutinize the supporting evidence in respect of the age of the child, contained in the proceedings. It shall determine whether the offender is a child or not from the birth certificate, citizenship scrutiny card, foreigners registration certificate, true copy of an extract of school admission register, doctors medical certificate or other valid supporting evidence contained in the proceedings;

(b) have jurisdiction only in respect of a child who has not attained the age of 16 years at the time of committing the offence. It shall place on record the decision that the offender is a child, before proceeding with the trial of a juvenile case;

(c) during trial release the child sent up for prosecution, on the execution of a bond, entrust to the care of parents or guardian subject to conditions, commit to the custody of a temporary care station or other appropriate place subject to conditions. Under no circumstances shall an order for detention be passed;

(d) notwithstanding that a child has attained the age of 16 years during trial, continue to try the case, as if the accused were a child and pass a sentence in accordance with this law;

(e) try juvenile offences punishable with death, transportation for life or imprisonment for a term exceeding 3 years, in the manner in which a warrant case is tried;

(f) try all juvenile offences other than the type of offences mentioned in sub section (e), in the manner in which a summons case is tried.

42. The juvenile court shall abide by the following in trying juvenile cases:-

(a) shall try the case in a separate court or a separate building or if there is no separate court or building, in a building or room other than that in which the ordinary sittings of the court are held;

(b) no person other than the parents, guardians staff of the court, Law Officers, members of the People's Police Force on duty and not in uniform, persons directly concerned with the case and persons who have been granted permission by the juvenile court shall be present at the place of trial;

(c) if the child or his parents or guardian cannot or do not wish to engage a lawyer and makes an application to be defended with the assistance of any appropriate person, shall grant permission to do so;

(d) shall arrange to make available an interpreter, if necessary;

(e) shall dispose of the case speedily.

43. The Juvenile Court has the following powers in respect of the trial of juvenile cases:-

(a) may direct anyone who is present at the place of trial, including the child to leave the court at any time during the trial of the case, if it is considered to be necessary in the interests of the child. If necessary, it may cause force to be used in so directing to leave the court;

(b) may continue to try the case in the absence of the child, notwithstanding the stage of inquiry of trial of the case, if it is considered that the presence in the court of the accused child is not necessary;

(c) may direct the parents or guardian in whose custody and care the child is at present, to attend every day on which the sittings of the court are held;

(d) may allow inserting, and announcing of information revealing the identity of a child who is accused of having committed an offence or a child who is participating as a witness in any case, in the radio, television, newspapers, magazines journals and publications and displaying and making use of the photograph of the child, if it is believed to be of benefit to the child;

(e) may direct the relevant Probation Officer to make inquiries and to submit a report of the personal history, character, conduct, behaviour and environmental circumstances of the child and his parents or guardian;

(f) may, if it is considered appropriate, inform the child or his parents or guardian of a gist of the report submitted by the Probation Officer under sub-section (e) and allow the submission of evidence to the contrary.

44. The Juvenile Court shall, before passing an order on a child who is found guilty, take into consideration the following and pass an order which is reformatory and which will be beneficial to the child:-

(a) the age and character of the child;

(b) the environmental circumstance of the child;

(c) the cause of committing the offence;

(d) the report submitted by the Probation Officer;

(e) other circumstances which are required to be taken into consideration in the interests of the child.

45. Notwithstanding anything contained in any existing law, a death sentence, transportation for life or a sentence of whipping shall not be passed on any child.

46. A child shall not ordinarily be sentenced to imprisonment. Only if the Juvenile Court is satisfied that the child has committed an offence which is punishable with death or transportation for life under any existing law or that the child is of so unruly or depraved a character or absolutely uncontrollable, he shall not be sentenced to imprisonment. Such sentence of imprisonment shall not exceed a term of 7 years.

47. The Juvenile Court may pass any of the following orders in respect of a child who should not be sentenced to imprisonment:-

(a) if the offence committed is not serious and the character of the child is not yet perverted:

(i) may release him after due admonition;

(ii) may impose a fine, if he has attained the age of 14 years and has an income. If he is a child who has no income, a fine may be imposed on the parents or guardian;

(b) whether the offence committed is serious or not, if the character of the child is not yet perverted and in order to deter further commission of offence, such child shall be entrusted to the custody of his parents or guardian on execution of a bond for good behaviour according to the conditions of the bond for a period not exceeding 3 years;

(c) may cause the child to submit to the supervision and management of the Probation Officer during a period not exceeding 3 years;

(d) whether the offence is serious or not if the child is of a perverted but has no parents or guardian or if the child has parents or guardian but cannot be admonished and is in no circumstances for custody and care, may commit such child to the custody of any training school for a minimum term of 2 years or till he attains the age of 18 years as a maximum term.

48. The Juvenile Court may:-

(a) in addition to the sentence of imprisonment passed under section 46 or any order passed under section 47 also pass an order directing the parents or guardian to pay compensation for injury, loss or damage caused to any person by the act of the child;

(b) if in conformity with the following conditions, pass an amending order to entrust a child who has complied with the order passed under section 47 sub-section (c) or sub-section (d) for at least one year, to the custody of the parents or guardian concerned, with or without a bond:

(i) improvement in the moral character of the child;

(ii) being a child who has parents or guardian;

(iii) not being an offence of violation of the Narcotic Drugs and Psychotropic Substances Law;

(c) exercise the powers mentioned in sub-section (b) on the application of the principal of the relevant training school, Probation Officer or parents or guardian.

49. (a) There shall be right of appeal or right of revision in accordance with the provisions of the Code of Criminal Procedure against the order or decision passed under this Law by the juvenile Court;

(b) If a sentence of imprisonment is passed on the child by a juvenile Court, or Appellate Court or Court of Revision, a copy of the sentence shall be sent to the Ministry.

CHAPTER XI SAFEGUARDING CHILDREN AGAINST DANGERS

50. The Police Officer:-

(a) shall, in order to safeguard a child who is likely to be exposed to danger send up such child as soon as possible to the relevant Juvenile Court;

(b) may commit the child to the custody of a temporary care station or other appropriate place before being able to send up the child under sub-section (a).

51. The Juvenile Court:-

(a) may, if it believes on information or on personal knowledge that a child is in danger or that if immediate action is not taken, there is likelihood of danger befalling the child direct the Police Officer to search for the child and send him up before it and to commit the child to the custody of a temporary care station before being able to send him up;

(b) shall protect a child sent up under sub-section (a) or under section 50 sub-section (a) in any of the following manner:

(i) committing the child to the custody of parents or guardian or custodian who agrees to accept and take custody and care of the child;

(ii) sending the child to a temporary care station to be taken care of until he is free from danger;

(c) may, if reliable information is received that child is abducted for any, unlawful purpose or that the child is being unlawfully detained direct the relevant Police Officer to take necessary action for restoration of liberty to such child or for entrusting the child as soon as possible to the custody of his parents or guardian.

CHAPTER XII CUSTODY AND CARE OF CHILDREN AND YOUTHS IN PRISONS

52. The Officer in charge of a prison shall, in respect of a child or youth who has been sentenced to imprisonment:-

- (a) not keep him together with adult prisoners until he attains the age of 18 years;
- (b) keep him in a separate ward or room which adult prisoners cannot have access;
- (c) grant him the right to meet parents, guardians, relatives and friends concerned and the right to be sent food and prescribed articles in accordance with the existing regulations and bye-laws;
- (d) not employ him in rigorous labour;
- (e) provide medical check-ups regularly for him;
- (f) train and give him education which will reform his character and vocational education;
- (g) grant him the right to enjoy remission period in accordance with the existing regulations and bye-laws.

53. The Officer in charge of a prison:-

- (a) shall allow the child of a female prisoner to stay together with his mother so in prison till he attains the age of 4 years if there no one outside to take custody and care of him or if his mother desires;
- (b) may allow the child mentioned in sub-section (a) to continue to stay together with his mother in prison till he attains the age of 6 years if his mother so desires;
- (c) shall be responsible for providing food, clothing and shelter and health care of the child who stays together with his mother in prison;
- (d) shall inform the Director General of the Social Welfare Department as soon as possible, in order to make arrangements for the care and custody of any child left after a female prisoner dies in prison or if the child staying together with the female prisoner attains the age of 6 years.

54. The Director General of the Social Welfare Department may commit a child mentioned in section 53 sub-section (d) to the custody of relatives who will take custody and care of him or if there are no such relatives he may be entrusted to an appropriate training school or to a custodian.

CHAPTER XIII
TRAINING SCHOOL, TEMPORARY CARE STATION,
HOME, RESIDENTIAL NURSERY

55. The Director General shall establish the following with the approval of the Minister:-

(a) training schools required for the custody and care of a child in need of protection and care or a child who has committed an offence, who is entrusted under this Law;

(b) temporary care stations required for the temporary custody and care during the period of trial of a child who is accused of having committed an offence.

56. If the Director General believes that a home established by a voluntary social worker or a non-governmental organization with the intention of taking custody and care of a child in need of protection and care:-

(a) is appropriate for the custody and care of children sent under this Law, such home may be recognized as being a training school for the purpose of this Law;

(b) is appropriate for the temporary custody and care during the trial of a child who is accused of having committed an offence, such home may be recognized as being a temporary care station for the purpose of this Law.

57. The Director General may establish local residential nurseries required and care of children who have not attained the age of 5 year.

58. The Director General may exercise the following powers:-

(a) supervising, inspecting, giving guidance, rendering expertise and giving support as may be necessary to day nurseries and pre-primary schools established on self-help system;

(b) supervising, inspecting, giving guidance, rendering expertise and giving support as may be necessary to homes established by a voluntary social worker or by a non-governmental organization;

(c) supervising inspecting, giving guidance and rendering expertise to private day nurseries and pre-primary schools established on payment of fees;

(d) inspecting or causing to be inspected by a suitable person or any committee training schools and temporary care stations established or recognized under this Law.

CHAPTER XIV POWERS OF THE MINISTER

59. The Minister:-

(a) may, at any time, pass an order to release either absolutely or subject to conditions a child committed to the custody of a training school or a custodian under this Law;

(b) may pass an order to transfer a child undergoing imprisonment to a training school or to a custodian till the day he attains the age of 18 years, if it is considered beneficial for the child;

(c) may pass an order so that the remainder of the term of imprisonment of a child who has been transferred under subsection (b) and who is behaving well shall not have effect;

(d) may cause to have effect the remainder of the term of imprisonment of a child who has been transferred under subsection (b) and who does not behave well. In so causing to have effect, the period of stay of the child at the training school or with the custodian shall be reckoned as the term of imprisonment undergone.

60. The Minister:

(a) may assign responsibility to a Government employee or to a suitable citizen who is not a Government employee as a Social Welfare Officer, in order to carry out the functions and duties of the Social Welfare Officer under this Law in local areas where an office of the Social Welfare Department has not been opened as yet;

(b) shall make prior consultation with the relevant Government department or organization for assigning responsibility to a Government employee as a Social Welfare Officer.

CHAPTER XV PROBATION OFFICER

61. The Director General may assign responsibility as Probation Officer to an employee of the Social Welfare Department or to a suitable citizen who is not a Government employee.

62. The duties and powers of a Probation Officer are as follows:-

(a) making necessary investigations and submitting a report, when assigned responsibility in respect of the child by the Juvenile Court;

(b) managing and supervising a child who is ordered to submit to his management and supervision in the manner prescribed;

(c) reporting to the relevant Social Welfare Officer, if it is found that a child is in need of protection and care under this Law;

(d) informing the relevant police officer or the Juvenile Court, if it is found that there is likelihood of danger befalling any child or that a child is in danger;

(e) arresting the child without a warrant and handing him over to a police officer, if a child who has escaped from a training school, home, temporary care station or a custodian is found;

(f) co-ordinating and co-operating with the parents or guardians concerned, local elders and persons from social organizations for the benefit of children;

(g) carrying out duties relating to the child, which are assigned by the Social Welfare Department.

CHAPTER XVI
HOMES ESTABLISHED BY A VOLUNTARY SOCIAL WORKER
OR A NON GOVERNMENTAL ORGANIZATION

63. (a) A voluntary social worker or a non-governmental organization may establish homes for custody and care of children in need of protection and care, on their own arrangements;

(b) A home established under sub-section (a) shall be registered with the Social Welfare Departments, as may be prescribed;

(c) A Home which has been granted registration:-

(i) shall operate only in the interests of children;

(ii) shall submit to the supervision, inspection and guidance of the Social Welfare Department;

(iii) may obtain the support and expertise of the Social Welfare Department.

64. If a home established under section 63 is recognized by the Social Welfare Department as a training school under section 56 sub-section (a) or as a temporary care station under section 56 sub-section (b), such home shall also accept and take custody and care of children sent under this Law.

CHAPTER XVII
OFFENCES AND PENALTIES

65. Whoever commits any of the following acts shall, on conviction be punished with imprisonment for a term which may extend to 6 months or with fine which may extend to kyats 1000 or with both:-

(a) employing a permitting a child to perform work which is hazardous to the life of the child or which may cause disease to the child or which is harmful to the child's moral character;

(b) taking a child to or allowing him to enter a place where only alcohol is sold, sending the child to buy alcohol, selling alcohol to the child, permitting the child to take alcohol, employing or permitting the child to work in the business which trades in alcohol;

- (c) urging, inducing or abetting the child to gamble;
- (d) accepting as pledge any property from the child or abetting the child in any manner to pledge property;
- (e) purchasing any property sold by a child, with the exception of purchasing property from a child who earns a livelihood by selling;
- (f) inducing a child to escape from a training school, home, temporary care station or custodian; abetting the run away; harbouring, concealing or preventing the child from going back to the original place, knowing that the child has escaped.

66. Whoever commits any of the following acts shall, on conviction be punished with imprisonment for a term which may extend to 2 years or with fine which may extend to kyats 10,000 or with both:-

- (a) neglecting knowingly that a girl under his guardianship, who has not attained the age of 16 is earning a livelihood by prostitution;
- (b) permitting a child under his guardianship to live together or to consort with a person who earns a livelihood by prostitution;
- (c) employing a child to beg for his personal benefit; failing to prevent a child under his guardianship from begging; making use of the child in any manner in his livelihood of begging;
- (d) wilfully maltreating a child, with the exception of the type of admonition by a parent, teacher or a person having the right to control the child, which is for the benefit of the child;
- (e) inserting and announcing information revealing the identity of a child who is accused of having committed an offence or who is participating as a witness in any case, in the radio, cinema, television, newspapers, magazines, journals or publications and displaying or making use of the photograph of the child without the prior consent of the relevant juvenile court;
- (f) using the child in pornographic cinema, video, television photography.

CHAPTER XVIII

YOUTH WHO HAS COMMITTED AN OFFENCE

67. A youth, who at the time of committing the offence has attained the age of 16 years, but has not attained the age of 18 years shall be sent tap for prosecution to the Court which has jurisdiction, in respect of the offence. In sending up for prosecution such case of the youth, it shall be accompanied by supporting evidence in respect of the age of the youth.

68. The relevant Court shall, before commencement of the trial of the offence with which a youth is charged decide whether or not the accused is a youth from the birth certificate, Citizenship Scrutiny Card, Foreigner's Registration Certificate, true copy of an extract of the admission register, Doctor's medical certificate or other valid supporting evidence included in the proceedings and record such decision.

69. Notwithstanding that the youth has attained the age of 18 years on the day of passing of the sentence, the Court shall deem as if such person were a youth and pass order accordingly.

70. The Court shall take into consideration the following before passing an order on the youth who is found guilty of the offence:-

- (a) the age and character of the youth;
- (b) the environmental circumstance of the youth's residence;
- (c) the physical and mental condition of the youth;
- (d) the cause of committing the offence.

71. Notwithstanding anything contained in any existing Law:-

- (a) a sentence of death or transportation for life shall not be passed on the youth;
- (b) if a sentence of imprisonment is passed on youth, the maximum term of imprisonment shall not exceed ten years.

CHAPTER XIX MISCELLANEOUS

72. If there are no specific provisions in this Law, the provisions of the Code of Criminal Procedure shall be complied with.

73. Under the Children Act, 1955:

- (a) the Training Schools established by the Social Welfare Department shall be deemed to be training schools established by the Social Welfare Department under this Law;
- (b) the Homes recognized by the Social Welfare Department as a Training School or a Remand Home shall apply for registration during the period and in the manner prescribed by the Social Welfare Department;
- (c) the notifications and directives issued may be applied in so far as they are not inconsistent with the provisions of this Law.

74. For the purpose of carrying out the provisions of this Law:-

(a) the Ministry may, with the approval of the Government issue such rules and procedures as may be necessary;

(b) the National Committee relating to the Rights of the Child, the Supreme Court, relevant Ministry, Government department or Government organizations may issue such orders and directives as may be necessary.

75. The following laws are hereby repealed:

(a) The Young Offenders Act, 1930;

(b) The Children Act, 1955.

THE DEVELOPMENT OF BORDER AREAS AND NATIONAL RACES LAW (1993)

The State Law and Order Restoration Council Law No. 11/93
The 11th Waning Day of Second Waso, 1355 N.E

13 August 1993

The State Law and Order Restoration Council hereby enacts the following Law:-

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the Development of Border Areas and National Races Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:-
 - (a) "Development Area" means the border areas determined by the State Law and Order Restoration Council for the implementation of the development of border areas and national races;
 - (b) "Central Committee" means the Central Committee for the Implementation of the Development of the Border Areas and National Races formed by the State Law and Order Restoration Council under this Law;
 - (c) "Work Committee" means the Work Committee for the Implementation of the Development of the Border Areas and National Races formed by the Central Committee under this Law;
 - (d) "Work Sub-Committee" means the respective Work Sub-Committees formed each work by the Work Committee under this Law;
 - (e) "Ministry" means the Ministry of the Development of Border Areas and National Races.

CHAPTER II OBJECTIVES

3. The objectives of this Law are as follows:-
 - (a) to develop the economic and social works and roads and communications of the national races at the border areas, in accordance with the aims which are non-disintegration of the Union, non-disintegration of the national solidarity and perpetuation of the sovereignty of the State;
 - (b) to cherish and preserve the culture, literature and customs of the national races;

- (c) to strengthen the amity among the national races;
- (d) to eradicate totally the cultivation of poppy plants by establishing economic enterprises;
- (e) to preserve and maintain the security, prevalence of law and order and regional, peace and tranquility of the border areas.

CHAPTER III
FORMATION OF THE CENTRAL COMMITTEE
AND DUTIES AND POWERS THERE OF

4. The State Law and Order Restoration Council:-

- (a) shall form the Central Committee for the Implementation of the Development of the Border Areas and National Races;
- (b) shall determine the chairman and the Secretary, in forming the Central Committee, and may determine the Vice-Chairman and Joint-Secretary if necessary.

5. The duties and powers of the Central Committee are as follows:-

- (a) laying down the policy for implementation of the objectives mentioned in this Law;
- (b) confirming, giving guidance and causing the implementation of long-term and short-term master plans drawn up by the Ministry and submitted through the Work Committee;
- (c) laying down development works which should be carried out immediately at the border areas and causing implementation thereof;
- (d) laying down and carrying out measures with a view to maintain the culture, literature and customs of the national races;
- (e) laying down and carrying out measures for maintaining security, prevalence of law and order and regional peace and tranquility, in order to raise the perpetual momentum of the development works at the border areas;
- (f) giving decision to enable determination of Development Areas which should be expanded.

CHAPTER IV
FORMATION OF WORK COMMITTEE AND THE
DUTIES AND POWERS THEREOF

6. The Central Committee:-

- (a) shall form the Work Committee;
- (b) shall determine the Chairman and Secretary in forming the Work Committee, and may determine the Vice-Chairman and Joint-Secretary if necessary.

7. The duties and powers of the Work Committee are as follows:-

- (a) scrutinizing long-term and short-term master plans drawn up and submitted by the Ministry and submitting and obtaining confirmation of the Central Committee;
- (b) giving guidance for the implementation of long-term and short-term master plans, which have been confirmed by the Central Committee and supervising and inspecting the works;
- (c) giving guidance for the implementation of development works which have been prescribed for immediate performance by the Central Committee and supervising and inspecting the works;
- (d) forming Work Sub-Committees at the Central level and determining the duties thereof;
- (e) forming Regional Work Committees and determining the duties thereof;
- (f) causing the drawing up and submission of work schemes sector wise by the Work Sub-Committees and Regional Work Committees and causing implementation thereof;
- (g) co-ordinating the activities of the Ministry, Work Sub-Committees and Regional Work Committees;
- (h) making arrangement for cooperation with the United Nations Organizations, international organizations, non-governmental organizations and persons;
- (i) making arrangement, as may be necessary for obtaining funds and allocation thereof;
- (j) determining privileges, for employees who are performing duties in the prescribed areas within the Development Area;
- (k) scrutinizing and submitting to the Central Committee for the determination of Development Areas submitted by the Ministry;
- (l) reporting to the Central Committee on its activities.

CHAPTER V
DUTIES AND POWERS OF THE MINISTRY

8. The duties and powers of the Ministry in respect of the implementation of the development works of the border areas and national races are as follows:-

- (a) recommending for determination of Development Areas;
- (b) drawing up and submitting long-term and short-term master plans, after co-ordinating with the Work Sub-Committees and Regional Work Committees in respect of the development of border areas and national races;
- (c) supervising and coordinating to implement the confirmed long-term and short-term master plans within the prescribed period;
- (d) implementing, supervising and coordinating the development works which have been prescribed by the Central committee or Work Committee for immediate performance;
- (e) apportioning the sanctioned funds and other contributions in cash and kind to the Work Sub-Committees and Regional Work Committees in accordance with the guidance of the Work Committee;
- (f) supervising and inspecting whether or not the utilization is in accordance with the financial regulations and procedures;
- (g) laying down programmes for disseminating knowledge and exchanging culture for the national races in the Development Areas;
- (h) establishing and opening schools for giving vocational education for the future of the youths of the national races in the Development Areas;
- (i) making arrangements for the promotion and propagation of the sasana in the development areas;
- (j) making arrangements for establishing crops cultivation, livestock breeding and cottage industries in substitution for poppy cultivation;
- (k) imparting knowledge to prevent cultivating of poppy plants, use and trafficking of opium;
- (l) laying down and carrying out special projects for medical treatment and rehabilitation of narcotic drug users in the Development Areas;
- (m) co-operating with the relevant organizations in total eradication of cultivation of poppy plants in the border areas;

(n) assigning duties for preservation and protection of boundary pillars and markers in the Development Areas;

(o) recommending to the Work Committee for determination of the areas where privileges should be granted to employees performing duties in the Development Areas;

(p) reporting to the Work Committee on its activities.

9. The Ministry may obtain assistance from the United Nations Organizations, international organizations, non-governmental organizations and persons, in order to implement the development works of the border areas and national races.

CHAPTER VI MISCELLANEOUS

10. Before re-constituting under this Law, the existing Central Committee for the Implementation of the Development of the National Races, Work Committee, Work Sub-Committees and Regional Work Committees shall be deemed to be committees formed under this Law.

11. (a) The office staff under the Ministry shall undertake responsibility for the office work of the Central Committee and Work Committee;

(b) The expenditures of the Central Committee and the Work Committee shall be incurred from the budget funds of the Ministry.

12. For the purpose of carrying out the provisions of this Law:-

(a) the Ministry may issue such rules and procedures as may be necessary, with the approval of the Government;

(b) the Central Committee Work Committee or the Ministry may issue such orders and directives as may be necessary.

Sd./

Than Shwe

Senior General

Chairman

The State Law and Order Restoration Council

THE PROTECTION OF WILDLIFE AND CONSERVATION OF NATURAL AREAS LAW (1994)

The State Law and Order Restoration Council Law No. 6/94
The 15th Waning Day of Kason, 1356 M.

8th June, 1994

The State Law and Order Restoration Council hereby enacts the following Law:-

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the Protection of Wildlife and Conservation of Natural Areas Law.
2. The following expression contained in this Law shall have the meanings given hereunder:-
 - (a) "Wildlife" means the wild animals and wild plants in their natural habitats;
 - (b) "Wild Animal" means naturally bred animals, birds, insects, aquatic animals and their spawns, larvae, fry and seeds in their natural habitats;
 - (c) "Wild Plant" means trees, shrubs, climbers, bamboos, canes, orchids, fungus, aquatic plants and their seeds growing in their natural habitats;
 - (d) "Natural Area" means the area determined under this Law for the purpose of Protection and Conservation of wildlife, ecosystem or significant landscape for their sustainment;
 - (e) "Ecosystem" means the evolving ecosystem constituting the living and non-living organisms and plants living in symbiosis and the natural environment evolved from such system;
 - (f) "Habitat" means the area in which wildlife species naturally occurs;
 - (g) "Zoological Garden" means a garden where animals are kept in captivity for making research and where the public may visit for recreation, on payment of a fee;
 - (h) "Botanical Garden" means a garden where wild plants and cultivated plants are conserved for making research and where the public may visit for recreation on payment of a fee;
 - (i) "Forest Land" means reserved forest formed under the Forest Law and protected public forest notified under this Law;

- (j) “Committee” means the Committee for the protection of Wildlife and Conservation of Natural Areas formed under this Law;
- (k) “Supervisory Body” means the Body for the Supervision of the Zoological Garden or Botanical Garden formed under this Law;
- (l) “Minister” means the Minister for the Ministry of Forestry;
- (m) “Director General” means the Director General of the Forest Department;
- (n) “Forest Officer” means the officers at different levels from the Head of Township Forest Department to the Director of the Forest Department who have been assigned to carry out the functions and duties under this Law;
- (o) “Forest Staff” means the staff at different levels from a Forest Guard to the Director General of the Forest Department who has been assigned to carry out the functions and duties under this Law.

CHAPTER II OBJECTIVES

3. The objectives of this Law are as follows:-

- (a) to implement the Government policy for wildlife protection;
- (b) to implement the Government policy for natural areas conservation;
- (c) to carry out in accordance with the International Conventions acceded by the State in respect of the protection and conservation of wildlife, ecosystems and migratory birds;
- (d) to protect endangered species of wildlife and their natural habitats;
- (e) to contribute for the development of research on natural science;
- (f) to protect wildlife by the establishment of zoological gardens and botanical gardens.

CHAPTER III FORMATION OF THE COMMITTEE AND FUNCTIONS AND DUTIES THEREOF

4. The Government:-

- (a) shall form the Committee for Protection of Wildlife and of Natural Areas consisting of the following persons:

- (i) Chairman: Minister, Ministry of Forestry;
 - (ii) Members: Representatives from the relevant Government departments and Government organizations;
 - (iii) Members: Relevant luminaries and experts;
 - (iv) Secretary: A person assigned responsibility by the Chairman;
- (b) The Government may determine the Vice-Chairman and Joint Secretary when necessary.
5. A Committee member who is a non-Government servant is entitled to receive such remuneration as may be prescribed by the Minister.
6. The duties and functions of the Committee are as follows:-
- (a) giving guidance to enable implementation of the objectives of this Law;
 - (b) submitting suggestions to enable the Government to lay down policies relating to protection of wildlife;
 - (c) submitting suggestions to enable the Government to lay down policies relating to the conservation of natural areas;
 - (d) co-ordinating with the relevant Government departments and Government organizations for determination of natural areas and establishment of the Zoological garden and Botanical garden;
 - (e) supervising the performance of functions relating to protection of wildlife and conservation of natural areas;
 - (f) giving guidance for the protection of endangered species of both flora and fauna;
 - (g) giving guidance in respect of conducting research on natural science;
 - (h) communicating and co-operating with foreign countries, international organizations and regional organizations.

CHAPTER IV

DETERMINATION OF NATURAL AREAS AND ESTABLISHMENT OF ZOOLOGICAL GARDEN AND BOTANICAL GARDENS

7. The categories of natural areas are as follows:-
- (a) Scientific Reserve;

- (b) National Park;
- (c) Marine National Park;
- (d) Nature Reserve;
- (e) Wildlife Sanctuary;
- (f) Geo-physically Significant Reserve;
- (g) other Nature Reserve determined by the Minister.

8. The Minister:-

(a) may in any region, with the approval of the Government and for purpose of the objective of this Law, by notification if necessary:-

(i) determine the natural areas according to the categories;

(ii) establish the zoological gardens and botanical gardens;

(b) if desirous of determining and establishing under sub-section (a) in any land under the administration of a Government department or Government organization with the exception of forest land shall do so after prior co-ordination with the relevant Government department or Government organization;

(c) if desirous of determining and establishing under sub-section (a) in any land in which an individual or a private organization has the right of cultivation, right of possession, right of use and occupancy, beneficial enjoyment, heritable right or transferable right shall do so after prior co-ordination with the relevant Ministry for acquiring land in accordance with the existing land acquisition laws;

(d) shall notify in advance in the manner prescribed the land on which and the boundary within which it is proposed to determine and establish under sub-section (a);

(e) shall form and assign duties to a Preliminary Scrutiny Body to inquire into and determine in the manner prescribed the affected rights of the public in the relevant area within which it is proposed to determine and establish under sub-section (a) and to carry out the work of demarcation.

9. The Minister may, with the approval of the Government:-

(a) revise, alter the category or cancel the whole or a portion of the area of a natural area determined under section 8;

(b) revise or cancel the whole or a portion of the area of the zoological garden or botanical garden established under section 8.

10. The Minister:-

(a) shall form a Supervisory Body to supervise each zoological garden or botanical garden established under section 8 and determine the functions and duties thereof;

(b) may alter the formation of or abolish the Supervisory Body, as may be necessary.

11. The Director General shall, with the approval of the Minister make provisions for reasonable rights and privileges in respect of the affected rights of the people in the region in which it is proposed to establish under section 8.

12. The Director General may, with the approval of the Minister:-

(a) allow, after stipulating conditions scientific research, environmental study and recreation in the natural area, with the exception of the totally prohibited area;

(b) provide and carry out necessary measures to prevent external environmental dangers and disturbances within the natural areas;

(c) exchange wildlife species with foreign countries.

13. The Director General:-

(a) may carry out culling measures for sustainment of wild animal in the natural areas;

(b) shall determine condition and notify it for public information to be abided by people visiting the zoological garden and botanical garden established under section 8 for recreation.

14. The Forest Department shall carry out the following functions and duties according to the category of natural area in conformity with the guidance laid down by the Committee or the Minister:-

(a) preservation to enable conducting research on natural evolutionary system within the Scientific Reserve;

(b) preservation of varied ecosystems and permitting research to be conducted and the public to visit for recreation within the National Park without causing damage to Its natural state;

(c) preservation of naturally bred creatures, their habitats of coral reefs, planktons, moss and algae and wildlife breeding and inhabiting along the coast, in deltaic areas and their habitats within the Marine National park, in order that they may exist in their natural state;

- (d) preservation of species of significant and rare wild plants and the natural evolution of ecosystem for their sustainment within the Nature Reserve;
- (e) communicating and co-operating with international organizations for the preservation of wild animal within the sanctuary and for conserving wetland where migratory birds dwell;
- (f) conservation of regions which are distinguished for their picturesque landscape and traditional customs within the geo-physically significant Re sense.

CHAPTER V
PROTECTED WILDLIFE

15. The Director General shall, with the approval of the Minister:

- (a) determine and declare endangered species of wild animal which are to be protected according to the following categories:
 - (i) completely protected species of wild animals;
 - (ii) normally protected species of wild animals;
 - (iii) seasonally protected species of wild animals;
- (b) determine and declare the endangered species of wild plants and their nature habitats thereof;
- (c) lay down and carry out measures for the preservation of protected wildlife species;
- (d) co-ordinate with the relevant department or organization if the wildlife which are to be determined for protection are under the administration of another Government department or Government organization.

16. The Director General may, with the approval of the Minister:-

- (a) permit for capture and possession of completely protected wild animal by stipulating conditions to Government departments. Government organizations or non-governmental organizations which have been permitted to conduct research on them to enable scientific research;
- (b) permit for extraction, transportation and possession of protected wild plants from the protected natural area to enable experiment and reproduction to a person who has been permitted to conduct research on them to enable scientific research.

17. The Director General may:-

- (a) declare the species of wild animal which can be raised on commercial basis from among the normally protected wild animal and seasonally protected wild animal;
- (b) permit for capture, farming or transfer by stipulating conditions of wild animal which can be raised on commercial basis and, have been declared under sub-section (a);
- (c) allow by stipulating conditions raising normally protected wild animal and seasonally protected wild animal as a hobby and as a traditional custom;
- (d) lay down appropriate measures or issue directives to prevent contagious diseases and cross-breeding within the natural area to persons raising any kind of animal, if necessary within the vicinity of the natural area.

18. (a) The Director General may, with the approval of the Minister, makes recommendations for the export of wild animal permitted to be raised on commercial basis or any part thereof;

(b) The Forest Officer assigned by the Director General may permit removal or transportation from one township to another of wild animal which is permitted to be hunted or to be raised on commercial basis or any part thereof.

CHAPTER VI HUNTING

19. The Director General may grant a hunting licence, by stipulating terms and conditions to a hunter to hunt wild animals other than wild animals inhabiting within a natural area and protected wild animals.

20. A person who has been granted a hunting licence shall:-

- (a) pay the hunting licence fees as prescribed;
- (b) abide by the terms and conditions of the hunting licence;
- (c) accept the inspection of the Forest Department.

CHAPTER VII RIGHT TO ESTABLISH ZOOLOGICAL GARDEN AND BOTANICAL GARDEN

21. The Minister may, with the approval of the Government:-

- (a) permit by stipulating terms and conditions the application in the manner prescribed to operate the zoological garden or botanical garden established under section 8 in joint

venture between the Government and any individual or any economic organization, or by any individual or any economic organization in the interest of the State;

(b) permit by stipulating terms and conditions the application in the manner prescribed to establish a private zoological garden or botanical garden.

22. The Minister:-

(a) shall form a Supervisory Body and prescribe the functions thereof to supervise each of the zoological garden or botanical garden permitted to be established under section 21 subsection (a), if necessary;

(b) may re-constitute or abolish the Supervisory Body as may be necessary.

23. A person who has obtained permission to establish a zoological garden or botanical garden under section 21 shall apply to the Director General in the prescribed manner for a licence to operate.

24. The Director General:-

(a) may, in respect of the application for a licence to operate a zoological garden or botanical garden scrutinize as to whether it is in conformity with the prescribed requirement of work and grant or refuse the licence;

(b) shall determine the conditions of the licence to operate the zoological garden or botanical garden;

(c) may with the approval of the Minister, revoke the licence, subject to a time limit or cancel the licence in case of violation of the conditions to be abided by person who has obtained a licence to operate.

25. A person who has obtained a licence to operate a zoological garden or botanical garden:-

(a) shall abide by the conditions of the licence to operate, prescribed by the Director General;

(b) shall pay in Myanmar kyats or in foreign currency taxes relating to the licence to operate, in the prescribed manner;

(c) shall, if he dies before the expiry of the tenure of the licence to operate be represented by his legal representative, who shall apply to the Director General in the manner prescribed.

CHAPTER VIII
REGISTRATION

26. (a) A person who possesses as a souvenir or wearing as a traditional custom any part of a completely protected animal, before this Law comes into force shall register at the relevant Township Forest Department in the manner prescribed by the Ministry of Forestry;

(b) With the exception of a person who has inherited under a traditional custom from a person registered under sub-section (a), a person who has received in any other manner shall register at the relevant Township Forest Department in the manner prescribed by the Ministry of Forestry;

(c) For the purpose of research of a completely protected animal after this Law comes into force, a Government department, a Government organization or a non-governmental organization which has been permitted to capture or possess such animal under section 16 sub-section (a) and which is desirous of possessing any part thereof to conduct research or as a souvenir shall register in the manner prescribed by the Ministry of Forestry.

27. A Forest Officer who has been assigned to perform the functions of registration by the Director General:-

(a) may scrutinize the application for registration under section 26 in the manner prescribed and register or refuse registration;

(b) if registration is effected under sub-section (a) shall issue a certificate of registration to the applicant.

CHAPTER IX
TAKING ADMINISTRATIVE ACTION

28. In order to take administrative action, the Forest Staff shall, in respect of search, seizure and disposal of exhibits carry out in the manner prescribed.

29. A Forest Officer may pass an administrative order causing a fine which may extend to kyats 1000 to be paid, on a person who commits any of the following acts within a natural area or within the zoological garden or botanical garden which is administered by the Government or towards which the Government has subscribed share capital:-

(a) entering a place where the public is permitted to visit for recreation, without conforming to the conditions stipulated;

(b) trespassing a prohibited place other than a place where the public is permitted to visit for recreation, without permission;

(c) grazing or free grazing or causing domestic animals to trespass;

(d) frightening or willfully disturbing protected wild animals;

(e) plucking or breaking without permission any kind of wild plants and cultivated plants.

30. A Forest Officer may pass an administrative order causing a fine which may extend to kyats 5,000 to be paid, on a person who commits any of the following acts within a natural area or within the zoological garden or botanical garden which is administered by the Government or towards which the Government has subscribed share capital:-

(a) entering a totally prohibited area without permission;

(b) filming or video recording without permission;

(c) digging on the land, cultivating or carrying out any work;

(d) extracting collecting or injuring in any manner any kind of cultivated plants.

31. A Forest Officer may pass an administrative order causing a fine which may extend to kyats 10,000 to be paid, on a person who kills, hunts, wounds or raises a seasonally protected wild animal without permission during the close season.

32. A Forest Officer shall:-

(a) when passing an administrative order, confiscate the products of a natural area or of the zoological garden or botanical garden which is administered by the Government or towards which the Government has subscribed share capital;

(b) dispose the confiscated products in the manner prescribed.

CHAPTER X APPEAL

33. A person dissatisfied with an administrative order passed by a Forest Officer may file an appeal to the Director General within 30 days from the date of such order.

34. The decision of the Director General shall be final and conclusive.

CHAPTER XI OFFENCES ARID PENALTIES

35. Whoever commits any of the following acts shall, on conviction be punished with imprisonment for a term which may extend to 3 years or with fine which may extend to kyats 10,000 or with both:-

(a) hunting without a licence;

- (b) violation of any condition of the hunting licence;
- (c) raising without permission, for commercial purpose normally protected wild animals and seasonally protected wild animals;
- (d) causing water and air pollution, causing damage to a water-course or putting poison in the water in a natural area;
- (e) possessing or disposing of pollutants or mineral pollutants in a natural area;
- (f) establishing and operating a zoological garden or a botanical garden without a licence.

36. Whoever commits any of the following acts shall, on conviction be punished with imprisonment for a term which may extend to 5 years or with fine which may extend to kyats 30,000 or with both:-

- (a) killing, hunting or wounding a normally protected wild animal or seasonally protected wild animal without permission, possessing, selling, transporting or transferring such wild animal or any part thereof without permission;
- (b) extracting, collecting or destroying in any manner any kind of protected wild plants within the prescribed area without permission;
- (c) destroying ecosystem or any natural state in the natural area;
- (d) altering, removing, destroying or obliterating without permission. any boundary mark of a natural area or any boundary mark of a zoological garden or botanical garden administered by the Government or in which the Government has subscribed share capital.

37. Whoever commits any of the following acts shall, on conviction be punished with imprisonment for a term which may extend to 7 years or with fine which may extend to kyats 50,000 or with both:-

- (a) killing, hunting or wounding a completely protected wild animal without permission, possessing, selling, transporting or transferring such wild animal or any part thereof without permission;
- (b) exporting without the recommendation of the Director General a completely protected wild animal or a protected wild plant or any part thereof.

38. The provisions of section 36 sub-section (a) or section 37 sub-section (a) shall not apply to:-

- (a) the possessing as a souvenir or wearing as a traditional custom of any part of normally protected wild animal or a seasonally protected wild animal;

(b) the possessing or wearing with a certificate of registration issued under section 27 subsection (b) of any pad of a completely protected wild animal;

(c) the possessing, use, sale, transport or transfer of a drug prepared from a part of a protected wild animal.

39. The Convicting Court shall, in respect of any legal proceeding instituted under this Law award punishment for the relevant offence and in addition:-

(a) may pass order for the value of the loss and damage to the Forest Department caused by the offender, to be paid by way of compensation to the Forest Department;

(b) shall confiscate the wild animal, wild plants and parts thereof involved in the commission of the offence and hand over the same to the Forest Department;

(c) may pass an order for confiscation of vehicles/vessels, animals and other machinery and implements involved in the commission of the offence.

CHAPTER XII MISCELLANEOUS

40. Wildlife sanctuaries which have been declared under the Wild Life Protection Act, 1936 shall be deemed to be wildlife sanctuaries determined as a natural area under this Law.

41. If an exhibit relating to any legal proceeding instituted under this Law is not easily produceable before the Court, such exhibit need not be produced before the Court. However, a report or other relevant documentary evidence as to the manner of custody of the same may be submitted. Such submission shall be deemed as if it were a submission of the exhibit before the Court and the relevant Court may dispose of the same in accordance with law.

42. In instituting legal proceedings under this Law prior sanction of the Ministry of Forestry shall be obtained.

43. In a case where administrative action is taken or where a legal proceeding is instituted under this Law, the burden of proving lawful ownership or lawful right of possession in respect of the exhibit seized shall lie on the person against whom action is taken.

44. When a request is made by the Forest Staff for assistance in the performance of their duties, the Myanmar Police Force shall render necessary assistance.

45. All money payable to the Forest Department under this Law shall be recovered as if it were an arrear of land revenue. A Forest Officer who has been assigned responsibility by the Ministry of Forestry for this purpose shall exercise the powers of a Collector under the existing laws.

46. Before the issuance of rules, procedures, notifications, orders and directives under this Law, rules, notifications, orders, directives and circulars issued under the Wild Life Protection Act, 1936 may continue to be applicable in so far as they are not inconsistent with this Law.

47. For the purpose of carrying out the provisions of this Law:-

(a) the Ministry of Forestry may issue such rules and procedures as may be necessary, with the approval of the Government;

(b) the Ministry of Forestry or the Forest Department may issue such notifications, orders and directives as may be necessary.

48. The Wild Life Protection Act, 1936 is hereby repealed.

Sd./ Than Shwe
Senior General
Chairman
The State Law and Order Restoration Council

THE MYANMAR MINES LAW (1994)

The State Law and Order Restoration Council Law No 8/94
The 2nd Waxing Day of Tawthalin, 1356 M.E

6th September, 1994

The State Law and Order Restoration Council hereby enacts the following Law:-

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the Myanmar Mines Law.

2. The following expressions contained in this Law shall have the meanings hereunder:-

(a) "Mine" means place, excavation or worksite where mining is carried on or various operations, building, land, machinery and equipment connected with mining or mineral processing at any place contiguous to such place of mining, excavation or worksite. The said expression also includes quarries where industrial mineral and stone are mined;

(b) "Mineral" means gemstone, metallic mineral, industrial mineral and stone obtained from the earth by mining or by other operation;

(c) "Gemstone" means ruby, sapphire, jade, diamond, spinel, peridot, chrysobetyl, tourmaline, danburite, aquamarine, zircon, topaz, phenakite, garnet, moonstone, iolite, apatite, epidote, lapis-lazuli, diopside, amber, fluorspar, nephrite, or stones of gem quality of the quartz group, which has not been processed. The said expression also includes substances which may be declared by the Ministry by notification with the approval of the Government from time to time to be gemstone;

(d) "Metallic Mineral" means gold, silver, platinum, iridium, osmium, palladium, ruthenium, rhodium, tantalum, columbium, uranium, thorium, iron, zinc, copper, lead, tin, tungsten, nickel, antimony, aluminium, arsenic, bismuth, cadmium, chromium, cobalt, or manganese. The said expression also includes substances which may be declared by the Ministry by notification with the approval of the Government from time to time to be metallic mineral;

(e) "Industrial Mineral" means coal, limestone, gypsum, baryte, graphite, manganese dioxide, dolomite, fluorite, fire clay, ball clay, industrial clay, feldspar, magnesite, red ochre, yellow ochre, soap stone, bentonite, asbestos, zinc carbonate, muscovite, or biotite. The said expression also includes substances which may be declared by the Ministry by notification with the approval of the Government from time to time to be an industrial mineral;

- (f) “Stone” means limestone, quartz, granite, marble, pegmatite, or gneiss that are of the quality to produce decorative stone. The said expression also includes substances which may be declared by the Ministry by notification with the approval of the Government from time to time to be stone of decorative stone quality, but does not include stones which are not of the decorative stone quality and are usually used for toad making;
- (g) “Permit” means a permit issued under this Law for the purpose of mineral prospecting, exploration or production issued separately or as an integrated permit;
- (h) “Mineral Prospecting” means searching for minerals deposits. The said expression also includes the process of testing mineral bearing qualities of the land;
- (i) “Mineral Exploration” means defining and gaining knowledge of the size, shape, location, quality and quantity of a mineral deposit;
- (j) “Mineral Production” means all stages of operation for obtaining minerals. The said expression also includes any or all stages of mining and mineral processing activity;
- (k) “Large Scale Production” means commercial production of mineral which requires substantial investment and expenditure or special technical know-how and methods;
- (l) “Small Scale Production” means commercial production of mineral which does not require substantial investment and expenditure or special technical know-how and methods;
- (m) “Subsistence Production” means production of mineral using ordinary hand tools;
- (n) “Mineral Processing” means the beneficiation of ore or mineral to improve their grade or their value. The said expression includes operation of mineral dressing, concentration, smelting, refining to obtain mineral concentrates and refined metals and cutting, polishing of raw gemstones to obtain finished products, but does not include cutting, polishing of raw gemstones on a small scale prescribed by the Ministry by notification with the approval of the Government from time to time;
- (o) “Ministry” means the Ministry of Mines;
- (p) “Department” means the Planning and Work Inspection Department of the Ministry of Mines;
- (q) “Director-General” means the Director General of the Planning and Work Inspection Department of the Ministry of Mines.

CHAPTER II OBJECTIVES

3. The objectives of this Law are as follows:-

- (a) to implement the mineral resources policy of the Government;
- (b) to fulfill the domestic requirements and to increase export by producing more mineral products;
- (c) to promote development of local and foreign investment in respect of mineral resources;
- (d) to supervise, scrutinize and approve applications submitted by person or organization desirous of conducting mineral prospecting, exploration or production;
- (e) to carry out for the development of conservation, utilization and research works of mineral resources;
- (f) to protect the environmental conservation works that may have detrimental effects due to mining operation.

CHAPTER III APPLICATION AND GRANTING OF PERMIT

4. A person or organization, desirous of carrying out any of the following operations, shall apply to the Ministry in accordance with the stipulations for obtaining permit:-

- (a) prospecting, exploration, large scale production or small scale production of gemstone;
- (b) prospecting, exploration, large scale production or small scale production metallic mineral;
- (c) large scale production of industrial minerals;
- (d) large scale production of stones.

5. A person or organization, desirous of carrying out any of the following operations, shall apply to the Department in accordance with the stipulations for a permit:-

- (a) prospecting, exploration or small scale production of industrial mineral;
- (b) prospecting, exploration or small scale production of stone.

6. A person or organization, desirous of carrying out subsistence production of gemstone, metallic mineral, industrial mineral or stone, prescribed in the notification by the Ministry

shall apply to the respective Mining Enterprise or to the officer authorized by the Ministry in accordance with the stipulations for obtaining a permit.

7. The Ministry may with the approval of the Government, grant permit for of the following operations:-

(a) prospecting, exploration, large scale production or small scale production of gemstone, metallic mineral, industrial mineral or stone involving foreign investment;

(b) prospecting, exploration, large scale production or small scale production of gemstone with local investment;

(c) prospecting, exploration, large scale production or small scale production of metallic mineral with local investment.

8. The Ministry may grant permit for the following operations:-

(a) large scale production of industrial mineral or stone with local investment;

(b) integrated prospecting, exploration, large scale production or small scale production of industrial mineral or stone with local investment.

9. The Department may, with the approval of the Ministry, grant permit for any of the following operations:-

(a) prospecting, exploration or small scale production of industrial mineral with local investment;

(b) prospecting, exploration or small scale production of stone with local investment.

10. The respective Mining Enterprise or the officer authorized by the Ministry may issue permit in respect of subsistence production of gemstone, metallic mineral industrial or stone, specified in the notification by the Ministry.

11. The Ministry shall determine the classification of large scale production, small scale production or subsistence production as defined in sub-section (k), (l), (m) of section 2.

CHAPTER IV DUTIES OF THE HOLDER OF PERMIT

12. The holder of permit shall:-

(a) abide by the provisions of this Law, rules, orders and directives made thereunder;

(b) abide by the conditions contained in the permit;

- (c) pay rent for the land related to the permit calculated in accordance with the rates prescribed by the rules made under this Law;
- (d) pay rent for the land for each permit separately;
- (e) pay security deposit or advance payment or both security deposit and advance payment;
- (f) pay prescribed royalty and other fees payable under this Law either in Myanmar currency or foreign currency, or both Myanmar and foreign currencies.

13. The holder of permit shall comply with the rules prescribed under this Law in respect of the following matters:-

- (a) appointment of mine personnel and workers, assignment of work, prescribing of age, wages, salaries and other fees;
- (b) fixing of working days and working hours for the above and underground workers in a mine;
- (c) making provisions for safety and the prevention of accidents in a mine and their implementation;
- (d) making and implementation of plans relating to the welfare, health, sanitation and discipline of personnel and workers in a mine;
- (e) making provisions for the environmental conservation works that may have detrimental effects due to mining operation;
- (f) reporting of accidents, loss of life and bodily injury received due to such accidents in the mine;
- (g) submission to the inspection of the Chief Inspector and inspectors.

CHAPTER V
RIGHT OF UTILIZATION OF LAND AND WATER
FOR MINERAL PRODUCTION

14. The holder of permit for mineral production within an area under the Ministry's administrative control or which does not lie within the Mineral Reserve Area or Gemstone Tract, shall carry out such production only after co-ordinating and receiving agreement from the individual or organization having the right of cultivation, right of possession, right of use and occupancy, beneficial enjoyment, right of succession or transfer of the said land.

15. If, in the interest of the State, it is necessary to acquire the land where mineral production could be undertaken on commercial scale, the Ministry shall co-ordinate with the relevant Ministry for the acquisition of such land in accordance with the existing law.

16. If the holder of mineral production permit requires the use of public water for mineral production he shall first and foremost inform the Department of such requirement in accordance with the prescribed manner.

17. If the Department, after scrutinizing the requirement submitted under section 16 finds that the use of public water is really necessary for the holder of mineral production permit, it shall co-ordinate with the relevant government department and organization for obtaining permission to use water in accordance with the existing law.

CHAPTER VI ROYALTY

18. The holder of mineral production permit shall pay royalty on the value of the mineral sold when the sale is affected on the mineral produced by him within the rates mentioned below as determined by the Ministry:-

(a) for gemstone at the rate of 5% to 7.5%;

(b) for gold, silver, platinum, iridium, palladium, ruthenium, rhodium, tantalum, columbium, niobium, uranium, thorium and other precious metallic minerals that the Ministry may, with the approval of the Government prescribe and publish by notification from time to time at the rate of 4% to 5%;

(c) for iron, zinc, copper, lead, tin, tungsten, nickel, antimony, aluminium, arsenic, bismuth, cadmium, chromium, cobalt, manganese and other metallic mineral that the Ministry may, with the approval of the Government prescribe and publish by notification from time to time at the rate of 3% to 4%;

(d) for industrial mineral or stone at the rate of 1% to 3%.

19. When calculating the value of mineral sold under section 18, the Department shall calculate in the prescribed manner based upon the prevailing international price of that mineral at the time of the sale.

20. The Ministry may:-

(a) prescribe by notification from time to time, royalty to be paid for the mineral obtained from mineral prospecting or mineral exploration;

(b) exempt in whole or in part, any royalty payable or any mineral by the holder of a permit for such period as may be determined with a view of promoting production of mineral;

(c) exempt payment of royalty, on mineral samples obtained by the government department concerned or government organization for the purpose of assay analysis or other examinations;

(d) defer payment of royalty due for such period it may determine;

(e) assess provisional royalty during the period where for any reason it is impracticable to assess the exact amount of the royalty due.

CHAPTER VII

DESIGNATION OF MINERAL RESERVE AREA AND GEMSTONE TRACT

21. The Ministry:-

(a) may designate an area where mineral can be produced on commercial scale as Mineral Reserve Area by notification with the approval of the Government;

(b) shall, before designation any area as Mineral Reserve Area, declare in the manner prescribed, which area is intended to be declared as such;

(c) shall, in designating the Mineral Reserve Area, form and assign duties to a committee consisting of skilled personnel with the Director General as the head of the Committee to inquire into the affected rights of the public in the relevant area and to enable them to receive reasonable rights and benefits and to carry out the demarcation of the Mineral Reserve Area;

(d) if desirous of designating land under the administration of any government department or any organization as the Mineral Reserve Area under sub-section (a), shall do so after co-ordination with the relevant government department or organization;

(e) if desirous of designating area under sub-section (a) any land in which an individual or an organization had the right of cultivation, right or possession, right of use and occupancy, beneficial enjoyment, right of succession or transfer as the Mineral Reserve shall do so after co-ordination with the relevant Ministry for acquiring land in accordance with the existing law.

22. The Ministry:

(a) may, when information is received of the existence of gemstone for production on a commercial scale or the area where such gemstone is discovered designate such area as Gemstone Tract by notification with the approval of the Government;

(b) shall form and assign duties to a committee consisting of skilled personnel with the Director General as the head of the committee to inquire into the affected rights of the

public in the area already designated as Gemstone Tract and to enable them to receive reasonable rights and benefits and to carry out the demarcation of the Gemstone Tract.

23. The Ministry may, with the approval of the Government, cause the whole or a portion of the Mineral Reserve Area or Gemstone Tract, for the revision of the demarcation or cessation thereof.

24. All naturally occurring minerals found either on or under the soil of any land, in which an individual or an organization had the right of cultivation, right of possession right of use and occupancy, beneficial enjoyment, right of succession or transfer or all naturally occurring minerals found in the Continental Shelf shall under the existing law be deemed to be owned by the State.

CHAPTER VIII DUTIES OF THE CHIEF INSPECTOR

25. The Director General shall be the Chief Inspector for the purpose of this Law.

26. The duties of the Chief Inspector are as follows:-

- (a) inspecting in order to ascertain as to whether or not the provisions of this Law and the rules, orders and directives made thereunder are observed and conditions contained in the licence are complied with by the holders of licence;
- (b) inspecting the health, sanitation, safety, prevention of accident, welfare, disciplinary measures of the personnel and workers in the mine;
- (c) determining the duties of the inspectors and supervising the same;
- (d) carrying out the duties as may be assigned from time to time by the Ministry.

27. The Chief Inspector may:-

- (a) assign any suitable officer from the Department as an inspector for the purpose of this Law;
- (b) delegate the powers to the inspectors.

CHAPTER IX
TAKING OF ACTION BY ADMINISTRATIVE MEANS

28. If the holder of permit or a person managing on his behalf or any of the worker fails to comply with any of the orders or directives made under this Law, or contravenes any of the terms of the permit, the person issuing the permit may pass any of the following administrative orders:-

- (a) suspending all or portion of the operations carried out under the permit;
- (b) allowing continuation of the operation, after causing the payment of fine;
- (c) cancelling the permit;
- (d) cancelling the permit and confiscating the security deposit and the advance, payment and also causing the payment of fine in addition, if deemed necessary.

CHAPTER X
ISSUE OF PROHIBITION

29. The Ministry may with the approval of the Government issue prohibitions In respect purchasing obtaining, storing, possessing, transporting, selling, transferring of any mineral obtained from mineral production.

CHAPTER XI
OFFENCES AND PENALTIES

30. Whoever carries out any of the following operations without the permit issued under this Law shall, on conviction be punished with imprisonment for a term which may extend to 7 years or with fine which may extend to kyats 50,000 or with both:-

- (a) prospecting exploration or production of gemstone;
- (b) prospecting exploration or production of metallic mineral;
- (c) prospecting exploration or production on industrial mineral;
- (d) prospecting exploration or production of stone.

31. Whoever violates any of the prohibitions prescribed under section 29 shall, on conviction he punished with imprisonment for a term which may extend to 3 years or with fine which may extend to kyats 20,000 or with both.

32. The holder of a permit who violates any of the rules relating to section 13 shall, on conviction be punished with imprisonment for a term which may extend to 1 year or with fine which may extend to kyats 10,000 or with both.

33. Whoever trespasses the Mineral Reserve Area or Gemstone Tract demarcated under this Law without permission shall on conviction be punished with imprisonment for a term which may extend to 6 months or with fine which may extend to kyats 5,000 or with both.

34. The Court shall in respect of any legal proceeding instituted under section 30 or section 31, if found guilty, enforce punishment for the relevant offence, and in addition:

(a) shall pass an order for confiscation of the mineral involved in the offence;

(b) may pass an order for confiscation of the vehicle, animal and, other machinery, tools and implements used in commission of the offence.

CHAPTER XII MISCELLANEOUS

35. The licence or permit granted under any of the existing laws before the enactment of this Law, for prospecting, exploration or production of minerals shall be valid until the date of expiry.

36. The existing Gemstone Tracts designated by notification before the promulgation of this Law shall be deemed to be Gemstone Tract designated by this Law.

37. If exhibit relating to any legal proceeding instituted under this Law cannot be produced easily before the court, such exhibit need not be produced before the court, but the report or other relevant documentary evidence as to the manner of custody of the same may be submitted. Such submission shall be deemed as if it were a submission of the exhibit before the court and the relevant court may dispose of the same in accordance with the law.

38. The rules, regulation, orders and directives issued under the laws repealed by this Law may continue to be complied so far as they are not inconsistent with the provisions of this Law.

39. For the purpose of carrying out the provisions of this Law:-

(a) the Ministry may with the approval of the Government issue such rules and procedures as may be necessary;

(b) the Ministry or the Department may issue such orders and directives as may be necessary.

40. The following laws are hereby repealed:-

- (a) The Upper Myanmar Ruby Regulation, 1887;
- (b) The Mines Act, 1923;
- (c) The Union of Myanmar Mines and Minerals Act, 1961.

Sd./

Than Shwe

Senior General

Chairman

The State Law and Order Restoration Council

THE PROTECTION AND PRESERVATION OF CULTURAL HERITAGE REGIONS LAW (1998)

The State Peace and Development Council Law No. 9/98
The 5th Waning Day of Tawthalin, 1360 M.E.

10 September 1998

The State Peace and Development Council hereby enacts the following Law:-

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the Protection and Preservation of Cultural Heritage Regions Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:-
 - (a) "Cultural Heritage" means ancient monument or ancient site which is required to be protected and preserved by reason of its historical, cultural artistic or anthropological value;
 - (b) "Ancient Monument" includes the following that have existed before 1886 or that have been determined as cultural heritage:-
 - (1) architectural structure, shrine, stupa, temple, monastery, palace, residential building and carving, image and painting thereon;
 - (2) natural or man-made cave in which human beings had dwelt;
 - (3) stone inscription and record;
 - (4) road, bridge, sepulchre, sepulchral site and remains of excavated structure;
 - (5) pond, city-wall, wall, gateway, moat, fort and any remains thereof;
 - (c) "Ancient Site" means place or high ground where a town or settlement of ancient people or ancient monument had existed before 1886 or which is determined as cultural heritage whether it is in the process of excavation or has not yet been excavated;
 - (d) "Precinct of Ancient Monument" means the enclosure of an ancient monument prescribed under this Law;
 - (e) "Ancient Monumental Zone" means the zone where the ancient monument is situated and which is prescribed under this Law;

- (f) “Ancient Site Zone” means the zone where the ancient site is situated and which is prescribed under this Law;
- (g) “Protected and Preserved Zone” means the zone prescribed under this Law for the protection and preservation of the view of the cultural heritage, ancient monument and ancient sites in order that they may not be destroyed;
- (h) “Cultural Heritage Region” means the ancient monumental zone, ancient site zone or the protected and preserved zone prescribed under this Law;
- (i) “Department” means the Department of Archaeology.

CHAPTER II OBJECTIVES

3. The objectives of this Law are as follows:-

- (a) to implement the protection and preservation policy with respect to perpetuation of cultural heritage that has existed for many years;
- (b) to protect and preserve the cultural heritage regions and the cultural heritage therein so as not to deteriorate due to natural disaster or man-made destruction;
- (c) to uplift hereditary pride and to cause dynamism of patriotic spirit of citizens by protecting and preserving the cultural heritage regions;
- (d) to promote public awareness and will as to the high value of the protection and preservation of the cultural heritage regions;
- (e) to protect the cultural heritage regions from destruction;
- (f) to carry out protection and preservation of the cultural heritage regions in conformity with the International Convention approved by the State.

CHAPTER III DETERMINING CULTURAL HERITAGE REGION

4. The Ministry of Culture may, with the approval of the Government issue notification demarcating any or more than one of the following kinds of zones as a cultural heritage region:-

- (a) ancient monumental zone;
- (b) ancient site zone;

(c) protected and preserved zone.

5. The Ministry of Culture may carry out as follows for the acquisition of any land within the cultural heritage region, if necessary:-

(a) If the land is under the administration of any government department or government organization, coordinating in advance, with the relevant government department or government organization;

(b) If it is land in which there is right of cultivation, right of possession, right of utilization, beneficial right, right of succession or right of transfer, coordinating in advance with the relevant Ministry in accordance with the existing laws.

CHAPTER IV PROTECTING AND PRESERVING THE CULTURAL HERITAGE REGION

6. The Ministry of Culture may cause to be dismantled a building which is not an ancient monument and which obstructs the view of an ancient monument or surrounding natural landscape within the cultural heritage region.

7. The Ministry of Culture may direct the relevant Trust who are taking care of the ancient monument to do so without altering the original ancient form and structure and the original ancient workmanship.

8. The Ministry of Culture may determine region wise the conditions to be observed in the construction of buildings in the cultural heritage region.

9. The Department shall carry out works of protection and preservation of the ancient monuments and ancient sites situated in the cultural heritage region.

10. The Department may prohibit any person from ploughing and cultivating within the boundary of the ancient monument or ancient site or from carrying out any activity that may cause damage to the cultural heritage in the cultural heritage region.

11. The Department shall, with the approval of the Ministry of Culture, carry out the following in the cultural regions:-

(a) determining the precinct of an ancient monument;

(b) prescribing the conditions to be abided by the shops opened within the precinct determined under sub- section (a).

CHAPTER V
FUNCTIONS AND DUTIES OF THE MINISTRY OF CULTURE

12. The functions and duties of the Ministry of Culture are as follows:-

- (a) carrying out works of protection and preservation, revelation of and research on cultural heritage regions;
- (b) safeguarding the prominent and culturally of high value cultural heritage regions and the decaying cultural heritages that should be given priority in preservation;
- (c) determining with the approval of the Government, the ancient monuments and ancient sites that should be determined as cultural heritage in the cultural region;
- (d) carrying out with the approval of the Government, to enable the ancient monuments and ancient sites that should be determined as world cultural heritage to be included in the list of the world cultural heritage;
- (e) taking measures as may be necessary to prevent smuggling of antiquities from the cultural heritage region to foreign countries and to recover those antiquities that have been taken outside the country;
- (f) carrying out public educative work for protection and preservation of cultural heritage regions, and for taking pride in the value of the cultural heritage.

CHAPTER VI
APPLYING FOR PRIOR PERMISSION, SCRUTINIZING AND ISSUING

13. A person desirous of carrying out one of the following shall abide by the provisions of other existing laws and also apply to the Department in accordance with stipulations to obtain prior permission under this Law:-

- (a) within the ancient monumental zone or the ancient site zone:
 - (1) constructing or extending a building;
 - (2) renovating the ancient monument or extending the boundary of its enclosure;
- (b) within the protected and preserved zone, constructing, extending, renovating a hotel, motel, guest house, lodging house or industrial building or extending the boundary of its enclosure;
- (c) within the cultural heritage region:

- (1) carrying out the renovation and maintenance work of the ancient monument without altering the original ancient form and structure or original ancient workmanship;
- (2) carrying out archaeological excavations;
- (3) building road, constructing bridge, irrigation canal and embankment or extending the same.

14. (a) The Department shall, after scrutinizing the application submitted under section 13 in accordance with the stipulations, submit the same to the Ministry of Culture with the remark of the Department;

(b) The Ministry of Culture may, in respect of the matter contained in section 13, grant or refuse permission after scrutiny;

(c) When permission is granted under sub-section (b) the Department shall issue the permit to the application together with the conditions to be observed.

15. A person desirous of carrying out one of the following shall abide by the provisions of other existing laws and also apply in accordance with the stipulations to the Department to obtain prior permission under this Law:-

(a) renovation of a building other than an ancient monument or extension of the boundary of its enclosure in the ancient monumental zone or the ancient site zone;

(b) within the protected and preserved zone, constructing, extending, renovating a building other than a hotel, motel, guest house, lodging house or industrial building or extending the boundary of its enclosure;

(c) digging well, pond and fish-breeding pond or extending the same within the cultural heritage region.

16. The Department:-

(a) may, after scrutinizing in accordance with the stipulations the application submitted under section 15, grant or refuse permission;

(b) shall, when permission is granted under section (a), issue the permit to the applicant together with the conditions to be observed.

17. The Ministry of Culture and the Department shall, with respect to the application for prior permission under this Law, scrutinize based on the following acts:-

(a) whether it can cause obstruction of the view of the cultural heritage region or not;

- (b) whether it is clear of the ancient monument or ancient site or not;
- (c) whether it can obstruct the surrounding natural landscape or not;
- (d) whether it can undermine the grandeur of the ancient monument or not;
- (e) whether it can affect the security of the cultural heritage or not; and
- (f) whether it can cause environmental pollution or not.

CHAPTER VII PROHIBITIONS

18. No person shall, without prior permission granted under this law, construct, extend, renovate a building or extend the boundary of its enclosure in the ancient monumental zone or ancient site zone.

19. No person shall, without prior permission granted under this Law carry out any of the following with respect to a building within the protected and preserved zone:-

- (a) constructing or extending;
- (b) renovating or extending the boundary of its enclosure.

20. No person shall carry out any of the following in the cultural heritage region:-

- (a) destroying an ancient monument;
- (b) willfully altering the original ancient form and structure or original ancient workmanship of an ancient monument;
- (c) excavating to search for antiquities;
- (d) exploring for petroleum, natural gas, precious stones or minerals.

21. No person shall, without prior permission granted under this Law, carry out any of the following in the cultural heritage region:-

- (a) carrying out renovation and maintenance work on an ancient monument;
- (b) carrying out archaeological excavation;
- (c) building road, constructing bridge, irrigation canal, embankment or extending the same;
- (d) digging well, pond, fish-breeding pond or extending the same.

22. No person shall construct a building which is not in conformity with the conditions prescribed region wise by the Ministry of Culture in the cultural heritage region.

23. No person shall plough and cultivate or carry out any activity which may cause damage to the cultural heritage within the boundary notified by the Department in the cultural heritage region.

CHAPTER VIII OFFENCES AND PENALTIES

24. Whoever violates any provision of section 18, sub-section (a) of section 19 or section 21 shall, on conviction be punished with fine which may extend to kyats 50,000 or with imprisonment for a term which may extend to 5 years or with both.

25. Whoever violates any provision of sub-section (b) of section 19, section 22 or section 23 shall, on conviction be punished with fine which may extend to kyats 30,000 or with imprisonment for a term which may extend to 3 years or with both.

26. Whoever violates any provision of section 20 shall, on conviction be punished with imprisonment, for a term which may extend from a minimum of 1 year to a maximum of 7 years and may also be liable to a fine.

27. The Court shall also pass any of the following orders on whoever is convicted of any of the offences under this Law:-

(a) causing the building constructed to be dismantled;

(b) causing the restoration of the extended building or boundary of the enclosure to its original position;

(c) causing the restoration of the altered and repaired form of the building or land to its original form.

28. Whoever fails to abide by the order passed under section 27, shall be liable to a fine which may extend from kyats 500 to 1,000 for each day for failure to abide by such order.

CHAPTER IX MISCELLANEOUS

29. (a) The provision of sub-section (d) of section 20 shall not apply to the drilling of petroleum or natural gas and mining of precious stones or minerals for the benefit of the State in the cultural heritage region.

(b) If any circumstance arises for the drilling of petroleum or natural gas and mining of precious stones or minerals in the cultural heritage region for the benefit of the State, it shall be submitted to the Government and permission shall be requested.

30. In order to carry out the provision-is of this Law:-

(a) the Ministry of Culture may issue such rules and procedures as may be necessary, with the approval of the Government;

(b) the Ministry of Culture and the Department may issue such orders and directives as may be necessary.

Sd./

Than Shwe

Senior General

Chairman

The State Peace and development Council

THE JUDICIARY LAW (2000)

The State Peace and Development Council Law No. 5/2000
The 11th Waning Day of *Nayone*, 1362 M.E

27 June 2000

The State Peace and Development Council hereby enacts the following Law:-

CHAPTER I TITLE AND COMMENCEMENT

1. (a) This Law shall be called the Judiciary Law, 2000.
- (b) The provision contained in section 3 of this Law shall come into force from 8th July, 1999. With the exception of the provision contained in the said section 3, the remaining provisions shall come into force from the date on which this Law is enacted.

CHAPTER II JUDICIAL PRINCIPLES

2. The administration of justice shall be based upon the following principles:-
 - (a) administering justice independently according to the law;
 - (b) protecting and safeguarding the interests of the people and aiding in the restoration of law and order and regional peace and tranquility;
 - (c) educating the people to understand and abide by the law and cultivating in the people the habits of abiding by the law;
 - (d) working within the framework of law for the settlement of cases;
 - (e) dispensing justice in open court unless otherwise prohibited by law;
 - (f) guaranteeing in all cases the right of defence and the right of appeal under the law;
 - (g) aiming at reforming moral character in meting out punishment to offenders.

CHAPTER III FORMATION AND SEAT OF THE SUPREME COURT

3. The State Peace and Development Council shall constitute the Supreme Court with 1 Chief Justice, 2 Deputy Chief Justices and form a minimum of 7 Judges to a maximum of 12 Judges.

4. The Supreme Court shall sit in Yangon and Mandalay respectively. Provided that, if necessary, it may sit at any other appropriate place.

CHAPTER IV JURISDICTION OF THE SUPREME COURT

5. The jurisdiction of the Supreme Court shall be as follows:-

- (a) adjudicating on original criminal and civil cases;
- (b) adjudicating on a case transferred to it by its own decision;
- (c) adjudicating on transfer of case from any Court to any other Court;
- (d) adjudicating on an appeal case against any judgment, order and decision passed by the State or Divisional Court;
- (e) adjudicating on a revision case against any judgment, order and decision passed by any Court;
- (f) confirming death sentence passed by the State or Divisional Court or the District Court and adjudicating on an appeal case against the death sentence;
- (g) examining any judgment, order and decision of any Court, which is not in conformity with the law and altering or setting aside may be necessary;
- (h) examining any order and decision which is not in conformity with the law relating to the legal rights of a citizen and altering or setting aside as may be necessary;
- (i) adjudicating on an admiralty case;
- (j) adjudicating on cases within its jurisdiction under existing law.

CHAPTER V POWERS OF THE SUPREME COURT

6. The Supreme Court shall supervise the respective Courts.

7. A case finally and conclusively adjudicated by the Supreme Court exercising its original jurisdiction or a case finally and conclusively adjudicated by the Supreme Court on the final and conclusive decision of any Court may, on being admitted for special appeal by the Special Bench in accordance with the procedures, be heard and adjudicated again by the Special Appellate Bench consisting a total of 3 Judges including the Chief Justice, the Deputy Chief Justice and a Judge of the Supreme Court or a total of 3 Judges including

the Chief Justice and 2 Judges of the Supreme Court or a total of 3 Judges including the Deputy Chief Justice and 2 Judges of the Supreme Court.

8. With the exception of a case adjudicated by the Special Appellate Bench, in any case adjudicated by the Supreme Court if the Chief Justice is of the opinion that any substantial question has arisen in the interest of the public he may cause such question to be heard and adjudicated again by the Special Appellate Bench.

9. The Supreme Court may, in exercising its jurisdiction, hear and adjudicate on cases by a single Judge or by a bench consisting of more than one Judge as determined by the Chief Justice.

10. The Supreme Court may direct that cases in the State or Divisional Courts, the District Courts and the Township Courts be heard and adjudicated by a bench consisting of more than one Judge.

11. The Supreme Court shall prescribe as may be appropriate the jurisdiction of the State or Divisional Courts, the District Courts and Township Courts for enabling adjudication on criminal and civil cases.

CHAPTER V FORMATION OF THE STATE OR DIVISIONAL COURTS, THE DISTRICT COURTS AND THE TOWNSHIP COURTS

12. The Supreme Court shall form the State or Divisional Courts, the District Courts and the Township Courts.

13. The Supreme Court shall appoint Judicial Officers and confer upon them appropriate judicial powers to act as Judges at the State or Divisional courts, the District Courts and the Township Courts and prescribe and their functions and duties.

CHAPTER VII JURISDICTION AND POWERS OF COURTS

14. The jurisdiction of the State or Divisional Courts, the District Courts and the Township Courts are as follows:-

- (a) adjudicating on original civil cases;
- (b) adjudicating on original criminal cases;
- (c) adjudicating under any law.

15. The State or Divisional Court may adjudicate on appeal or revision case against any judgment, order and decision passed by the District Court.

16. The State or Divisional Court may:-

- (a) within its State or Division, adjudicate on a case transferred to it by its own decision;
- (b) within its State or Division, adjudicate on the transfer of case from any Court to any other Court.

17. The State or Divisional Court may, in exercising its jurisdiction, adjudicate on cases by a single Judge or by a bench consisting of more than one Judge as determined by the State or Divisional Judge in accordance with the directive of the Supreme Court.

18. The District Court may adjudicate on appeal or revision case against any judgment, order and decision passed by the Township Court.

19. The District court may:-

- (a) within its District, adjudicate on a case transferred to it by its own decision;
- (b) within its District, adjudicate on the transfer of case from any Court to any other Court.

20. The District may, in exercising its jurisdiction, adjudicate on cases by a single Judge or by a bench consisting or more than one Judge as determined by the District Judge in accordance with the directive of the Supreme Court.

21. The Township Court may, in exercising its jurisdiction, adjudicate on cases by a single Judge or by a bench consisting of more than one Judge as determined by the Township Judge in accordance with the directive of the Supreme Court.

CHAPTER VIII MISCELLANEOUS

22. The Special Appellate Bench constituted under section 7 of this Law shall proceed to hear and adjudicate on cases admitted for special appeal by the Special Bench of the Supreme Court.

23. After coming into force of this Law, the original case, appeal case, revision case and applications shall be adjudicated by the Courts having jurisdiction in accordance with the provisions of this Law.

24. The Judges shall proceed to hear and adjudicate on cases pending in the respective Courts.

25. The Chief Justice, the Deputy Chief Justices, the Judges of the Supreme Court, the Judges of the State or Divisional Court and the Judges of the District Court, may, if necessary, inspect prisons, *yebet* camps and police lock-ups for enabling convicted persons

and those under detention to enjoy rights to which they are entitled in accordance with law and relating to the proceedings and for preventing undue delay in the trial cases.

26. The Supreme Court may form service personnel as may be necessary for the Supreme Court and the respective Courts.

27. The Supreme Court may issue such rules, procedures, orders, notifications, directives and manuals as may be necessary.

28. The Judiciary Law (the State Law and Restoration Council Law No. 2/88) is hereby repealed.

Sd./-

Than Shwe

Senior General

Chairman

The State Peace and Development Council

THE HIGHWAYS LAW (2000)

The State Peace and Development Council Law No. 8/2000
The 7th Waning Day of Tazaungmon, 1362 M.E

17 November 2000

The State Peace and Development Council hereby enacts the following Law:-

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the Highways Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:-
 - (a) "Highway" means the highway prescribed by notification by the Ministry of Construction. This expression also includes road boundaries on either side of the highway and bridges situated along the highways. However, the roads constructed or maintained by the relevant Development Committee are excluded;
 - (b) "Vehicle" means any vehicle propelled on land by mechanical power or by any type of energy, to ride or to transport goods;
 - (c) "Animal" means buffalo, ox or cow, elephant, horse, donkey, mule, sheep, goat and pig;
 - (d) "Cart" means any type of wheeled cart moved by being drawn, pushed or attached by man or by animal.

CHAPTER II OBJECTIVES

The objectives of this Law are as follows:-

3. (a) to cause easier communication and transportation among states and divisions by constructing the highways and to strengthen national solidarity and friendship and to cause all-round development in all regions and areas in economic and social sectors;
- (b) to give support in implementing the duty for security and convenience in road and communication and quickness in flow of commodities;
- (c) to give support in the modernization and development of the State by constructing highways within the State or by constructing highways which connect with neighbouring countries;

(d) to carry out systematically the works of extension, repair and maintenance for durability of highways;

(e) to supervise systematically in respect of traffic and use of highways.

CHAPTER III

DUTIES AND POWERS OF THE MINISTRY OF CONSTRUCTION

4. The duties and powers of the Ministry of Construction are as follows:-

(a) laying down policies with the approval of the Government for modernization and development of road and communication within the State;

(b) submitting short-term, long-term and special plans to the Government and obtaining confirmation thereof for construction of highways;

(c) constructing highways which connect with neighbouring countries, with the confirmation of the Government;

(d) supervising to enable implementation of the plans within the prescribed period;

(e) prescribing and notifying as highways;

(f) prescribing and notifying the boundaries of highways;

(g) laying down the work programmes to construct and extend the highways; if necessary, coordinating with the relevant Government departments or organizations;

(h) giving guidance and supervising for repair and maintenance of highways;

(i) carrying out joint venture business with any individual or economic organization or permitting any individual or economic organization to operate, prescribing terms and conditions in accordance with the existing laws in respect of construction, extension, repair and maintenance of highways;

(j) carrying out land acquisition and removal of building in accordance with the existing laws, in constructing and extending highways;

(k) indenting and importing from abroad the necessary machineries to be used in constructing highways;

(l) exchanging technical know-how and co-operating with international organizations regional organizations and foreign countries in respect of construction of highways;

(m) carrying out works of research in respect of construction, repair and maintenance of highways.

CHAPTER IV
DUTIES AND POWERS OF THE PUBLIC WORKS

5. The duties and powers of the Public Works are as follows:-

(a) implementing in accordance with the policies laid down by the Ministry of Construction for modernization and development of communication within the State;

(b) drawing up and submitting short-term, long-term and special plans and work programmes to the Ministry of Construction in respect of construction and extension of highways;

(c) implementing for the completion of plans within the prescribed period;

(d) repairing and maintaining highways for durability;

(e) planting trees and clearing dangerous trees within the boundary of high ways;

(f) determining the width of verge of highways;

(g) closing of vehicular traffic subject to a time limit in extending or repairing highways and constructing diversion for traffic at the time when traffic is closed;

(h) prescribing vehicle and type of wheel, vehicle and laden weight, and iron rim of cart wheel the driving of which are not permitted on highways, and inspecting, supervising and taking action as to whether such stipulations are abided by or not;

(i) prescribing terms and conditions to be abided by in respect of traffic and stoppage of carts and animals on highways, and inspecting, supervising and taking action as to whether such terms and conditions are abided by or not;

(j) issuing necessary prohibitions to prevent damage to highways, inspecting whether such prohibitions are abided by or not; supervising and taking action thereof;

(k) scrutinizing and permitting construction across the highways, constructing and building within the boundary of highways and setting-up of the signboards for advertisement.

6. The Public Works may delegate and assign its duties and powers to the State, Division, District and Township Public Works.

CHAPTER V
OFFENCES AND PENALTIES

7. Whoever without the permission of the Public Works commits any of the following acts shall, on conviction, be punished with imprisonment for a term which may extend to 3 years or with fine or with both:-

- (a) building or constructing across the highway;
- (b) constructing the building within the boundary of the highway;
- (c) digging a pond within the boundary of the highway.

8. Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term which may extend to months or with fine or with both:-

- (a) disturbing or obstruction the work of constructing, extension, repairing and maintenance of highway;
- (b) driving a vehicle the traffic of which and the type of the wheel of which is prohibited and a vehicle with a laden weight or using an iron rim of cart wheel on highways;
- (c) planting, cutting or destroying tree or crops within the boundary of the highway without permission of Public Works;
- (d) disturbing or obstructing public works in clearing of trees which cause danger.

9. Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term which may extend to 3 months or with fine or with both:-

- (a) violating any prohibition issued to prevent damage of highways;
- (b) violating any of the terms and conditions prescribed in respect of traffic of carts and animals on highways;
- (c) intentionally placing of materials that may cause hindrance or danger to traffic on highways;
- (d) setting up the signboard of advertisement within the boundary of high ways without permission of Public Works.

CHAPTER VI
MISCELLANEOUS

10. Any Government department or organization desirous of connecting underground pipeline, connecting underground electricity power line, connecting underground cable line or constructing drainage across the highway due to its departmental or organizational requirement of work shall co-ordinate with the Ministry of Construction in advance.

11. In respect of collecting tolls for traffic on highway prescribed by notification under this Law, the Ministry of Construction may carry out in accordance with the provisions of the Utilization of Roads and Bridges Law (Law No. 13/85).

12. Before the issuance of rules, procedures, notifications, orders and directives under this Law, rules, notifications, orders and directives issued under the High ways Act, 1907 may continue to be applicable in so far as they are not inconsistent with this Law.

13. For the purpose of carrying out the provisions of this Law:-

(a) the Ministry of Construction may, with the approval of the Government issue such rules and procedures as may be necessary;

(b) the Ministry of Construction and the Public Works may issue such notifications, orders and directives as may be necessary.

14. The Highways Act, 1907 is hereby repealed.

Sd./

Than Shwe

Senior General

Chairman

The State Peace and Development Council

THE ATTORNEY GENERAL LAW (2001)

The State Peace and Development Council Law No. 1/2001
The 6th Waxing Day of Tabaung, 1362 M.E

27 February 2001

The State Peace and Development Council hereby enacts the following law:-

CHAPTER I

TITLE

1. This law shall be called the Attorney General Law, 2001.

CHAPTER II

APPOINTMENT OF THE ATTORNEY GENERAL AND THE DEPUTY ATTORNEY GENERAL

2. The State Peace and Development Council shall, for enabling the exercise and performance of the duties and powers contained in this Law, appoint an Attorney General and a Deputy Attorney General.

CHAPTER III

DUTIES OF THE ATTORNEY GENERAL

3. The duties of the Attorney General are as follows:-

- (a) tendering legal advice when so requested by the State Peace and Development Council, the Government or any Government department and organization;
- (b) appearing in criminal cases on behalf of the State;
- (c) appearing on behalf of the Government in civil cases in which the Government is a party as the plaintiff or defendant;
- (d) filing necessary appeal, special appeal or revision to the Supreme Court in respect of adjudication of Courts at different levels that are not in accordance with law;
- (e) scrutinizing, drafting and translating laws;
- (f) tendering legal advice to the relevant Government departments and organizations as to whether or not the State should be a party to international conventions and regional agreements;

(g) tendering legal advice to the Government departments and organizations on matters related to bilateral or multilateral treaties, memorandums or understanding, memorandums of agreements, local and foreign investment instruments and other instruments;

(h) bringing to the notice of the Government departments and organizations, if their acts are not in conformity with the law;

(i) giving legal protection to the people in order to enable them to fully enjoy their legal rights and privileges;

(j) guiding and supervising the Office of the Attorney General, the different levels of Law Offices and Law Officers;

(k) performing other duties as are prescribed by the existing laws and rules or rules, procedures, orders and directives issued under this Law;

(l) performing other duties as are assigned by the State Peace and Development Council.

CHAPTER IV POWERS OF THE ATTORNEY GENERAL

4. The powers of the Attorney General are as follows:-

(a) prescribing the duties and powers of the Deputy Attorney General;

(b) withdrawing, if necessary, any charge, any accused or the whole criminal case;

(c) making decision regarding the closing of a criminal case;

(d) filing appeal against acquittal under the Code of Criminal Procedure to the Supreme Court, if it is considered appropriate to do so against an acquittal order passed by the Court;

(e) calling for necessary orders, decisions, directives, activities, proceedings and other documents from the relevant Government departments and organizations if it is necessary to scrutinize legal matters;

(f) giving consent in writing under the Code of Civil Procedure in order to institute a suit regarding public charities;

5. The Attorney General may delegate to the Law Officers the duties and powers conferred on him under sections 3 and 4.

CHAPTER V
FORMATION OF THE OFFICE OF THE ATTORNEY GENERAL
AND THE DIFFERENT LEVELS OF LAW OFFICES

6. The Attorney General, with the approval of the State Peace and Development Council:-
- (a) shall form the Office of the Attorney General and the different levels of Law Offices as follows:-
 - (i) Office of the Attorney General;
 - (ii) State/Divisional Law Office;
 - (iii) District Law Office;
 - (iv) Township Law Office.
 - (b) may, in forming under sub-section (a), form the Branch Office of the Office of the Attorney General and Branch Offices of the State/Divisional Law Office, if necessary;
 - (c) shall stipulate the necessary strength of the Law Officers and staff of the Office of the Attorney General and the different levels of Law Offices under an organizational set-up.

CHAPTER VI
FUNCTIONS AND DUTIES OF THE LAW OFFICERS

7. The Law Officers of the Office of the Attorney General shall, in accordance with the stipulations, perform the functions and duties delegated by the Attorney General.
8. The Law Officers of the Office of the Attorney General shall, in accordance with the stipulations, carry out compiling and publishing of law books, law manuals and periodicals.
9. The Law Officers of the different levels of Law Offices shall, in accordance with the stipulations, perform the following functions and duties:-
- (a) tendering legal advice when so requested by the relevant Peace and Development council and any relevant Government department and organization;
 - (b) appearing in criminal cases on behalf of the State;
 - (c) tendering legal advice and appearing on behalf of the Government in civil cases in which the Government is a party as the plaintiff or defendant;
 - (d) scrutinizing and tendering legal advice on criminal cases before trial to be in conformity with the law;

- (e) scrutinizing and submitting as to whether or not the relevant prosecuting body complies with the legal advice tendered by the Law Office;
- (f) scrutinizing as to whether or not the request of remand by the prosecuting body is in conformity with the existing laws, orders and directives;
- (g) making decision to tender a pardon from being prosecuted to an approve in accordance with the Code of Civil Procedure in criminal cases;
- (h) scrutinizing and making decision, in accordance with the stipulations as to whether or not any charge, any accused or the whole criminal case filed at the Court should be withdrawn;
- (i) scrutinizing and making decision, in accordance with the stipulations, in respect of closing of criminal cases;
- (j) hiring of a lawyer to appear for the accused in poverty who is accused of a criminal offence punishable with death;
- (k) supervising the practicing lawyer hired by the complainant in accordance with the stipulations in criminal cases in which the Law Officer appears;
- (l) filing revision to the relevant Court in respect of any judgment, order or decision of the Court considered to be not in conformity with law;
- (m) submitting to the Office of the Attorney General in accordance with the stipulations if it is considered that an appeal should be filed against the acquittal order passed by the Court;
- (n) performing the other duties as are assigned by the Attorney General.

CHAPTER VII
MISCELLANEOUS

10. In order to carry out the provisions contained in this Law, the Attorney General may:-

(a) with the approval of the Government, issue such rules and procedures as may be necessary;

(b) issue such notifications, orders and directives as may be necessary.

11. The Attorney General Law (The State Law and Order Restoration Council Law No. 3/88) is hereby repealed.

Sd/.

Than Shwe

Senior General

Chairman

The State Peace and Development Council

THE CITY OF MANDALAY DEVELOPMENT LAW (2002)

The State Peace and Development Council Law No. 8/2002
The 10th Waxing Day of Tazaungmon, 1364 M.E

14 November 2002

The State Peace and Development Council hereby enacts the following Law:-

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the City of Mandalay Development Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:-
 - (a) "City" territory means City of Mandalay Development territory;
 - (b) "Committee" means City of Mandalay Development Committee formed under this Law;
 - (c) "Head of Office" means the head of service personnel of the Office of the City of Mandalay Development Committee.

CHAPTER II FORMATION

3. For enabling to carry out the City of Mandalay Development works effectively, the Prime Minister shall:-
 - (a) form the Committee comprising from a minimum of 5 members to a maximum of 9 members;
 - (b) in forming the Committee do so with suitable citizens;
 - (c) determine the Chairman and the Secretary of the Committee simultaneously, if necessary, Vice-Chairman may be determined.
4. The Chairman of the Committee is the Mayor. If the Vice-chairman be determined, the Vice-Chairman is the Vice-Mayor.
5. The Head of Office is the Joint Secretary of the Committee.
6. The Committee shall be directly responsible to the Prime Minister.

7. The Committee shall operate under its own name and a common seal and shall have perpetual succession with right to sue and be sued.

CHAPTER III FUNCTIONS AND DUTIES OF THE COMMITTEE

8. The Committee shall, in respect of the following functions and duties lay down policy, give guidance, supervise and implement within the City territory:-

- (a) drawing up civil project and establishing new towns;
- (b) administering the lands in accordance with the existing laws;
- (c) constructing, maintaining and demolishing buildings;
- (d) demolishing and resettlement of squatter houses, squatter buildings and squatter wards;
- (e) constructing roads and bridges and maintaining thereof;
- (f) stipulating conditions and in respect of traffic and parking of vehicles and Slow-moving Vehicles;
- (g) determining road regulations and road use and naming of the road and determining the number of the building;
- (h) carrying out environmental conservation works;
- (i) building gardens, parks, playgrounds and recreation centres and maintaining thereof;
- (j) carrying out works for lighting of roads;
- (k) carrying out works for water supply;
- (l) carrying out works for sanitation;
- (m) carrying out works for public health;
- (n) constructing, maintaining and administering of markets;
- (o) prescribing conditions in respect of food businesses, restaurants and roadside stalls;
- (p) granting permission to open guest houses to accommodate local travellers only and inspecting hotels, motels, inns and guest houses in respect of development matters;
- (q) granting permission and administering ferry services, braking businesses and private

pawn shops businesses;

(r) building slaughter houses and granting permission to slaughter cattle for consumptions;

(s) holding and managing cattle fair;

(t) granting permission for keeping and breeding animals and catching and impounding the stray animals;

(u) carrying out tasks to look after the stray insane persons, lepers and beggars;

(v) carrying out precautionary measures against fire, flood, storm and natural disaster;

(w) determining and demolishing graveyards, cremating building and administering crematories;

(x) carrying out other development works beneficial to the general public;

(y) carrying out other functions and duties assigned from time to time by the Prime Minister.

9. The Committee shall, in carrying out development functions and duties contained in section 8, carry out works concerning policy matters and special projects to be implemented within the City territory only after obtaining the approval of the Prime Minister.

10. The Committee may, in carrying out its functions and duties, coordinate with the relevant government and organizations, if necessary.

CHAPTER IV POWERS OF THE COMMITTEE

11. The powers of the Committee are as follows:-

(a) demarcating the City territory and amending thereof;

(b) carrying out development works with funds owned by the Committee in accordance with the existing laws, rules, regulations and bye-laws;

(c) determining, revising, assessing and collecting taxes and duties and rates thereof in respect of development works;

(d) leasing the buildings and land owned by the Committee and evicting the occupants who violate any of the terms and conditions;

(e) using the money obtained by lease of buildings and lease of the land and by other means for the development works in accordance with the procedures, regulations and bye-laws;

- (f) carrying out works contributing to development by communicating with foreign and local organizations or individuals;
- (g) obtaining loans and grants from the Government or from local and foreign organizations;
- (h) carrying out by forming sub-committees required according to the type of development works;
- (i) arranging with advanced modern technology to carry out the development works more effectively;
- (j) exercising powers conferred from time to time by the Prime Minister.

CHAPTER V FINANCE

12. The Committee shall subsist on its own funds. In addition, it shall also take responsibility of its financial matters.

13. The Committee shall open a separate bank account for its funds and has the right to expend for development works. However, it may be expended for any work outside the City territory, if it is actually required for public interests.

14. The Committee may manage, as may be appropriate, the fund not immediately required for use for increment of the same.

15. The Committee may, open a separate bank account for foreign currency accrued to it and may expend the same for development works, in accordance with the procedures regulations and bye-laws.

16. The Committee shall:

(a) scrutinize the annual budget estimate drawn up by the Head of Office and submit to and obtain approval of the Prime Minister.

(b) submit its financial condition and audit report to the Prime Minister annually within 90 days after expiry of the financial year.

CHAPTER VI ORGANIZATIONAL SET-UP

17. The Committee shall, based on its functions and duties, draw up the necessary organizational set-up with the approval of the Prime Minister.

18. The Committee may, in drawing up the organizational set-up under section 17, also include in the set-up the following personnel contributing to the development works after coordination with the relevant government departments and organizations:-

- (a) Personnel carrying out work relating to precautionary measures against disease and public health;
- (b) Personnel carrying out the function of precautionary measures against fire hazards;
- (c) Members of Development Police Force and other service personnel carrying out the duty of security and maintenance of discipline.

19. The Committee, in appointing personnel:-

- (a) has the right, to appoint in accordance with the existing regulations and bye-laws, within the organizational set-up;
- (b) may, in coordination with the relevant government departments and organizations, transfer, and appoint personnel who can carry out the development works effectively.

20. The Committee in appointing personnel, shall not expend more than 30 percent of the annual income accrued.

21. The committee may for enabling supervision of the personnel, delegate as may be necessary, powers relating to the personnel affairs to the Head of Office.

CHAPTER VII

MAINTAINING THE FUND AND AUDITING OF ACCOUNTS

22. The Committee shall, for enabling the Head of Office to maintain the accounts systematically and to conduct auditing, prescribe the procedures on accounts, in coordination with the Auditor-General.

23. The Head of Office shall:-

- (a) compile and maintain the accounts in accordance with the procedures on accounts prescribed by the Committee;
- (b) submit to the auditing of the person assigned by the Auditor-General in respect of the accounts compiled and maintained under subsection (a).

CHAPTER VIII
OFFENCES AND PENALTIES

24. Whoever violates or fails to abide by any of the rules made by the Committee under this Law shall, on conviction, be punished with imprisonment for a term which may extend to 1 year or with fine which may extend to kyats 50,000 or with both.

25. If a person convicted under section 24 violates or fails to abide by the said rule continuously, he shall be punished with fine extending from a minimum of kyats 500 to a maximum of kyats 5,000 for each day during which the offence continues.

26. Whoever violates or fails to abide by any of the bye-laws or orders issued by the Committee under this Law shall, on conviction be punished with imprisonment for a term which may extend to 3 months or with fine which may extend to kyats 10,000 or with both.

27. If a person convicted under section 26 violates or fails to abide by the said bye-law or order continuously, he shall be punished with fine extending from a minimum of kyats 200 to a maximum of kyats 2,000 for each day during which the offence continues.

CHAPTER IX
MISCELLANEOUS

28. Funds owned by the City of Mandalay Development Committee, moveable and immovable property, works underway and works which have been completed, assets and liabilities shall devolve respectively on the Committee.

29. The Committee may apply the bye-laws, orders and notifications relating to the City of Mandalay Development Committee issued under the laws of development that have been repealed, in so far as they are not contrary to this Law.

30. In order to have speedy trial and disposal of cases for which proceedings have been instituted under this Law, the Committee shall carry out in coordination with the Supreme Court for opening of Courts at appropriate places within the City territory.

31. (a) In executing instruments regarding transfer of immovable property situated in the City territory, the person chargeable with stamp duty shall, in addition to the value of stamp duty payable under the Myanmar Stamp Act, pay an increased rate of two percent;

(b) The Committee shall, for enabling the transfer and collection of the stamp duty chargeable under sub-section (a) coordinate with the Ministry of Finance and Revenue.

32. The Committee may, for the purpose of implementing the provisions of the Law:-

(a) issue, with approval of the Prime Minister, such rules as may be necessary;

(b) issue such procedures, bye-laws, notifications, orders and directives as may be necessary.

33. The City of Mandalay Development Law (Law No. 10/92) is hereby repealed.

Sd/

Than Shwe

Senior General

Chairman

The State Peace and Development Council

**ORDER NO. 3: CONFERRING POWERS
RELATING TO LAND ADMINISTRATION (2007)**

The State Peace and Development Council
Order No. 3/2007
The 3rd Waxing Day of Kason, 1369, M.E

3 May 2007

Conferring Powers Relating to Land Administration

The State Peace and Development Council hereby confers on the Nay Pwi Taw Development Committee powers relating to land administration over the lands owned by the Committee within the Nay Pwi Taw Development area and lands and privately owned lands transferred and taken over by the Committee in accordance with the existing laws.

By Order,

Sd./
Thein Sein,
Lieutenant General
Secretary (1)
The State Peace and Development Council

CONSTITUTION OF THE REPUBLIC OF THE UNION OF MYANMAR (2008)

29 May 2008

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PREAMBLE

Myanmar is a Nation with magnificent historical traditions. We, the National people, have been living in unity and oneness, setting up an independent sovereign State and standing tall with pride.

Due to colonial intrusion, the Nation lost her sovereign power in 1885. The National people launched anti-colonialist struggles and National liberation struggles, with unity in strength, sacrificing lives and hence the Nation became an independent sovereign State again on 4th January 1948.

In order to gain independence speedily, the Constitution was hastily drafted, and it was adopted by the Constituent Assembly on 24th September 1947. After attaining independence, Parliamentary Democracy System was practised in the State in accord with the Constitution of the Union of Myanmar. However, as democratic system could not be effectively materialized, the new Constitution of the Socialist Republic of the Union of Myanmar was drafted based on the single party system, and after holding a National Referendum, a socialist democratic State was set up in 1974. The Constitution came to an end because of the general situation occurred in 1988.

Later, due to public aspirations, the State Peace and Development Council made efforts to adopt multi-party democratic system and market economy in accord with the National situation.

As an enduring Constitution, that guarantees long-term benefits, has become essential for the future nation, the State Peace and Development Council convened the National Convention in 1993.

Persons who are well experienced in various aspects of politics, security, administration, economics, social and law as well as National races representatives of all townships in the Nation took part in the National Convention.

Despite many difficulties and disturbances encountered the National Convention, it was unwaveringly reconvened in 2004 in accord with the seven-step Roadmap adopted in 2003. As the National Convention was able to adopt the Basic Principles and Detailed Basic Principles for formulating a Constitution, it successfully concluded on 3rd September 2007.

We, the National people, drafted this Constitution of the Republic of the Union of Myanmar in accord with the Basic Principles and Detailed Basic Principles laid down by the National Convention.

We, the National people, firmly resolve that we shall:

-steadfastly adhere to the objectives of non-disintegration of the Union, non-disintegration of National solidarity, and perpetuation of sovereignty;

-stalwartly strive for further burgeoning the eternal principles namely justice, liberty, equality and perpetuation of peace and prosperity of the National people;

-uphold racial equality, living eternally in unity fostering the firm Union Spirit of true patriotism;

-constantly endeavour to uphold the principles of peaceful co-existence among nations with a view to having world peace and friendly relations among nations.

Do hereby adopt this Constitution of the Republic of the Union of Myanmar through a nation-wide referendum on the Tenth day of Kasone Waning, 1370 M.E.

29 May 2008

CHAPTER I BASIC PRINCIPLES OF THE UNION

1. Myanmar is an independent sovereign Nation.
2. The State shall be known as the Republic of the Union of Myanmar.
3. The State is where multi-National races collectively reside.
4. The Sovereign power of the Union is derived from the citizens and is in force in the entire country.
5. The territory of the State shall be the land, sea, and airspace which constitutes its territory on the day this Constitution is adopted.

Basic Principles

6. The Union's consistent objectives are:
 - (a) non-disintegration of the Union;
 - (b) non-disintegration of National solidarity;
 - (c) perpetuation of sovereignty;
 - (d) flourishing of a genuine, disciplined multi-party democratic system;
 - (e) enhancing the eternal principles of Justice, Liberty and Equality in the Union and;
 - (f) enabling the Defence Services to be able to participate in the National political leadership role of the State.

7. The Union practises genuine, disciplined multi-party democratic system.
8. The Union is constituted by the Union system.
9. (a) The existing seven Divisions are designated as seven Regions and the existing seven States are designated as seven States. Those seven Regions and seven States are of equal status;
- (b) The names of those seven Regions and seven States are retained as they exist;
- (c) If it is desired to change the name of a Region or a State, it shall be done so with the enactment of a law after ascertaining the desire of citizens residing in the Region or State concerned.
10. No part of the territory constituted in the Union such as Regions, States, Union Territories and Self-Administered Areas shall ever secede from the Union.
11. (a) The three branches of sovereign power namely, legislative power, executive power and judicial power are separated, to the extent possible, and exert reciprocal control, check and balance among themselves;
- (b) The three branches of sovereign power, so separated are shared among the Union, Regions, States and Self-Administered Areas.
12. (a) The legislative power of the Union is shared among the Pyidaungsu Hluttaw, Region Hluttaws and State Hluttaws. Legislative power stipulated by this Constitution shall be shared to the Self-Administered Areas;
- (b) The Pyidaungsu Hluttaw consisting of two Hluttaws, one Hluttaw elected on the basis of township as well as population, and the other on an equal number of representatives elected from Regions and States.
13. There shall be a Region Hluttaw in each of the seven Regions, and a State Hluttaw in each of the seven States.
14. The Pyidaungsu Hluttaw, the Region Hluttaws and the State Hluttaws include the Defence Services personnel as Hluttaw representatives nominated by the Commander-in-Chief of the Defence Services in numbers stipulated by this Constitution.
15. For National races with suitable population, National races representatives are entitled to participate in legislature of Regions or States and Self-Administered Areas concerned.
16. The Head of the Union and the Head of Executive of the Union is the President.

17. (a) The executive power of the Union is shared among the Pyidaungsu, Regions and States; Self-Administrative power shall be shared between Self-Administered Areas as prescribed by this Constitution;

(b) In the executive of the Union, Regions, States, Union Territory, Self-Administered Areas and districts, Defence Services personnel, nominated by the Commander-in-Chief of the Defence services to undertake responsibilities of the defence, security, border administration, so forth, shall be included;

(c) For National races of which representatives are so permitted to participate in legislature of Regions, States or Self-Administered Areas in accord with Section 15, such representatives are to be permitted to participate, mainly, to undertake their National races affairs.

18. (a) The judicial power of the Union is shared among the Supreme Court of the Union, High Courts of the Regions, High Courts of the States and Courts of different levels including Courts of Self-Administered Areas;

(b) There shall be one Supreme Court of the Union. The Supreme Court of the Union is the highest Court of the Republic.;

(c) The Supreme Court of the Union has powers to issue writs.

(d) A High Court of the Region or State is constituted in each Region or State.

19. The following are prescribed as judicial principles:

(a) to administer justice independently according to law;

(b) to dispense justice in open court unless otherwise prohibited by law;

(c) to guarantee in all cases the right of defence and the right of appeal under law.

20. (a) The Defence Services is the sole patriotic defence force which is strong, competent and modern;

(b) The Defence Services has the right to independently administer and adjudicate all affairs of the armed forces;

(c) The Commander-in-Chief of the Defence Services is the Supreme Commander of all armed forces;

(d) The Defence Services has the right to administer for participation of the entire people in Union security and defence;

(e) The Defence Services is mainly responsible for safeguarding the non-disintegration of the Union, the non-disintegration of National solidarity and the perpetuation of sovereignty;

(f) The Defence Services is mainly responsible for safeguarding the Constitution.

21. (a) Every citizen shall enjoy the right of equality, the right of liberty and the right of justice, as prescribed in this Constitution;

(b) No citizen shall be placed in custody for more than 24 hours without the permission of a Court;

(c) Every citizen is responsible for public peace and tranquility and prevalence of law and order;

(d) Necessary law shall be enacted to make citizens' freedoms, rights, benefits, responsibilities and restrictions effective, steadfast and complete.

22. The Union shall assist:

(a) to develop language, literature, fine arts and culture of the National races;

(b) to promote solidarity, mutual amity and respect and mutual assistance among the National races;

(c) to promote socio-economic development including education, health, economy, transport and communication, so forth, of less-developed National races.

23. The Union shall:

(a) enact necessary laws to protect the rights of the peasants;

(b) assist peasants to obtain equitable value of their agricultural produce.

24. The Union shall enact necessary laws to protect the rights of workers.

25. The Union shall assist to promote the interests of the intellectuals and intelligentsia.

26. (a) Civil Services personnel shall be free from party politics;

(b) The Union shall enact necessary laws for Civil Services personnel to have security and sufficiency of food, clothing and shelter, to get maternity benefits for married women in service, and to ease livelihood for welfare of retired Service personnel.

27. The Union shall assist development, consolidation and preservation of National culture.

28. The Union shall:

- (a) earnestly strive to improve education and health of the people;
- (b) enact the necessary law to enable National people to participate in matters of their education and health;
- (c) implement free, compulsory primary education system;
- (d) implement a modern education system that will promote all-around correct thinking and a good moral character contributing towards the building of the Nation.

29. The Union shall provide inputs, such as technology, investments, machinery, raw materials, so forth, to the extent possible for changeover from manual to mechanized agriculture.

30. The Union shall provide inputs, such as technology, investments, machinery, raw materials, so forth, to the extent possible, for development of industries.

31. The Union shall, to the extent possible, assist to reduce unemployment among the people.

32. The Union shall:

- (a) care for mothers and children, orphans, fallen Defence Services personnel's children, the aged and the disabled;
- (b) ensure disabled ex-Defence Services personnel a decent living and free vocational training.

33. The Union shall strive for youth to have strong and dynamic patriotic spirit, the correct way of thinking and to develop the five noble strengths.

34. Every citizen is equally entitled to freedom of conscience and the right to freely profess and practise religion subject to public order, morality or health and to the other provisions of this Constitution.

35. The economic system of the Union is market economy system.

36. The Union shall:

- (a) permit all economic forces such as the State, regional organizations, cooperatives, joint-ventures, private individual, so forth, to take part in economic activities for the development of National economy;

- (b) protect and prevent acts that injure public interests through monopolization or manipulation of prices by an individual or group with intent to endanger fair competition in economic activities;
- (c) strive to improve the living standards of the people and development of investments;
- (d) not nationalize economic enterprises;
- (e) not demonetize the currency legally in circulation.

37. The Union:

- (a) is the ultimate owner of all lands and all natural resources above and below the ground, above and beneath the water and in the atmosphere in the Union;
- (b) shall enact necessary law to supervise extraction and utilization of State-owned natural resources by economic forces;
- (c) shall permit citizens right of private property, right of inheritance, right of private initiative and patent in accord with the law.

38. (a) Every citizen shall have the right to elect and be elected in accord with the law;

(b) Electorate concerned shall have the right to recall elected people's representatives in accord with the provisions of this Constitution.

39. The Union shall enact necessary law to systematically form political parties for flourishing of a genuine, disciplined multi-party democratic system.

40. (a) If there arises a state of emergency characterized by inability to perform executive functions in accord with the provisions of the Constitution in a Region or a State or a Self-Administered Area, the President is empowered to exercise executive power in that Region, State or Self-Administered Area and, if necessary in doing so, the President is empowered to exercise legislative powers concerning that Region, State or Self-Administered Area in accord with the provisions of this Constitution;

(b) If there arises or there is sufficient reason to arise a state of emergency endangering life and property of the people in a Region, State or Self-Administered Area, the Defence Services has the right, in accord with the provisions of this Constitution, to prevent that danger and provide protection;

(c) If there arises a state of emergency that could cause disintegration of the Union, disintegration of national solidarity and loss of sovereign power or attempts therefore by wrongful forcible means such as insurgency or violence, the Commander-in-Chief of the

Defence Services has the right to take over and exercise State sovereign power in accord with the provisions of this Constitution.

41. The Union practises independent, active and non-aligned foreign policy aimed at world peace and friendly relations with nations and upholds the principles of peaceful coexistence among nations.

42. (a) The Union shall not commence aggression against any nation;

(b) No foreign troops shall be permitted to be deployed in the territory of the Union.

43. No Penal law shall be enacted to provide retrospective effect.

44. No penalty shall be prescribed that violates human dignity.

45. The Union shall protect and conserve natural environment.

46. A Constitutional Tribunal shall be set up to interpret the provisions of the Constitution, to scrutinize whether or not laws enacted by the Pyidaungsu Hluttaw, the Region Hluttaws and the State Hluttaws and functions of executive authorities of Pyidaungsu, Regions, States and Self-Administered Areas are in conformity with the Constitution, to decide on disputes relating to the Constitution between Pyidaungsu and Regions, between Pyidaungsu and States, among Regions, among States, and between Regions or States and Self-Administered Areas and among Self-Administered Areas themselves, and to perform other duties prescribed in this Constitution.

47. The Basic Principles set forth in this Chapter, and Chapter 8, Citizen, Fundamental Rights, and Duties of the Citizen, the term “Union” means person or body exercising the legislative or executive authority of the Union under this Constitution according as the context may require.

48. The Basic Principles of the Union shall be the guidance in enacting laws by legislature and in interpreting the provisions of this Constitution and other laws.

CHAPTER II STATE STRUCTURE

49. The Union is delineated and constituted by seven Regions, seven States and the Union territories as follows:

(a) Kachin State;

(b) Kayah State;

(c) Kayin State;

- (d) Chin State;
- (e) Sagaing Region;
- (f) Taninthayi Region;
- (g) Bago Region;
- (h) Magway Region;
- (i) Mandalay Region;
- (j) Mon State;
- (k) Rakhine State;
- (l) Yangon Region;
- (m) Shan State;
- (n) Ayeyawady Region; and
- (o) Union territories.

50. (a) Nay Pyi Taw, the capital of the Union, prescribed as Union territory, shall be under the direct administration of the President;

(b) If there arises a need to specify areas that have special situations concerning national defence, security, administration and economy, so forth, those areas may be prescribed as Union territories under the direct administration of the President after enacting law.

51. The Union is constituted as follows:

- (a) villages are organized as village-tract;
- (b) wards are organized as town or township;
- (c) village-tracts and wards or towns are organized as township;
- (d) townships are organized as district;
- (e) districts are organized as Region or State;
- (f) townships in a Self-Administered Zone are organized as Self-Administered Zone;

(g) townships in a Self-Administered Division are organized as District and such Districts are organized as Self-Administered Division;

(h) If there are Self-Administrated Zone or Self-Administered Division in a Region or a State, those Self-Administered Divisions, Self-Administered Zones and Districts are organized as Region or State;

(i) Regions, States and Union territories are organized as the Republic.

52. (a) If there arises a need to re-delineate the territorial boundary of the Union, the President shall firstly intimate the Head of the Pyidaungsu Hluttaw to ask for the opinion of the Yidaungsu Hluttaw.

(b) The Head of the Pyidaungsu Hluttaw, after receiving the intimation of the President, shall obtain the opinion of the Hluttaw representatives as follows:

(i) assenting votes of more than half of the total number of representatives in the Hluttaw, elected in equal numbers from Regions and States;

(ii) assenting votes of more than half of the total number of representatives in the Hluttaw, elected as representatives on the basis of township as well as population;

(iii) assenting votes of more than half of the total number of representatives of the two Hluttaws from the Region or State involved in the boundary concerned.

(c) The Head of the Pyidaungsu Hluttaw, after obtaining the assenting votes as mentioned above, shall inform the President for re-delineating the territorial boundary of the Union as necessary;

(d) In accord with the above-mentioned procedures, if either of the Hluttaws, or representatives from the Region or State involved in the territorial boundary concerned resolve against re-delineation, the opinion of the Pyidaungsu Hluttaw shall be obtained. If three-fourths and above of the total number of the Pyidaungsu Hluttaw representatives cast assenting votes, the Head of the Pyidaungsu Hluttaw shall inform the President to re-delineate the territorial boundary as necessary;

(e) The President shall take necessary measures for re-delineation of the territorial boundary of the Union, as necessary, after obtaining the opinion of the Pyidaungsu Hluttaw.

53. (a) If there arises a cause to re-delineate the territorial boundary of a Region or a State, the prior consent of the electorate residing within the township concerned shall be obtained;

(b) In obtaining consent, re-delineation of the territorial boundary shall not be executed at all in the absence of assenting votes of more than half of the total number of the electorate residing within the township concerned;

(c) If more than half of the total number of eligible voters residing within the township concerned cast assenting vote for re-delineation of the territorial boundary, the consent of the Hluttaw representatives of the Region or State involved in the territorial boundary concerned shall be obtained;

(d) The President shall re-delineate the territorial boundary of the Region or State concerned with the consent of the Pyidaungsu Hluttaw, after obtaining the assenting votes of three-fourths and above of the total number of representatives from the Region or the State concerned;

(e) The resolution of the Pyidaungsu Hluttaw shall be obtained if a Region Hluttaw or a State Hluttaw concerned decided against re-delineation of the territorial boundary;

(f) The President shall, as necessary, re-delineate the territorial boundary of a Region or a State if three-fourths and above of the total number of representatives in the Pyidaungsu Hluttaw assent to the re-delineation of the territorial boundary.

54. Where there arises a situation to alter or form the territorial boundary or change the name of a village, village-tract, ward, town, township or district of a Region, State, Self-Administered Division or Self-Administered Zone concerned, the President shall act, as necessary, upon the recommendation of the Chief Minister of the Region or State concerned.

55. If it is desired to change the name of a Self-Administered Division or Self-Administered Zone, the same procedure shall be applied as in the case of changing the name of a Region or State.

56. The Self-Administered Divisions and Self-Administered Zones are delineated as follows:

(a) grouping Leshi, Lahe and Namyun townships in Sagaing Division as Naga Self-Administered Zone;

(b) grouping Ywangan and Pindaya townships in Shan State as Danu Self-Administered Zone;

(c) grouping HoPong, HsiHseng and Pinlaung townships in Shan State as Pa-O Self-Administered Zone;

(d) grouping Namhsan and Manton townships in Shan State as Pa Laung Self-Administered Zone;

(e) grouping Konkyan and Laukkai townships in Shan State as Kokang Self-Administered Zone;

(f) grouping six townships – Hopang, Mongma, Panwai, Nahpan, Metman and Pangsang (Pankham) townships in Shan State as two districts which are forged into ‘Wa’ Self-Administered Division.

CHAPTER III THE PRESIDENT AND VICE-PRESIDENTS

57. The President and Vice-Presidents represent the Union.

58. The President of the Republic of the Union of Myanmar takes precedence over all other persons throughout the Republic of the Union of Myanmar.

59. Qualifications of the President and Vice-Presidents are as follows:

(a) shall be loyal to the Union and its citizens;

(b) shall be a citizen of Myanmar who was born of both parents who were born in the territory under the jurisdiction of the Union and being Myanmar Nationals;

(c) shall be an elected person who has attained at least the age of 45;

(d) shall be well acquainted with the affairs of the Union such as political, administrative, economic and military;

(e) shall be a person who has resided continuously in the Union for at least 20 years up to the time of his election as President;

Proviso: An official period of stay in a foreign country with the permission of the Union shall be counted as a residing period in the Union;

(f) shall he himself, one of the parents, the spouse, one of the legitimate children or their spouses not owe allegiance to a foreign power, not be subject of a foreign power or citizen of a foreign country. They shall not be persons entitled to enjoy the rights and privileges of a subject of a foreign government or citizen of a foreign country;

(g) shall possess prescribed qualifications of the President, in addition to qualifications prescribed to stand for election to the Hluttaw.

60. (a) The President shall be elected by the Presidential Electoral College.

(b) The Presidential Electoral College shall be formed with three groups of the Pyidaungsu Hluttaw representatives as follows:

(i) group formed with elected Hluttaw representatives in the Hluttaw with an equal number of representatives elected from Regions and States;

(ii) group formed with elected Hluttaw representatives in the Hluttaw elected on the basis of township and population;

(iii) group formed with the Defence Services personnel Hluttaw representatives nominated by the Commander-in-Chief of the Defence Services for the said two Hluttaws.

(c) Each group shall elect a Vice-President from among the Hluttaw representatives or from among persons who are not Hluttaw representatives.

(d) The Pyidaungsu Hluttaw and a Body comprising the Heads and Deputy Heads of the two Hluttaws in the Pyidaungsu Hluttaw shall scrutinize whether or not the Vice-Presidents possess the qualifications prescribed for the President.

(e) The Presidential Electoral College comprising all the Pyidaungsu Hluttaw representatives shall elect by vote one of the three Vice-Presidents who are Presidential candidates, as the President.

(f) Necessary law shall be enacted for the election of President and Vice-Presidents.

61. (a) The term of office of the President or the Vice-Presidents is five years.

(b) After the expiry of the incumbent term, the President and the Vice-Presidents shall continue their duties until the time the new President is duly elected.

(c) The President and the Vice-Presidents shall not serve more than two terms.

(d) An interim period to serve as the President or the Vice-President shall not be counted as one term of office.

(e) If a vacancy is filled for the President or the Vice-President for any reason, the term of office of the new President or the new Vice-President shall be up to the expiry of the original term of office.

62. The President or the Vice-Presidents shall not be representative of any Hluttaw.

63. If the President or the Vice-Presidents are Hluttaw representatives, they shall be deemed to have resigned from their seats in that Hluttaw, and if the President or the Vice Presidents are the Civil Services personnel, they shall be deemed to have resigned or retired from their offices from the day of their election.

64. If the President or the Vice-Presidents are members of a political party, they shall not take part in its party activities during their term of office from the day of their election.

65. The President and the Vice-Presidents shall make an affirmation as follows:

“I do solemnly and sincerely promise and declare that I will be loyal to the Republic of the Union of Myanmar and the citizens and hold always in esteem non-disintegration of the Union, non-disintegration of national solidarity and perpetuation of sovereignty.

I will uphold and abide by the Constitution and its Laws. I will carry out the responsibilities uprightly to the best of my ability and strive for further flourishing the eternal principles of justice, liberty and equality. I will dedicate myself to the service of the Republic of the Union of Myanmar.”

66. The President or the Vice-Presidents shall exercise duties and powers vested by this Constitution and other laws.

67. The President and the Vice-Presidents shall not hold any other office or position of emolument.

68. The President and the Vice-Presidents shall furnish a list of family assets under his direction, namely land, houses, buildings, businesses, savings and other valuables together with their values to the Head of the Pyidaungsu Hluttaw.

69. The President and the Vice-Presidents shall receive the emoluments, allowances and insignia of office as prescribed by law. Each shall also be provided with an appropriate official residence.

70. Except in the case of removal from office following impeachment, the President and the Vice-Presidents shall enjoy pension and suitable allowances on retirement in accord with the law after the expiry of the term of office.

71. (a) The President or any Vice-President may be impeached for one of the following reasons:

(i) high treason;

(ii) breach of the provisions of this Constitution;

(iii) misconduct;

(iv) being disqualified for the President or Vice-President under provisions as prescribed in this Constitution;

(v) inefficient discharge of duties assigned by law.

(b) If it be required to impeach the President or any Vice-President, a charge signed by not less than one-fourth of the total number of representatives of either Hluttaw included in the Pyidaungsu Hluttaw shall be submitted to the Head of the Hluttaw concerned.

- (c) Action shall proceed only when this charge is supported by not less than two-thirds of the total number of representatives of the Hluttaw concerned.
- (d) If one Hluttaw supports the taking of action, the other Hluttaw shall form a Body to investigate this charge.
- (e) The President or the Vice-President shall have the right to refuse the charge himself in person or through a representative when it is investigated.
- (f) If, after the investigation, not less than two-thirds of the total number of representatives of the Hluttaw which investigated the charge or caused the investigation to be initiated passed the resolution that the charge has been substantiated and renders the President or the Vice-President unfit to continue in office, the Hluttaw concerned shall submit to the Head of the Pyidaungsu Hluttaw such resolution to remove the impeached President or the impeached Vice-President from office.
- (g) The Head of the Pyidaungsu Hluttaw shall declare the removal of the President or the Vice-President immediately after the receipt of the submission.

72. The President or any of the Vice-Presidents shall be allowed to resign from office of his own volition before the expiry of the term of office.

73. (a) One of the two Vice-Presidents who has won the second highest votes in the Presidential election shall serve as Acting President if the office of the President falls vacant due to his resignation, death, permanent disability or any other cause.

(b) If the office of the President becomes vacant when the Pyidaungsu Hluttaw is in session, the Acting President shall promptly intimate the Head of the Pyidaungsu Hluttaw to fill the vacancy within seven days.

(c) On receipt of the intimation from the Acting President, the Head of the Pyidaungsu Hluttaw shall proceed to elect a Vice-President by the group of Hluttaw representatives concerned that initially elected the Vice-President who subsequently got elected President, the office now being vacant.

(d) After the group of Hluttaw representatives concerned has elected a Vice-President, the Electoral College comprising all the Pyidaungsu Hluttaw representatives shall elect the President from among the three Vice-Presidents.

(e) If the office of the President becomes vacant when the Pyidaungsu Hluttaw is not in session, the Head of the Pyidaungsu Hluttaw shall summon the Pyidaungsu Hluttaw within 21 days from the day of receipt of the intimation from the Acting President and proceed to hold election to fill the vacant office of the President in accord with the above procedure.

(f) If the office of a Vice-President becomes vacant before the expiry of the term by reason of his resignation, death, permanent disability or any other cause when the Pyidaungsu Hluttaw is in session, the President shall promptly intimate the Head of the Pyidaungsu Hluttaw to elect a Vice-President within seven days by the group of Hluttaw representatives concerned that elected the said Vice-President.

(g) When the Pyidaungsu Hluttaw is not in session, the Head of the Pyidaungsu Hluttaw shall summon the Pyidaungsu Hluttaw within 21 days from the day of receipt of the intimation from the President and proceed with the election of a Vice-President by the group of Hluttaw representatives concerned in accord with the prescribed procedure.

CHAPTER IV LEGISLATURE

The Pyidaungsu Hluttaw

Formation of the Pyidaungsu Hluttaw

74. The Pyidaungsu Hluttaw comprises of the following two Hluttaws:

(a) in accord with the provisions of Section 109, the Pyithu Hluttaw formed with Hluttaw representatives elected on the basis of township as well as population and Hluttaw representatives being the Defence Services Personnel nominated by the Commander-in-Chief of the Defence Services;

(b) in accord with the provisions of Section 141, the Amyotha Hluttaw formed with Hluttaw representatives elected in equal numbers from Regions and States and Hluttaw representatives being the Defence Services Personnel nominated by the Commander-in-Chief of the Defence Services.

The Head and the Deputy Heads of the respective Hluttaws

75. On the day of commencement of the first Hluttaw session for each term of the Hluttaw concerned, the person who is to conduct and supervise the Hluttaw session held for the taking of affirmation of office by Hluttaw representatives and for electing the Hluttaw Speaker and Deputy Speaker shall be called the Chairperson, the Head and the Deputy Head of the Pyidaungsu Hluttaw shall be called the Speaker and the Deputy Speaker, the Head and the Deputy Head of the Pyithu Hluttaw, the Amyotha Hluttaw, the Region Hluttaw or the State Hluttaw shall be called the Speaker and the Deputy Speaker.

Performance of duties by the Speaker and the Deputy Speaker of the Pyidaungsu Hluttaw

76. (a) The Speaker and the Deputy Speaker of the Amyotha Hluttaw shall also serve as the Speaker and the Deputy Speaker of the Pyidaungsu Hluttaw from the day of term of the Pyithu Hluttaw commences up to the end of 30 months and the Speaker and the Deputy

Speaker of the Pyithu Hluttaw shall also serve as the Speaker and the Deputy Speaker of the Pyidaungsu Hluttaw for the remaining term.

(b) When the Speaker of the Pyidaungsu Hluttaw is unable to perform the duties of the Speaker, the Deputy Speaker shall temporarily perform the duties of the Speaker.

Functions of the Speaker of the Pyidaungsu Hluttaw

77. The Speaker of the Pyidaungsu Hluttaw shall:

- (a) supervise the Pyidaungsu Hluttaw sessions;
- (b) invite the President, if he is intimated of the President's desire to address the Pyidaungsu Hluttaw;
- (c) have the right to invite organizations or persons representing any of the Union level organizations formed under the Constitution to attend the Pyidaungsu Hluttaw session and give clarifications on matters relating to ongoing discussions, if necessary;
- (d) perform other duties and powers prescribed by the Constitution or any law.

Convening the Sessions of the Pyidaungsu Hluttaw

78. The first regular session of the Pyidaungsu Hluttaw shall be held within 15 days from the first day of the commencement of the first session of the Pyithu Hluttaw. The Speaker of the Pyidaungsu Hluttaw shall convene the Pyidaungsu Hluttaw.

79. The Speaker of the Pyidaungsu Hluttaw shall convene the Pyidaungsu Hluttaw regular session at least once a year. The maximum interval between the two regular sessions shall not exceed twelve months.

80. The following functions shall be carried out at the Pyidaungsu Hluttaw session:

- (a) recording the address delivered by the President;
- (b) reading and recording the message sent by the President and other messages permitted by the Speaker;
- (c) submitting, discussing and resolving on a Bill;
- (d) discussing and resolving on the remarks of the President concerning a Bill approved by the Pyidaungsu Hluttaw;
- (e) discussing and resolving on matters to be undertaken by the Pyidaungsu Hluttaw in accord with the provisions of the Constitution;

- (f) discussing, resolving and recording the reports submitted to the Pyidaungsu Hluttaw;
- (g) submitting proposals, discussing and resolving;
- (h) raising questions and replying;
- (i) undertaking matters approved by the Speaker of the Pyidaungsu Hluttaw.

81. Matters that require resolutions, consents and approvals of the Pyidaungsu Hluttaw shall be implemented as follows:

- (a) if the Pyidaungsu Hluttaw is in session, the matter shall be discussed and resolved at that session;
- (b) if the Pyidaungsu Hluttaw is not in session, the matter shall be discussed and resolved at the nearest Pyidaungsu Hluttaw session;
- (c) a special session or an emergency session shall be convened to discuss and resolve matters which need urgent action in the interest of the public.

82. The Speaker of the Pyidaungsu Hluttaw may convene a special session or an emergency session, if necessary.

83. The Speaker of the Pyidaungsu Hluttaw shall convene a special session or an emergency session as soon as possible when the President informs him to do so.

84. The Speaker of the Pyidaungsu Hluttaw shall convene a special session as soon as possible, if at least one-fourth of the total number of the representatives so require.

85. (a) The first day session of the Pyidaungsu Hluttaw shall be valid if more than half of the total number, who have the right to attend the session, are present. The session, if invalid, shall be adjourned;

(b) The sessions that are adjourned due to invalidity in accord with the sub-section (a) as well as the valid sessions that are extended shall be valid if at least one-third of the Hluttaw representatives are present.

86. (a) A matter that shall be resolved in the Pyidaungsu Hluttaw, save as otherwise provided by the Constitution, shall be determined by a majority of votes of the representatives of the Pyidaungsu Hluttaw who are present and voting;

(b) The Speaker of the Pyidaungsu Hluttaw or the Deputy Speaker acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

87. If a representative of the Pyidaungsu Hluttaw is, without permission of the Speaker of the Pyidaungsu Hluttaw, absent from sessions of the Pyidaungsu Hluttaw for a period of at least 15 consecutive days, the Speaker shall inform the Hluttaw concerned to take action against the representative according to the prescribed procedures. In computing the said period of 15 days, no account shall be taken of any period during which the session is adjourned.

88. Although there are vacant seats, the Pyidaungsu Hluttaw shall have the right to carry out its functions. Moreover, the resolutions and proceedings of the Pyidaungsu Hluttaw shall not be annulled, notwithstanding the acts of some person who was not entitled to do so sat or voted or took part in the proceedings are later discovered.

89. The proceedings and the records of the Pyidaungsu Hluttaw shall be published. However, the proceedings and the records prohibited by any law or the resolution of the Pyidaungsu Hluttaw shall not be published.

90. Members of the organizations representing any of the Union level organizations formed under the Constitution while attending the Pyidaungsu Hluttaw with the permission of the Speaker have the right to explain, converse and discuss the Bills and other matters in connection with the respective organization.

91. The Union level organizations formed under the Constitution may submit the general situation in connection with the respective organization, which should be submitted to the Pyidaungsu Hluttaw with the permission of the Speaker.

92. (a) Subject to the provisions of the Constitution and the provisions of the law relating to the Pyidaungsu Hluttaw, the representatives of the Pyidaungsu Hluttaw shall have freedom of speech and voting at the Pyidaungsu Hluttaw and the Pyidaungsu Hluttaw Joint Committee. Concerning the submitting, discussing and performing at the Pyidaungsu Hluttaw and the Joint Committee, no action shall be taken against, a representative of the Pyidaungsu Hluttaw, except under its law;

(b) Subject to the provisions of the Constitution and the provisions of the law relating to the Pyidaungsu Hluttaw, members of the organizations or persons representing any of the Union level organizations formed under the Constitution who are invited to attend the Pyidaungsu Hluttaw session have the freedom of speech. No action shall be taken against such members or persons for their submission and speeches in Pyidaungsu Hluttaw by other law except under its law;

(c) If the persons mentioned in Sub-Sections (a) and (b) committed assault in exercising the said privileges, they shall be liable to punishment under the regulations, bye-laws, procedures of the Pyidaungsu Hluttaw or the existing law.

93. If there is a need to arrest a Pyidaungsu Hluttaw representative attending the Pyidaungsu Hluttaw session or a person attending the Pyidaungsu Hluttaw session with the permission

or invitation of the Speaker of the Pyidaungsu Hluttaw, credible evidence shall be submitted to the Speaker of the Pyidaungsu Hluttaw. He shall not be arrested without the prior permission of the Speaker of the Pyidaungsu Hluttaw.

94. No action shall be instituted relating to the reports, documents, and Hluttaw records published by the Pyidaungsu Hluttaw or under its authority.

Legislation

95. (a) If a Bill initiated in the Pyithu Hluttaw or the Amyotha Hluttaw is approved by both Hluttaws, it shall be deemed that the Bill is approved by the Pyidaungsu Hluttaw;

(b) If there is a disagreement between the Pyithu Hluttaw and the Amyotha Hluttaw concerning a Bill, the Bill shall be discussed and resolved in the Pyidaungsu Hluttaw.

96. The Pyidaungsu Hluttaw shall have the right to enact laws for the entire or any part of the Union related to matters prescribed in Schedule One of the Union Legislative List.

97. (a) When the Pyidaungsu Hluttaw enacts a law, it may:

(i) authorize to issue rules, regulations and bye-laws concerning that law to any Union level organization formed under the Constitution;

(ii) authorize to issue notifications, orders, directives and procedures to the respective organization or authority.

(b) The rules, regulations, notifications, orders, directives, and procedures issued under the power conferred by any law shall be in conformity with the provisions of the Constitution and the relevant law.

(c) If both the Pyithu Hluttaw and the Amyotha Hluttaw resolve to annul or amend any rule, regulation or bye-law, it shall be deemed that the rule, regulation, or bye-law is annulled or amended by the Pyidaungsu Hluttaw.

(d) If there is a disagreement to annul or amend any rule, regulation or bye-law between the Pyithu Hluttaw and the Amyotha Hluttaw, it shall be discussed and resolved at the Pyidaungsu Hluttaw.

(e) If a resolution is passed to annul or amend any rule, regulation or bye-law under Sub-Section (c) or (d), the resolution shall be without prejudice to the validity of any action previously taken under the relevant rule, regulation or bye-law.

Legislation relating to Other Matters

98. The legislative power is vested in the Pyidaungsu Hluttaw relating to other matters not enumerated in the legislative list of the Union, Region or State and Self-Administered Division Leading Body or Self-Administered Zone Leading Body.

Legislation relating to Union Territories

99. The Pyidaungsu Hluttaw shall enact the required laws if the need arises to do so for the Union territories relating to matters for which legislative powers are vested to the Region Hluttaw or the State Hluttaw, or Self-Administered Division Leading Body or Self-Administered Zone Leading Body.

Submission of Bill

100. (a) The Union level organizations formed under the Constitution shall have the right to submit the Bills relating to matters they administered among the matters included in the Union Legislative List to the Pyidaungsu Hluttaw in accord with the prescribed procedures;

(b) Bills relating to national plans, annual budgets and taxation, which are to be submitted exclusively by the Union Government shall be discussed and resolved at the Pyidaungsu Hluttaw in accord with the prescribed procedures.

101. The Bills submitted to the Pyidaungsu Hluttaw by the Union level organizations formed under the Constitution, except the Bills that are prescribed in the Constitution to be discussed and resolved exclusively at the Pyidaungsu Hluttaw, are entitled to initiate and discuss at either the Pyithu Hluttaw or the Amyotha Hluttaw in accord with the prescribed procedures.

102. The Bills, which are to be discussed and resolved exclusively at the Pyidaungsu Hluttaw need to be vetted before being discussed at the Pyidaungsu Hluttaw, those Bills shall be vetted jointly by the Pyithu Hluttaw Bill Committee and the Amyotha Hluttaw Bill Committee, and the findings and remarks of the Joint Committee together with the Bill may be submitted to the Pyidaungsu Hluttaw session in accord with the prescribed procedures.

Submission of the Union Budget Bill

103. (a) The President or the person assigned by him, on behalf of the Union Government, shall submit the Union Budget Bill to the Pyidaungsu Hluttaw.

(b) The following matters included in the Union Budget Bill shall be discussed at the Pyidaungsu Hluttaw but not refused or curtailed:

(i) salary and allowance of Heads and Members of the Union level organizations formed under the Constitution and expenditures of those organizations;

- (ii) debts for which the Union is liable and expenses relating to the debts, and other expenses relating to the loans taken out by the Union;
 - (iii) expenditures required to satisfy judgment, order, decree of any Court or Tribunal;
 - (iv) other expenditures which are to be charged by any existing law or any international treaty.
- (c) Approval, refusal and curtailing of other expenditures except the expenditures specified in Sub-Section (b) shall be passed by the majority consent of the Pyidaungsu Hluttaw.
- (d) The Union Government shall perform as necessary in accord with the Union Budget Law enacted by the Pyidaungsu Hluttaw.
- (e) If in respect of the relevant financial year a need has arisen to authorize the estimated receipts and authorized expenditures in the Union Budget Law enacted by the Pyidaungsu Hluttaw and in addition to estimate receipts and to authorize expenditures, the Supplementary Appropriation law shall be enacted in the above manner.
- (f) The Union Government shall perform as necessary in accord with the Supplementary Appropriation Law enacted by the Pyidaungsu Hluttaw.

Ordinance

104. When the President after promulgating an Ordinance submits it to the Pyidaungsu Hluttaw for approval, the Pyidaungsu Hluttaw shall:

- (a) resolve to approve the Ordinance or not;
- (b) if it is approved determine the period, the Ordinance shall continue to be in operation;
- (c) if it is disapproved, cease to operate from the day of its disapproval.

Promulgation as Law

105. (a) The President shall sign the Bills approved or the Bills deemed to be approved by the Pyidaungsu Hluttaw, within 14 days after the day of receipt, and shall promulgate it as Law.

(b) The President, within the prescribed period, may send the Bill back to the Pyidaungsu Hluttaw together with his comments.

(c) If the President does not send the Bill back to the Pyidaungsu Hluttaw together with his signature and comments within the prescribed period, or if the President does not sign

to promulgate, on the day after the completion of that period, the Bill shall become a law as if he had signed it.

106. (a) If the President sends the Bill back to the Pyidaungsu Hluttaw together with his comments within the prescribed period, the Pyidaungsu Hluttaw, after discussion of the President's comments, may accept his comment and resolve to amend the Bill or may resolve to approve the Bill as it is without accepting the President's comment.

(b) When the Bill which is amended in accord with the President's comment or the Bill which is approved as it is without accepting the President's comment is sent back to him by the resolution of the Pyidaungsu Hluttaw, the President shall sign the Bill and promulgate it as law within seven days after receiving the Bill back.

(c) If the Bill sent back by the Pyidaungsu Hluttaw is not signed by the President within the prescribed period, it shall become law as if he had signed it on the last day of the prescribed period.

107. The laws signed by the President or the laws deemed to have been signed by him shall be promulgated by publication in the official gazette. The Law shall come into operation on the day of such promulgation unless the contrary intention is expressed.

108. The Pyidaungsu Hluttaw:

(a) shall give the resolution on matters relating to ratifying, annulling and revoking from international, regional or bilateral treaties, agreements submitted by the President;

(b) may confer the authority on the President to conclude, annul and revoke any kind of international, regional or bilateral treaties or agreements without the approval of the Pyidaungsu Hluttaw.

Pyithu Hluttaw

Formation of the Pyithu Hluttaw

109. The Pyithu Hluttaw shall be formed with a maximum of 440 Hluttaw representatives as follows:

(a) not more than 330 Pyithu Hluttaw representatives elected prescribing electorate in accord with law on the basis of township as well as population or combining with an appropriate township which is contiguous to the newly-formed township if it is more than 330 townships;

(b) not more than 110 Pyithu Hluttaw representatives who are the Defence Services personnel nominated by the Commander-in-Chief of the Defence Services in accord with the law.

Election of the Pyithu Hluttaw Chairperson

110. (a) A Pyithu Hluttaw representative shall be elected as the Chairperson at the commencement of the first session of the Pyithu Hluttaw for its term;

(b) The Chairperson shall take an affirmation of office before the Pyithu Hluttaw;

(c) The Chairperson shall supervise the Pyithu Hluttaw session up to the completion of the election of the Speaker and the Deputy Speaker of the Pyithu Hluttaw.

Election of the Speaker and the Deputy Speaker of the Pyithu Hluttaw

111. (a) (i) The Pyithu Hluttaw representatives shall elect a Speaker and a Deputy Speaker from among the Pyithu Hluttaw representatives.

(ii) When the seat of the Speaker or the Deputy Speaker becomes vacant, the substitution shall be made at the nearest session of the Pyithu Hluttaw.

(iii) When the Speaker is unable to perform the duties of the Speaker, the Deputy Speaker shall temporarily perform the duties of the Speaker.

(b) The law relating to procedures to elect the Speaker and the Deputy Speaker of the Pyithu Hluttaw shall be enacted.

Functions of the Speaker of the Pyithu Hluttaw

112. The Speaker of the Pyithu Hluttaw shall:

(a) supervise the Pyithu Hluttaw sessions;

(b) invite the President, if he is intimated of the President's desire to address the Pyithu Hluttaw;

(c) have the right to invite members of the organization or persons representing any of the Union level organizations formed under the Constitution to attend the Pyithu Hluttaw and give clarifications on matters relating to ongoing discussions of the Pyithu Hluttaw session, if necessary;

(d) perform other duties and exercise powers prescribed by the Constitution or any law.

Performance and termination of duties of the Speaker and the Deputy Speaker of the Pyithu Hluttaw

113. (a) The Speaker and the Deputy Speaker of the Pyithu Hluttaw shall perform their duties until the first session of the next term of the Pyithu Hluttaw is held;

(b) If the Speaker or the Deputy Speaker resigns or has ceased to be a Pyithu Hluttaw representative, or has no right to continue to stand as a Pyithu Hluttaw representative, or is suspended from his position as the Speaker or the Deputy Speaker by the Pyithu Hluttaw, or has passed away, he shall have ceased from his position.

114. Duties, powers and rights of the Speaker and the Deputy Speaker of the Pyithu Hluttaw shall be prescribed by law.

Formation of the Pyithu Hluttaw Committee, Commission and Bodies

115. (a) The Pyithu Hluttaw shall form Bill Committee, Public Accounts Committee, Hluttaw Rights Committee, and Government's Guarantees, Pledges and Undertakings Vetting Committee with the Pyithu Hluttaw representatives;

(b) When the occasion arises to have studies made and submitted on defence and security matters or Military affairs, the Pyithu Hluttaw shall form the Defence and Security Committee with the Pyithu Hluttaw representatives who are the Defence Services Personnel, for a limited time. The Defence and Security Committee so formed may, if necessary, be included suitable Pyithu Hluttaw representatives who are not the Defence Services Personnel in accord with the volume of work;

(c) If there arises a need to study and submit other affairs, in addition to legislature, executive, national races affairs, economics, finance, social and foreign affairs, Hluttaw Committees may be formed with the Pyithu Hluttaw representatives for a limited time;

(d) The Pyithu Hluttaw shall determine the number of members, duties, powers, rights, and terms of Pyithu Hluttaw Committees.

116. If there arises a certain matter to co-ordinate with the Amyotha Hluttaw, the Pyithu Hluttaw may elect and assign its representatives who will serve with the Joint Committee comprising an equal number of representatives from the Pyithu Hluttaw and the Amyotha Hluttaw to form that Committee. The term of the Joint Committee shall be until the time they have submitted the report to the Hluttaw concerned.

117. When both the Pyithu Hluttaw and the Amyotha Hluttaw have certain matters to study, apart from matters to be performed by the Committees as prescribed in sub-sections (a) and (b) of Section 115, the Speakers of these Hluttaws may co-ordinate among themselves and form a Joint Committee comprising an equal number of representatives from the Pyithu Hluttaw and the Amyotha Hluttaw. The Pyithu Hluttaw may elect and assign the Pyithu Hluttaw representatives included in that Committee. The term of the Joint Committee shall be until the time they have submitted the report to the Hluttaw concerned.

118. (a) If there arises a need to study the remaining matters other than those studied by the Pyithu Hluttaw Committees, the Pyithu Hluttaw may form Commissions and Bodies with the Pyithu Hluttaw representatives or including suitable citizens;

(b) In forming the above Commissions and Bodies, the Pyithu Hluttaw shall determine the number of members, duties, powers, rights, and the terms of the said Commissions and Bodies.

Term of the Pyithu Hluttaw

119. The term of the Pyithu Hluttaw is five years from the day of its first session.

Qualification of the Pyithu Hluttaw representatives

120. Persons who possess the following qualifications shall be entitled to be elected as the Pyithu Hluttaw representatives :

(a) person who has attained the age of 25 years;

(b) citizen who was born of both parents who are citizens;

(c) person who has resided in the Union of Myanmar for at least ten consecutive years up to the time of his election as Pyithu Hluttaw representative; Proviso: The official period of stay in a foreign country with the permission of the Union shall be counted as a residing period in the Union;

(d) person who possesses qualifications prescribed by the Election Law.

Disqualification for the Pyithu Hluttaw Representatives

121. The following persons shall not be entitled to be elected as the Pyithu Hluttaw representatives:

(a) a person serving prison term, having been convicted by the Court concerned for having committed an offence;

(b) a person who has no right to be elected a Pyithu Hluttaw representative due to having committed an offence relating to disqualification for the Pyithu Hluttaw representative and being convicted for such offence, unless the period specified by the authority for him has not expired, before or after the Constitution comes into operation;

(c) person who is of unsound mind as adjudged by the relevant law;

(d) person who is an undischarged insolvent as being declared by the relevant court;

- (e) person who owes allegiance to a foreign government, or subject to a foreign government or a citizen of a foreign country;
- (f) person who is entitled to enjoy the rights and privileges of a subject of a foreign government or a citizen of a foreign country;
- (g) person himself or is of a member of an organization who obtains and utilizes directly or indirectly the support of money, land, housing, building, vehicle, property, so forth, from government or religious organization or other organizations of a foreign country;
- (h) person himself or is of a member of an organization who abets the act of inciting, giving speech, conversing or issuing declaration to vote or not to vote based on religion for political purpose;
- (i) member of a religious order;
- (j) Civil Services personnel;

Proviso:

The expression shall not be applied to Civil Services personnel including the Defence Services personnel selected and appointed in the Hluttaws and organizations formed under the Constitution.

- (k) person himself or is of a member of an organization who obtains and utilizes directly or indirectly the State-owned money, land, housing, building, vehicle, property, so forth;

Proviso:

(i) The expression 'State-owned money' does not include pension, allowance, money or salary, allowances, money officially granted by the Union for services rendered for the benefit of the Union;

(ii) The expression 'State-owned land, housing, building, vehicles and property' does not include State-owned land, housing, building and apartments, other building and apartments, State-owned aircraft, trains, vessels and motor vehicles and property, so forth, which have been permitted by the Union to be used under an existing law or as required by duty, or leased from the Union on payment.

(l) a person who has no right to be elected a Pyithu Hluttaw representative due to having committed a malpractice under relating to the Election Law or acting an omission relating to disqualification for a Pyithu Hluttaw representative being convicted under the Election Law, the period specified by the authority for him has not expired, before or after the Constitution comes into operation.

Qualifications of the Pyithu Hluttaw representatives who are the Defence Services personnel

122. The Defence Services personnel, nominated by the Commander-in-Chief of the Defence Services as Pyithu Hluttaw representatives who are the Defence Services personnel in accord with the law, shall possess the prescribed qualifications for the Pyithu Hluttaw representatives.

Convening the Pyithu Hluttaw Session

123. The first regular session of a term of the Pyithu Hluttaw shall be held within 90 days after the commencement of the general election.

124. (a) The first regular session of the Pyithu Hluttaw shall be held by the State Peace and Development Council after the Constitution comes into operation.

(b) The first regular sessions for the forthcoming terms of the Pyithu Hluttaw shall be held by the Speaker of the Pyithu Hluttaw who continues to perform his duties in accord with the provisions of the Constitution.

125. (a) The representatives of the Pyithu Hluttaw shall take an affirmation of office as mentioned in Schedule Four before the Chairperson of the Pyithu Hluttaw at the first regular session of the Pyithu Hluttaw.

(b) The representatives of the Pyithu Hluttaw who have not taken an affirmation of office shall do so before the Speaker of the Hluttaw at the session of the Pyithu Hluttaw at which they first attend.

126. The Speaker of the Pyithu Hluttaw shall convene the regular session at least once a year. The maximum interval between regular sessions shall not exceed 12 months.

127. The following functions shall be carried out at the Pyithu Hluttaw session:

(a) recording the address delivered by the President;

(b) reading and recording the message sent by the President and other messages permitted by the Speaker;

(c) submitting, discussing and resolving on a Bill;

(d) discussing and resolving on the matters to be undertaken by the Pyithu Hluttaw in accord with the provisions of the Constitution;

(e) discussing, resolving and recording the reports submitted to the Pyithu Hluttaw;

(f) submitting proposals, discussing and resolving;

(g) raising questions and replying;

(h) performing matters approved by the Speaker of the Pyithu Hluttaw.

128. (a) The first day session of the Pyithu Hluttaw shall be valid if more than half of the total number of the Hluttaw representatives, who have the right to attend the session, are present. The session, if invalid, shall be adjourned;

(b) The sessions that are adjourned due to invalidity in accord with the Sub-Section (a) as well as the valid sessions that are extended will be valid if at least one-third of the Hluttaw representatives are present.

129. (a) A matter that shall be resolved in the Pyithu Hluttaw, save as otherwise provided by the Constitution, shall be determined by a majority of votes of the Pyithu Hluttaw representatives who are present and voting;

(b) The Speaker of the Pyithu Hluttaw or the Deputy Speaker discharging duties as the Speaker at the Pyithu Hluttaw shall not vote in the first instance in the sessions of the Pyithu Hluttaw, but shall have and exercise a casting vote in the matter of an equality of votes.

130. (a) If a Pyithu Hluttaw representative is, without permission of the Pyithu Hluttaw, absent from a Pyithu Hluttaw session for a period of at least 15 consecutive days, the Pyithu Hluttaw may declare his seat vacant. In computing the said period of 15 days, no account shall be taken of any period during which the session is adjourned;

(b) If the Speaker of the Pyidaungsu Hluttaw informed the Pyithu Hluttaw that a Pyithu Hluttaw representative is absent from a Pyidaungsu Hluttaw session for a period of 15 consecutive days without permission, the Pyithu Hluttaw shall take action against the said representative in accord with the prescribed procedures.

131. Although there are vacant seats, the Pyithu Hluttaw shall have the right to carry out its functions. Moreover, the resolutions and proceedings of the Pyithu Hluttaw shall not be annulled, notwithstanding the acts of some person who was not entitled to do so sat or voted or took part in the proceedings are later discovered.

132. The proceedings and the records of the Pyithu Hluttaw shall be published. However, the proceedings and the records prohibited by any law or the resolution of the Pyithu Hluttaw shall not be published.

133. (a) Subject to the provisions of the Constitution and the law relating to the Pyithu Hluttaw, the Pyithu Hluttaw representatives shall have freedom of speech and voting at the Pyithu Hluttaw and the Pyithu Hluttaw Committee. Concerning the discussing, submitting and performing at the Pyithu Hluttaw and the Pyithu Hluttaw Committees, no action shall be taken against a Pyithu Hluttaw representative except under its law;

(b) Subject to the provisions of the Constitution and the provisions of the law relating to the Pyithu Hluttaw, members of the organizations or persons representing any of the Union level organizations formed under the Constitution who are permitted or invited to attend the session of the Pyithu Hluttaw or any committee of the Pyithu Hluttaw have the freedom of speech at the Pyithu Hluttaw and the Pyithu Hluttaw Committees. No action shall be taken against such members or persons for their submissions and speeches in the Pyithu Hluttaw and the Pyithu Hluttaw Committees by other law except under its law;

(c) If the persons mentioned in Sub-Sections (a) and (b) committed assault in exercising the said privileges, they shall be liable to punishment under the regulations, bye-laws, procedures of the Pyithu Hluttaw or the existing laws.

134. (a) If there is a need to arrest a Pyithu Hluttaw representative attending the session or a person attending the Pyithu Hluttaw session with the permission or invitation of the Speaker of the Pyithu Hluttaw, the credible evidence shall be submitted to the Speaker of the Pyithu Hluttaw. He shall not be arrested without the prior permission of the Speaker of the Pyithu Hluttaw;

(b) If there is a need to arrest a member of a Committee or Commission or the Body of the Pyithu Hluttaw attending session of any Committee or session of Commission or the Body formed by the Pyithu Hluttaw, the credible evidence shall be submitted to the Speaker of the Pyithu Hluttaw through the Head of the Committee or Commission or Body concerned. He shall not be arrested without the prior permission of the Speaker of the Pyithu Hluttaw;

(c) If a Pyithu Hluttaw representative is arrested, the Pyithu Hluttaw or the Pyithu Hluttaw Committee or the Commission or the Body formed by the Pyithu Hluttaw is not in session, the credible evidence in support of such arrest shall as soon as possible be submitted to the Speaker of the Pyithu Hluttaw.

135. No action shall be instituted relating to the reports, documents, and Hluttaw records published by the Pyithu Hluttaw or under its authority.

Submission of Bill

136. Bills relating to other matters , except the matters prescribed in the Constitution that the Bill shall be submitted and passed exclusively by the Pyidaungsu Hluttaw stated in the Schedule One of Union Legislative List, shall be initiated in the Pyithu Hluttaw in accord with the prescribed procedures.

137. (a) After issuing any rule, regulation or bye-law in accord with the law enacted by the Pyidaungsu Hluttaw, the Body concerned shall distribute and submit the said rule, regulation or bye-law to its representatives at the nearest regular session of the Pyithu Hluttaw with the permitted arrangement of the Speaker of the Hluttaw;

(b) If it is found that a rule, regulation or bye-law is in conformity with the provisions of relevant law, Hluttaw representatives may move to annul or amend the rule, regulation or bye-law to the Pyithu Hluttaw within 90 days from the day that rule, regulation or bye-law is submitted and distributed;

(c) If there is a disagreement between the Pyithu Hluttaw and the Amyotha Hluttaw to annul or amend any rule, regulation or bye-law, it shall be submitted to the Pyidaungsu Hluttaw.

138. (a) If Bills submitted by any Union level organization formed under the Constitution are sent in accord with the prescribed procedures of the Pyidaungsu Hluttaw, it shall be deemed that such Bills are initiated in the Pyithu Hluttaw, and shall be discussed and resolved in the Pyithu Hluttaw;

(b) Bills relating to other matters, except the matters prescribed in the Constitution that the Bill shall be submitted and passed exclusively by the Pyidaungsu Hluttaw stated in the Union Legislative List, shall be initiated in the Pyithu Hluttaw in accord with the law. Such Bills shall be discussed and resolved by the Pyithu Hluttaw under the prescribed procedures;

(c) The Bills passed by the Pyithu Hluttaw shall be sent to the Amyotha Hluttaw to continue to discuss and resolve.

139. (a) After receiving a Bill sent by the Amyotha Hluttaw, the Pyithu Hluttaw may resolve to agree or disagree, or agree with amendments in accord with the resolution of the Amyotha Hluttaw. The Bill shall be sent back to the Amyotha Hluttaw together with the resolution of the Pyithu Hluttaw;

(b) When the Pyithu Hluttaw receives the Bill with amendments from the Amyotha Hluttaw it shall, if it accepts the Bill with amendments of the Amyotha Hluttaw, send to the Speaker of the Pyidaungsu Hluttaw;

(c) If there is a disagreement between the Pyithu Hluttaw and the Amyotha Hluttaw relating to the Bill sent to the Amyotha Hluttaw, the Pyithu Hluttaw shall take the resolution of the Pyidaungsu Hluttaw.

140. Members of the organization representing any Union level Body formed under the Constitution are entitled:

(a) to explain, converse and discuss Bills or matters relating to their Bodies when they are attending the Pyithu Hluttaw session with the permission of the Speaker of the Pyithu Hluttaw;

(b) to explain, converse and discuss Bills or matters relating to their Bodies when they are attending sessions of the Committees, Commissions and Bodies of the Pyithu Hluttaw with the permission of the Head of the Committee, Commission or Body concerned.

Amyotha Hluttaw

Formation of the Amyotha Hluttaw

141. The Amyotha Hluttaw shall be formed with a maximum of 224 Hluttaw representatives as follows:

(a) 168 Amyotha Hluttaw representatives elected in an equal number of 12 representatives from each Region or State inclusive of relevant Union territories and including one representative from each Self-Administered Division or Self-Administered Zone;

(b) 56 Amyotha Hluttaw representatives who are the Defence Services personnel nominated by the Commander-in-Chief of the Defence Services in accord with the law, four representatives from each Region or State inclusive of relevant Union territories;

(c) in forming the Amyotha Hluttaw as mentioned in Sub-Sections (a) and (b), the relevant Union Territory means the Union Territories, prescribed under the Constitution, or prescribed by law of the Pyidaungsu Hluttaw, which are inclusive in State or Division, Region or State for the purpose of electing the Amyotha Hluttaw representative.

Election of Chairperson of the Amyotha Hluttaw

142. Election of Chairperson of the Amyotha Hluttaw shall be carried out subject to the provisions relating to the election of Chairperson of the Pyithu Hluttaw under Section 110.

Election of the Speaker and the Deputy Speaker of the Amyotha Hluttaw

143. Election of the Speaker and the Deputy Speaker of the Amyotha Hluttaw shall be carried out subject to the provisions relating to the election of the Speaker and the Deputy Speaker of the Pyithu Hluttaw under Section 111.

Duties of the Speaker of the Amyotha Hluttaw

144. The duties of the Speaker of the Amyotha Hluttaw shall be subject to the provisions relating to the duties of the Speaker of the Pyithu Hluttaw under Section 112.

Performance and termination of duties of the Speaker and the Deputy Speaker of the Amyotha Hluttaw

145. Performance and termination of duties of the Speaker and the Deputy Speaker of the Amyotha Hluttaw shall be subject to the provisions relating to the performance and termination of duties of the Speaker and the Deputy Speaker of the Pyithu Hluttaw under Section 113.

146. Duties, powers and rights of the Speaker and the Deputy Speaker of the Amyotha Hluttaw shall be prescribed by law.

Formation of the Amyotha Hluttaw Committees, Commissions and Bodies

147. (a) The Amyotha Hluttaw shall form Bill Committee, Public Accounts Committee, Hluttaw Rights Committee, and Government's Guarantees, Pledges and Undertakings Vetting Committee with the Amyotha Hluttaw representatives;

(b) When the occasion arises to have studies made and submitted on defence and security matters or Military affairs, the Amyotha Hluttaw shall form the Defence and Security Committee with the Amyotha Hluttaw representatives who are the Defence Services personnel, for a limited time.

The Defence and Security Committee so formed may, if necessary, be included suitable amyotha Hluttaw representatives who are not the Defence Services personnel in accord with the volume of work;

(c) If there arises a need to study and submit on other affairs, in addition to legislature, executive, national races affairs, economics, finance, social and foreign affairs, the Hluttaw Committees may be formed with the Amyotha Hluttaw representatives for a limited time;

(d) The Amyotha Hluttaw shall determine the number of members, duties, powers, rights, and term of the Amyotha Hluttaw Committees.

148. If there arises a certain matter to co-ordinate with the Pyithu Hluttaw, the Amyotha Hluttaw may elect and assign its representatives who will serve with the Joint Committee comprising an equal number of representatives from the Amyotha Hluttaw and the Pyithu Hluttaw to form that Committee. The term of the Joint Committee shall be until the time they have submitted the report to the Hluttaw concerned.

149. When both the Amyotha Hluttaw and the Pyithu Hluttaw have certain matters to study, apart from matters to be performed by the Committees as prescribed in Sub-Sections (a) and (b) of Section 147, the Speakers of these Hluttaws may co-ordinate among themselves and form a Joint Committee comprising an equal number of representatives from the Amyotha Hluttaw and the Pyithu Hluttaw. The Amyotha Hluttaw may elect and assign the Amyotha Hluttaw representatives included in that Committee. The term of the Joint Committee shall be until the time they have submitted the report to the Hluttaw concerned.

150. Formation of the Amyotha Hluttaw Commissions and Bodies of the Amyotha Hluttaw shall be carried out subject to the provisions relating to the formation of Commission and Bodies of the Pyithu Hluttaw under Section 118.

Term of the Amyotha Hluttaw

151. The term of the Amyotha Hluttaw is the same as the term of the Pyithu Hluttaw. The term of the Amyotha Hluttaw expires on the day of the expiry of the Pyithu Hluttaw.

Qualifications of the Amyotha Hluttaw representatives

152. The Amyotha Hluttaw representatives shall be:

- (a) persons who have attained the age of 30 years;
- (b) persons who have qualifications, with the exception of the age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed under Section 120;
- (c) persons whose qualifications does not breach the provisions under Section 121 which disqualified a person from standing for election as the Pyithu Hluttaw representatives.

Qualifications of the Amyotha Hluttaw representatives who are the Defence Services personnel

153. The Defence Services personnel, nominated by the Commander-in-Chief of the Defence Services as the Amyotha Hluttaw representatives who are the Defence Services personnel in accord with the law, shall possess the prescribed qualifications for the Amyotha Hluttaw representatives.

Convening of the Amyotha Hluttaw Session

154. (a) The commencement of the term of the Amyotha Hluttaw is the day of the commencement of the term of the Pyithu Hluttaw;

(b) The first regular session of the Amyotha Hluttaw shall be held within seven days after the commencement of the term of that Hluttaw.

155. Convening the Amyotha Hluttaw session shall be carried out subject to the provisions relating to convening of the Pyithu Hluttaw sessions under Sections 124 to 135.

Submission of Bill

156. Bills relating to other matters, except the matters prescribed in the Constitution that the Bill was submitted and passed exclusively by the Pyidaungsu Hluttaw stated in Union Legislative List, shall be initiated in the Amyotha Hluttaw in accord with the prescribed procedures.

157. (a) After issuing a rule, regulation or bye-law in accord with the law enacted by the Pyidaungsu Hluttaw, the Body concerned shall distribute and submit the said rule,

regulation or bye-law to its representatives at the nearest regular session of the Amyotha Hluttaw with the permitted arrangement of the Speaker of the Hluttaw;

(b) If it is found that a rule, regulation or bye-law is in conformity with the provisions of relevant law, Hluttaw representatives may move to annul or amend the rule, regulation or bye-law to the Amyotha Hluttaw within 90 days from the day that rule, regulation or bye-law is submitted and distributed;

(c) If there is a disagreement between the Amyotha Hluttaw and the Pyithu Hluttaw to annul or amend any rule, regulation or bye-law, it shall be submitted to the Pyidaungsu Hluttaw.

158. (a) If Bills submitted by any Union level organization formed under the Constitution are sent in accord with prescribed procedures of the Pyidaungsu Hluttaw, it shall be deemed that such Bills are initiated in the Amyotha Hluttaw, and shall be discussed and resolved in the Amyotha Hluttaw;

(b) Bills relating to other matters, except the matters prescribed in the Constitution that the Bill was submitted and passed exclusively by the Pyidaungsu Hluttaw stated in the Union Legislative List shall be initiated in the Amyotha Hluttaw in accord with the law. Such Bills shall be discussed and resolved by the Amyotha Hluttaw under the prescribed procedures;

(c) The Bills passed by the Amyotha Hluttaw shall be sent to the Pyithu Hluttaw to continue to discuss and to resolve.

159. (a) After receiving a Bill sent by the Pyithu Hluttaw, the Amyotha Hluttaw may resolve to agree or disagree, or agree with amendments in accord with the resolution of the Pyithu Hluttaw. The Bill shall be sent back to the Pyithu Hluttaw together with the resolution of the Amyotha Hluttaw;

(b) When the Amyotha Hluttaw receives the Bill with amendments from the Pyithu Hluttaw it shall, if it accepts the Bill with amendments of the Pyithu Hluttaw, send to the Speaker of the Pyidaungsu Hluttaw;

(c) If there is a disagreement between the Amyotha Hluttaw and the Pyithu Hluttaw relating to the Bill sent to the Pyithu Hluttaw, the Amyotha Hluttaw shall obtain the resolution of the Pyidaungsu Hluttaw.

160. Members representing any Union level Body formed under the Constitution are entitled:

(a) to explain, converse and discuss Bills or matters relating to their Bodies when they are attending the Amyotha Hluttaw session with the permission of the Speaker of the Amyotha Hluttaw;

(b) to explain, converse and discuss Bills or matters relating to their Bodies when they are attending sessions of the Committees, Commissions and Bodies of the Amyotha Hluttaw with the permission of the Head of the Committee, Commission or Body concerned.

Region Hluttaw or State Hluttaw

Formation of the Region Hluttaw or the State Hluttaw

161. The Region or State Hluttaw shall be formed with the following persons:

(a) representatives of the Region or State Hluttaw, two of each are elected from each township in the Regions or the States;

(b) representatives of the Region Hluttaw, each is elected from each national race determined by the authorities concerned as having a population which constitutes 0.1 percent and above of the population of the Union, of the remaining national races other than those who have already obtained the respective Region or a Self-Administered Area in that Region;

(c) representatives of the State Hluttaw, each is elected from each national race determined by the authorities concerned as having a population which constitutes 0.1 percent and above of the population of the Union, of the remaining national races other than those who have already obtained respective State or a Self-Administered Area in that State;

(d) representatives of the Region or State Hluttaw who are the Defence Services personnel nominated by the Commander-in-Chief of the Defence Services in accord with the law for an equal number of one-third of the total number of Hluttaw representatives elected under sub-sections (a) and (b) or (a) and (c).

Election of the Chairperson of the Region or State Hluttaw

162. Election of Chairperson of the Region Hluttaw or the State Hluttaw shall be carried out subject to the provisions relating to the election of Chairperson of the Pyithu Hluttaw under Section 110.

Election of the Speaker and the Deputy Speaker of the Region Hluttaw or the State Hluttaw

163. Election of the Speaker and the Deputy Speaker of the Region Hluttaw or the State Hluttaw shall be carried out subject to the provisions relating to the election of the Speaker and the Deputy Speaker of the Pyithu Hluttaw under Section 111.

Duties of the Speaker of the Region Hluttaw or the State Hluttaw

164. The Speaker of the Region Hluttaw or the State Hluttaw shall:

(a) supervise the Region Hluttaw or the State Hluttaw sessions;

(b) invite the President, if he is informed of the President's desire to address the Region Hluttaw or the State Hluttaw;

(c) make necessary arrangement if the Chief Minister of the Region or State informs his desire to address;

(d) have the right to invite members of the organization or persons representing any Region or State level organization formed under the Constitution to attend the session of the Region Hluttaw or the State Hluttaw and give clarifications on matters relating to ongoing discussions, if necessary;

(e) perform other duties and powers prescribed by the Constitution or any law.

Performance and termination of duties of the Speaker and the Deputy Speaker of the Region Hluttaw or the State Hluttaw

165. Performance and termination of duties of the Speaker and the Deputy Speaker of the Region Hluttaw or the State Hluttaw shall be subject to the provisions relating to the performance and termination of duties of the Speaker and the Deputy Speaker of the Pyithu Hluttaw in Section 113.

166. Duties, powers and rights of the Speaker and the Deputy Speaker of the Region Hluttaw or the State Hluttaw shall be prescribed by law. Formation of the Region Hluttaw or the State Hluttaw Committee and Bodies.

167. (a) The Region Hluttaw or the State Hluttaw may, if necessary, form Committee and Bodies with the Region or State Hluttaw representatives concerned to study and submit legislation, national races affairs vested by the Constitution;

(b) The Region Hluttaw or the State Hluttaw may form above Committees and Bodies including suitable citizens;

(c) The Region Hluttaw or the State Hluttaw shall prescribe the number of members, duties, powers, rights and terms of the Committees or Bodies in forming those Committees and Bodies.

Term of the Region Hluttaw or the State Hluttaw

168. The term of the Region or State Hluttaw is the same as the term of the Pyithu Hluttaw. The term of the Region or State Hluttaw expires on the day of the expiry of the Pyithu Hluttaw.

Qualifications of the Region Hluttaw or the State Hluttaw representatives

169. The Region or State Hluttaw representatives shall:

(a) have qualifications entitled to be elected as the Pyithu Hluttaw representatives under Section 120;

(b) shall be subject to the provisions of Section 121 which provide the disqualifications to be elected as the Pyithu Hluttaw representatives.

Qualifications of the Region or State Hluttaw representatives who are Defence Services personnel

170. The Defence Services personnel, nominated by the Commander-in-Chief of the Defence Services as the Region or State Hluttaw representatives who are the Defence Services personnel in accord with the law, shall possess the prescribed qualifications for the Region or State Hluttaw representatives.

Convening the Region or State Hluttaw Sessions

171. (a) The commencement of the term of the Region or State Hluttaw is the day of the commencement of the term of the Pyithu Hluttaw.

(b) The first regular session of the Region or State Hluttaw shall be held within 15 days after the commencement of the term of the Hluttaw.

172. (a) The first regular session of the Region or State Hluttaw shall be convened by the State Peace and Development Council after the Constitution comes into operation.

(b) The first regular sessions for the forthcoming terms of the Region or State Hluttaw shall be held by the Speaker of the Region or State Hluttaw who continues to perform his duties in accord with the provisions of the Constitution.

173. (a) The representatives of the Region or State Hluttaw shall take an affirmation of office as mentioned in Schedule Four before the Chairperson of the Region or State Hluttaw at the first regular session of the Region or State Hluttaw;

(b) The representatives of the Region or State Hluttaw who have not taken an affirmation of office shall do so before the Speaker of the Hluttaw at the session of the Region or State Hluttaw at which they first attend.

174. The Speaker of the Region or State Hluttaw shall convene the regular session at least once a year. The maximum interval between regular sessions shall not exceed 12 months.

175. The following functions shall be carried out at the Region or State Hluttaw session:

(a) recording the addresses delivered by the President;

- (b) reading and recording the message sent by President and other messages permitted by the Speaker;
- (c) recording the address delivered by the Chief Minister of the Region or the State;
- (d) submitting, discussing and resolving on a Bill;
- (e) discussing and resolving on the matters to be undertaken by the Region or State Hluttaw in accord with the provisions of the Constitution;
- (f) discussing, resolving and recording the reports submitted to the Region or State Hluttaw;
- (g) submitting proposal, discussing and resolving;
- (h) raising questions and replying;
- (i) undertaking matters approved by the Speaker of the Region or State Hluttaw.

176. Matters that require resolution, agreement and approval of the Region or State Hluttaw shall be implemented as follows:

- (a) if the Region or State Hluttaw is in session, the matter shall be resolved at that session;
- (b) if the Region or State Hluttaw is not in session, the matter shall be resolved at the nearest Region or State Hluttaw session;
- (c) a special session or an emergency session shall be convened to discuss and to resolve matters which need urgent action in the interest of the public.

177. The Speaker of the Region or State Hluttaw may convene a special session or an emergency session of the Region or State Hluttaw, if necessary.

178. The Speaker of the Region or State Hluttaw shall convene a special or an emergency session of the Region or State Hluttaw as soon as possible when the Chief Minister of the Region or State informs him to do so.

179. The Speaker of the Region or State Hluttaw shall convene a special session as soon as possible, if at least one-fourth of the total number of the Region or State Hluttaw representatives so require.

180. (a) The first day session of the Region or State Hluttaw shall be valid if more than half of the total number of Hluttaw representatives, who have the right to attend the Region or State Hluttaw session, are present. The session, if invalid, shall be adjourned;

(b) The sessions that are adjourned due to invalidity in accord with the Sub-Section (a) as well as the valid session that are extended will be valid if at least one-third of the Hluttaw representatives are present.

181. (a) A matter that shall be resolved in the Region or State Hluttaw, save as otherwise provided by the Constitution, shall be determined by a majority of votes of the Region or State Hluttaw representatives who are present and voting;

(b) The Speaker of the Region or State Hluttaw discharging duties as the Speaker at the Region or State Hluttaw shall not vote in the first instance in the sessions of the Region or State Hluttaw, but shall have and exercise a casting vote in the matter of an equality of votes.

182. If the Region or State Hluttaw representative is, without permission of the Region or State Hluttaw, absent from a Region or a State Hluttaw session for a period of at least 15 consecutive days, the Region or State Hluttaw may declare his seat vacant. In computing the said period of 15 days, it shall not be counted of any period during which the session is adjourned.

183. Although there are vacant seats, the Region or State Hluttaw shall have the right to carry out its functions. Moreover, the resolutions and proceedings of the Region or State Hluttaw shall not be annulled, notwithstanding the acts of some person who was not entitled to do so or voted or took part in the proceedings are later discovered.

184. The proceedings and the records of the Region or State Hluttaw shall be published. However, the proceedings and the records prohibited by any law or the resolution of the Region or State Hluttaw shall not be published.

185. (a) Subject to the provisions of the Constitution and the provisions of the law relating to the Region or State Hluttaw, the Region or State Hluttaw representatives shall have freedom of speech and voting at the Region or State Hluttaw and the Committee and Body formed by the Region or State Hluttaw. Concerning the discussing, submitting and performing at the Region or State Hluttaw and the Region or State Hluttaw Committees and Bodies, no action shall be taken against a Region or a State Hluttaw representative except under its laws;

(b) Subject to the provisions of the Constitution and the provisions of the law relating to the Region or State Hluttaw, members of the organizations or persons representing any of the Region or State level organizations formed under the Constitution who are permitted or invited to attend the session of the Region or State Hluttaw or any Committee and Body of the Region or State Hluttaw have the freedom of speech at the Region or State Hluttaw or the Region or State Hluttaw Committees and Bodies. No action shall be taken against such members or persons for their submissions and speeches in the Region or State Hluttaw by other law except under its laws;

(c) If the persons mentioned in Sub-Sections (a) and (b) committed assault in exercising the said privileges, they shall be liable to punishment under the regulations, bye-laws, procedures of the Region or State Hluttaw or the existing laws.

186. (a) If there is a need to arrest a Region or a State Hluttaw representative attending the Region or State Hluttaw session or a person attending the Region or State Hluttaw session with the permission or invitation of the Speaker of the Hluttaw, the credible evidence shall be submitted to the Speaker of the Region or State Hluttaw. He shall not be arrested without the prior permission of the Speaker of the Region or State Hluttaw;

(b) If there is a need to arrest a member of a Committee or a Body of the Region or State Hluttaw attending session of any Committee or Body formed by the Region or State Hluttaw, the credible evidence shall be submitted to the Speaker of the Region or State Hluttaw through the Head of the Committee or Body concerned. He shall not be arrested without the prior permission of the Speaker of the Hluttaw;

(c) If a representative of the Region or State Hluttaw is arrested, session of the Region or State Hluttaw or session of any Committee or any Body formed by the Hluttaw is not in session, the credible evidence in support of such arrest shall as soon as possible be submitted to the Speaker of the Region or State Hluttaw.

187. No action shall be instituted relating to the reports, documents and Hluttaw records published by the Region or State Hluttaw or under its authority.

Legislation

188. The Region or State Hluttaw shall have the right to enact laws for the entire or any part of the Region or State related to matters prescribed in Schedule two of the Region or State Hluttaw Legislative List.

189. (a) When the Region or State Hluttaw enacts a law, it may:

(i) authorize to issue rules, regulations and bye-laws concerning that law to any Region or State level organization formed under the Constitution;

(ii) authorize to issue notifications, orders, directives and procedures to the respective organization or authority.

(b) The rules, regulations, bye-laws, notifications, orders, directives and procedures issued under the power conferred by any law shall be in conformity with the provisions of the Constitution and the relevant law.

(c) After issuing any rule, regulation or bye-law in accord with the law enacted by the Region or State Hluttaw, the Body concerned shall distribute and submit the said rule,

regulation or bye-law to its representatives at the nearest regular session of the Region or State Hluttaw under the permitted arrangement of the Speaker of the Hluttaw.

(d) If it is found that a rule, regulation or bye-law is in conformity with the provisions of relevant law, Hluttaw representatives may move to annul or amend the rule, regulation or bye-law to the Region or State Hluttaw within 90 days from the day that rule, regulation or bye-law is submitted and distributed.

(e) If the Region or State Hluttaw passes a resolution to annul or amend any rule, regulation or bye-law, the resolution shall be without prejudice to the validity of any action previously taken under the relevant rules, regulations or bye-laws.

Submission of Bill

190. (a) The Region or State level organizations formed under the Constitution shall have the right to submit the Bills relating to matters they administered among the matters included in the Schedule Two of the Region or State Legislative List to the Region or State Hluttaw in accord with the prescribed procedures;

(b) Bills relating to regional plans, annual budgets and taxation of the Region or State, which are to be submitted exclusively by the Region or State government, shall be submitted to the Region or State Hluttaw in accord with the prescribed procedures.

191. Representatives of the Region or State Hluttaw shall submit the Bills relating to other matters, except the matters prescribed in the Constitution that the Bill was submitted exclusively by the Region or State Hluttaw stated in the Schedule Two of the Region or State Legislative List, to the Region or State Hluttaw in accord with the prescribed procedures.

192. (a) Members, who are representatives of the Region or State Hluttaw among members representing any Region or State level organization formed under the Constitution, are entitled to explain, converse, discuss and vote Bills or matters relating to their organizations at the Hluttaw sessions;

(b) Members, who are not representatives of the Region or State Hluttaw among members representing any Region or State level organization formed under the Constitution, when they are attending Hluttaw session with the permission of the Speaker of the Hluttaw, are entitled to explain, converse and discuss Bills or matters relating to their organizations.

Submission of Region and State Budget Bill

193. (a) The Region or State Annual Budget Bill to which only by the Region or State Government has the right to be submitted only to the Region or State Hluttaw in accord with the prescribed procedures.

(b) Relating to the Bill in Sub-Section (a), the Region or State Budget including finance received from the Union Fund of the Region or State under the Union Budget Law or the Supplementary Appropriation Law with the recommendation of the Chief Minister concerned shall be discussed, as may be necessary by the Region or State Hluttaw concerned and shall be carried out and approved, refused, curtailed with the majority consent. In doing so, the following matters may be discussed at the Region Hluttaw or the State Hluttaw, but not refused or curtailed:

(i) salary and allowance of Heads and members of the Region or State level organizations formed under the Constitution and expenditures of those organizations;

(ii) salary and allowance of Heads and members of Leading Bodies of Self-Administered Area formed under the Constitution and expenditures of those bodies;

(iii) debts for which the Region or State is liable and expenses relating to the debts, other expenses relating to the loans taken out by the Region or State;

(iv) expenditures required to satisfy judgment, order or decree of any Court or Tribunal;

(v) other expenditures which are to be charged by any law enacted by the Region Hluttaw or the State Hluttaw.

194. The Region or State Hluttaw shall pass a resolution when the Region or State government submits the Region or State estimated budget in accord with the prescribed procedures.

Promulgation of Law

195. (a) The Chief Minister of the Region or State shall:

(i) sign and promulgate the Bills approved by the Region or State Hluttaw as law within seven days after the day of receipt in accord with the prescribed procedures;

(ii) sign and promulgate the Bills approved by the Leading Body of Self-Administered Division or Self-Administered Zone as law within 14 days after the day of receipt.

(b) If the Chief Minister of the Region or State does not sign and promulgate the Bill as law within the prescribed period, on the day after the completion of that period, the Bill shall become a law as if he had signed it.

(c) The laws signed by the Chief Minister of the Region or State and laws which deemed to have been signed by him, shall be promulgated by the publication in the official gazette. The Law shall come into operation on the day of such promulgation unless the contrary intention is expressed.

Self-Administered Division and Self-Administered Zone Leading Bodies

196. The legislative power relating to the matters listed in the Schedule Three for respective Divisions or Zones are allotted to the Self-Administered Division or the Self-Administered Zone Leading Bodies. Duties, powers and rights of the representatives of the Pyithu Hluttaw, the Amyotha Hluttaw and the Region or State Hluttaw

197. Duties, powers and rights of the representatives of the Pyithu Hluttaw, the Amyotha Hluttaw and the Region or State Hluttaw shall be prescribed by law.

Effect of Laws

198. The effect of laws enacted by different levels of the Hluttaw and the Leading Bodies of the Self-Administered Area is as follows:

(a) if any provision of the law enacted by the Pyidaungsu Hluttaw, the Region Hluttaw, the State Hluttaw, the Leading Bodies of the Self-Administered Division or the Self-Administered Zone or, any existing law is inconsistent with any provision of the Constitution, the Constitution shall prevail;

(b) if any provision of the law enacted by the Region Hluttaw or the State Hluttaw is inconsistent with any provision of the law enacted by the Pyidaungsu Hluttaw, the law enacted by the Pyidaungsu Hluttaw shall prevail;

(c) if any provision of the law enacted by the Leading Body of the Self-Administered Division or the Self-Administered Zone is inconsistent with any provision of the law enacted by the Pyidaungsu Hluttaw, the law enacted by the Pyidaungsu Hluttaw shall prevail;

(d) if any provision of the law enacted by the Leading Body of the Self-Administered Division or the Self-Administered Zone is inconsistent with any provision of the law enacted by the Region Hluttaw or the State Hluttaw concerned, the law enacted by the Region Hluttaw or the State Hluttaw concerned shall prevail.

CHAPTER V EXECUTIVE

The Union Government

199. (a) The Executive Head of the Union is the President.

(b) (i) The executive power of the Union is distributed among the Union, Regions and States.

(ii) Self-Administered power is distributed among Self-Administered areas as prescribed by the Constitution.

Formation of the Union Government

200. The Union Government shall comprise the following persons:

- (a) The President;
- (b) Vice-Presidents;
- (c) Ministers of the Union;
- (d) The Attorney General of the Union.

Formation of the National Defence and Security Council

201. The National Defence and Security Council led by the President, to enable it to discharge the duties assigned by the Constitution or any law, shall be formed with the following persons:

- (a) The President;
- (b) Vice-President;
- (c) Vice-President;
- (d) Speaker of the Pyithu Hluttaw;
- (e) Speaker of the Amyotha Hluttaw;
- (f) Commander-in-Chief of the Defence Services;
- (g) Deputy Commander-in-Chief of the Defence Services;
- (h) Minister for Defence;
- (i) Minister for Foreign Affairs;
- (j) Minister for Home Affairs;
- (k) Minister for Border Affairs.

Powers and Functions of the President

202. The President, with the approval of the Pyidaungsu Hluttaw, may:

- (a) designate the Ministries of the Union Government as necessary, and may make changes and additions to the ministries;

(b) designate the number of the Union Ministers as necessary, and may increase or decrease the number.

203. The President shall be responsible to the Pyidaungsu Hluttaw. The Vice-Presidents shall be responsible to the President and also to the Pyidaungsu Hluttaw through the President.

204. The President has:

(a) the power to grant a pardon;

(b) the power to grant amnesty in accord with the recommendation of the National Defence and Security Council.

205. The President may, in accord with the law, have:

(a) the power to confer honorary titles and awards; and

(b) the power to revoke conferred honorary titles and awards.

206. The President may establish or sever diplomatic relations with foreign countries with the approval of the Pyidaungsu Hluttaw. However, in situation which requires immediate action, the President may sever diplomatic relations with any foreign country after coordination with the National Defence and Security Council. The President shall submit that action to the Pyidaungsu Hluttaw for its approval.

207. The President, in accord with the law, may:

(a) appoint and recall the diplomats of its country;

(b) agree on the appointment of foreign diplomats and send information on the recall of diplomats;

(c) accept the letters of accreditation presented by foreign diplomats.

208. The President, in accord with the law, may appoint and dismiss Heads of the Bodies of Civil Services.

209. The President, in accord with the law:

(a) shall enter into, ratify or annul international, regional or bilateral treaties which require the approval of the Pyidaungsu Hluttaw, or revoke from such treaties;

(b) may enter into, ratify or annul international, regional or bilateral treaties which do not require the approval of the Pyidaungsu Hluttaw, or revoke from such treaties.

210. The President shall have the right to occasionally deliver an address or send a message to the session of the Pyidaungsu Hluttaw or the Amyotha Hluttaw, or to the entire country relating to the policies and general situation of the Union.

211. The President may intimate the Speaker of the Pyidaungsu Hluttaw to summon an emergency or special session of the Pyidaungsu Hluttaw, if necessary.

212. (a) Except Union budget matters, the President shall have the right to promulgate an ordinance for administrative matters that need immediate action during the interval between sessions of the Pyidaungsu Hluttaw.

(b) If the President has not revoked the ordinance promulgated under Sub-Section (a), he shall submit the ordinance for approval to the nearest session of the Pyidaungsu Hluttaw within 60 days after the promulgation of the ordinance. If the Pyidaungsu Hluttaw is not in session, the President shall, within 60 days after the promulgation of such ordinance, summon a special session of the Pyidaungsu Hluttaw for approval.

(c) The ordinance shall cease to have effect from the day on which it is not approved by the Pyidaungsu Hluttaw.

(d) The ordinance promulgated by the President, with the approval of the Pyidaungsu Hluttaw, will continue to be in operation for the required period.

(e) Notwithstanding that an ordinance has been already revoked within 60 days after its promulgation, it shall be submitted to the nearest session of the Pyidaungsu Hluttaw.

(f) If an ordinance contains the provision to which the Pyidaungsu Hluttaw has no right to make a resolution in accord with the Constitution, the said provision shall cease to have effect.

213. The President:

(a) shall have the right to take appropriate military action, in co-ordination with the National Defence and Security Council formed in accord with the Constitution, in case of aggression against the Union;

(b) shall submit the action so taken to the Pyidaungsu Hluttaw for approval if it is in session, or to summon an emergency session to submit that matter for approval if the Pyidaungsu Hluttaw is not in session;

(c) may declare war or make peace only with the assent of the Pyidaungsu Hluttaw.

214. The President shall take action in accord with the provisions of the Constitution and sign the laws passed and enacted by the Pyidaungsu Hluttaw. The said signed laws shall be promulgated in the Official Gazette.

215. The President shall not be answerable to either any Hluttaw or to any Court for the exercise of the powers and functions of his office or for any act done or purported to be done by him in the exercise of these powers and functions in accord with the Constitution or any law. However, the exemption does not deal with the provisions relating to impeachment of the President under the Constitution.

The Executive Power of the Union Government

216. Subject to the provisions of the Constitution, the executive power of the Union extends to administrative matters over which the Pyidaungsu Hluttaw has power to make laws.

217. Subject to the provisions of the Constitution, the executive power of the Union shall be vested in the President. Nothing in this Section shall prevent the Pyidaungsu Hluttaw from conferring functions and powers upon any authoritative body or person, or be deemed to transfer to the President functions and powers vested in any administrative body or person concerned under the existing laws.

218. (a) All executive actions of the Union Government shall be taken as action in the name of the President.

(b) The President shall, except in matters conferred on him by the Constitution to perform in his own discretion, have the right to issue necessary rules on matters to be performed by the Union Government, on allocation of the said matters to the Ministries of the Union Government, and on allocation to the person responsible to act under any law.

(c) Orders and instruments executed in the name of the President shall be in accord with the manners of the prescribed rules issued by the President. Moreover, the validity of such order or instruments shall not be called in question on the ground that it was not done by the President.

(d) The President may, without prejudice to the generality of the provisions of Sub-Sections (a), (b) and (c) of this Section, allocate his duties regionally or according to the functions of the Government department.

219. The Union Government preserves stability of the Union, community peace and tranquility and prevalence of law and order.

220. The Union Government shall promulgate its policies in accord with the provisions of the Constitution. The necessary projects have to be drawn in accord with the said policies and shall be implemented with the approval of the Pyidaungsu Hluttaw.

221. The Union Government shall draft the Union Budget Bill based on the annual Union budget, after coordinating with the Financial Commission, and submit it for approval to the Pyidaungsu Hluttaw in accord with the provisions of the Constitution.

222. The Union Government shall, if the Pyidaungsu Hluttaw is unable to promulgate the Union Budget Bill before the end of the Budget Year, expend within the framework of the general expenditure included in the last-enacted Budget Law of the Pyidaungsu Hluttaw.

223. The Union Government may, relating to the matters which may be enacted into law by the Pyidaungsu Hluttaw in accord with the provisions of the Constitution, submit the Bill to the Pyidaungsu Hluttaw.

224. The Ministries of the Union Government shall, in carrying out the functions of their subordinate governmental departments and organizations, manage, guide, supervise and inspect in accord with the provisions of the Constitution and the existing laws.

225. In carrying out functions of the Region Government, the State Government, and the Leading Bodies of Self-Administered Division and Self-Administered Zone, the Union Government co-operates and co-ordinates with them to be effective and successful.

226. The Union Government, with the exception of Constitutional disputes and the disputes over territorial re-delineation shall:

(a) mediate and if necessary, decide, on disputes over administration between the Region and State, among Regions, among States, between Region or State and Self-Administered Area, among Self-Administered Areas; and

(b) mediate and if necessary, decide, on disputes over administration between the Region or State and Union territory, between Self-Administered Area and Union territory.

227. The Union Government, in accord with the law:

(a) may form Civil Services organizations relating to the Union as necessary.

In so forming, the functions and powers shall be prescribed;

(b) may appoint the required civil service personnel.

228. The Union Government shall:

(a) implement the administrative resolutions passed occasionally by the Pyidaungsu Hluttaw and report back the actions which have been taken to the Pyidaungsu Hluttaw;

(b) submit occasionally matters relating to the general situation of the Union to the Pyidaungsu Hluttaw.

Formation of the Financial Commission

229. (a) The Financial Commission shall be formed with the following persons:

- (i) The President Chairperson.
 - (ii) Vice-Presidents Vice-Chairpersons.
 - (iii) The Attorney-General of the Union Member.
 - (iv) The Auditor-General of the Union Member.
 - (v) Chief Ministers of the Regions and States Members.
 - (vi) The Nay Pyi Taw Council Chairperson Member.
 - (vii) The Minister of Finance of the Union Secretary.
- (b) (i) In forming the Financial Commission, the President may appoint a suitable person as a temporary member if there is vacancy for any reason.
- (ii) The President shall promulgate the formation of the Financial Commission. Moreover, necessary orders or directives, so forth, for the Financial Commission may be promulgated either by the President or the person assigned by him.

Duties and Functions of the Financial Commission

230. (a) The budgets of the Union Ministries and Union level organizations are to be vetted by a Vice-President assigned by the President, and the estimated budgets of the Union level organizations including the Union Ministries are to be submitted to the Financial Commission.

(b) The budgets of the Region or State are to be vetted by the other Vice-President assigned by the President, and the estimated budgets of the Region or State are to be submitted to the Financial Commission.

(c) The Financial Commission shall:

(i) submit to the Pyidaungsu Hluttaw with recommendation for the Union Budget which includes the expenditure of the Union territory, a supplementary finance as suitable to the Regions or States from the Union Fund, giving grants as a special matter and permitting loans;

(ii) to advise financial matters that should be undertaken;

(iii) carry out the duties assigned by the Pyidaungsu Hluttaw through the promulgation of law for the emergence of a substantial financial system.

(d) The Financial Commission shall submit with recommendation to the President, the Bill of Union Budget, which includes Union Budget, the distribution of suitable funds from Union Fund accounts to Regions or States, the provisions or funds as a special case and disbursing of necessary loans for submission them to the Pyidaungsu Hluttaw.

(e) The Financial Commission may, if necessary, seek advice from financial experts.

Taxes and revenues to be paid to the Union Fund

231. (a) The Union shall, with the exception of the taxes and revenues listed in Schedule Five to be collected by Regions or States, collect all other taxes and revenues in accord with the law and deposit them in the Union Fund.

(b) If it is necessary to collect designated receipts or incomes and taxes and revenues to be collected by the Regions or States for the Union territories, the Union shall collect them in accord with the law and deposit them in the Union Fund.

(c) The Union has the right to expend the Union Fund in accord with the law.

The Union Ministers and the Deputy Ministers

Appointment of the Union Ministers

232. (a) The President shall appoint the Union Ministers who possess the following qualifications:

(i) person who has attained the age of 40 years;

(ii) person who has qualifications, with the exception of age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;

(iii) person whose qualifications does not breach the provisions under Section 121 which disqualify the person from standing for election as the Pyithu Hluttaw representative;

(iv) person loyal to the Union and its citizens.

(b) In order to appoint the Union Ministers, the President shall:

(i) select suitable persons who have qualifications prescribed in Sub-Section (a) from among the Hluttaw representatives or persons who are not Hluttaw representatives;

(ii) obtain a list of suitable Defence Services personnel nominated by the Commander-in-Chief of the Defence Services for Ministries of Defence, Home Affairs and Border Affairs;

(iii) co-ordinate with the Commander-in-Chief of the Defence Services if he desires to appoint the Defence Services personnel as Union Ministers for other Ministries apart from Ministries of Defence, Home Affairs and Border Affairs.

(c) The President shall compile the list of persons selected by him and the list of the Defence Services personnel nominated by the Commander-in-Chief of the Defence Services and submit them to the Pyidaungsu Hluttaw for its approval.

(d) The appointment of a person as a Union Minister nominated by the President shall not be refused by the Pyidaungsu Hluttaw unless it can clearly be proved that the person concerned does not meet the qualifications of the Union Minister.

(e) The President has the right to submit again the list with a new name replacing the one who has not been approved by the Pyidaungsu Hluttaw for the appointment of a Union Minister.

(f) The President shall appoint the persons who have been approved by the Pyidaungsu Hluttaw as Union Ministers. In doing so, the President shall designate Ministry or Ministries for each Union Minister to take responsibility.

(g) The President shall intimate the Pyidaungsu Hluttaw whenever he appoints Union Ministers.

(h) The Union Ministers shall be responsible to the President.

(i) If the Union Minister is a representative of a Hluttaw, it shall be deemed that he has resigned from the day he is appointed as a Union Minister.

(j) (i) If the Union Minister is a Civil Services personnel, it shall be deemed that he has retired according to the existing civil service rules and regulations from the day he is appointed as a Union Minister.

(ii) The Defence Services personnel who are appointed as Union Ministers for the Ministries of Defence, Home Affairs and Border Affairs are not required to retire or resign from the Defence Services.

(k) If the Union Minister is a member of any political party, he shall not take part in its party activities during the term of office from the day he is appointed as a Union Minister.

Impeachment of the Union Minister

233. (a) Any Union Minister may be impeached on any of the following reasons:

(i) high treason;

- (ii) breach of any provision of the Constitution;
 - (iii) misconduct;
 - (iv) disqualification of qualification of the Union Minister prescribed in the Constitution;
 - (v) inefficient discharge of duties assigned by law.
- (b) If there is a need to impeach any Union Minister, the same procedure for the impeachment of the President or Vice-President under Section 71 shall be applied.
- (c) The President shall remove the impeached Union Minister from office when the Hluttaw that had made an investigation had resolved and submitted to the President that the charge has been substantiated and the Union Minister is unfit to continue in office.
- (d) If the Hluttaw concerned resolves that the charge has failed, the Speaker of the Hluttaw shall report the resolution to the President.

Appointment of Deputy Ministers

234. (a) The President shall appoint the persons, from among Hluttaw representatives or from those who are not Hluttaw representatives, possessing the following qualifications, as Deputy Ministers to assist the Union Ministers:

- (i) persons who have attained the age of 35 years;
- (ii) persons who have qualifications, with the exception of the age limit, prescribed in Section 120 for Pyithu Hluttaw representatives;
- (iii) persons whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
- (iv) persons loyal to the Union and its citizens.

(b) The President shall, to appoint the Deputy Ministers for Ministries of Defence, Home Affairs and Border Affairs, have the list of suitable Defence Services personnel nominated by the Commander-in-Chief of the Defence Services.

(c) The President shall co-ordinate with the Commander-in-Chief of the Defence Services if he desires to appoint the Defence Services personnel as the Deputy Ministers of other Ministries apart from the Ministries of Defence, Home Affairs and Border Affairs.

(d) The President shall designate Ministries for each Deputy Minister to take responsibility.

(e) The Deputy Ministers shall be responsible to the relevant Union Minister, and to the President through the relevant Union Minister.

(f) If the Deputy Minister is a representative of a Hluttaw or a Civil Services personnel or a Defence Services personnel, or a member of a political party, the provisions of Sub-Sections (i), (j) and (k) of Section 232 shall be applied.

Term of office, resignation, termination of duties and filling vacancy of the Union Ministers and Deputy Ministers

235. (a) The term of the Union Minister and Deputy Minister is the same as that of the President.

(b) The Union Minister or Deputy Minister may resign from office on his own volition due to a certain reason before the expiry of his term of office, after submitting his written resignation to the President.

(c) The President:

(i) may direct any Union Minister or Deputy Minister who cannot discharge his duties efficiently to resign. If he fails to comply, he shall be terminated from his duties;

(ii) shall co-ordinate with the Commander-in-Chief of the Defence Services if it relates to a Defence Services personnel who is a Minister or Deputy Minister to resign or remove from office.

(d) If the office of the Union Minister or Deputy Minister becomes vacant due to resignation, removal from office, death or any other reason, the President shall have the right to appoint and assign duties to a new Union Minister or Deputy Minister in accord with the provisions of the Constitution relating to the appointment of the Union Minister or Deputy Minister. The term of office of the newly appointed Union Minister or Deputy Minister shall be the same as the remaining term of the President.

(e) (i) When the President before the expiry of his term in office, has appointed the Union Ministers or Deputy Ministers, and the President's office is vacant due to resignation or death or any other reason, the Union Ministers and the Deputy Ministers shall continue to perform their duties until the new elected President has appointed and assigned duties to the new Union Ministers or Deputy Ministers.

(ii) The term of the newly appointed Union Ministers and Deputy Ministers shall be up to the expiry of the remaining term of the new President.

(f) Duties, powers and rights of the Union Minister and Deputy Ministers shall be prescribed by law. The Attorney General of the Union and the Deputy Attorney General.

236. The Attorney General of the Union shall be called the Attorney General of the Union.

The appointment of the Attorney General of the Union

237. (a) The President, with the approval of the Pyidaungsu Hluttaw, shall appoint a person, from among Hluttaw representatives or persons who are not Hluttaw representatives having the following qualifications as the Attorney-General of the Union to obtain legal advice and assign duties on legal matters:

- (i) person who has attained the age of 45 years;
- (ii) person who has qualifications, with the exception of age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;
- (iii) person whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as the Pyithu Hluttaw representatives;
- (iv) (aa) person who has served as a Judge of the Region or State High Court for at least five years; or
- (bb) person who has served as a judicial officer or law officer for at least 10 years not lower than that of the Region or State Level;
- (cc) person who has practised as an advocate for at least 20 years;
- (dd) person who is, in the opinion of the President, as an eminent jurist;
- (v) person who is loyal to the Union and its citizens.

(b) The appointment of a person as the Attorney-General of the Union by the President shall not be refused by the Pyidaungsu Hluttaw unless it can clearly be proved that the person concerned does not meet the qualification of the Attorney-General of the Union.

(c) The President has the right to submit again the list with a new name replacing the one who has not been approved by the Pyidaungsu Hluttaw for the appointment of a person as the Attorney-General of the Union.

(d) The Attorney-General of the Union is a member of the Union Government.

(e) The Attorney General of the Union shall be responsible to the President.

(f) If the Attorney General of the Union is a representative of a Hluttaw, it shall be deemed that he has resigned from the day he is appointed as Attorney General of the Union.

(g) If the Attorney General of the Union is a Civil Services personnel, it shall be deemed that he has retired according to the existing civil service rules and regulations from the day he is appointed as the Attorney General of the Union.

(h) If the Attorney General of the Union is a member of any political party, he shall not take part in its party activities during the term of office from the day he is appointed as the Attorney General of the Union.

Impeachment of the Attorney General of the Union

238. If there is a need to impeach the Attorney General of the Union, the same procedure for the impeachment of the Union Minister under Section 233 shall be applied.

Appointment of the Deputy Attorney General

239. (a) The President shall appoint, in his own volition, the persons from among the Hluttaw representatives or from among those who are not Hluttaw representatives who have the following qualifications, as Deputy Attorney General to assist the Attorney General of the Union:

- (i) person who has attained the age of 40 years;
- (ii) person who has qualifications, with the exception of age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;
- (iii) persons whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
- (iv) (aa) person who has served as a Judge of the Region or State High Court for at least five years; or
- (bb) person who has served as a judicial officer or law officer for at least 10 years not lower than that of the Region or State Level; or
- (cc) person who has practised as an advocate for at least 15 years;
- (dd) person who is, in the opinion of the President, as an eminent jurist;
- (v) person who is loyal to the Union and its citizens.

(b) The Deputy Attorney-General shall be responsible to the Attorney-General of the Union and to the President through the Attorney-General of the Union.

(c) If the Deputy Attorney-General of the Union is a representative of a Hluttaw or a Civil Services personnel or a member of a political party, the provisions of Sub-Sections (f), (g) and (h) of Section 237 shall be applied.

Term of office, resignation, termination of office, filling the vacancy of the Attorney-General of the Union and the Deputy Attorney-General

240. (a) The term of the Attorney-General of the Union and the Deputy Attorney-General is normally the same as that of the President.

(b) The Attorney-General of the Union or the Deputy Attorney-General may resign from office on his own volition due to a certain reason before expiry of the term of office, after submitting his written resignation to the President.

(c) The President may direct to resign the Attorney-General of the Union or the Deputy Attorney-General who cannot discharge his duties efficiently. If either of them fails to comply, he shall be terminated from his duties.

(d) If the office of the Attorney-General of the Union or the Deputy Attorney-General becomes vacant due to resignation, removal from office, death or any other reason, the President shall have the right to appoint and assign duties to a new Attorney-General of the Union or the Deputy Attorney-General in accord with the provisions of the Constitution relating to the appointment of the Attorney-General of the Union or the Deputy Attorney-General. The term of the newly appointed Attorney-General of the Union or the Deputy Attorney-General shall be the same as the remaining term of office of the President.

(e) (i) When the President before the expiry of his term in office, has appointed the Attorney-General of the Union and the Deputy Attorney-General, and the President's office is vacant due to resignation or death or any other reason, the Attorney-General of the Union or the Deputy Attorney-General may be continued to be assigned or shall continue to perform their duties until the new elected President has appointed and assigned duties to the new Attorney-General of the Union or the Deputy Attorney-General in accord with the provisions of the Constitution.

(ii) The term of the new appointed Attorney-General of the Union and the Deputy Attorney-General shall be up to the expiry of the remaining term of the new President.

(f) Duties, powers and rights of the Attorney-General of the Union and the Deputy Attorney-General shall be prescribed by law.

Auditor-General of the Union and the Deputy Auditor-General

241. The Auditor-General of the Union shall be called the Auditor-General of the Union.

Appointment of the Auditor-General of the Union

242. (a) The President, with the approval of the Pyidaungsu Hluttaw, shall appoint a person from among Hluttaw representatives or from among those who are not Hluttaw representatives, who has the following qualifications, as the Auditor-General of the Union so as to audit Union Budget and report thereon to the Pyidaungsu Hluttaw:

(i) person who has attained the age of 45 years;

(ii) person who has qualifications, with the exception of the age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;

(iii) persons whose qualification does not breach the provisions in Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;

(iv) (aa) person who has served as an auditor for at least 10 years not lower than that of the Region or State Level; or

(bb) person who has served as a Registered Accountant or a Certified Public Accountant for at least 20 years; or

(cc) person who is, in the opinion of the President, as an eminent accountant, statistician or economist.

(v) person who is loyal to the Union and its citizens.

(b) The person nominated by the President to be appointed as the Auditor-General of the Union shall not be refused by the Pyidaungsu Hluttaw unless it can clearly be proved that the person concerned does not meet the qualification to be the Auditor-General of the Union.

(c) The President has the right to submit again the list with a new name replacing the one who has not been approved by the Pyidaungsu Hluttaw for the appointment of the Auditor-General of the Union.

(d) The Auditor-General of the Union shall be responsible to the President.

(e) If the Auditor-General of the Union is a Hluttaw representative, it shall be deemed that he has resigned from the day he is appointed as the Auditor-General of the Union.

(f) If the Auditor-General of the Union is a Civil Services personnel, it shall be deemed that he has retired according to the existing civil service rules and regulations from the day he is appointed as the Auditor-General of the Union.

(g) If the Auditor-General of the Union is a member of any political party, he shall not take part in its party activities during the term of office from the day he is appointed as Auditor-General of the Union.

Impeachment of the Auditor-General of the Union

243. If there is a need to impeach the Auditor-General of the Union, the same procedure for the impeachment of the Union Minister under Section 233 shall be applied.

Appointment of the Deputy Auditor-General

244. (a) The President shall appoint, in his own volition, the persons from among the Hluttaw representatives or from those who are not Hluttaw representatives, who have the following qualifications, as the Deputy Auditor-General to assist the Auditor-General of the Union:

(i) person who has attained the age of 40 years;

(ii) person who has qualifications, with the exception of age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;

(iii) persons whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;

(iv) (aa) person who has served as an auditor for at least 10 years not lower than that of the Region or State Level; or

(bb) person who has served as a Registered Accountant or a Certified Public Accountant for at least 15 years; or

(cc) person who is, in the opinion of the President, as an eminent accountant, statistician or economist.

(v) person who is loyal to the Union and its citizens.

(b) The Deputy Auditor-General shall be responsible to the Auditor-General of the Union and the President through the Auditor-General of the Union.

(c) If the Deputy Auditor-General of the Union is a representative of a Hluttaw or civil service personnel or member of a political party, the provisions of Sub-Sections (e), (f) and (g) of Section 242 shall be applied.

Term of office, resignation, termination of office, filling the vacancy of the Auditor-General of the Union and the Deputy Auditor-General

245. (a) The term of the Auditor-General of the Union and the Deputy Auditor-General is normally the same as that of the President.

(b) The Auditor-General of the Union or the Deputy Auditor-General may resign from office on his own volition due to a certain reason before expiry of the term of office, after submitting his written resignation to the President.

(c) The President may direct to resign the Auditor-General of the Union or the Deputy Auditor-General who cannot discharge his duties efficiently. If either of them fails to comply, he shall be terminated from his duties.

(d) If the office of the Auditor-General of the Union or the Deputy Auditor-General becomes vacant due to resignation, removal from office, death or any other reason, the President shall have the right to appoint and assign duties to a new Auditor-General of the Union or the Deputy Auditor-General in accord with the provisions of the Constitution relating to the appointment of the Auditor-General of the Union or the Deputy Auditor-General. The term of the newly appointed Auditor-General of the Union or the Deputy Auditor-General shall be the same as the remaining term of the President.

(e) (i) When the President before the expiry of his term in office, has appointed the Auditor-General of the Union and the Deputy Auditor-General, and the President's office is vacant due to resignation or death or any other reason, the Auditor-General of the Union or the Deputy Auditor-General may be continued to be assigned or shall continue to perform their duties until the new elected President has appointed and assigned duties to the new Auditor-General of the Union or the Deputy Auditor-General in accord with the provisions of the Constitution.

(ii) The term of the new appointed Auditor-General of the Union or the Deputy Auditor-General shall be up to the expiry of the remaining term of the new President.

(f) Duties, powers and rights of the Auditor-General of the Union and the Deputy Auditor-General shall be prescribed by law.

Formation of the Union Civil Services Board

246. (a) The President shall form the Union Civil Services Board to enable to perform the duties of selecting, training the Civil services personnel and prescribing of Civil Service regulations.

(b) The President shall appoint the persons who have the following qualifications as the Chairperson and Members of the Union Civil Services Board:

- (i) person who has attained the age of 50 years;
- (ii) person who has qualifications, with the exception of the age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;
- (iii) persons whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
- (iv) experienced intelligentsia and intellectuals;
- (v) person who is loyal to the Union and its citizens;
- (vi) person who is not a member of a political party;
- (vii) person who is not a Hluttaw representative.

(c) If the Chairperson and members of the Union Civil Services Board are Civil Services personnel, it shall be deemed that they have retired according to the existing Civil Services rules and regulations from the day they are appointed as Chairperson and Members of the Union Civil Services Board of the Union.

(d) The Chairperson of the Union Civil Services Board shall be responsible to the President, and members of the Union Civil Services Board shall be responsible to the President through the Chairperson of Union Civil Services Board.

(e) The term of the Chairperson and members of the Union Civil Services Board is normally the same as that of the President.

(f) Formation of the Union Civil Services Board, duties, powers and rights of the Chairperson and Members, resignation and termination of duties shall be prescribed by law.

The Region Government or the State Government

247. (a) The Head of the Region or State shall be called the Chief Minister of the Region or State.

(b) The Member of the Region or State Government shall be called the Minister of the Region or State.

Formation of the Region Government or State Government

248. (a) The Region Government is formed in the Region and State Government is formed in the State respectively.

(b) The Region or State Government is formed with the following persons:

(i) the Chief Minister of the Region or State;

(ii) the Ministers of the Region or State;

(iii) the Advocate General of the Region or State.

(c) The President, with the approval of the Region or State Hluttaw concerned, may:

(i) specify the Region or State Ministries as may be necessary. Moreover, he may make changes and additions to the specified Ministries;

(ii) specify the number of the Ministers of the Region or State as may be necessary. Moreover, the specified number may be increased or decreased.

Executive powers of the Region or State Government

249. Subject to the provisions of the Constitution, the executive power of the Region or State Government extends to the administrative matters which the Region or State Hluttaw has power to make laws. Moreover, it also extends to the matters which the Region or State Government is permitted to perform in accord with any Union Law.

250. The Region or State Government shall have the responsibility to assist the Union Government in the preservation of the stability of the Union, community peace and tranquility and prevalence of law and order.

251. The Region or State Government shall, subject to the policies adopted by the Union Government and Union Laws, implement projects that are to be undertaken in the Region or State with the approval of the Region or State Hluttaw concerned.

252. The Region or State Government shall, in accord with the provisions of the Constitution, submit the Region or State Budget Bill based on the annual Union Budget to the Region or State Hluttaw concerned.

253. The Region or State Government shall, if the Region or State Budget Bill is unable to promulgate before the end of the Budget year, expend within the framework of the general expenditure included in the last-enacted Budget Law of the Region or State Hluttaw.

Charges and Taxes to be Collected by the Region or State Government

254. (a) The Region or State shall collect the taxes and revenues listed in Schedule Five in accord with law and deposit them in the Region or State fund.

(b) The Region or State has the right to expend the Region or State fund in accord with the law.

255. The Region or State Government, in accord with the provisions of the Constitution, may submit the necessary Bill relating to matters listed in Schedule Two of the Region or State Legislative List to the Region or State Hluttaw.

256. The Region or State Government:

(a) shall, in carrying out the functions of the Region or State Ministries, their subordinate governmental departments and organizations, manage, guide, supervise and inspect in accord with the provisions of the Constitution and the existing laws;

(b) may, relating to the performance of the civil service organizations discharging duties in their Region or State concerned, supervise, inspect and coordinate in accord with the law.

257. The Region or State Government may, for enabling the performance of the functions to be carried out in accord with the Union Law for Civil Services and in co-ordination with the Union Government in advance:

- (a) form Civil Services organizations relating to the Region or State as necessary;
- (b) appoint the required number of Civil Services personnel.

258. The Region or State Government shall:

- (a) implement the administrative resolutions passed occasionally by the Region or State concerned and report back the actions which has taken to the Region or State Hluttaw concerned;
- (b) submit the report on the general situations of its area to the Union Government and to the Region or State Hluttaw concerned.

259. The Region or State Government shall discharge the functions occasionally assigned by the Union Government.

Office of the Region or State Government

260. The Head of the General Administration Department of the Region or State is the ex-officio Secretary of the Region or State Government concerned. Moreover, the General Administration Department of the Region or State is the Office of the Region or State Government concerned.

Chief Minister of the Region or State

Appointment of the Chief Minister of the Region or State

261. (a) The Chief Minister of the Region or State shall have the following qualifications:

- (i) person who has attained the age of 35 years;
- (ii) person who has qualifications, with the exception of the age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;
- (iii) person whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
- (iv) person who is loyal to the Union and its citizens.

(b) In order to appoint the Chief Minister of the Region or State concerned, the President shall :

- (i) select a suitable Hluttaw representative who has the prescribed qualifications from among the Region or State Hluttaw representatives concerned;

(ii) submit the list of the elected Hluttaw representatives to the Region or State Hluttaw concerned for its approval.

(c) The President shall appoint the Hluttaw representative approved by the Region or State Hluttaw as the Chief Minister of the Region or State concerned.

(d) The appointment of a person as a Chief Minister of the Region or State nominated by the President shall not be refused by the Region or State Hluttaw unless it can clearly be proved that the person concerned does not meet the qualifications of the Chief Minister of the Region or State.

(e) The President has the right to submit again the list with a new name replacing the one who has not been approved by the Region or State Hluttaw for the appointment of the Chief Minister.

Ministers of the Region or Ministers of the State Appointment of the Ministers of the Region or Ministers of the State

262. (a) The Chief Minister of the Region or State shall:

(i) select suitable persons who have prescribed qualifications under Sub-Section (a) of Section 261, from among the Region or State Hluttaw representatives or from among persons who are not Hluttaw representatives concerned;

(ii) request for a list of suitable Defence Services personnel nominated by the Commander-in-Chief of the Defence Services to assign responsibilities of Security and Border Affairs;

(iii) obtain a list of Chairpersons of Leading Bodies of the Self-Administered Division or the Self-Administered Zone in the Region or State concerned;

(iv) obtain the list of Hluttaw representatives elected to carry out the affairs of National races in the Region or State concerned from the relevant Election Commission.

(b) The Chief Minister of the Region or State shall compile the list of persons selected by him and the list of the Defence Services personnel nominated by the Commander-in-Chief of the Defence Services and submit them to the Region or State Hluttaw concerned for its approval.

(c) The appointment of a person as a Minister of the Region or State nominated by the Chief Minister of the Region or State shall not be refused by the Region or State Hluttaw unless it can clearly be proved that the person concerned does not have the qualifications of the Minister of the Region or State.

(d) The Chief Minister of the Region or State has the right to submit again the list with a new name replacing the one who has not been approved by the Region or State Hluttaw for the appointment of a Minister of the Region or State.

(e) The Chief Minister of the Region or State shall submit the list of persons who are approved by the Region or State Hluttaw or Chairpersons of the Self-Administered Division or Self-Administered Zone and the list of persons who are representatives elected to undertake the affairs of National races to appoint as the Ministers of the Region or State to the President.

(f) The President shall appoint the persons who have been approved by the Chief Minister of the Region or State as Ministers of the Region or State. In doing so, he shall, in co-ordination with the Chief Minister of the Region or State concerned, designate the Ministry or Ministries which each Region or the State Minister to take responsibility.

(g) The President shall:

(i) assign duties to the Chairpersons of the Self-Administered Division and the Self-Administered Zone who are the Ministers of the Region or State, to perform the affairs of the Self-Administered Division or Self-Administered Zone concerned;

(ii) assign duties to the Hluttaw representatives who are the Ministers of the Region or State, to perform the affairs of National races concerned.

(h) The President shall relax the prescribed age limit under the Constitution in appointing the Minister of the Region or State, the Chairperson of the Self-Administered Division or the Self-Administered Zone or elected Hluttaw representative to perform the affairs of National races concerned.

(i) The President may, in co-ordination with the Chief Minister, appoint Ministers for the Self-Administered Division or the Self-Administered Zone or Ministers for National races affairs as Ministers concurrently in charge of other Ministries.

(j) The Chief Minister of the Region or State shall, if he wishes to assign the Defence Services personnel as the Region or State Ministers for other duties apart from security and border affairs, obtain their list from the Commander-in-Chief of the Defence Services with the approval of the Region or State Hluttaw concerned, submit it to the President.

(k) The President shall intimate the appointments of the Chief Minister and Ministers of the Region or State to the Region or State Hluttaw concerned and Pyidaungsu Hluttaw.

(l) (i) The Chief Minister of the Region or State shall be responsible to the President.

(ii) The Ministers of the Region or State shall be responsible to the Chief Minister of the Region or State concerned and to the President through the Chief Minister of the Region or State concerned.

(m) The term of the Chief Minister and Ministers of the Region or State is the same as that of the President.

(n) (i) If the Minister of the Region or State is a Civil Services personnel, it shall be deemed that he has retired according to the existing Civil Services rules and regulations from the day he is appointed as Minister of the Region or State.

(ii) The Defence Services personnel who are appointed as Ministers of the Region or State for Ministries of Security and Border Affairs are not required to retire or resign from the Defence Services.

Impeachment of the Chief Minister of the Region or State or any Minister

263. (a) The Chief Minister of the Region or State or any Minister, may be impeached for one of the following reasons:

(i) high treason;

(ii) breach of any of the provisions of the Constitution;

(iii) misconduct;

(iv) disqualification of qualification of the Chief Minister or Minister of the Region or State prescribed in the Constitution;

(v) inefficient discharge of duties assigned by law.

(b) If there is a need to impeach the Chief Minister or any of the Ministers of the Region or State, a charge signed by not less than one-fourth of the total number of representatives of either the Region or State Hluttaw concerned shall be submitted to the Speaker of the Hluttaw concerned.

(c) The Speaker of the Hluttaw concerned shall form a body of investigation to investigate the charge. The term of the completion of the investigation shall be determined on the volume of work.

(d) When the charge is being investigated, the Chief Minister or Minister of the Region or State shall have the right to defend himself in person or through a representative.

(e) (i) If an Investigation Body submits its investigation concerning the impeachment of the Chief Minister or any Minister of the Region or State by the Region or State Hluttaw concerned, the Speaker of the Hluttaw shall submit it to the relevant Region or State Hluttaw.

If, after the investigation, on submitting the findings of the charge has been substantiated and that Chief Minister or any Minister of the Region or State is unfit to continue in office by not less than two-thirds of the total number of representatives of the Hluttaw concerned which investigated, the Speaker shall submit the resolution to the President.

(ii) The President, upon receipt of the report, shall remove the impeached Chief Minister or Minister of the Region or State.

(iii) If the Hluttaw concerned resolves that the charge has been failed, the Speaker of the Hluttaw shall submit the resolution to the President.

Resignation, termination of office, filling the vacancy of the Chief Minister or Minister of the Region or State

264. (a) The Chief Minister or any Minister of the Region or State may resign from office on his own volition due to a certain reason before expiry of the term of office, after submitting his written resignation to the President.

(b) The President shall:

(i) direct to resign the Chief Minister or Minister of the Region or State who cannot discharge his duties efficiently. If he fails to comply, he shall be terminated from his duties;

(ii) co-ordinate with the Commander-in-Chief of the Defence Services concerning the Defence Services personnel who is Minister of the Region or State who has to resign or be terminated from his duties.

(c) If the office of the Chief Minister or Ministers of the Region or State becomes vacant due to resignation, removal from office, death or any other reason, the President shall have the right to appoint and assign duties to a new Chief Minister of the Region or State in accord with the provisions of the Constitution relating to the appointment of the Chief Minister or Ministers of the Region or State. The term of the newly appointed Chief Minister or Ministers of the Region or State shall be the same as the remaining term of the President.

(d) Duties, powers and rights of the Chief Minister and Ministers of the Region or State shall be prescribed by law. Advocate-General of the Region or Advocate-General of the State

265. The Advocate-General of the Region or the Advocate-General of the State shall be called the Advocate-General of the Region or the Advocate-General of the State. The Appointment of the Advocate-General of the Region or State.

266. (a) The Chief Minister of the Region or State shall, with the approval of the Region or State Hluttaw concerned, appoint a person from among the Region or State Hluttaw representatives or from those who are not the Hluttaw representatives having the following qualifications as the Advocate General of the Region or State to obtain legal advice and assign duties on legal matters:

(i) person who has attained the age of 40 years;

(ii) person who has qualifications, with the exception of age limit, as the Pyithu Hluttaw representatives, prescribed in Section 120;

(iii) persons whose qualification does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;

(iv) (aa) person who has served as a judicial officer or law officer for at least five years not lower than that of the Region or State High Court; or person who has served as a judicial officer or law officer for at least 10 years not lower than that of the District Level;

(bb) person who has been an advocate for at least 15 years.

(v) person loyal to the Union and its citizens.

(b) The President, with the approval of the Hluttaw shall appoint a person from among Hluttaw representatives as the Advocate-General of the Region or State.

(c) The appointment of a person as the Advocate-General of the Region or State nominated by the Chief Minister of the Region or State, to be appointed as the Advocate-General of the Region or State shall not be refused by the Region or State Hluttaw concerned unless it can clearly be proved that the person concerned does not meet the qualifications of the Advocate-General of the Region or State.

(d) The Chief Minister of the Region or State has the right to submit again the list for the appointment of a person as the Advocate-General of the Region or State to the Region or State Hluttaw concerned instead of the one who has not been approved by the Region or State Hluttaw.

(e) The Advocate-General of the Region or State is a member of the Government of the Region or State concerned.

(f) The Advocate-General of the Region or State shall:

(i) be responsible to the President through the Chief Minister of the Region or State concerned;

(ii) be responsible to the relevant Advocate-General of the Union or the relevant Chief Minister of the Region or State.

Impeachment of the Advocate-General of the Region or State

267. If there is a need to impeach the Advocate-General of the Region or State, the same procedure for the impeachment of the Chief Minister or any Minister of the Region or State under Section 263 shall be applied.

Resignation, termination of office, filling vacancy of the Advocate-General of the Region or State

268. The Advocate-General of the Region or State is, subject to provisions of Sections 262 (n) and 264 prescribed for the relevant Chief Minister or the relevant Ministers of the Region or State concerning resignation, termination of office, filling the vacancy and deeming the person to have retired in case he is a Civil Services personnel.

269. Duties, powers and rights of the Advocate-General of the Region or State shall be prescribed by law.

Auditor-General of the Region or Auditor-General of the State

270. The Auditor-General of the Region or State shall be called the Auditor-General of the Region or Auditor-General of the State.

Appointment of the Auditor-General of the Region or the Auditor-General of the State

271. (a) The Chief Minister of the Region or State shall appoint a person from Hluttaw representatives or from those who are not Hluttaw representatives, who has the following qualifications, with the approval of the relevant Region or State Hluttaw as the Auditor-General of the Region or State so as to audit the Region or State budget and report it:

- (i) person who has attained the age of 40 years;
 - (ii) person who has qualifications, with the exception of age limit, as the Pyithu Hluttaw representatives prescribed in Section 120;
 - (iii) persons whose qualifications does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
 - (iv) (aa) person who has served as an auditor of the Region or State for at least five years not lower than that of the Region or State Level; or person who has served as an auditor at least 10 years not lower than that of the District Level; or
 - (bb) person who has served as a Registered Accountant or a Certified Public Accountant for at least 15 years;
 - (v) person who is loyal to the Union and its citizens.
- (b) The President shall appoint the person submitted by the relevant Chief Minister of the Region or State with the approval of the Hluttaw concerned as the Auditor-General of the Region or State.

(c) The person nominated by the Chief Minister of the Region or State concerned to be appointed as the Auditor-General of the Region or State shall not be refused by the Region or State Hluttaw concerned unless it can clearly be proved that the person concerned is not qualified to be the Auditor-General of the Region or State.

(d) The Chief Minister of the Region or State has the right to submit again the new list for the appointment of a person as the Auditor-General of the Region or State to the Region or State Hluttaw concerned instead of the one who has not been approved by the Region or State Hluttaw.

(e) The Auditor-General of the Region or State shall:

(i) be responsible to the President through the Chief Minister of the Region or State concerned;

(ii) be responsible to the Auditor-General of the Union and to the Chief Minister of the Region or State concerned.

Impeachment of the Auditor-General of the Region or the Auditor-General of the State

272. If there is a need to impeach the Auditor-General of the Region or State, the same procedure for the impeachment of the Chief Minister or any Minister of the Region or State under Section 263 shall be applied.

Resignation, termination of office, filling the vacancy of the Auditor-General of the Region or the Auditor-General of the State

273. The Auditor-General of the Region or State is, subject to provisions of Section 264 prescribed for the Chief Minister or Ministers of the Region or State concerning resignation, termination of office, filling the vacancy and deeming as the person to have retired in case he is a Civil Services personnel.

274. Duties, powers and rights of the Auditor-General of the Region or State shall be prescribed by law.

Administrative Body of the Self-Administered Division or Self-Administered Zone

275. The Administrative Body of Self-Administered Division or Self-Administered Zone shall be called the leading body of the Self-Administered Division or leading body of the Self-Administered Zone.

Formation of Leading Bodies of the Self-Administered Division and the Self-Administered Zone

276. (a) Being Self-Administered Areas, the Self-Administered Division and the Self-Administered Zones are of equal status.

(b) Leading Bodies of the Self-Administered Division and the Self-Administered Zone are formed respectively in each and every Self-Administered Division and the Self-Administered Zone. Such Leading Bodies exercise legislative power vested under the Schedule Three of the Constitution.

(c) Leading Bodies of the Self-Administered Division or the Self-Administered Zone shall consist of at least 10 members.

(d) Leading Bodies of the Self-Administered Division or the Self-Administered Zone shall be formed with the following persons:

(i) Region or State Hluttaw representatives elected from townships in the Self-Administered Division or Self-Administered Zone concerned;

(ii) the Defence Services personnel representatives nominated by the Commander-in-Chief of the Defence Services to assign duties relating to Security or Border Affairs;

(iii) Additional representatives selected by persons stated in Sub-Section (d) (i) and (ii).

(e) Members of the Leading Bodies of the Self-Administered Division or the Self-Administered Zone stated in above Sub-Section (d)(i) and (ii) shall, after coordinating among themselves, select a suitable person as the Chairperson of the Self-Administered Division or the Self-Administered Zone from the Region or State Hluttaw representatives elected from the townships in the Self-Administered Division or the Self-Administered Zone. The name of the person so elected shall be submitted to the President through the Chief Minister of the Region or State concerned.

(f) The President shall appoint the person who is nominated as the Chairperson of the Self-Administered Division or the Self-Administered Zone concerned.

(g) The Chairperson of the Self-Administered Division or the Self-Administered Zone is the ex-officio Minister in the Region or State concerned. Except for the method of the appointment of the Minister of the Region or State, the other provisions of the Constitution shall be applied to the Chairperson of the Self-Administered Division or Self-Administered Zone.

(h) The Chairperson of the Self-Administered Division or Self-Administered Zone and members of the Leading Body concerned shall:

(i) except the National races who have already obtained the Self-Administered Division or Self-Administered Zone concerned residing in the Self-Administered Division or Self-Administered Zone concerned, if they are National races that are deemed by the authority

concerned to have a population of over 10,000, from the remaining National races, each representative of the said National races shall be elected and appointed as a member of the Leading Body. The elected member of the Leading Body shall have the prescribed qualifications of Hluttaw representatives of the Region or State under Section 169;

(ii) if the number of members of the Leading Body of the Self-Administered Division or Self-Administered Zone is less than 10 members, the required number of members from those residing in the Self-Administered Division or Self-Administered Zone concerned and who have qualifications prescribed for the Region or State Hluttaw representatives shall be elected and appointed to fill up 10 members as they desire.

(i) The Commander-in-Chief of the Defence Services shall assign the duties to the one-fourth of the total number of members with the Defence Services personnel in the Leading Bodies of the Self-Administered Division or Self-Administered Zone, as necessary.

(j) The Defence Services personnel, nominated in accord with the law by the Commander-in-Chief of the Defence Services, to be assigned as the members of the Leading Bodies of the Self-Administered Division or Self-Administered Zone shall have qualifications of the Region or State Hluttaw representatives.

(k) (i) The Chairperson of the Leading Bodies of the Self-Administered Division or Self-Administered Zone concerned shall declare the name of the members of the Leading Bodies of the Self-Administered Division or Self-Administered Zone.

(ii) The Chairperson of the Leading Bodies of the Self-Administered Division or Self-Administered Zone shall be responsible to the Region or State Chief Minister concerned, and to the President through the Chief Minister concerned.

(iii) Members of Leading Bodies of the Self-Administered Division or Self-Administered Zone shall be responsible to their Chairperson. (iv) The term of office, taking action, resignation, termination of duty and filling the vacancy of the Chairperson of the Leading Bodies of the Self-Administered Division or Self-Administered Zone shall be prescribed by law.

(l) Duties, powers and rights of the Chairperson and members of the Leading Bodies of the Self-Administered Division or Self-Administered Zone shall be prescribed by law.

Executive Powers of the Leading Bodies of the Self-Administered Division or Self-Administered Zone

277. Subject to provisions of the Constitution, the Self- executive power of the Leading Bodies of the Self-Administered Division or Self-Administered Zone extend to the following matters:

- (a) on which the Leading Bodies of the Self-Administered Division or Self-Administered Zone has power to make law under Schedule Three;
- (b) on which the Leading Bodies of the Self-Administered Division or Self-Administered Zone has power to implement in accord with any law enacted by the Pyidaungsu Hluttaw;
- (c) on which the Leading Bodies of the Self-Administered Division or Self-Administered Zone has power to implement in accord with any law enacted by the Region or State Hluttaw concerned.

278. The Leading Bodies of the Self-Administered Division or Self-Administered Zone shall be responsible to assist the Union Government in preserving stability of the Union, community peace and tranquility and prevalence of law and order.

279. The Leading Bodies of the Self-Administered Division or Self-Administered Zone shall:

- (a) subject to the policies of the Union Government draw work programmes for the development of their territory and shall co-ordinate with the Region or State Government concerned;
- (b) draw annual budgets and co-ordinate for approval with the Region or State Government concerned in accord with the provisions of the Constitutions;
- (c) have the right to expend the allotted fund included in the Budget Law of the Region or State Government concerned in accord with the rules;
- (d) have the right to expend within the permitted framework to the general expenditure included in the last-enacted Budget Law of the Region or State Hluttaw if the Region or State Hluttaw is unable to pass the Region or State Budget Bill submitted by the Region or State Government.

280. The Leading Bodies of the Self-Administered Division or Self-Administered Zone may, in accord with the law, supervise, co-operate and co-ordinate the functions of the Civil Services organizations which are performing the duties within their territory.

281. The Leading Bodies of the Self-Administered Division or Self-Administered Zone shall submit reports of the general situations of their territory to the Union Government and the Region or State Government concerned.

282. The Leading Bodies of the Self-Administered Division or Self-Administered Zone shall perform the functions which are occasionally assigned by the Union Government and the Region or State Government concerned.

Office of the Leading Bodies of the Self-Administered Division or Self-Administered Zone

283. The Head of General Administration Department of the Leading Bodies of the Self-Administered Division or Self-Administered Zone shall serve as the Secretary of the Leading Bodies of the Self-Administered Division or Self-Administered Zone. Moreover, the General Administration Department of the Self-Administered Division or Self-Administered Zone is also the Office of the Leading Bodies of the Self-Administered Division or Self-Administered Zone.

Administration of Nay Pyi Taw, the Union Territory

284. (a) Nay Pyi Taw which is the Union Territory, shall consist of all districts and townships that are Nay Pyi Taw development territory, on the day the Constitution come into operation.

(b) The President may change, if necessary, the demarcation of districts and townships in Nay Pyi Taw which is the Union Territory.

Formation of the Nay Pyi Taw Council

285. (a) The Chairperson and members of the Nay Pyi Taw Council shall have the following qualifications:

- (i) person who has attained the age of 35 years;
- (ii) person who has qualifications, with the exception of age limit, entitled to be elected as Pyithu Hluttaw representatives prescribed in Section 120;
- (iii) persons whose qualifications does not breach the provisions under Section 121 which disqualify a person from standing for election as Pyithu Hluttaw representatives;
- (iv) who have other qualifications prescribed by the President.

(b) The President:

- (i) shall form a Nay Pyi Taw Council;
- (ii) shall appoint persons who have the prescribed qualifications as Chairperson and members of Nay Pyi Taw Council;
- (iii) shall obtain the nomination of suitable Defence Services personnel who have prescribed qualifications for appointment as Council member or members from the Commander-in-Chief of the Defence Services for co-ordination of Security matters of Nay Pyi Taw which is the Union Territory;

(iv) may prescribe the number of members, including the Chairperson, to serve in Nay Pyi Taw Council in accord with the law as necessary.

(c) The Chairperson of the Nay Pyi Taw Council shall be responsible to the President and the members shall be responsible to the Chairperson of the Nay Pyi Taw Council and the President through the Chairperson of the Nay Pyi Taw Council.

(d) If the Chairperson or a member of the Nay Pyi Taw Council is a representative of a Hluttaw, it shall be deemed that he has resigned from the day he is appointed as Chairperson or a member of the Nay Pyi Taw Council.

(e) If the Chairperson or a member of the Nay Pyi Taw Council is a Civil Services personnel, it shall be deemed that he has retired according to the existing Civil Services rules and regulations from the day he is appointed as the Chairperson or a member of the Nay Pyi Taw Council.

(f) The Defence Services personnel who are appointed as a member or members of the Nay Pyi Taw Council, to co-ordinate Security Affairs, are not required to retire or resign from the Defence Services.

(g) If the Chairperson or a member of the Nay Pyi Taw Council is a member of any political party, he shall not take part in its party activities during the term from the day he is appointed as the Chairperson or a member of the Nay Pyi Taw Council.

Resignation, termination of office, filling the vacancy of the Chairperson and members of the Nay Pyi Taw Council

286. (a) (i) The term of the Chairperson and members of the Nay Pyi Taw Council is the same as that of the President.

(ii) The Chairperson and any member of the Nay Pyi Taw Council may resign from office on his own volition due to a certain reason before expiry of the term of office, after submitting his written resignation to the President.

(iii) The President may:

(aa) direct the Chairperson and any member of the Nay Pyi Taw Council to resign if he cannot discharge his duties efficiently. If he fails to comply, he shall be terminated from his office;

(bb) co-ordinate with the Commander-in-Chief of the Defence Services concerning with the Defence Services personnel who is the member of the Nay Pyi Taw Council and has to resign or be terminated from office.

(iv) If the office of the Chairperson or member of the Nay Pyi Taw Council becomes vacant due to resignation, removal from office, death or any other reason, the President shall have the right to appoint and assign duties to a new Chairperson or member of the Nay Pyi Taw Council in accord with the provisions of the Constitution. The term of the newly appointed Chairperson or member of the Nay Pyi Taw Council shall be the same as that of the remaining term of the President.

(b) The formation of Nay Pyi Taw Council, duties, powers and rights of the Chairperson and members of Nay Pyi Taw Council shall be prescribed by law.

Office of Nay Pyi Taw Council

287. The Head of General Administration Department of Nay Pyi Taw is ex-officio the secretary of the Nay Pyi Taw Council. General Administration Department of Nay Pyi Taw is the office of the Nay Pyi Taw Council.

Administration of district and township

288. Administration of district and township level shall be assigned to the Civil Services personnel.

Administration of ward and village-tract

289. Administration of ward or village-tract shall be assigned in accord with the law to a person whose integrity is respected by the community.

Civil Services Personnel

290. Matters relating to the appointment, promotion, retirement, enforcement of rules and regulations and taking action on the Civil services personnel shall be exercised in accord with the law.

291. With respect to the Defence Services personnel who are also Civil Services personnel whose nature of work, is of special significant, they shall be given by the relevant Military laws.

292. With respect to members of Myanmar Police Force who are also Civil Services personnel whose nature of work, is of special significant, they shall be given by the specified law which shall be enacted.

CHAPTER VI

JUDICIARY

Formation of Courts

293. Courts of the Union are formed as follows:

- (a) Supreme Court of the Union, High Courts of the Region, High Courts of the State, Courts of the Self-Administered Division, Courts of the Self-Administered Zone, District Courts, township Courts and the other Courts constituted by law;
- (b) Courts-Martial;
- (c) Constitutional Tribunal of the Union.

Supreme Court of the Union

Constitution of the Supreme Court of the Union

294. In the Union, there shall be a Supreme Court of the Union. Without affecting the powers of the Constitutional Tribunal and the Courts-Martial, the Supreme Court of the Union is the highest Court of the Union.

Original Jurisdiction of the Supreme Court of the Union

295. (a) Only the Supreme Court of the Union has the following original jurisdiction:

- (i) in matters arising out of bilateral treaties concluded by the Union;
 - (ii) in other disputes, except the Constitutional problems, between the Union Government and the Region or State Governments;
 - (iii) in other disputes, except the Constitutional problems, among the Regions, among the States, between the Region and the State and between the Union Territory and the Region or the State;
 - (iv) other matters as prescribed by any law.
- (b) As the Supreme Court of the Union is the highest court of the Union, it is the court of final appeal.
- (c) The judgments of the Supreme Court of the Union are final and conclusive and have no right of appeal.

(d) The Supreme Court of the Union, subject to any provision of the Constitution or any provision of other law, has the appellate jurisdiction to decide judgments passed by the High Courts of the Regions or the States. Moreover, the Supreme Court of the Union also has the appellate jurisdiction to decide judgments passed by the other courts in accord with the law.

(e) The Supreme Court of the Union has the revisional jurisdiction in accord with the law.

296. The Supreme Court of the Union:

(a) has the power to issue the following writs:

(i) Writ of Habeas Corpus;

(ii) Writ of Mandamus;

(iii) Writ of Prohibition;

(iv) Writ of Quo Warranto;

(v) Writ of Certiorari.

(b) The applications to issue writs shall be suspended in the areas where the state of emergency is declared.

Judiciary Budget

297. The Supreme Court of the Union shall submit judiciary budget to the Union Government in order to include and present in the Annual Budget Bill of the Union in accord with the provisions of the Constitution.

Submission of the Judiciary Situation

298. The Chief Justice of the Union may submit important judiciary situation concerning the Union or the public, either to the session of the Pyidaungsu Hluttaw or the Pyithu Hluttaw or the Amyotha Hluttaw from time to time.

Appointment of the Chief Justice of the Union and the Judges of the Supreme Court of the Union

299. (a) The Head of the Supreme Court of the Union shall be called the Chief Justice of the Union.

(b) Judges of the Supreme Court of the Union including the Chief Justice of the Union may be appointed in the Supreme Court from a minimum of seven and a maximum of 11 in number.

(c) (i) The President shall submit the nomination of the person suitable to be appointed as the Chief Justice of the Union to the Pyidaungsu Hluttaw and seek its approval.

(ii) The Pyidaungsu Hluttaw shall have no right to refuse the person nominated by the President for the appointment of Chief Justice of the Union and Judges of the Supreme Court of the Union unless it can clearly be proved that the persons do not meet the qualifications for the post prescribed in Section 301.

(iii) The President has the right to submit again the list furnished with a new name replacing the one who has not been approved by the Pyidaungsu Hluttaw for the appointment of the Chief Justice of the Union.

(iv) The President shall appoint the person who has been approved by the Pyidaungsu Hluttaw as the Chief Justice of the Union.

(d) (i) The President, in co-ordination with the Chief Justice of the Union, shall submit the nomination of the persons suitable to be appointed as the Judges of the Supreme Court of the Union to the Pyidaungsu Hluttaw and seek its approval.

(ii) The Pyidaungsu Hluttaw has no right to refuse the persons nominated by the President for the appointment of the Chief Justice of the Union and Judges of the Supreme Court of the Union unless it can clearly be proved the persons concerned do not possess the qualifications prescribed for Judges of Supreme Court of the Union in Section 301.

(iii) The President has the right to submit again the list furnished with a new name replacing the one who has not been approved by Pyidaungsu Hluttaw for the appointment of a Judge of the Supreme Court of the Union.

(iv) The President shall appoint the persons approved by Pyidaungsu Hluttaw as Judges of the Supreme Court of the Union.

300. (a) The Chief Justice of the Union or Judges of the Supreme Court of the Union must be free from party politics.

(b) The Chief Justice of the Union or Judges of the Supreme Court of the Union, if they are Civil Services personnel, shall be deemed to have retired in accord with the existing Civil Services Regulations commencing from the day of the appointment as the Chief Justice of the Union or Judge of the Supreme Court of the Union.

Qualifications of the Chief Justice of the Union and Judges of the Supreme Court of the Union

301. The Chief Justice of the Union and Judges of the Supreme Court of the Union shall be a person of following qualifications:

- (a) not younger than 50 years and not older than 70 years;
- (b) who has qualifications, with the exception of the age limit, prescribed in Section 120 for Pyithu Hluttaw representatives;
- (c) whose qualifications does not breach the provisions under the Section 121 which disqualify him from standing for election as Pyithu Hluttaw representatives;
- (d) (i) who has served as a Judge of the High Court of the Region or State for at least five years; or
- (ii) who has served as a Judicial Officer or a Law Officer at least 10 years not lower than that of the Region or State level; or
- (iii) who has practised as an Advocate for at least 20 years; or
- (iv) who is, in the opinion of the President, an eminent jurist;
- (e) loyal to the Union and its citizens;
- (f) who is not a member of a political party;
- (g) who is not a Hluttaw representative.

Impeachment of the Chief Justice of the Union and Judges of the Supreme Court of the Union

302. (a) The President or the representatives of the Pyithu Hluttaw or Amyotha Hluttaw may impeach the Chief Justice of the Union or any Judge of the Supreme Court of the Union for any of the following reasons:

- (i) high treason;
 - (ii) breach of any provision of the Constitution;
 - (iii) misconduct;
 - (iv) disqualifications of the qualifications of the Chief Justice of the Union and Judges of the Supreme Court of the Union prescribed under Section 310;
 - (v) inefficient discharge of duties assigned by law.
- (b) If the President wishes to impeach:

- (i) he shall submit the charge to the Speaker of the Pyidaungsu Hluttaw;
- (ii) the Speaker of the Pyidaungsu Hluttaw shall form an investigation body and cause the charge to be investigated in accord with the law;
- (iii) in forming the investigation body, an equal number of representatives of the Pyithu Hluttaw and Amyotha Hluttaw shall be included and any suitable member of the body be assigned as the Chairperson of such body;
- (iv) the time for the completion of the investigation shall be determined on the volume of work;
- (v) the President may, himself in person or through a representative, explain and present the charge before the investigation body and has also the right to submit evidence and witnesses;
- (vi) when the charge is being investigated, the person being charged shall be given the right to defend himself in person or through a representative;
- (vii) the Speaker of the Pyidaungsu Hluttaw shall, on being submitted the findings of the investigation concerning the impeachment by the investigation body, present it to the Pyidaungsu Hluttaw;
- (viii) the Speaker of the Pyidaungsu Hluttaw shall, if the resolution is passed that the charge has been substantiated and the alleged person is unfit to continue to serve as the Chief Justice of the Union or a Judge of the Supreme Court of the Union by the two-thirds of the total number of the Pyidaungsu Hluttaw representatives, present and report the said resolution to the President;
- (ix) on presentation of the report, the President shall, proceed to remove the Chief Justice of the Union or the Judge of the Supreme Court of the Union who has been impeached from office;
- (x) if the Pyidaungsu Hluttaw resolves that the charges has failed, the Speaker of the Pyidaungsu Hluttaw shall present and report the said resolution to the President;
- (c) if the representatives of the Pyithu Hluttaw or the Amyotha Hluttaw wish to impeach:
 - (i) the provisions for the impeachment of the President or the Vice-President under Section 71 shall be applied;
 - (ii) the President shall, if the Hluttaw which made the investigation resolves and reports that the charge made upon the Chief Justice of the Union or any Judge of the Supreme Court of the Union has been substantiated and the person being charged is unfit to continue to serve as the Chief Justice of the Union or Judge of the Supreme Court of the Union, proceed to

remove the Chief Justice of the Union or the Judge of the Supreme Court of the Union who has been impeached from office;

(iii) if the Hluttaw which made the investigation resolves that the charge has been failed, the Chairperson of the Hluttaw concerned shall present and report the resolution to the President.

Term of the Chief Justice of the Union and Judges of the Supreme Court of the Union

303. The Chief Justice of the Union and Judges of the Supreme Court of the Union shall hold office up to the age of 70 years unless one of the following occurs:

(a) resignation on his own volition;

(b) being impeached in accord with the provisions under the Constitution and removed from office;

(c) being found to be unable to continue to serve due to permanent disability caused by either physical or mental defect according to the findings of the medical board formed by law;

(d) death.

304. Duties, powers and rights of the Chief Justice of the Union and Judges of the Supreme Court of the Union shall be prescribed by law.

High Courts of the Region or High Courts of the State

Formation of High Courts of the Region or High Courts of the State

305. There is the High Court of the Region in the Region and the High Court of the State in the State.

Jurisdictions of High Courts of the Region or High Courts of the State

306. High Courts of the Region or State shall have the following jurisdictions in accord with the law:

(a) adjudicating on original case;

(b) adjudicating on appeal case;

(c) adjudicating on revision case;

(d) adjudicating on matters prescribed by any law.

307. (a) For the purpose of judicial administration, the High Court of Mandalay Region is the High Court of the Courts situated in Nay Pyi Taw.

(b) For the purpose of judicial administration, where any area located in the Region or State is designated as a Union Territory, the High Court of the Region or State concerned is the High Court of the Courts situated in the said Union Territory.

Appointment of the Chief Justice and Judges of the High Court of the Region or the High Court of the State

308. (a) (i) The Head of the High Court of the Region or the High Court of the State shall be called the Chief Justice of the High Court of the Region or the Chief Justice of the High Court of the State.

(ii) In the High Court of the Region or the High Court of the State, judges of the High Court of the Region or Judges of the High Court of the State including the Chief Justice of the High Court of the Region or the Chief Justice of the High Court of the State may be appointed from a minimum of three and a maximum of seven in number.

(b) (i) The President, in co-ordination with the Chief Justice of the Union and the Chief Minister of the Region or State concerned, shall prepare the nomination for the appointment of the Chief Justice of the High Court of the Region or State concerned and the Chief Minister of the Region or State concerned, in co-ordination with the Chief Justice of the Union, shall prepare the nomination for the appointment of the Judges of the High Court of the Region or State concerned, and the said nomination shall be sent to the Region or State Hluttaw concerned.

(ii) The Region or State Hluttaw concerned shall have no right to refuse the person or persons nominated by the President, in coordination with the Chief Justice of the Union and the Chief Minister of the Region or State concerned, for the appointment of the Chief Justice of the High Court of the Region or State concerned, or the person or persons nominated by the Chief Minister of the Region or State concerned, in co-ordination with the Chief Justice of the Union, for the appointment of Judges of the High Court of the Region or State concerned unless it can clearly be proved that the person does not meet the qualifications prescribed under Section 310 for the Chief Justice of the High Court of the Region or State and the Judge of the High Court of the Region or State.

(iii) There is the right to resubmit a new nomination list as prescribed in place of the persons who are refused under Sub-Section (ii).

(iv) The President shall appoint persons approved by the Region or State Hluttaw as the Chief Justice of the High Court of the Region or State concerned and Judges of the High Court of the Region or State concerned.

309. (a) The Chief Justice of the High Court of the Region or State and Judges of the High Court of the Region or State must be free from party politics.

(b) The Chief Justice of the High Court of the Region or State and Judges of the High Court of the Region or State, if they are civil service personnel, shall be deemed to have retired from the civil service in accord with the existing Civil Service Regulations commencing from the day they have been appointed as the Chief Justice of the High Court of the Region or State and the Judge of the High Court of the Region or State. Qualification of the Chief Justice of the High Court of the Region or the High Court of the State and Judges of the High Court of the Region or the High Court of the State

310. The Chief Justice of the High Court of the Region or State and Judges of the High Court of the Region or State shall be a person of the following qualifications:

(a) not younger than 45 years and not older than 65 years of age;

(b) who has the qualifications, with the exception of the age limit, prescribed under Section 120 for the Pyithu Hluttaw representatives;

(c) whose qualifications does not breach the provisions under Section 121 which disqualify him from standing for election as Pyithu Hluttaw representatives;

(d) (i) who has served as a Judicial Officer or Law Officer at least five years not lower than that of the Region or State level or as a Judicial Officer or Law Officer at least 10 years not lower than that of the District level for; or

(ii) who has practised as an Advocate for at least 15 years; or

(iii) who is, in the opinion of the President, an eminent jurist.

(e) loyal to the Union and its citizens;

(f) who is not a member of a political party;

(g) who is not a Hluttaw representative.

Impeachment of the Chief Justice of the High Court of the Region or the High Court of the State and Judges of the High Court of the Region or the High Court of the State

311. (a) The Chief Justice of the High Court of the Region or State or Judges of the High Court of the Region or State may be impeached on any of the following reasons:

(i) high treason;

(ii) breach of any provision of the Constitution;

(iii) misconduct;

(iv) disqualification of the qualification of the Chief Justice of the High Court of the Region or State and Judges of the High Court of the Region or State prescribed under Section 310;

(v) inefficient discharge of duties assigned by law.

(b) If the President wishes to impeach the Chief Justice of the High Court of the Region or State or the Chief Minister of the Region or State wishes to impeach any of the Judges of the High Court of the Region or State concerned, he shall submit the charge to the Speaker of the Region or State Hluttaw.

(c) If the representatives of the Region or State Hluttaw wish to impeach the Chief Justice of the High Court of the Region or State concerned or the Judge of the High Court of the Region or State concerned, the charge signed by not less than one-fourth of the total number of representatives of the Region or State Hluttaw concerned shall be submitted to the Speaker of the Region or State Hluttaw concerned.

(d) The Speaker of the Region or State Hluttaw shall form an investigation body and cause the charge to be investigated in accord with the law. The time for the completion of the investigation shall be determined on the volume of work.

(e) (i) If the President or the Chief Minister of the Region or the Chief Minister of the State wishes to carry out the impeachment, an investigation body shall be formed with the representatives of the Region or State Hluttaw concerned and a suitable person from among the members of the investigation body shall be assigned as the Chairperson.

(ii) The President or the Chief Minister of the Region or State concerned may, himself in person or through a representative, explain the charge before the investigation body and has also the right to submit relevant evidences and witnesses.

(f) When the charge is being investigated, the person being charged shall be given the right to defend himself in person or through a representative.

(g) The Speaker of the Region or State Hluttaw shall, on being submitted the findings of the investigation concerning the impeachment by the investigation body, report it to the Region or State Hluttaw.

(h) The Speaker of the Region or State Hluttaw shall, if the resolution is passed that the charge has been substantiated and the alleged person is unfit to continue to serve as the Chief Justice of the High Court of the Region or State or a Judge of the High Court of the Region or State by two-thirds of the total number of the representatives of the Region or State Hluttaw, if it is the case concerning the Chief Justice of the High Court of the Region or State, the said resolution is submitted to the President and if it is the case concerning a Judge of the High Court of the Region or State, the said resolution is submitted to the

Chief Minister of the Region or State concerned. The Chief Minister of the Region of the State shall, on receiving the said resolution, submit it to the President.

(i) On receiving the report, the President shall, proceed to remove the Chief Justice of the High Court of the Region or State or the Judge of the High Court of the Region or State who has been impeached from office.

(j) If the Region or State Hluttaw concerned resolves that the charge has failed, the Speaker of the Region or State Hluttaw shall, if it is the case concerning the Chief Justice of the High Court of the Region or State, such resolution is submitted to the President and if it is the case concerning the Judge of the High Court of the Region or State, such resolution is submitted to the Chief Minister of the Region or State concerned.

Term of the Chief Justice of the High Court of the Region or the High Court of the State and Judges of the High Court of the Region or High Court of the State

312. The Chief Justice of the High Court of the Region or State and Judges of the High Court of the Region or State shall hold office up to the age of 65 years unless any of the following occurs:

(a) resignation on his own volition;

(b) being impeached in accord with the provisions under the Constitution and removed from office;

(c) being found to be unable to continue to serve due to permanent disability caused by either physical or mental defect according to the findings of the medical board formed by law;

(d) death.

313. Duties, powers and rights of the Chief Justice of the High Court of the Region or State and the Judges of the High Court of the Region or State shall be prescribed by law courts under the Supervision of the High Court of the Region or the High Court of the State.

314. The following levels of Courts are under the supervision of the High Court of the Region or State:

(a) if there is no Self-Administered Areas in the Region or State:

(i) District Courts;

(ii) Township Courts.

(b) if there is Self-Administered Areas in the Region or State:

(i) In the Self-Administered Division:

(aa) Court of the Self-Administered Division;

(bb) Township Courts.

(ii) In the Self-Administered Zone:

(aa) Court of the Self-Administered Zone;

(bb) Township Courts.

(iii) In the remaining areas:

(aa) District Courts;

(bb) Township Courts.

(c) In the Union Territory:

(i) District Courts;

(ii) Township Courts.

(d) Other Courts constituted by law.

Jurisdiction of the District Courts and Township Courts

315. District Courts, Courts of the Self-Administered Division, and Courts of the Self-Administered Zone, in accord with the law, have the jurisdiction relating to original criminal cases, original civil cases, appeal cases, revision cases or matters prescribed by any law.

316. Township Courts, in accord with the law, have the jurisdiction relating to original criminal cases, original civil cases or matters prescribed by any law.

317. The Judges appointed in accord with the law at the Courts formed by the Constitution or any other law shall administer all judicial affairs in the entire Union.

318. (a) Appointment of Judges at various levels of Courts under the supervision of the High Court of the Region or State, conferring judicial powers, prescribing the duties, powers and rights shall be in accord with the law.

(b) Formation of staff organizations, comprising of officers and other ranks at the Supreme Court of the Union, the High Courts of the Region or State and other Courts, and prescribing duties, powers and rights shall be in accord with the law.

Courts-Martial

319. According to Sub-Section (b) of Section 293, the Courts-Martial shall be constituted in accord with the Constitution and the other law and shall adjudicate Defence Services personnel.

The Constitutional Tribunal of the Union

Formation of the Constitutional Tribunal of the Union

320. The Constitutional Tribunal of the Union shall be formed with nine members including the Chairperson.

321. The President shall submit the candidature list of total nine persons, three members chosen by him, three members chosen by the Speaker of the Pyithu Hluttaw and three members chosen by the Speaker of the Amyotha Hluttaw, and one member from among nine members to be assigned as the Chairperson of the Constitutional Tribunal of the Union, to the Pyidaungsu Hluttaw for its approval.

Functions and Duties of the Constitutional Tribunal of the Union

322. The functions and the duties of the Constitutional Tribunal of the Union are as follows:

- (a) interpreting the provisions under the Constitution;
- (b) vetting whether the laws promulgated by the Pyidaungsu Hluttaw, the Region Hluttaw, the State Hluttaw or the Self-Administered Division Leading Body and the Self-Administered Zone Leading Body are in conformity with the Constitution or not;
- (c) vetting whether the measures of the executive authorities of the Union, the Regions, the States, and the Self-Administered Areas are in conformity with the Constitution or not;
- (d) deciding Constitutional disputes between the Union and a Region, between the Union and a State, between a Region and a State, among the Regions, among the States, between a Region or a State and a Self-Administered Area and among the Self-Administered Areas;
- (e) deciding disputes arising out of the rights and duties of the Union and a Region, a State or a Self-Administered Area in implementing the Union Law by a Region, State or Self-Administered area;
- (f) vetting and deciding matters intimated by the President relating to the Union Territory;
- (g) functions and duties conferred by laws enacted by the Pyidaungsu Hluttaw.

Effect of the Resolution of the Constitutional Tribunal of the Union

323. In hearing a case by a Court, if there arises a dispute whether the provisions contained in any law contradict or conform to the Constitution, and if no resolution has been made by the Constitutional Tribunal of the Union on the said dispute, the said Court shall stay the trial and submit its opinion to the Constitutional Tribunal of the Union in accord with the prescribed procedures and shall obtain a resolution. In respect of the said dispute, the resolution of the Constitutional Tribunal of the Union shall be applied to all cases.

324. The resolution of the Constitutional Tribunal of the Union shall be final and conclusive.

Submission to obtain the interpretation, resolution and opinion of the Constitutional Tribunal of the Union

325. The following persons and organizations shall have the right to submit matters directly to obtain the interpretation, resolution and opinion of the Constitutional Tribunal of the Union:

- (a) the President;
- (b) the Speaker of the Pyidaungsu Hluttaw;
- (c) the Speaker of the Pyithu Hluttaw;
- (d) the Speaker of the Amyotha Hluttaw;
- (e) the Chief Justice of the Union;
- (f) the Chairperson of the Union Election Commission.

326. The following persons and organizations shall have the right to submit matters to obtain the interpretation, resolution and opinion of the Constitutional Tribunal of the Union in accord with the prescribed procedures:

- (a) the Chief Minister of the Region or State;
- (b) the Speaker of the Region or State Hluttaw;
- (c) the Chairperson of the Self-Administered Division Leading Body or the Self-Administered Zone Leading Body;
- (d) Representatives numbering at least ten percent of all the representatives of the Pyithu Hluttaw or the Amyotha Hluttaw.

Appointment of the Chairperson and members of the Constitutional Tribunal of the Union

327. The President shall appoint the Chairperson and members of the Constitutional Tribunal of the Union approved by the Pyidaungsu Hluttaw.

328. The Pyidaungsu Hluttaw shall have no right to refuse the persons nominated for members of the Constitutional Tribunal of the Union by the President unless it can clearly be proved that they are disqualified.

329. The President has the right to submit again, in accord with the provisions of the Constitution, the new nomination list to replace the person who has not been approved by the Pyidaungsu Hluttaw for appointment as member of the Constitutional Tribunal of the Union.

330. A member of the Constitutional Tribunal of the Union shall:

(a) if he is a representative of any Hluttaw, be deemed to have resigned as representative of the Hluttaw commencing from the day he has been appointed as a member of the Constitutional Tribunal of the Union;

(b) if he is a Civil Services personnel, be deemed to have retired from the Civil Services in accord with the existing Civil Services Regulations commencing from the day he has been appointed as a member of the Constitutional Tribunal of the Union;

(c) if he is a member of any political party, he shall not take part in its party activities during his term, commencing from the day he has been appointed a member of the Constitutional Tribunal of the Union.

331. If a member of the Constitutional Tribunal of the Union wishes to resign on his own volition from office before the expiry of his term due to any reason, he may do so, after submitting his resignation in writing to the President.

332. If the position of a member of the Constitutional Tribunal of the Union is vacant for any reason, the President may appoint a new member of the Constitutional Tribunal of the Union in accord with the provisions under the Constitution.

Qualifications of the Member of the Constitutional Tribunal of the Union

333. The President, the Speaker of the Pyithu Hluttaw and the Speaker of the Amyotha Hluttaw shall select from among the Hluttaw representatives or among those who are not Hluttaw representatives with three members each who has the following qualifications:

(a) person who has attained the age of 50 years;

(b) person who has qualifications, with the exception of the age limit, prescribed in Section 120 for Pyithu Hluttaw representatives;

- (c) person whose qualification does not breach the provisions under Section 121 which disqualify a person standing for election as Pyithu Hluttaw representatives;
- (d) (i) person who has served as a Judge of the High Court of the Region or State for at least five years; or
- (ii) person who has served as a Judicial Officer or a Law Officer at least 10 years not lower than that of the Region or State level for; or
- (iii) person who has practised as an Advocate for at least 20 years; or
- (iv) person who is, in the opinion of the President, an eminent jurist.
- (e) person who is not a member of a political party;
- (f) person who is not a Hluttaw representative;
- (g) person who has political, administrative, economic and security outlook;
- (h) person loyal to the Union and its citizens.

Impeachment of the Chairperson and the Members of the Constitutional Tribunal of the Union

334. (a) The Chairperson and members of the Constitutional Tribunal of the Union may be impeached on any of the following reasons:

- (i) high treason;
 - (ii) breach of any of the provisions under the Constitution;
 - (iii) misconduct;
 - (iv) disqualification of the qualifications of member of the Constitutional Tribunal of the Union prescribed under Section 333;
 - (v) inefficient discharge of duties assigned by law.
- (b) If the Chairperson or any member of the Constitutional Tribunal of the Union is to be impeached, it shall be done so in accord with the impeachment provisions as prescribed under Section 302 of the Chief Justice of the Union or a Judge of the Supreme Court of the Union.

Term of the Constitutional Tribunal of the Union

335. The term of the Constitutional Tribunal of the Union is the same as that of the Pyidaungsu Hluttaw being five years. However, the ongoing Constitution Tribunal of the Union, on expiry of its term, shall continue its functions till the President forms a new Tribunal under the Constitution.

336. The formation and communication of the Constitutional Tribunal of the Union, duties, powers and rights of the Chairperson and members of the Tribunal shall be prescribed by law.

CHAPTER VII DEFENCE SERVICES

337. The main armed force for the Defence of the Union is the Defence Services.

338. All the armed forces in the Union shall be under the command of the Defence Services.

339. The Defence Services shall lead in safeguarding the Union against all internal and external dangers.

340. With the approval of the National Defence and Security Council, the Defence Services has the authority to administer the participation of the entire people in the Security and Defence of the Union. The strategy of the people's militia shall be carried out under the leadership of the Defence Services.

341. The Defence Services shall render assistance when calamities that affects the Union and its citizens occur in the Union.

342. The President shall appoint the Commander-in-Chief of the Defence Services with the proposal and approval of the National Defence and Security Council.

343. In the adjudication of Military justice:

(a) the Defence Services personnel may be administered in accord with law collectively or singly;

(b) the decision of the Commander-in-Chief of the Defence Services is final and conclusive.

344. A law shall be enacted to provide assistance and care for disabled Defence Services personnel and the families of deceased or fallen Defence Services personnel.

CHAPTER VIII CITIZEN, FUNDAMENTAL RIGHTS AND DUTIES OF THE CITIZENS

345. All persons who have either one of the following qualifications are citizens of the Republic of the Union of Myanmar:

(a) person born of parents both of whom are nationals of the Republic of the Union of Myanmar;

(b) person who is already a citizen according to law on the day this Constitution comes into operation.

346. Citizenship, naturalization and revocation of citizenship shall be as prescribed by law.

347. The Union shall guarantee any person to enjoy equal rights before the law and shall equally provide legal protection.

348. The Union shall not discriminate any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, official position, status, culture, sex and wealth.

349. Citizens shall enjoy equal opportunity in carrying out the following functions:

(a) public employment;

(b) occupation;

(c) trade;

(d) business;

(e) technical know-how and vocation;

(f) exploration of art, science and technology.

350. Women shall be entitled to the same rights and salaries as that received by men in respect of similar work.

351. Mothers, children and expectant women shall enjoy equal rights as prescribed by law.

352. The Union shall, upon specified qualifications being fulfilled, in appointing or assigning duties to civil service personnel, not discriminate for or against any citizen of the Republic of the Union of Myanmar, based on race, birth, religion, and sex. However, nothing in this Section shall prevent appointment of men to the positions that are suitable for men only.

353. Nothing shall, except in accord with existing laws, be detrimental to the life and personal freedom of any person.

354. Every citizen shall be at liberty in the exercise of the following rights, if not contrary to the laws, enacted for Union security, prevalence of law and order, community peace and tranquility or public order and morality:

(a) to express and publish freely their convictions and opinions;

(b) to assemble peacefully without arms and holding procession;

(c) to form associations and organizations;

(d) to develop their language, literature, culture they cherish, religion they profess, and customs without prejudice to the relations between one national race and another or among national races and to other faiths.

355. Every citizen shall have the right to settle and reside in any place within the Republic of the Union of Myanmar according to law.

356. The Union shall protect according to law movable and immovable properties of every citizen that are lawfully acquired.

357. The Union shall protect the privacy and security of home, property, correspondence and other communications of citizens under the law subject to the provisions of this Constitution.

358. The Union prohibits the enslaving and trafficking in persons.

359. The Union prohibits forced labor except hard labor as a punishment for crime duly convicted and duties assigned by the Union in accord with the law in the interest of the public.

360. (a) The freedom of religious right given in Section 34 shall not include any economic, financial, political or other secular activities that may be associated with religious practice.

(b) The freedom of religious practice so guaranteed shall not debar the Union from enacting law for the purpose of public welfare and reform.

361. The Union recognizes special position of Buddhism as the faith professed by the great majority of the citizens of the Union.

362. The Union also recognizes Christianity, Islam, Hinduism and Animism as the religions existing in the Union at the day of the coming into operation of this Constitution.

63. The Union may assist and protect the religions it recognizes to its utmost.

364. The abuse of religion for political purposes is forbidden. Moreover, any act which is intended or is likely to promote feelings of hatred, enmity or discord between racial or religious communities or sects is contrary to this Constitution. A law may be promulgated to punish such activity.

365. Every citizen shall, in accord with the law, have the right to freely develop literature, culture, arts, customs and traditions they cherish. In the process, they shall avoid any act detrimental to national solidarity. Moreover, any particular action which might adversely affect the interests of one or several other national races shall be taken only after coordinating with and obtaining the settlement of those affected.

366. Every citizen, in accord with the educational policy laid down by the Union:

(a) has the right to education;

(b) shall be given basic education which the Union prescribes by law as compulsory;

(c) have the right to conduct scientific research explore science, work with creativity and write to develop the arts and conduct research freely other branches of culture.

367. Every citizen shall, in accord with the health policy laid down by the Union, have the right to health care.

368. The Union shall honour and assist citizens who are outstanding in education irrespective of race, religion and sex according to their qualifications.

369. (a) Subject to this Constitution and relevant laws, every citizen has the right to elect and right to be elected to the Pyithu Hluttaw, the Amyotha Hluttaw, and the Region or State Hluttaw.

(b) Relevant electorate has the right to recall a Hluttaw representative in accord with the law.

370. Every citizen has, in accord with the law, the right to conduct business freely in the Union, for national economic development.

371. The Union may assist the access to technology, investment, machinery, raw material, so forth, for national economic development.

372. The Union guarantees the right to ownership, the use of property and the right to private invention and patent in the conducting of business if it is not contrary to the provisions of this Constitution and the existing laws.

373. Any person who committed a crime, shall be convicted only in accord with the relevant law then in operation. Moreover, he shall not be penalized to a penalty greater than that is applicable under that law.

374. Any person convicted or acquitted by a competent court for an offence shall not be retried unless a superior court annuls the judgment and orders the retrial.

375. An accused shall have the right of defence in accord with the law.

376. No person shall, except matters on precautionary measures taken for the security of the Union or prevalence of law and order, peace and tranquility in accord with the law in the interest of the public, or the matters permitted according to an existing law, be held in custody for more than 24 hours without the remand of a competent magistrate.

377. In order to obtain a right given by this Chapter, application shall be made in accord with the stipulations, to the Supreme Court of the Union.

378. (a) In connection with the filing of application for rights granted under this Chapter, the Supreme Court of the Union shall have the power to issue the following writs as suitable:

(1) Writ of Habeas Corpus;

(2) Writ of Mandamus;

(3) Writ of Prohibition;

(4) Writ of Quo Warranto;

(5) Writ of Certiorari.

(b) The right to issue writs by the Supreme Court of the Union shall not affect the power of other courts to issue order that has the nature of writs according to the existing laws.

379. At the time of the occurrence the following situation, the rights under Section 377 shall not be suspended unless the public safety may so require:

(a) in time of war;

(b) in time of foreign invasion;

(c) in time of insurrection.

380. Every citizen who has relations with foreign countries shall have the right to seek protection of the Union at home or abroad.

381. Except in the following situations and time, no citizen shall be denied redress by due process of law for grievances entitled under law:

(a) in time of foreign invasion;

(b) in time of insurrection;

(c) in time of emergency.

382. In order to carry out their duties fully and to maintain the discipline by the Defence Forces personnel or members of the armed forces responsible to carry out peace and security, the rights given in this Chapter shall be restricted or revoked through enactment to law.

383. Every citizen has the duty to uphold:

(a) non-disintegration of the Union;

(b) non-disintegration of national solidarity;

(c) perpetuation of sovereignty.

384. Every citizen has duty to abide by the provisions of this Constitution.

385. Every citizen has the duty to safeguard independence, sovereignty and territorial integrity of the Republic of the Union of Myanmar.

386. Every citizen has the duty to undergo military training in accord with the provisions of the law and to serve in the Armed Forces to defend the Union.

387. Every citizen, with the Union Spirit, has the duty to enhance unity among national races and to ensure public peace and stability.

388. Every citizen has the duty for the emergence of a modern developed Nation.

389. Every citizen has the duty to pay taxes to be levied according to the law.

390. Every citizen has the duty to assist the Union in carrying out the following matters:

(a) preservation and safeguarding of cultural heritage;

(b) environmental conservation;

(c) striving for development of human resources;

(d) protection and preservation of public property.

CHAPTER IX
ELECTION

Election of People's Representatives to the Hluttaws

391. In electing people's representatives to the Hluttaws:

- (a) every citizen who has attained 18 years of age on the day on which the election commences, who is not disqualified by law, who is eligible to vote, and person who has the right to vote under the law, shall have the right to vote;
- (b) every citizen who is eligible to vote and person who has the right to vote under the law shall cast a vote only for each Hluttaw at a constituency in an election;
- (c) Moreover, the relevant national races having right to vote in accord with the provisions contained in this Constitution have also the right to vote to elect Hluttaw representatives of national races for their Region or State Hluttaw;
- (d) secret balloting system shall be practised.

392. The following persons shall have no right to vote:

- (a) members of religious orders;
- (b) persons serving prison terms;
- (c) persons determined to be of unsound mind and stands so declared by a competent Court;
- (d) persons who have not yet been declared free from insolvent;
- (e) persons disqualified by election law.

393. A Hluttaw candidate has, in an election:

- (a) the right to be elected to one Hluttaw only;
- (b) the right to stand for one constituency only.

394. (a) The electorate residing in the Union Territory or Union Territories designated by enactment of Pyidaungsu Hluttaw law have the right to elect the Pyithu Hluttaw and Amyotha Hluttaw representatives only.

(b) A Region or State Hluttaw representative elected from a territory designated as a Union Territory through enactment of a Pyidaungsu Hluttaw law, save as otherwise provided by the law, shall not continue to stand as a representative of the said Hluttaw.

395. Every citizen who is not disqualified by the provisions under this Constitution or the provisions of the election law shall have the right to stand for election to any Hluttaw. Recalling a representative of the Hluttaw.

396. (a) A representative of the Hluttaw may be recalled on any of the following reasons:

- (1) high treason;
- (2) breach of any provision of this Constitution;
- (3) misbehavior;
- (4) disqualification prescribed in this Constitution for the Hluttaw representative;
- (5) inefficient discharge of duties assigned to.

(b) A minimum of one percent out of the original voters of the electorate of the constituency concerned shall submit the complaint to the Union Election Commission against the Hluttaw representative on whom it wishes to recall.

(c) The Union Election Commission shall conduct the investigation in accord with the law.

(d) In conducting the investigation on an allegation made to a Hluttaw representative, he has a right to defend himself in person or through an agent.

(e) If the Union Election Commission considers that the allegation is true and that the alleged person should not continue to serve as a Hluttaw representative any longer, the Union Election Commission shall proceed in accord with the law.

397. The Pyidaungsu Hluttaw shall enact the necessary laws on matters relating to 'Election' and on matters relating to 'Recall'.

Formation of the Union Election Commission

398. (a) The President shall constitute a Union Election Commission. In constituting the Commission, he may appoint a minimum of five members including the chairman of the Union Election Commission in accord with the provisions on appointment of the Union Minister prescribed in this Constitution.

- (b) The chairman and members of the Union Election Commission shall be persons who:
- (1) have attained 50 years of age;
 - (2) with the exception of the age limit, shall have the qualifications prescribed for the Pyithu Hluttaw representatives;
 - (3) (aa) have served in the position of the Chief Justice of the Union or Judge of the Supreme Court of the Union or Judge of the High Court of the Region or State or a similar position for a minimum of five years; or
(bb) have served in the position of the judicial officer or the law officer not lower than the rank of the Region or State level for a period of 10 years; or
(cc) have served as a practising lawyer for a minimum of 20 years as an Advocate; or
(dd) shall be deemed by the President to be an eminent person.
 - (4) shall have integrity and experience;
 - (5) shall be not relevant with the provisions for disqualification of election as the Pyithu Hluttaw representative;
 - (6) shall be loyal to the State and its citizens;
 - (7) shall not be a member of a political party;
 - (8) shall not be a Hluttaw representative;
 - (9) shall not be a person who accepts the position that entitles salary, allowance or money.

399. The duties of the Union Election Commission are as follows:

- (a) holding Hluttaw elections;
- (b) supervising Hluttaw elections; forming different levels of sub-commissions and supervising thereof;
- (c) designating and amending the constituencies;
- (d) compiling lists of voters and amending thereof;
- (e) postponing elections of the constituencies where free and fair election cannot be held due to natural disaster or due to local security situation;

- (f) prescribing rules relating to elections or political parties in accord with the provisions of this Constitution, and procedures, directives, so forth, in accord with the relevant laws;
- (g) constituting the election tribunals for trial of disputes relating to election in accord with the law;
- (h) performing duties assigned under a law.

Impeachment of the Chairman or the members of the Union Election Commission

400. (a) The President may impeach the Chairman or the members of the Union Election Commission for one of the following reasons:

- (1) high treason;
- (2) breach of any provision of this Constitution;
- (3) misconduct;
- (4) disqualification on conditions prescribed for the representative concerned prescribe in this Constitution;
- (5) inefficient discharge of duties assigned to.

(b) Impeachment shall be conducted in accord with the procedure laid down in this Constitution relating to the impeachment of the Chief Justice of the Union or a Judge of the Supreme Court of the Union.

401. (a) If the Chairman or a member of the Union Election Commission during this term of service wishes to resign on his own accord due to any reason, he may submit his resignation in writing to the President.

(b) If the seat of the Chairman or the member of the Union Election Commission is vacant due to resignation, termination of duties, death or any other reason, the President may appoint a new Chairman, or a member of the Union Election Commission in accord with the provisions of appointment of a Union Minister prescribed in this Constitution.

(c) If the Chairman or member of the Union Election Commission is a Civil Services Personnel it shall be deemed that he has been retired from service in accord with the existing service regulations from the day of appointment of the Chairman or member of the Union Election Commission.

Resolutions and Functions of the Union Election Commission

402. The resolutions and functions made by the Union Election Commission on the following matters shall be final and conclusive:

- (a) election functions;
- (b) appeals and revisions relating to the resolutions and orders of the election tribunals;
- (c) matters taken under the law relating to political party.

403. Duties, powers and privileges of the Chairman and members of the Union Election Commission shall be prescribed by law.

CHAPTER X POLITICAL PARTIES

Formation of the Political Parties

404. A political party shall:

- (a) set the objective of non-disintegration of the Union, non-disintegration of national solidarity and perpetuation of sovereignty;
- (b) be loyal to the State.

405. A political party shall:

- (a) accept and practise a genuine and discipline-flourishing multi-party democratic system;
- (b) abide by and respect this Constitution and the existing laws;
- (c) form and register as a political party in accord with the law.

406. A political party shall, in accord with the law, have the right in the Union to:

- (a) organize freely;
- (b) participate and compete in the elections.

The right of Non-Existence of Political Parties

407. If a political party infringe one of the following stipulations, it shall have no right of continued existence:

- (a) having been declared an unlawful association under the existing law;

(b) directly or indirectly contacting or abetting the insurgent group launching armed rebellion against the Union or the associations and persons determined by the Union to have committed terrorist acts or the association declared to be an unlawful association;

(c) directly or indirectly receiving and expending financial, material and other assistance from a foreign government, a religious association, other association or a person from a foreign country;

(d) abusing religion for political purpose.

408. If the body having authority to register political parties finds that a political party infringes one of the stipulations contained in Section 407, the party's registration shall be revoked.

409. The Pyidaungsu Hluttaw shall enact necessary laws concerning political parties.

CHAPTER XI PROVISIONS ON STATE OF EMERGENCY

410. If the President learns that or if the respective local administrative body submits that the administrative functions cannot be carried out in accord with the Constitution in a Region or a State or a Union territory or a Self-Administered Area, he may, after coordinating with the National Defence and Security Council, promulgate an ordinance and declare a state of emergency.

411. In the matter concerning the declaration of a state of emergency in accord with Section 410, the President:

(a) may exercise the executive power of a Region or a State or a Self-Administered Area concerned. Moreover, he may form an appropriate body or a suitable person and entrust the said executive power;

(b) in doing so, if necessary, has the right to exercise the legislative power only for executive matters from among the matters that may be legislated by the respective Region, State or Self-Administered Areas. However, the legislative power shall not be empowered on any body or any person.

412. (a) If the President, learns that or if the respective local administrative body submits that there arises or is sufficient reason to arise a state of emergency endangering the lives, shelter and property of the public in a Region or a state or a Union Territory or a Self-Administered Area, after coordinating with the National Defence and Security Council, may promulgate an ordinance and declare a state of emergency.

(b) If all the members are unable to attend the meeting held by the President to co-ordinate with the National Defence and Security Council under Sub-Section (a), the President may declare in time a state of emergency after coordinating with the Commander-in-Chief of the Defence Services, the Deputy Commander-in-Chief of the Defence Services, the Minister for Defence, and the Minister for Home Affairs who are members. The said declaration shall be submitted to the National Defence and Security Council for approval as soon as possible.

413. According to Section 412, concerning the declaration of a state of emergency:

(a) the local administrative bodies and their members and the Civil Services organizations and their members may obtain the assistance of the Defence Services to effectively carry out their duties in accord with the existing laws in order to quickly restore to its original situation in an area where the declaration of a state of emergency has been in operation;

(b) the President may, if necessary, declare a military administrative order. In the said order, the executive powers and duties and the judicial powers and duties concerning community peace and tranquility and prevalence of law and order shall be conferred on the Commander-in-Chief of the Defence Services. The Commander-in-Chief of the Defence Services may exercise the said powers and duties himself or empower on any suitable military authority to exercise thereof.

414. The President, in promulgating an ordinance and declaring a state of emergency:

(a) shall specify in the said ordinance the areas and the duration that the state of emergency is in operation;

(b) may, if necessary, restrict or suspend as required, one or more fundamental rights of the citizens residing in the areas where the state of emergency is in operation.

415. The President shall, relating to the measures taken under Sections 410 and 411, and relating to the measures taken under Sections 412 and 413 in declaring a state of emergency, carry out such measures in accord with Section 212 (b), (c) and (e).

416. If the Pyidaungsu Hluttaw session besides approving the submission of the President under Section 415 also extends the duration of the ordinance, it shall remain in operation up to the expiry of the extended duration.

417. If there arises or if there is sufficient reason for a state of emergency to arise that may disintegrate the Union or disintegrate national solidarity or that may cause the loss of sovereignty, due to acts or attempts to take over the sovereignty of the Union by insurgency, violence and wrongful forcible means, the President may, after coordinating with the National Defence and Security Council, promulgate an ordinance and declare a state of emergency. In the said ordinance, it shall be stated that the area where the state of

emergency in operation is the entire Nation and the specified duration is one year from the day of promulgation.

418. (a) In the matter concerning the declaration of the state of emergency according to Section 417, the President shall declare the transferring of legislative, executive and judicial powers of the Union to the Commander-in-Chief of the Defence Services to enable him to carry out necessary measures to speedily restore its original situation in the Union. It shall be deemed that the legislative functions of all Hluttaws and leading bodies shall be suspended from the day of declaration. It shall also be deemed that on the expiry of the term of the said Hluttaws, the relevant Hluttaws have been dissolved automatically;

(b) Notwithstanding anything contained in the Constitution, commencing from the day of transfer of the sovereign power to the Commander-in-Chief of the Defence Services, it shall be deemed that the members appointed and assigned duties by approval of the relevant Hluttaws in accord with the Constitution, Self-Administered Division Leading Bodies or the members of Self-Administered Zone Leading Bodies, with the exception of the President and the Vice-Presidents, have been terminated from duty.

419. The Commander-in-Chief of the Defence Services to whom the sovereign power has been transferred shall have the right to exercise the powers of legislature, executive and judiciary. The Commander-in-Chief of the Defence Services may exercise the legislative power either by himself or by a body including him. The executive power and the judicial power may be transferred to and exercised by an appropriate body that has been formed or a suitable person.

420. The Commander-in-Chief of the Defence Services may, during the duration of the declaration of a state of emergency, restrict or suspend as required, one or more fundamental rights of the citizens in the required area.

421. The President:

(a) shall submit the matter of transferring the sovereign power to the Commander-in-Chief of the Defence Services, after declaring a state of emergency under Sections 417 and 418, to a regular session of the Pyidaungsu Hluttaw if it is in session, or to an emergency session of the Pyidaungsu Hluttaw by summoning it, if it is not in regular session;

(b) may, if the Commander-in-Chief of the Defence Services submits the extension of the prescribed duration by giving reasons why he has not yet been able to accomplish the duties assigned to him, and after coordinating with the National Defence and Security Council, normally permit two extensions of the prescribed duration for a term of six months for each extension. The matter relating to the extension shall be reported to the emergency session of the Pyidaungsu Hluttaw by summoning it.

422. The President shall, on submission of a report that the Commander-in-Chief of the Defence Services has accomplished the duties assigned, declare the annulment of the ordinance transferring the sovereign power to the Commander-in-Chief of the Defence Services under Section 418, after coordinating with the National Defence and Security Council, on the day of submission of the report by convening an emergency session of the Pyidaungsu Hluttaw if the term of the Pyidaungsu Hluttaw has not expired, or on the day that the submission of the report of the Commander-in-Chief of the Defence Services is received if that term of the Pyidaungsu Hluttaw has expired.

423. The President shall, on receiving the report of the Commander-in-Chief of the Defence Services under Section 422, revoke the temporary suspension of the legislative functions of all Hluttaws and Leading Bodies if the term of the Pyidaungsu Hluttaw has not expired. The New executive and judicial bodies prescribed in the Constitution shall then be formed and assigned duties in accord with the Constitution. Such bodies shall only carry out the duties for the remaining term of the Hluttaw.

424. Notwithstanding that the term of the Pyidaungsu Hluttaw has expired, the President and the Vice-Presidents, or the Speaker of the Pyithu Hluttaw and the Speaker of the Amyotha Hluttaw shall remain in their office until the new President and the new Vice-Presidents, or the new Speaker of the Pyithu Hluttaw and the new Speaker of the Amyotha Hluttaw have been elected in accord with the Constitution.

425. The National Defence and Security Council may, if the Commander-in-Chief of the Defence Services submits the extension of the prescribed duration by giving reasons why he has not been able to accomplish the assigned duties, on the expiry of the term of the Pyidaungsu Hluttaw, normally permit two extensions of the prescribed duration for a term of six months for each extension.

426. The National Defence and Security Council shall, concerning the matter of transferring of sovereign power by the President to the Commander-in-Chief of the Defence Services by declaring a state of emergency under Sections 417 and 418, declare the annulment of the ordinance transferring the sovereign power to him under Section 418 on receiving the report that the Commander-in-Chief of the Defence Services has accomplished the duties assigned to him.

427. The National Defence and Security Council:

(a) exercises the powers of the legislature, executive and judiciary before the Hluttaws are formed in accord with the Constitution;

(b) has the right to exercise the sovereign power until the new President has been elected and the Union level administrative bodies have been formed in accord with the provisions in this Constitution. In exercising thereof, the legislative power shall be exercised by itself. The executive power and the judicial power may be transferred to and exercised by the

appropriate Bodies that have been formed or a suitable person at the Union, Region or State and Self-Administered Area levels.

428. The National Defence and Security Council shall form and assign duties to different levels of administrative bodies, the Self-Administered Division Leading Body, or the Self-Administered Zone Leading Bodies and Election Commission prescribed in the Constitution with persons who meet the relevant qualifications prescribed in the Constitution.

429. The National Defence and Security Council shall hold the general election in accord with the provisions of the Constitution within a duration of six months commencing from the day on which the ordinance is annulled under Section 426.

430. The bodies formed under Section 428 shall continue to perform their functions and duties until legislative, executive and judicial bodies have been formed in accord with the Constitution after holding the general election.

431. The National Defence and Security Council shall exercise the sovereign power in the name of the President.

432. The legitimate measures of any administrative body or any of its members, any Civil Services body or any of its members, and any military body or any of its members assigned powers and duties to take measures as required in order to speedily restore the security, stability, community peace and tranquility and prevalence of law and order to its original state on behalf of the President while a declaration of emergency is in operation or during the duration the sovereign power is being exercised by the Commander-in-Chief of the Defence Services or during the duration the sovereign power is being exercised by the National Defence and Security Council, shall be valid. No legal action shall be taken on such legitimate measures.

CHAPTER XII AMENDMENT OF THE CONSTITUTION

433. Any provision of this Constitution may be amended in the manner herein after provided:

- (a) the proposal to amend the Constitution shall be submitted in the form of a Bill;
- (b) the Bill to amend the Constitution shall not contain other proposals.

434. The Bill to amend the Constitution shall be submitted to the Pyidaungsu Hluttaw.

435. If twenty percent of the total number of the Pyidaungsu Hluttaw representatives submit the Bill to amend the Constitution, it shall be considered by the Pyidaungsu Hluttaw.

436. (a) If it is necessary to amend the provisions of Sections 1 to 48 in Chapter I, Sections 49 to 56 in Chapter II, Sections 59 and 60 in Chapter III, Sections 74, 109, 141 and 161 in Chapter IV, Sections 200, 201, 248 and 276 in Chapter V, Sections 293, 294, 305, 314 and 320 in Chapter VI, Sections 410 to 432 in Chapter XI and Sections 436 in Chapter XII of this Constitution, it shall be amended with the prior approval of more than seventy-five percent of all the representatives of the Pyidaungsu Hluttaw, after which in a nation-wide referendum only with the votes of more than half of those who are eligible to vote.

(b) Provisions other than those mentioned in Sub-Section (a) shall be amended only by a vote of more than seventy-five percent of all the representatives of the Pyidaungsu Hluttaw.

CHAPTER XIII STATE FLAG, STATE SEAL, NATIONAL ANTHEM AND CAPITAL

437. (a) The State Flag shall be as shown below:

(b) Law shall be promulgated concerning the State Flag.

438. (a) The State Seal shall be as shown below:

(b) Law shall be promulgated concerning the State Seal.

439. (a) The present National Anthem shall be prescribed as the National Anthem.

(b) Law shall be promulgated concerning the National Anthem.

440. The Capital of the Republic of the Union of Myanmar is Nay Pyi Taw.

CHAPTER XIV TRANSITORY PROVISIONS

441. A nation-wide referendum held for adoption of this Constitution where more than half of the eligible voters voted, of which majority of these voters adopted this Constitution, shall come into operation throughout the Union from the day the first session of the Pyidaungsu Hluttaw is convened.

442. The State Peace and Development Council shall continue to exercise State sovereignty before this Constitution comes into operation.

443. The preparatory work done by the State Peace and Development Council, before this Constitution comes into operation, to bring the Constitution into operation, shall be deemed to have been carried out in accord with this Constitution.

444. (a) The Government that exists on the day this Constitution comes into operation shall continue to discharge the respective duties until the emergence of the new Government formed and assigned duties in accord with this Constitution.

(b) All courts existing on the day the coming into operation of this Constitution shall continue to exercise their jurisdiction until new courts are constituted by law in accord with this Constitution. All cases, civil, criminal and revenue, pending in the said courts, shall be disposed of in accord with the laws exercised on the day on which the cases came up for trial.

445. All policy guidelines, laws, rules, regulations, notifications and declarations of the State Law and Order Restoration Council and the State Peace and Development Council or actions, rights and responsibilities of the State Law and Order Restoration Council and the State Peace and Development Council shall devolve on the Republic of the Union of Myanmar. No proceeding shall be instituted against the said Councils or any member thereof or any member of the Government, in respect of any act done in the execution of their respective duties.

446. Existing laws shall remain in operation in so far as they are not contrary to this Constitution until and unless they are repealed or amended by the Pyidaungsu Hluttaw.

447. Existing rules, regulations, bye-laws, notifications, orders, directives and procedures shall remain in operation in so far as they are not contrary to this Constitution until and unless they are repealed or amended by the Union Government.

448. All functioning Civil Services personnel of departmental organizations including the Defence Services under the State Peace and Development Council on the day this Constitution comes into operation, shall continue in their functions unless otherwise prescribed by the Government of the Republic of the Union of Myanmar.

CHAPTER XV GENERAL PROVISIONS

449. This Constitution is the Basic Law of all the laws of the Union.

450. Myanmar language is the official language.

451. The application of the Basic Principles of the Union in the legislation and administration shall be the care of the Union but shall not be enforceable in any Court of law.

452. Interpretation of the preamble, Sections, Sub-Sections, expressions, individual words and ideas of this Constitution shall be based only on the Myanmar text.

453. In interpretation of expressions contained in this Constitution reference shall be made to the existing Interpretation Law.

454. The Myanmar text of this Constitution shall be kept as record in the National Archives. Such text shall be conclusive evidence of the provisions of this Constitution.

455. The Government of the Union may, in the interest of the Union, relating to any of the economic activity prescribed to be carried out only by the Government of the Union:

(a) permit the Region government or the State government to form a joint venture with the Government of the Union or to operate under terms and conditions;

(b) permit a co-operative organization, economic organization and an individual person to form a joint venture with the Government of the Union or to operate under terms and conditions.

456. The Republic of the Union of Myanmar shall honour all legitimate obligations arising out of treaties or agreements which before the commencement of this Constitution have been in operation between the Government of the Union of Myanmar and the Government of other State, provided that such other State honours any reciprocal obligations towards the Union of Myanmar.

457. (a) Any proceedings relating to contract or liabilities which might have been brought against the Government of the Union of Myanmar before this Constitution comes into operation, may be brought against the Government of the Union of Myanmar.

(b) The Republic of the Union of Myanmar may sue and be sued in the name of the Republic of the Union of Myanmar.

SCHEDULE ONE

Union Legislative List
(Refer to Section 96)

1. Union Defence and Security Sector

(a) Defence of the Republic of the Union of Myanmar and every part thereof and preparation for such defence;

(b) Defence and Security industries;

(c) Arms, ammunition and explosives including biological and chemical weapons;

- (d) Atomic energy, nuclear fuel and radiation and mineral resources essential to its production;
- (e) Declaration of war and conclusion of peace;
- (f) Stability, peace and tranquility of the Union and prevalence of law and order; and
- (g) Police force.

2. Foreign Affairs Sector

- (a) Representatives of the diplomatic, consular and other affairs;
- (b) United Nations;
- (c) Participation in international, regional and bilateral conferences, seminars, meetings, associations and other organizations and implementation of resolutions thereof;
- (d) Conclusion and implementation of international and regional treaties, agreements, conventions and bilateral agreements and treaties;
- (e) Passports and identification certificates;
- (f) Visas, admission into the Republic of the Union of Myanmar, stay, departure, immigration and deportation; and
- (g) Extradition and request for extradition.

3. Finance and Planning Sector

- (a) The Union Budget;
- (b) The Union Fund;
- (c) Currency and coinage;
- (d) The Central Bank of Myanmar and financial institutions;
- (e) Foreign exchange control;
- (f) Capital and money markets;
- (g) Insurance;

- (h) Income tax;
- (i) Commercial tax;
- (j) Stamp duty;
- (k) Customs duty;
- (l) Union lottery;
- (m) Tax appeal;
- (n) Services of the Union;
- (o) Sale, lease and other means of execution of property of the Union;
- (p) Disbursement of loans from the Union Funds;
- (q) Investment of the Union Funds;
- (r) Domestic and foreign loans;
- (s) Acquisition of property for the Union; and
- (t) Foreign aid and financial assistance.

4. Economic Sector

- (a) Economy;
- (b) Commerce;
- (c) Co-operatives;
- (d) Corporations, boards, enterprises, companies and partnerships;
- (e) Imports, exports and quality control thereon;
- (f) Hotels and lodging houses; and
- (g) Tourism.

5. Agriculture and Livestock Breeding Sector

- (a) Land administration;
- (b) Reclamation of vacant, fallow and virgin lands;
- (c) Settlements and land records;
- (d) Land survey;
- (e) Dams, embankments and irrigation works managed by the Union;
- (f) Meteorology, hydrology and seismic survey;
- (g) Registration of documents;
- (h) Mechanized agriculture;
- (i) Agricultural research;
- (j) Production of chemical fertilizers and insecticides;
- (k) Marine fisheries; and
- (l) Livestock proliferation, prevention and treatment of diseases and research works.

6. Energy, Electricity, Mining and Forestry Sector

- (a) Petroleum, natural gas, other liquids and substances declared by the Union Law to be dangerously inflammable;
- (b) Production and distribution of electricity of the Union;
- (c) Minerals, mines, safety of mine workers, and environmental conservation and restoration;
- (d) Gems;
- (e) Pearls;
- (f) Forests; and
- (g) Environmental protection and conservation including wildlife, natural plants and natural areas.

7. Industrial Sector

- (a) Industries to be undertaken by the Union level;
- (b) Industrial zones;
- (c) Basic standardization and specification for manufactured products;
- (d) Science and technology and research thereon;
- (e) Standardization of weights and measures; and
- (f) Intellectual property such as copyrights, patents, trademarks and industrial designs.

8. Transport, Communication and Construction Sector

- (a) Inland water transport;
- (b) Maintenance of waterways;
- (c) Development of water resources and rivers and streams;
- (d) Carriage by sea;
- (e) Major ports;
- (f) Lighthouses, lightships and lighting plans;
- (g) Shipbuilding, repair and maintenance;
- (h) Air transport;
- (i) Air navigation, control and airfields construction;
- (j) Land transport;
- (k) Railways;
- (l) Major highways and bridges managed by the Union;
- (m) Posts, telegraphs, telephones, fax, e-mail, internet, intranet and similar means of communication; and
- (n) Television, satellite communication, transmission and reception, and similar means of communication and housing and buildings.

9. Social Sector

- (a) Educational curricula, syllabus, teaching methodology, research, plans, projects and standards;
- (b) Universities, degree colleges, institutes and other institutions of higher education;
- (c) Examinations prescribed by the Union;
- (d) Private schools and training;
- (e) National sports;
- (f) National health;
- (g) Development of traditional medicinal science and traditional medicine;
- (h) Charitable hospitals and clinics and private hospitals and clinics;
- (i) Maternal and child welfare;
- (j) Red cross society;
- (k) Prevention from adulteration, manufacture and sale of foodstuffs, drugs, medicines and cosmetics;
- (l) Welfare of children, youths, women, the disabled, the aged and the homeless;
- (m) Relief and rehabilitation;
- (n) Fire Brigade;
- (o) Working hours, resting-hours, holidays and occupational safety;
- (p) Trade disputes;
- (q) Social security;
- (r) Labour organizations;
- (s) Managements by the Union, the following:

(i) Ancient culture or historical sites, buildings, monuments, records, stone inscriptions, ink inscriptions on stucco, palm-leaf parabaiks, handwritings, handiworks, inanimate objects and archaeological works;

(ii) Museums and libraries.

(t) Literature, dramatic arts, music, traditional arts and crafts, cinematographic films and videos; and

(u) Registration of births and deaths.

10. Management Sector

(a) General administration;

(b) Administration of town and village land;

(c) Tenants;

(d) Narcotic drugs and psychotropic substances;

(e) Union secrets;

(f) Associations;

(g) Prisons;

(h) Development of border areas;

(i) Census;

(j) Citizenship, naturalization, termination and revocation of citizenship, citizenship scrutiny and registration; and

(k) Titles and honours.

11. Judicial Sector

(a) Judiciary;

(b) Lawyers;

(c) Criminal Laws and procedures;

- (d) Civil Laws and procedures including contract, arbitration, actionable wrong, insolvency, trust and trustees, administrator and receiver, family laws, guardians and wards, transfer of property and inheritance;
- (e) Law of Evidence;
- (f) Limitation;
- (g) Suit valuation;
- (h) Specific relief;
- (i) Foreign jurisdiction;
- (j) Admiralty jurisdiction; and
- (k) Piracies, crimes committed in international waters or in outer space and offences against the international law on land or in international waters or in outer space.

SCHEDULE TWO

Region or State Legislative List
(Refer to Section 188)

1. Finance and Planning Sector

- (a) The Region or State budget;
- (b) The Region or State fund;
- (c) Land revenue;
- (d) Excise duty (not including narcotic drugs and psychotropic substances);
- (e) Municipal taxes such as taxes on buildings and lands, water, street lightings and wheels;
- (f) Services of the Region or State;
- (g) Sale, lease and other means of execution of property of the Region or State;
- (h) Disbursement of loans in the country from the Region or State funds;
- (i) Investment in the country from the Region or State funds;

(j) Local plan; and

(k) Small loans business.

2. Economic Sector

(a) Economic matters undertaken in the Region or State in accord with law enacted by the Union;

(b) Commercial matters undertaken in the Region or State in accord with law enacted by the Union; and

(c) Co-operative matters undertaken in the Region or State in accord with law enacted by the Union.

3. Agriculture and Livestock Breeding Sector

(a) Agriculture;

(b) Protection against and control of plants and crop pests and diseases;

(c) Systematic use of chemical fertilizers and systematic production and use of natural fertilizers;

(d) Agricultural loans and savings;

(e) Dams, embankments, lakes, drains and irrigation works having the right to be managed by the Region or State;

(f) Fresh water fisheries; and

(g) Livestock breeding and systematic herding in accord with the law enacted by the Union.

4. Energy, Electricity, Mining and Forestry Sector

(a) Medium and small scale electric power production and distribution that have the right to be managed by the Region or State not having any link with national power grid, except large scale electric power production and distribution having the right to be managed by the Union;

(b) Salt and salt products;

(c) Cutting and polishing of gemstones within the Region or State;

(d) Village firewood plantation; and

(e) Recreation centers, zoological garden and botanical garden.

5. Industrial Sector

(a) Industries other than those prescribed to be undertaken by the Union level; and

(b) Cottage industries.

6. Transport, Communication and Construction Sector

(a) Ports, jetties and pontoons having the right to be managed by the Region or State;

(b) Roads and bridges having the right to be managed by the Region or State; and

(c) Systematic running of private vehicles within the Region or State.

7. Social Sector

(a) Matters on traditional medicine not contrary to traditional medicine policies prescribed by the Union;

(b) Social welfare works within the Region or State;

(c) Preventive and precautionary measures against fire and natural disasters;

(d) Stevedoring;

(e) Having the right of management by the Region or State, the following:

(i) preservation of cultural heritage;

(ii) museums and libraries.

(f) Theatres, cinemas and video houses; and

(g) Exhibitions such as photographs, paintings and sculptures.

8. Management Sector

(a) Development matters;

(b) Town and housing development; and

(c) Honorary certificates and awards.

SCHEDULE THREE

List of Legislation of the Leading Body of Self-Administered Division or Self-Administered Area

(Refer to Section 196)

1. Urban and Rural Projects
2. Construction and Maintenance of Roads and Bridges
3. Public Health
4. Development Affairs
5. Prevention of Fire Hazard
6. Maintenance of Pasture
7. Conservation and Preservation of Forest
8. Preservation of Natural Environment in Accord with Law Promulgated by the Union
9. Water and Electricity Matters in Towns and Villages
10. Market Matters of Towns and Villages

SCHEDULE FOUR

Form of Oaths or Affirmation

(Refer to Section 125)

I do solemnly and sincerely promise that as an elected representative of the Pyithu Hluttaw/ the Amyotha Hluttaw/ the Region or State Hluttaw, I will uphold and abide by the Constitution of the Union. I will be loyal to the Republic of the Union of Myanmar and citizenry and hold always in esteem non-disintegration of the Union, non-disintegration of national solidarity and perpetuation of sovereignty.

In addition, I will carry out the responsibilities uprightly to the best of my ability.

SCHEDULE FIVE

Taxes Collected by Region or States (Refer to Section 254)

1. Land revenue.
2. Excise revenue.
3. Water tax and embankment tax based on dams and reservoirs managed by the Region or State and tax on use of electricity generated by such facilities managed by the Region or State.
4. Toll fees from using roads and bridges managed by the Region or State.
5. (a) Royalty collected on fresh water fisheries.
(b) Royalty collected on marine fisheries within the permitted range of territorial water.
6. Taxes collected on vehicles on road transport and vessels on inland waterway transport, in accord with law, in a Region or a State.
7. Proceeds, rent fees and other profits from those properties owned by a Region or a State.
8. Fees, taxes and other revenues collected on services enterprises by a Region or a State.
9. Fines imposed by judicial courts in a Region or a State including Region Taya Hluttaw or State Taya Hluttaw and taxes collected on service provision and other revenues.
10. Interests from disbursed by a Region or State.
11. Profits returned from investment of a Region or State.
12. Taxes collected on extraction of the following items from the forests in a Region or a State:
 - (a) Taxes collected on all other woods except teak and other restricted hard woods;
 - (b) Taxes collected on firewood, charcoal, rattan, bamboo, birdnests, catch, thanetkha, turpentine, eaglewood and honey-based products.
13. Registration fees.
14. Taxes on entrainments.

15. Salt tax.
16. Revenue received from the Union Fund Account.
17. Contributions by development affairs organizations in a Region or State concerned.
18. Unclaimed cash and property.
19. Treasure trove.

Section 3.
Repealed Laws

THE WASTE LANDS CLAIMS ACT (1863)

[Repealed by the Law for the Repeal of Laws (19 February 1992)]

India Act XXIII, 1863
10 March 1863

[This Act does not extend to Upper Burma.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Either party may appear by pleader or by agent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The report of the officer employed to give delivery or to take possession on the part of Government, of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken.

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

20. If the land shall have been sold, subject to any condition or reservation or shall not have been sold, but shall have been otherwise dealt with on account of the Government, and the Court shall be of opinion that the claim to such land, or the objection of an objector, is

established, the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall be awarded in that behalf under the Land Acquisition Act,

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

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

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

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

23A. The powers and duties of the President of the Union under sections 6, 10, 22 and 23 may be exercised by the Financial Commissioner.

THE LAND IMPROVEMENT LOANS ACT (1883)

[Repealed by the Law for the Repeal of Laws (19 February 1992)]

India Act XIX, 1883

12 October, 1883

1-2. [...]

3. In this Act, "Collector" means the Collector of land-revenue of a district, or the Deputy Commissioner or any officer empowered by the President of the Union by name or by virtue of his office to discharge the functions of a Collector under this Act.

4. (1) Subject to such rules as may be made under Section 10, loans may be granted under this Act, by such officer as may, from time to time, be empowered in this behalf by the President of the Union, for the purpose of making any improvement, or, with the consent of that person, to any other person.

(2) "Improvement" means any work which adds to the letting value of land, and includes the following, namely:-

(a) the construction of wells, tanks and other works for the storage, supply or distribution of water for the purposes of agriculture or for the use of men and cattle employed in agriculture;

(b) the preparation of land for irrigation;

(c) the drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or waste-land which is culturable;

(d) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(e) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto; and

(f) such other works as the President of the Union may, from time to time, by notification in the Gazette, declare to be improvements for the purposes of this Act.

5. (1) When an application for a loan is made under this Act, the officer to whom the application is made may, if it is, in his opinion, expedient that public notice be given of the application, publish a notice, in such a manner as the President of the Union may, from time to time, direct, calling upon all persons objecting to the loan to appear before him at a time and a place fixed therein and submit their objections.

(2) The officer shall consider every objection submitted under sub-section (1), and make an order in writing either admitting or overruling it;

Provided that, when the question raised by an objection is, in the opinion of the officer one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone his proceedings on the application until the question has been so decided.

6. (1) every loan granted under this Act shall be made repayable in installments (in the form of an annuity or otherwise) within such period from the date of the actual advance of the loan, or when the loan is advanced in installments, from the date of the advance of the last installment actually paid as may, from time to time, be fixed by the rules made under this Act.

(2) The period fixed as aforesaid shall not exceed thirty-five years.

(3) The President of the Union, in making the rules fixing the period, shall, in considering whether the period should extend to thirty-five years, or whether it should be extended beyond thirty-five years, have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by the work.

7. (1) Subject to such rules as may be made under section 10, all loans granted under this Act, all interest (if any) chargeable therein and costs (if any) incurred in making the same, shall, when they become due, be recoverable by the Collector in all or any of the following models, namely:-

(a) from the borrower-as if they were arrears of land-revenue due by him;

(b) from his surety (if any) - as if they were arrears of land-revenue due by him;

(c) out of the land for the benefit of which the loan has been granted as if they were arrears of land revenue due in respect of that land;

(d) out of the property comprised in the collateral security (if any) - according to the procedure for the realisation of land-revenue by the sale of immoveable property other than the land on which that revenue is due:

Provided that no proceeding in respect of any land under clause (c) shall affect any interest in that land which existed before the date of the order granting the loan other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and, where the loan is granted under section 4 with the consent of another person, the interest of that person, and of mortgages or, or persons having charges on, that interest.

(2) When any sum due on account of any such loan, interest or costs is paid to the Collector by a surety or an owner of property comprised in any collateral security, or recovered under

sub-section (1) by the Collector from a surety or out of any such property, the Collector shall, on the application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrower, or out of the land for the benefit of which loan has been granted, in manner provided by sub-section (1).

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

8. A written order under the hand of an officer empowered to make loans under this Act granting a loan to, or with the consent of, a person mentioned therein for the purpose of carrying out a work described therein, for the benefit of land, specified therein, shall for the purposes of this Act be conclusive evidence:

- (a) that the work described is as an improvement within the meaning of this Act;
- (b) that the person mentioned had at the date of the order a right to make such an improvement; and
- (c) that the improvement is one benefiting the land specified.

9. When a loan is made under this Act to the members of a village community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount as among themselves each is bound to contribute is entered upon the order granting the loan and is signed by each of them and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

10. The President of the Union may, from time to time, by notification in the Gazette, make rules consistent with this Act to provide for the following matters, namely:-

- (a) the manner of making applications for loans;
- (b) the officers by whom loans may be granted;
- (c) the manner of conducting inquiries relative to applications for loans and the powers to be exercised by officers conducting those inquiries;
- (d) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which, and the conditions under which, loans may be granted, and the manner and time of granting loans;
- (e) the inspection of works for which loans have been granted;

(f) the installments by which, and the mode in which, loans, the interest charged on them and the costs incurred in the making thereof, shall be paid;

(g) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same; and

(h) all other matters pertaining to the working of the Act.

11. When land is improved with the aid of a loan granted under this Act the increase in value derived from the improvement shall not be taken into account in revising the assessment of land-revenue on the lands:

Provided as follows:-

(1) where the improvement consists of the reclamation of waste-land or irrigation of land assessed at unirrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed by the President of the Union;

(2) nothing in this section shall entitle any persons to call in question any assessment of land-revenue otherwise than as it might have been called into question if this Act had not been passed.

12. The powers conferred on the President of the Union by sub-section (1) of section 4, sub-section (1) of section 5 and section 10 may be exercised in the like manner and subject to the like conditions by the financial Commissioner.

Provided that rules made by the Financial Commissioner shall be subject to the control of the President of the Union.

THE GOVERNMENT MANAGEMENT OF PRIVATE ESTATES ACT (1892)

[Repealed by the Law for the Repeal of Laws (19 February 1992)]

India Act X, 1892
24 October, 1892

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

1. [...]

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

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

(2) “gross income” includes all receipts of every kind in produce or cash, except money borrowed, recoveries of principal, and the proceeds of sale of immoveable property or of moveable property properly classed as capital; and

(3) “private estates under Government management” include:

(a) [...]

(b) encumbered estates under Government management;

(c) estates attached for default of payment of Government revenue;

(d) minors’ estates placed under the guardianship of a revenue officer of the Government by a civil Court;

(e) estates managed by a Collector in pursuance of any order made under the Code of Civil Procedure; and

(f) all other estates made over to or taken under the management of a revenue officer of the Government as such under any law for the time being in force or in virtue of any agreement.

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

(1) to levy on all private estates under Government management a rate not exceeding five per cent, on the gross income, calculated, as nearly as may be possible, to cover:

(a) the cost of all Government establishments in so far as they may be employed in the supervision or management of such estates other than establishments specially entertained for the supervision or management of any particular estate or group of estates, and

(b) all contingent expenditure incurred in consequence of such supervision of management;

(2) from time to time to vary such rate; and

(3) to reduce or remit such rate in any special case or cases as may be equitable;

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

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

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

6. [...]

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

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

THE MUNICIPAL ACT (1898)

[Repealed by the Development Committees Law 1993]

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THE MUNICIPAL ACT

Burma Act III, 1898
1 July 1898]

CHAPTER I PRELIMINARY

1. [...]

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

(1) “bakery” means any place in which are baked or cooked bread, biscuits or confectionery for the purposes of sale or profit;

(2) “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;

(3) “building line” means a line to which the main wall of a building abutting on a street may lawfully extend;

(4) “Commissioner” means the Commissioner of the division in which a municipality or notified area is situated;

(5) “Committee” means the committee constituted by or under this Act for a municipality or notified area;

(6) “dangerous disease” means cholera, plague, small-pox or any other disease which the President of the Union may, by notification, declare to be a dangerous disease;

(7) “Deputy Commissioner” means the Deputy Commissioner or the district in which a municipality or notified area is situated;

(8) “drain” includes a pipe, ditch, channel or any other device for carrying off liquid which is not sewage;

(9) “factory” means a factory as defined in sub-section (3) of section 2 of the Factories Act;

(10) “inhabitant” of an area includes any person ordinarily residing or carrying on business, [...] [The words “or owning or occupying immovable property” were deleted by Act LII, 1950] in such area;

(11) “keeper” of a lodging-house means the person in charge of a lodging-house;

(12) “to keep a lodging-house” means to be in charge of a lodging house;

(13) “lodging-house” includes -

(a) a common lodging-house, meaning a building or part of a building in which a common sleeping room is kept for occupation by more than two persons not being members of the same family; and

(b) an apartment house, meaning a building or part of a building which is let in lodgings or occupied to any extent in common by members of more than one family:

Provided that nothing in this definition shall be deemed to include the dormitory of any school or college which the President of the Union may, by general or special order, declare to be subject to inspection by a medical officer of Government, or any jail, hospital, monastery or similar institution, or a hotel or boarding house where the daily charge for board and residence is not less than one rupee per head.

(14) “market” includes any place where persons periodically assemble for the sale of meat, fish, fruit, vegetables, livestock or any other article of food;

(15) “municipal market” means any market vested in or belonging to a committee;

(16) “municipality” means a local area declared under Chapter II to be a municipality;

(17) “municipal slaughter house” means a slaughter-house vested in or belonging to or managed by a committee;

(18) “notified area” means an area in respect of which the President of the Union has issued a declaration under section 246;

(19) “offensive matter” includes animal carcasses, dung, dirt, putrid or putrefying substances, and filth of any kind which is not included in “sewage”;

(20) “owner” includes the person who for the time being receives the rent of any building or land, whether on his own account or as agent or trustee, or who would so receive the rent if the building or land were let to a tenant, but does not include the Government;

[Substituted by Act XL, 1950] (21) “pauper affected with leprosy” means a person suffering from leprosy as defined in section 2, sub-section (2) of the Leprosy Act;

(22) “prescribed” means prescribed by this Act or by any rule or bye-law under this Act;

(23) “private market” means any market other than a municipal market;

(24) “reclamation” means the alteration by any means, including the use of materials of any description, of the level of land in order that the effective drainage of such land may become practicable;

(25) “rubbish” includes dust, ashes, broken bricks, mortar, broken glass, garden or stable refuse and refuse of any kind which is not “offensive matter” or “sewage”;

(26) “sanitary work” or “sanitary project” includes any work or project or class of work or project which the President of the Union may, by notification, declare to be a sanitary work or project;

(27) “sewage” includes night-soil and other proper contents of water closets, latrines, urinals, privies and cess pools, and polluted water from sinks, bath-rooms, stables, cattle-sheds and other like places;

(28) “sewer” includes a pipe, ditch or channel, or any other device for carrying off sewage;

(29) “sewerage-connection” includes:

(a) any sewer between any water-closet, latrine, urinal, privy, bathroom, kitchen, sink, sullage-tray, manhole or trap on the one hand, and any sewer vested in or belonging to a committee on the other hand; and

(b) any cistern, flush-tank, land, building, machinery, work or thing constructed or used for collecting and passing any sewage into any sewer vested in or belonging to a committee;

(30) (a) “street” includes any highway and any cause-way, bridge, viaduct, arch, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of passage or access, and also the surface-soil, sub-soil, footway and drains of any street, and anything planted in such soil;

(b) “public street” means any street wholly or partially maintained by the committee, and any street declared by the committee to be a public street under the provisions of section 114 or otherwise;

(c) “private street” means any street, other than a public street, but does not include a street maintained by Government;

(31) “street alignment” means a line dividing the land included in a street from the adjoining land;

(32) “water-connection” includes:

(a) any tank, cistern, hydrant, stand-pipe, meter or tap situated on private property and connected with a water-main or pipe vested in or belonging to the committee; and

(b) the water-pipe connecting such tank, cistern, hydrant, standpipe, meter or tap with such water-main or pipe;

(33) “water-work” includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open, sluice, main-pipe, culvert, engine and any machinery, land, building or thing for supplying or used for supplying water;

(34) “water for domestic purposes” shall not include water for cattle, or for horses, or for washing vehicles, when the cattle, horses or vehicles are kept for sale or hire, or by a common carrier, or water for any trade, manufacture or business, or building purposes, or for watering gardens, or for fountains or for any ornamental purposes;

(35) the expression “erect or re-erect any building” with its grammatical variations and cognate expressions includes:

(a) any material alteration or enlargement of any building;

(b) the conversion into a place for human habitation of any building not originally constructed for human habitation;

(c) the conversion of one or more places of human habitation into a greater or smaller number of such places;

(d) such alteration of the internal arrangements of a building as effects an alteration in its drainage or sanitary arrangements or affects its security;

(e) the addition of any rooms, buildings, outhouses or other structures to a building; and

(f) the re-construction of the whole or any part of the external walls of a building or the renewal of the posts of a wooden building.

CHAPTER II

CONSTITUTION OF MUNICIPALITIES

3. (1) The President of the Union may, by notification and by such other means as he may determine, signify his intention:

(a) to declare any town, or any group of towns in the immediate neighbourhood of one another, a municipality under this Act;

(b) to include within a municipality any local area in the vicinity of the same;

(c) to exclude from a municipality any local area comprised therein; or

(d) to withdraw the whole area comprised in any municipality from the operation of this Act.

(2) Every notification under this section shall define the limits of the local area proposed to be affected thereby, and may include within the limits of any municipality or proposed municipality any railway station, village, building or land in the vicinity thereof.

4. (1) Any inhabitant of any part of a local area defined in a notification published under section 3 and proposed to be affected thereby may, if he objects to anything therein contained, submit his objection in writing to the President of the Union within six weeks from the date of the publication of such notification, and the President of the Union shall take his objection into consideration;

(2) When six weeks from the date of the publication of such notification have expired, the President of the Union may, by a further notification:

(a) declare the local area or any specified part thereof to be a municipality under this Act, or

(b) include the local area or any part thereof in the municipality or exclude it therefrom, or

(c) withdraw the whole area comprised in the municipality from the operation of this Act, as the case may be.

5. [...]

6. (1) When a local area is included in a municipality under section 4, all rules and bye-laws made, orders, directions and notices issued, and powers conferred and in force throughout the municipality at the time when the local area is so included, shall apply thereto unless the President of the Union shall, in and by the notification directing such inclusion, otherwise direct.

(2) When a local area is excluded from a municipality under section 4:

(a) this Act and all rules and bye-laws made, orders, directions and notices issued, and powers conferred thereunder shall cease to apply thereto; and

(b) the President of the Union shall, after consulting the committee, frame a scheme determining what portion of the balance of the municipal, school and hospital funds and other property vested in the committee shall vest in the State for the benefit of the local area, and in what manner the liabilities of the committee shall be apportioned between the committee and the Government; and, on the publication of such scheme in the Gazette, such property and liabilities shall vest and be apportioned accordingly.

(3) When the whole area comprised in any municipality is withdrawn from the operation of this Act under section 4, this Act and all rules and bye-laws made, orders, directions or

notices issued, and powers conferred thereunder, shall cease to apply thereto and the balance of the municipal fund and all other property at the time of the issue of the notification vested in the committee shall vest in [the State] [Substituted for the words “His Majesty” by the Union of Burma (Adaptation of Laws) Order, 1948], and the liabilities of the committee shall be transferred to the Government.

(4) All property vested in [the State] [Substituted for the words “His Majesty” by the Union of Burma (Adaptation of Laws) Order, 1948] under this section shall be applied, under the orders of the President of the Union, to the discharge of the liabilities imposed on the Government thereby, or for the promotion of the safety, health, welfare or convenience of the inhabitants of the area affected.

CHAPTER III ORGANIZATION OF MUNICIPAL COMMITTEES

Constitution of Committees.

27. There shall be constituted for each municipality under this Act a committee having authority thereover and consisting of so many inhabitants of the municipality as may be determined by the President of the Union, elected in manner next hereinafter prescribed to represent wards of the municipality.

8. [Substituted by Act LII, 1950] (1) The President of the Union shall. make rules regulating the following matters, namely:

[Substituted by Act LII, 1950](a) the division of the municipality into wards;

[Substituted by Act LII, 1950](b) the number of representatives proper for each ward;

(c) the qualifications of electors and of candidates for election;

(d) the registration of electors;

(e) the nomination of candidates, the time of election and the mode of recording votes; and

(f) any other matters relating to the system of representation and of election for which it may seem expedient to provide.

(2) The President of the Union may, after the committee has come into existence as hereinafter provided, amend, after consulting such committee, the rules under this section.

(3) The members of the committee shall be elected in accordance with the rules under this section for the time being in force.

9. [...]

[Substituted by Act LII, 1950] (2) The term of office of all the members of the committee shall be fixed by the President of the Union by rules, but shall not exceed three years.

(3) The term of office of members shall commence:

(a) in the case of a member elected at a general election of members, on the first day of January following the election [Added by Act LII, 1950] [or on such other date as the President of the Union may, by notification, appoint in this behalf; and]

(b) in the case of a member elected to till a casual vacancy, on the date of the meeting of the committee next following his election.

[Deleted by Act LII, 1950] (c) [...]

(4) An outgoing member may, if otherwise qualified, be re-elected [...] [Deleted by Act LII, 1950]

10. (1) Any member of the committee who may wish to resign shall forward his resignation in writing, through the Chairman of the committee, to the Deputy Commissioner for submission to the Commissioner.

(2) When the acceptance of such resignation by the Commissioner has been communicated to the committee, such member shall be deemed to have vacated his office as such.

11. (1) The President of the Union may remove any member of the committee:

(a) if he ceases to be an inhabitant of the municipality;

(b) if he refuses to act or becomes, in the opinion of the President of the Union, incapable of acting;

(c) if he is declared a bankrupt or an insolvent;

(d) if he is convicted of any such offence or subjected by a criminal Court to any such order as renders him, in the opinion of the President of the Union, unfit to continue to be a member;

(e) if he is declared by the President of the Union disqualified for employment in, or is dismissed from, the public service;

(f) if he attends none of the meetings of the committee held during the space of three consecutive months;

(g) if his continuance in office is, in the opinion of the President of the Union, dangerous to the public peace or order; or

(h) if he is a salaried officer of the Government of the Union of Burma or of any State or of any local authority, established by law.

(2) A person removed under this section on any ground other than those mentioned in clauses (u) and (f) shall be disqualified for election unless and until the President of the Union shall otherwise direct.

12. (1) When the place of [a member] [Substituted by Act LII, 1950] of the committee becomes vacant by the resignation or removal of the member, or by his death, a new member shall be elected, in manner prescribed under section 8, to fill the place so vacated.

[Deleted by Act LII, 1950] (2) [...]

(3) A person elected [...] [Deleted by Act LII, 1950] under this section to fill a casual vacancy shall hold office until the person whose place he fills would in the ordinary course have vacated office, and shall then vacate office, but may, if otherwise qualified, be re-elected [...] [Deleted by Act LII, 1950].

[Deleted by Act LII, 1950] (4) [...]

Every committee shall be a body corporate by the name of "The Municipal Committee of", and shall have perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property, both moveable and immovable, and to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name:

Provided that no committee shall transfer any immovable property except in pursuance of a resolution passed at a special meeting and approved by the President of the Union.

14. The committee shall come into existence at such time as the President of the Union may, by notification, appoint in this behalf.

15. [...]

16. Every member of the committee shall be deemed to be a municipal commissioner within the meaning of any enactment for the time being in force.

Chairman and Vice Chairman [In this Act the expressions "Chairman" and Vice Chairman" were substituted for the expressions "President" and "Vice President" by the Union of Burma (Adaptation of Laws) Order, 1948].

17. (1) The committee shall from time to time elect one of its members to be Chairman, and may from time to time elect another of its members to be Vice-Chairman.

[...]

18. [Substituted by Act LII, 1950](1) Except as provided in section 19, sub-section (3), every Chairman and every Vice-Chairman shall hold office for such term not exceeding three years as the President of the Union may by rule fix.

(2) Whenever the Chairman or Vice-Chairman ceases to be a member of the committee or tenders in writing to the committee his resignation of his office, he shall vacate his office, and any Chairman or Vice-Chairman may be removed from office by the President of the Union in pursuance of a resolution to that effect passed by two-thirds of the members present at a special meeting.

(3) Every resignation of office tendered under this section shall be reported as soon as may be to the Commissioner.

19. (1) Upon the occurrence of any vacancy in the office of Chairman or Vice-Chairman during the term fixed under section 18, a new Chairman or Vice-Chairman shall be elected [...] [Deleted by Act LII, 1950] in manner provided by section 17.

(2) Upon the expiration of the term of office fixed under section 18 for the Chairman or Vice-Chairman, a new Chairman shall, and a new Vice-Chairman may, be elected [...] [Deleted by Act LII, 1950] in manner provided by section 17.

(3) A person elected [...] [Deleted by Act LII, 1950] under sub-section (1) to fill a casual vacancy shall hold office until the person whose place he fills would in the ordinary course have vacated office, and shall then vacate office.

(4) An outgoing Chairman or Vice-Chairman may, if otherwise qualified, be re-elected [...] [Deleted by Act LII, 1950].

20. (1) Where it appears that the continuance in office of a Chairman or Vice-Chairman elected [...] [Deleted by Act LII, 1950] under section 17, or of a member of a municipal committee or of a school or hospital sub-committee is contrary to the public interest, the President of the Union may, after giving the Chairman, the Vice-Chairman or the member concerned an opportunity to show cause against the holding of an enquiry, subject to the provisions of any rules that may be made in this behalf, appoint a Committee of Enquiry with an officer not below the rank of Commissioner as Chairman, and two members, one being a member of the municipal committee or of the [...] [Deleted by Act LII, 1950] hospital sub- committee concerned and the other being an elector on the electoral roll of the municipality who is not in the whole-time employment of Government, to enquire into all the circumstances of the case.

(2) When the President of the Union appoints a Committee of Enquiry under sub-section (1) to deal with the case of a Chairman or Vice-Chairman, the Chairman or Vice-Chairman concerned shall cease to exercise the functions of his office and the President of the Union may appoint any member of the municipal committee concerned to exercise them in his stead. When the President of the Union appoints a Committee of Enquiry under sub-

section (1) in respect of the continuance in office of a member of a municipal committee or of a [...] [Deleted by Act LII, 1950] hospital sub-committee, he shall cease to act as such member.

(3) The Committee of Enquiry shall have power to take evidence on oath, and shall also have power to summon witnesses and to 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 civil Court under the Code of Civil Procedure.

(4) On the conclusion of its enquiry, the Committee of Enquiry shall submit a report to the President of the Union, who may then, where the continuance in office of a Chairman or Vice-Chairman is concerned, order his reinstatement, or may declare him to be removed from his office, or to be removed both from his office and from membership of the municipal committee concerned and of any other local body of which he is a member; and where the continuance in office of a member of a municipal committee or [...] [Deleted by Act LII, 1950] hospital sub-committee is concerned, may either order his reinstatement as such member, or declare him to be removed from office and from membership of any other local body of which he is a member.

(5) Where a person has been removed from membership of a municipal committee or [...] [Deleted by Act LII, 1950] hospital sub-committee under the provisions of sub-section (4), he shall not, save as provided under sub-section (6), be eligible for five years from the date of the order of removal for election or appointment to any local body constituted under the provisions of this Act of the Rural Self-Government Act.

(6) The President of the Union may in special cases remove the disability imposed by sub-section (5).

(7) The proceedings of a Committee of Enquiry appointed under this section shall not, unless the President of the Union so directs, abate because the term of office of the Chairman or Vice-Chairman or member concerned has come to an end.

21. Notwithstanding anything in sections 9, 12, 18 and 19, an outgoing Chairman or Vice-Chairman may continue to exercise the powers conferred I on a Chairman or Vice-Chairman by this Act, or by any rule, bye-law, public notice, resolution or direction made thereunder, between the expiry of his term of office and the election [...] [Deleted by Act LII, 1950] of a new Chairman or Vice-Chairman.

Notification of Elections, Appointments and Removals.

22. (1) Every election of a Chairman or Vice-Chairman of the committee shall be subject to confirmation by the Commissioner, and shall, when so confirmed, be notified by him in the Gazette; but, unless and until disallowed by the Commissioner, every such election shall be valid and shall take effect from the date thereof.

[Deleted by Act LII, 1950]. (2) [...]

(3) Every election of a member or members of the committee shall be notified by the Commissioner in the Gazette.

(4) Every order removing a member from the committee shall be notified by the President of the Union in the Gazette, and shall be communicated to the person removed and to the committee of which he was a member, and shall take effect from the date on which the committee received such communication.

Conduct of Business.

23. (1) The committee shall meet for the transaction of business at least once in every month at such time as may be fixed by bye-law made under section 31.

(2) The Chairman, or, in his absence, the Vice-Chairman, may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-fifth of the members of the committee, convene an ordinary or a special meeting at any other time:

Provided that, when the entire number of members does not exceed five, the concurrence of two of them in any such requisition shall be necessary.

24. (1) Every meeting of the committee shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules or bye-laws thereunder to be transacted at a special meeting.

25. (1) The quorum necessary for the transaction of business at a special meeting shall be one-half of the whole committee:

Provided that when the committee consists of less than six members, the quorum shall be three.

(2) The quorum necessary for the transaction of business at an ordinary meeting shall be such number, not less than three, as may be fixed by bye-law made under section 31:

Provided that, if at any ordinary or special meeting a quorum is not present, the Chairman shall adjourn the meeting to such other day as he may think fit, and the business which would have been brought before the original meeting, if there had been a quorum present, shall be brought before and transacted at the adjourned meeting whether there is a quorum present thereat or not.

26. At every meeting of the committee, the Chairman, if present, shall preside. Should he be absent or his office vacant, the Vice-Chairman, if present, shall preside. Should both be

absent or be debarred under the proviso or their offices vacant, the members present shall elect one of their number to preside:

Provided that when the business to be transacted is the election of a Chairman or Vice-Chairman, no person who is a candidate for either office shall preside at the meeting.

27. (1) Every member of the committee shall be entitled to attend every meeting of the committee, to take part in the proceedings and to vote upon any matter before it, not being a matter:

(a) in which he is, either directly or indirectly, pecuniarily interested, or

(b) in regard to which his conduct is in any way in question.

(2) The Chairman of a meeting may, after such inquiry as he may think fit, require any member to absent himself from a meeting during the discussion of any matter.

(a) in which it is believed that he is, either directly or indirectly, pecuniarily interested, or

(b) in regard to which his conduct is in any way in question,

and any member refusing to comply with such requisition shall not be permitted to take part in the proceedings regarding such matter, nor shall his vow thereon be recorded.

27A. If any member present at the meeting has reason to believe that the Chairman of the meeting has a pecuniary interest in any matter under discussion, or desires to call in question the conduct of such Chairman in regard to any matter under discussion, he may move that such Chairman be required to absent himself from the meeting during such discussion, stating his reasons therefore. If the motion is carried and the Chairman refuses to comply with such requisition, he shall not be permitted to take part in the proceedings regarding such matter, nor shall his vote thereon be recorded.

28. (1) Except as otherwise provided by this Act or the rules or bye laws thereunder, every question coming before a meeting of the committee shall be decided by a majority of the votes of the members present and entitled to vote thereon.

(2) In case of an equality of votes, the Chairman of the meeting shall have a second or casting vote.

29. Every resolution passed by the committee at a meeting shall be recorded in a book to be kept for the purpose, shall be signed by the Chairman of the meeting or of the next ensuing meeting, shall be open to inspection by the public at the municipal office at all reasonable times without charge, and shall be published in such manner as the President of the Union may direct.

[Substituted by Act LII, 1950] 30. The discussions and proceedings of the committee shall be conducted in Burmese and recorded in Burmese.

31. (1) The committee may, from time to time at a special meeting, make bye-laws consistent with this Act as to:

- (a) the time and place of its meetings;
- (b) the manner in which notice of its meetings is to be given;
- (c) the quorum necessary for the transaction of business at ordinary meetings;
- (d) the conduct of proceedings at meetings and the adjournment of meeting;
- (e) the exercise by the Chairman, by the Vice-Chairman, by sub-committees, by individual members or by officers or servants of the committee, of any powers conferred upon the committee by this or any other Act, or by the rules or bye-laws thereunder;
- (f) the persons by whom receipts may be granted on behalf of the committee for money paid to it;
- (g) [...] [Deleted by Act LII, 1950]
- (h) the appointment, duties, leave, suspension and removal of its officers and servants, and
- (i) other similar matters.

(2) No bye-law made under this section shall take effect until it has been confirmed by the President of the Union.

Joint Committees.

32. The committee may, from time to time, concur with any other committee or cantonment, port or other local authority, or with more than one such committee or authority, in appointing, from their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a Chairman of the joint committee, and in delegating to any such joint committee any power which might be exercised by either or any of the said committees or authorities, and in framing and modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which it is appointed.

Defects in Constitution and Irregularities.

33. Nothing done and no proceeding taken under this Act shall be questioned by reason only of any vacancy in the committee, or joint committee, or of any defect or irregularity not affecting the merits of the case.

Officers and Servants.

34. (1) The committee shall, from time to time, at a special meeting, appoint one of its members, or, subject to the previous sanction of the Commissioner, any person to be its secretary, and may, at a like meeting and subject to the like sanction, remove any person so appointed.

(2) If the secretary is a member of the committee, he shall receive no remuneration in respect of his services. If he is not a member of the committee, the committee may, with the previous sanction of the Commissioner, assign to him such remuneration as it may think fit.

35. Subject to the provisions of this Act and to such rules as may be made by the President of the Union thereunder, the committee may appoint a Chief Executive Officer for the management of municipal business. Any such appointment shall be subject to the sanction of the President of the Union.

36. (1) In any municipality where there is a Chief Executive Officer appointed under section 35, such officer shall exercise such powers of the committee, Chairman or Vice-Chairman under this Act, or any rule or bye-law thereunder, as may be conferred on the said officer by the committee by bye-law.

(2) Save as provided in section 41, subsection (2), and in such rules as may be made by the President of the Union in this behalf, all other officers and servants of the committee shall be subordinate to the Chief Executive Officer.

(3) No bye-law made under this section shall take effect until it has been confirmed by the President of the Union.

37. (1) With the sanction of the committee, a Chief Executive Officer may empower, by general or special order in writing, any officer or servant of the committee to exercise, under his control, any power conferred on him by or under this Act.

(2) An order by the Chief Executive Officer under sub-section (1) may prescribe any condition and impose any restriction in respect of the exercise of any such power.

(3) Any order passed by an officer or servant of the committee in the exercise of a power conferred on him under sub-section (1) may be revised by the Chief Executive Officer who shall report any such case to the committee.

38. The Chief Executive Officer shall have the right to attend all meetings of the committee and of any standing committee or sub-committee, and may, with the permission of the Chairman, or in virtue of a resolution passed in this behalf at a meeting of the committee or standing committee or sub-committee, make an explanation in regard to a subject under discussion, but shall not move, second or vote on, any resolution.

39. (1) Where the President of the Union decides that a municipal committee has made persistent default in the performance of the duties imposed upon it by or under this Act, or is exceeding or abusing its powers, the President of the Union may, in lieu of superseding the committee under the provisions of section 223 of this Act, require the committee to appoint a Chief Executive Officer in accordance with the rules made under this Act, within such period as he may prescribe in the requisition.

(2) If the committee fails to appoint a Chief Executive Officer within the period fixed in the requisition or, having appointed a person whose appointment is not approved by the President of the Union, fails within a further period to be fixed by the President of the Union to appoint an approved person, the President of the Union may.

(a) select and appoint a person to be Chief Executive Officer;

(b) fix the pay and allowances and general conditions of service of such Chief Executive Officer, and, if he is a Government officer, the conditions under which his services are lent to the municipal committee.

(3) Where a Chief Executive Officer is appointed under the provisions of sub-section (1) or sub-section (2), the President of the Union shall determine which powers, if any, of the committee, Chairman or Vice-Chairman under this Act or any rule or bye-law thereunder shall be exercised by the said Chief Executive Officer, in addition to, or to the exclusion of, their exercise by the said committee, Chairman or Vice-Chairman.

40. The committee may, at a meeting, appoint a Health Officer.

41. (1) It shall be the duty of the Health Officer:

(a) to act as adviser to the committee on all matters affecting the public health;

(b) to perform all duties imposed upon him by this Act and by any Act in force for the time being in the municipality or notified area;

(c) to enforce, so far as they relate to public health, the bye-laws of the committee and resolutions made by it in conformity with the law;

(d) on the occurrence of any outbreak of dangerous disease, to take immediately all lawful steps necessary for its suppression; and

(e) to submit such reports and returns as the President of the Union may from time to time direct in such form and to such person as he may direct.

(2) All Inspectors of Public Health, vaccinators and officers or servants of the council employed for conservancy or any purpose relating to public health shall be subordinate to the Health Officer.

42. (1) The President of the Union may, if in his opinion the appointment of a Health Officer is necessary in any municipality for the promotion of public health, require the committee to appoint a Health Officer.

(2) A requisition under sub-section (1) shall prescribe the period within which the committee shall comply therewith.

(3) If the committee fails to appoint a Health Officer within the prescribed period, the President of the Union may, if he thinks fit:

(a) select and appoint a person to be Health Officer, and

(b) fix his pay, allowances, rate of contribution to provident fund or pension and other conditions of service.

43. Every committee shall appoint one or more Inspectors of Public Health.

44. (1) If the committee fails to appoint an Inspector of Public Health, or if in the opinion of the President of the Union the number of Inspectors of Public Health in any municipality is insufficient for the promotion of the public health, the President of the Union may require the committee to appoint an Inspector of Public Health or such additional Inspectors of Public Health as he may think fit.

(2) A requisition under sub-section (1) shall prescribe the period within which the committee shall comply therewith.

(3) If the committee fails to appoint such Inspector or Inspectors of Public Health within the prescribed period, the President of the Union may:

(a) select and appoint a person or persons to be an Inspector or Inspectors of Public Health; and

(b) fix the pay, allowances, rate of contribution to provident fund or pension and other conditions of service of such persons.

45. Subject to the provisions of this Act and to such rules as may be made by the President of the Union thereunder, the committee may appoint and remove such other officers and

servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such remuneration as it may think fit.

46. Subject to the provisions of this Chapter and to any rules made in this behalf, a committee and any other committee or other local authority or more than one such committee or authority, may conjointly appoint and employ any officers or establishments, and provide for the payment of their salaries and for their control.

47. The President of the Union may make rules:

(a) as to the qualifications of persons to be appointed as Health Officer, Inspector of Public Health, Assistant Health Officer, Medical Registrar, Superintendent of Vaccination or the equivalent of any such posts, and for the maintenance of registers of persons possessing such qualifications and the entry of names in, and their removal from, such registers;

(b) regulating the rates of pay and allowances to be granted to such officers and servants;

(c) as to the manner of appointment of such officers or servants and as to the sanction required to any appointment; and

(d) as to the procedure to be followed in dismissing or removing from his appointment or otherwise punishing or penalising any such officer or servant of a committee and as to the sanction required in the case of removal and dismissal.

48. (1) The committee may make bye-laws to regulate such matters relating to the appointment, conduct, duties, leave, suspension, removal and dismissal of its officers and servants as are not provided for by this Act or any rules thereunder.

(2) No bye-law made under this section shall take effect until it has been confirmed by the President of the Union.

49. If, in the opinion of the Commissioner, the number of persons employed by the committee as officers or servants, or whom the committee proposes to employ as such, or the remuneration assigned by the committee to those persons, or any of them, is excessive, the committee shall, on the requisition of the Commissioner, reduce the number of those persons, or their remuneration, as the case may be:

Provided that the committee may appeal against any such requisition to the President of the Union, and the decision of the President of the Union on such appeal shall be final.

50. In the case of an officer or servant, being a Government official, the committee may:

(1) if his services are wholly lent to it, meet any charges prescribed or authorized by the conditions of his service under the Government for the time being in force regarding contributions towards pension or gratuity and leave allowances; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the committee, meet any such charges as aforesaid in such proportion as may be determined by the President of the Union.

51. In the case of an officer or servant, not being a Government official the committee may:

(1) grant him:

(a) leave allowances;

(b) a gratuity on his retirement, if his monthly pay does not exceed ten rupees;

(2) with the sanction of the President of the Union:

(c) grant him on his retirement a gratuity in any other case; or

(d) subscribe, in accordance with any general or special orders of the President of the Union for the time being in force, for a pension or gratuity payable on his retirement; or

(e) purchase for him from the Government or otherwise an annuity on his retirement; or

(f) purchase and set apart securities of the Government of India or Pakistan or Union of Burma Government securities or such other securities as the President of the Union may approve in this behalf, and provide on his retirement for the payment to him of the income arising therefrom as an annuity during the remainder of his life and for the realization of such securities by the committee on his death; or

(g) pay him an annuity on his retirement:

Provided that no pension, annuity or gratuity shall be granted unless the officer or servant would be entitled to either pension or gratuity if the service had been service under the Government:

And provided that no gratuity under sub-clause (b) and no pension, leave allowance or annuity shall exceed the sum to which the officer or servant would be entitled if the service had been service under the Government; and a gratuity under sub-clause (c) shall not exceed one month's pay for every completed year of service and shall not in any case exceed a maximum of ten months' pay in all:

And provided that the application of sub-clauses (f) and (g) shall be restricted to municipalities where a provident fund has been constituted and to individuals who joined the service of the municipality before the establishment of such fund.

52. (1) The committee of any municipality to which the President of the Union may by notification declare this section to apply may make byelaws for the purpose of:

- (a) establishing and maintaining a provident or annuity fund;
- (b) compelling all or any of the officers or servants of the committee (other than Government officials) to subscribe to such fund, and, if necessary, providing for the deduction of such subscriptions out of the salaries or emoluments of such servants or officers;
- (c) providing for the payment of contributions to such fund by the committee out of other funds vested in the committee;
- (d) fixing the times, circumstances and conditions under which payments may be made out of any fund established under this section and the conditions under which such payments shall discharge the fund from further liability;
- (e) providing for the settlement by arbitration or otherwise of disputes relating to such fund, or the payments or subscriptions thereto or claims thereon, between the committee and other persons or between persons claiming any share or interest therein, and
- (f) regulating generally such other matters incidental to such fund and the investment thereof as the President of the Union may approve.

(2) No bye-law made under this section shall come into force until it has been confirmed by the President of the Union.

53. The committee may, with the sanction of the President of the Union, give an extraordinary pension or gratuity:

- (a) to any officer or servant injured in the execution of his duty; or
- (b) to the family of any officer or servant who is killed in the execution of his duty, or whose death is due to devotion to duty;

Provided that no such pension or gratuity shall exceed the sum to which such officer or servant, or his family, would be entitled if the service had been service under the Government.

Contracts and Transfers of Property.

54. (1) When a contract made by or on behalf of the committee exceeds in value or amount one hundred rupees, it shall be in writing and signed by the Chairman or Vice-Chairman and at least one other member of the committee.

(2) Every transfer of immoveable property belonging to the committee shall be made by an instrument in writing, executed by the Chairman or Vice-Chairman and by at least two other members of the committee, and shall recite the number and date of the order of the President of the Union approving the resolution for such transfer passed under section 13.

(3) If any such contract or transfer is executed or made otherwise than in conformity with the provisions of this section, it shall not be binding on the committee.

55. (1) If any member, officer or servant of the committee is directly or indirectly interested in any contract made with the committee, he shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both, unless it shall appear that he was not aware of such interest;

Provided that the President of the Union may, in special circumstances, make exemption from the provisions of this sub-section in the case of any person but such exempted person shall not hold the office of Chairman or-Vice-Chairman of the committee.

(2) No person shall, by reason only of being a shareholder in, or a member of, any incorporated or registered company, be deemed to be interested in any contract entered into between such company and the committee, but every such person shall be treated as pecuniarily interested in such contract within the meaning of section 27.

Acquisition of Land.

56. Where any land, whether within or beyond the limits of the municipality, is required by the committee for the purposes of this Act, or for any other object which it is empowered to carry out under any other enactment for the time being in force, the President of the Union may, at the request of the committee, proceed to acquire it under the provisions of the Land Acquisition Act and, on payment by the committee of the compensation awarded under that Act and of the charges incurred by the President of the Union in connection with the proceedings, the land shall vest in the committee.

Privileges and Liabilities.

57. No suit shall be instituted against the committee, or against a member or officer of the committee, in respect of an act purporting to be done by him in his official capacity, until the expiration of one month next after notice in writing has been, in the case of the committee, delivered or left at its office, and, in the case of a member or officer, delivered to him or left at his officer or place of abode, stating the cause of action and the name and place of abode of the intending plaintiff, and the plaint must contain a statement that such notice has been so delivered or left:

Provided that this section shall not apply to any suit instituted under section 54 of the Specific Relief Act.

58. No suit shall be maintainable against any municipal authority officer or servant, or any person acting under the direction of any municipal authority, officer or servant, or of a Magistrate, in respect of anything lawfully and in good faith and with due care and attention done under this Act or any rule, bye-law or order made thereunder.

59. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to the committee if the loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the committee, and a suit for compensation may be instituted against him by the committee or by the Government.

60. Every member, officer or servant of the committee, and every farmer or agent for the recovery on behalf of the committee of any tax, fee or other impost, shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.

61. (1) In the absence of a written contract to the contrary, every sweeper employed by the committee shall be entitled to one month's notice before discharge, or to one month's wages in lieu thereof, unless he is discharged for misconduct or at the end of a specified term for which he was engaged.

(2) Should any sweeper employed by a committee, in the absence of a written contract authorizing him so to do and without reasonable cause, resign his employment, or absent himself from his duties without giving one month's notice to the committee, or neglect or refuse to perform his duties or any of them, he shall be liable to imprisonment for a term which may extend to two months.

(3) The President of the Union may, by notification, direct that, on and from a date to be specified in such notification, the provisions of sub-sections (1) and (2) with respect to sweepers shall apply also to any specified class of municipal servants whose functions intimately concern the public health or safety.

CHAPTER IV TAXATION

General Provisions.

62. (1) Subject to any general or special rules or orders which the President of the Union may issue or may have issued in this behalf, the committee may, for the purposes of this Act, impose in the whole or any part of the municipality, with the sanction hereinafter specified in each case, any of the following taxes, namely:-

(A) with the previous sanction of the President of the Union:

(a) a tax on buildings and lands not exceeding ten per centum of the annual value of such buildings and lands;

(b) a tax on lands covered by buildings at a rate not exceeding three pies per square foot per annum, or, if the lands are covered by buildings of two or more storeys, at a rate not exceeding four pies per square foot per annum;

(c) a tax on lands not covered by buildings at a rate not exceeding ten rupees per acre per annum;

(d) a tax on buildings according to the length of street frontage occupied by such buildings at rates not exceeding the following, namely:-

Per Annum Rs. [...]

[...]

(e) a tax on households or families at a rate not exceeding thirty per centum per annum on the amount of the thathameda tax assessed upon each household or family;

(f) a tax not exceeding nine rupees per quarter on every vehicle, boat, beast used for driving, riding, draught or burden, or dog, kept within the municipality or any part thereof;

(g) a tax on private markets at a rate not exceeding five per centum of the net annual profits derived by the owners therefrom;

(i) a toll, not exceeding eight annas, on every vehicle or beast used as aforesaid, entering the municipality and not liable to taxation under clause (f):

Provided that any person may compound for exemption from all tolls leviable in respect of any vehicle or animal under this clause by paying the tax which would have been leviable in respect thereof under clause (f) if the same had been kept within the municipality;

(h) a tax on trades, professions and callings.

(B) with the previous sanction of the President of the Union, any tax not authorized under division (A).

(2) Only one of the taxes mentioned in clauses (a), (b), (c) and (d) of sub-section (1) shall be imposed in respect of the same buildings or lands, and no tax under clause (e) thereof shall be leviable from a person who is liable to pay a tax under clause (a), (b), (c) or (d).

(3) Only one of the taxes mentioned in clauses (a) and (g) shall be imposed in respect of the same premises,

(4) In this section "annual value" means the gross annual rent for which buildings and lands liable to taxation may reasonably be expected to let and in the case of houses, may be expected to let unfurnished.

(5) A tax may be imposed at different rates in different parts of the municipality.

63. (1) Besides the taxes imposed under section 62, the committee may with the previous sanction of the President of the Union, for the purpose of constructing or maintaining works for the supply of water throughout the municipality or any part thereof, or paying the principal or interest of any loan raised for the construction of such works, impose a tax, to be called the water-tax, upon buildings or lands which are so situated that their occupiers can benefit by such works.

(2) The rate or amount of the tax so imposed on different buildings or lands may be determined with reference, among other considerations, to their distance from the nearest point at which the water is deliverable by the works and to their level:

Provided that, in fixing such rate or amount, regard shall be had to the principle that the total net proceeds of the tax, together with the estimated income from payments for water supplied from the works under special contracts or otherwise, should not exceed the amount required for the said purpose.

64. Besides the taxes imposed under the foregoing sections, the committee may, with the previous sanction of the President of the Union, for the purpose of lighting the streets throughout the municipality or any part thereof, or paying the principal or interest of any loan raised for the construction of works required for lighting those streets, impose a tax, to be called the lighting-tax, upon buildings and lands situated within the municipality, or such part thereof, as the case may be:

Provided that, in fixing the rate or amount of the tax, regard shall be had to the principle that the total net proceeds thereof should not exceed the amount required for the said purpose.

65. Besides the taxes imposed under the foregoing sections, the committee may, with the previous sanction of the President of the Union, for the purpose of providing and maintaining public latrines sufficient in number and situation for the ordinary wants of the municipality or any part thereof, or paying the principal or interest of any loan raised for the construction of works required for that purpose, impose a tax, to be called the latrine-tax, upon buildings and lands in the municipality, or such part thereof, as the case may be:

Provided that, in fixing the rate or amount of the tax, regard shall be had to the principle that the total net proceeds thereof should not exceed the amount required for the said purpose.

66. (1) Besides the taxes imposed under the foregoing sections, the committee may, with the previous sanction of the President of the Union, for the purpose of providing for the removal and disposal of sewage or rubbish, or both, from any buildings or lands, or paying the principal or interest of any loan raised for the construction of works required for that purpose impose upon such buildings or lands a tax, to be called the scavenging tax, at such rate or rates as may be necessary.

(2) The rate or amount of the tax so imposed may vary according as sewage or rubbish or both is or are removed:

Provided that, in fixing the rate or rates of such tax, regard shall be had to the principle that the net proceeds thereof should not exceed the net cost of the removal and disposal of the said sewage or rubbish, or both, including the cost of the maintenance and repair of all materials, appliances and works connected with such removal and disposal after deducting the produce of the sale of such materials, appliances and works, if sold.

67. (1) The imposition in any municipality of any tax under this Act shall first be proposed at a special meeting of the committee.

(2) If and when a resolution has been passed approving of the imposition of a tax proposed under sub-section (1), the committee shall publish a notice defining the persons or property proposed to be taxed. the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(3) Any person likely to be directly affected by the proposed tax and objecting to the same may, within thirty days from the date of the publication of such notice, submit his objection in writing to the committee; and the committee shall, at a special meeting, take his objection into considerations

(4) If no objection is received within the said period of thirty days, or if the objections received, having been considered as aforesaid, are deemed insufficient, the committee may submit its proposals to the President of the Union, with the objections (if any) which have been submitted as aforesaid and its decision thereon.

(5) The President of the Union, on receiving such proposals, may sanction the same, or refuse to sanction them, or sanction so much thereof as he may think fit, or return the same to the committee for further consideration.

(6) [...]

(7) When any proposal of the committee in respect of a tax has been sanctioned in whole or in part by the President of the Union, the President of the Union may notify the imposition of the tax as sanctioned from a specified date, which date shall be the first day of January, April, July, or October in any year and shall be distant not less than three months from the date of such notification, and thereupon the tax shall come into force from the date so specified, and if it is a tax leviable by the year and comes into force on any day other than the first day of January, it shall be leviable in quarterly instalments until the first day of January then next ensuing.

(8) A notification of the imposition of a tax under this Act shall be conclusive evidence that the tax has been imposed in accordance with the provisions of this Act.

68. (1) The committee may, by resolution passed at a special meeting, propose to abolish or reduce in amount any tax imposed under this Act, or to suspend the levy of any tax for any specified period, and the President of the Union may sanction, or refuse to sanction, such proposal in whole or in part only. If the President of the Union sanctions such proposal in whole or in part, he shall notify in the Gazette the abolition or reduction of the tax or the suspension of the levy thereof, as the case may be.

(2) A tax may be abolished or reduced in amount or the levy thereof suspended in the whole or any part of the municipality.

69. (1) The committee may, by resolution passed at a special meeting, sanctioned by the President of the Union and published in the Gazette, and the President of the Union may, by notification, exempt in whole or in part from the payment of any tax any person or class of persons, or any property or description of property, animals or vehicles.

(2) The committee may, by resolution supported by two-thirds of the whole number of members, exempt in whole or in part, for any period not exceeding one year, from the payment of any tax imposed under this Act, any person who by reason of poverty may, in its opinion, be unable to pay the same.

70. (1) If at any time it appears to the President of the Union, on complaint made or otherwise, that any tax imposed under the foregoing sections is unfair in its incidence, or that the levy thereof or of any part thereof is injurious to the interests of the public, he may require the committee to take, within a specified period, measures to remove the objection; and if within that period such requisition is not complied with to the satisfaction of the President of the Union, the President of the Union may, by notification, suspend the levy of the tax or of any part thereof until the objection has been removed.

71. (1) The President of the Union may make rules consistent with this Act for the assessment, collection and remission or refund of taxes leviable under this Act and for preventing evasion of the same.

Such rules may also authorize the committee to dispose in accordance with such rules, by way of lease or otherwise, of the right to collect any tolls leviable under section 62, subsection (1), division (A) clause (b).

(2) In making any rule under this section, the President of the Union may direct that a breach of any provision thereof shall be punishable with fine which may extend to fifty rupees.

72. No tax imposed under this Act shall be invalid merely for defect of form; and it shall be enough in connection with any such tax on property, or any assessment of value for the purpose of the tax, if the property taxed or assessed is so described as to be generally known; and it shall not be necessary to name the owner or occupier (if any) thereof.

73. [...]

74. Any tax imposed under this Act and payable periodically shall be payable on such dates during the period in respect of which it is leviable, and in such instalments (if any) as the committee may, subject to the provisions of section 67, sub-section (7), and to any rules made by the President of the Union in this behalf, from time to time direct.

75. For every sum paid on account of any tax under this Act a receipt stating the amount and the tax on account of which it has been paid shall be tendered by the person receiving the same on behalf of the committee to the person making the payment.

Taxes on Immoveable Property.

76. (1) The committee shall cause an assessment-list of all buildings and lands on which any tax is imposed to be prepared, containing:

- (a) the name of the street or division in which the property is situate;
- (b) the designation of the property, either by name or by number, sufficient for identification;
- (c) the names of the owner and occupier if known;
- (d) the annual value, area, street frontage or profit on which the tax is assessed; and
- (e) the amount of the tax assessed thereon by the committee.

(2) For the purpose of preparing such list the committee may require the owners or occupiers of buildings or lands to furnish it with returns of the measurements or of the rent or annual value or profit of such buildings or lands.

(3) Whoever omits to comply with such requisition, or furnishes a return which is untrue, shall be punishable with fine which may extend to fifty rupees, and shall be precluded from objecting to any assessment made by the committee in respect of any building or land of which he is the owner or occupier.

77. When the assessment-list has been completed, it shall be signed by the Chairman or Vice-Chairman and the committee shall give public notice of the fact and of the place where the list or a copy thereof may be inspected; and every person claiming to be either an owner or an occupier of any property included in such list, or the agent of any such person, shall be at liberty to inspect the list and to make extracts therefrom free of charge.

78. (1) The committee shall, at the time of publishing the assessment list under the last foregoing section, give public notice of a time, not less than one month from the publication of such notice, when it will proceed to revise the assessment; and in all cases in which any property is for the first time assessed, or the assessment of any property is increased, it shall

also give notice of such assessment, or increased assessment, as the case may be, to the owner or occupier of the property, whichever of them will be liable as between themselves to pay the tax.

(2) Every objection to any such assessment or increased assessment shall be made in writing and shall be submitted at least eight days before the time fixed in the notice referred to in sub-section (1):

Provided that the committee may in its discretion receive oral objections at the time specified in the notice.

79. (1) A sub-committee of not less than two members appointed for this purpose by the committee shall inquire into any objection submitted under the last foregoing section, and in the course of such inquiry shall allow the objector an opportunity of being heard, either in person or by authorized agent, as the objector may think fit, and shall have authority to receive evidence on any matter arising therein, and shall record the proceedings and a summary of the evidence taken therein, and shall give a separate decision on each objection submitted as aforesaid, either at the hearing thereof or on a subsequent day of which notice shall be given to the objector.

(2) An appeal from every decision of a sub-committee under sub-section (1) shall lie by petition in writing to the Deputy Commissioner, or, if the Deputy Commissioner is a member of the committee, to the Commissioner:

Provided:

(a) that the petition of appeal shall have been presented to the Deputy Commissioner or Commissioner within thirty days from the date of the communication to the appellant of the sub-committee's decision;

(b) that notice in writing of the intention to appeal shall have been given to the Chairman of the committee within seven days from the date of the communication to the appellant of the sub-committee's decision; and

(c) that the petition is stamped under article [...] of Schedule II of the Court-fees Act.

(3) The appellant shall not be permitted, without the consent of the Deputy Commissioner or Commissioner, as the case may be, at the hearing of the appeal, to put forward any ground of appeal not set forth in his petition of appeal.

(4) it shall not be necessary for the respondent committee to appear before the Deputy Commissioner or Commissioner, and any letter which may be addressed by, or by order of, such committee to such Deputy Commissioner or Commissioner regarding the appeal shall, if a copy thereof has, before the hearing of the appeal, been supplied to the appellant, be received and considered before the decision on the appeal is delivered.

(5) If, on the hearing of an appeal under this section, any question as to the liability to, or the principle of, assessment arises on which he entertains doubt, the Deputy Commissioner or Commissioner hearing the appeal may, of his own motion, and shall, on the application of the appellant, or of the Chairman of the respondent committee, made at the hearing, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement, with his own opinion on the point and the record of the case, for the decision of the High Court.

(6) When a case has been stated under the provisions of the last foregoing sub-section, the High Court shall, after considering the question so referred, send a ruling thereon to the officer by whom the reference was made, and such officer shall, on receipt of the ruling, dispose of the case in conformity therewith. It shall not be necessary for any party to the case to be present, either personally or by authorized agent, at the consideration of the case by the High Court.

(7) Subject to the foregoing provisions of this section, the decision of the sub-committee, Deputy Commissioner or Commissioner, as the case may be, shall be final.

(8) The Deputy Commissioner or Commissioner, as the case may be, shall in his decision direct by whom the costs of the appellant and those of the respondent committee are to be paid, and, if he directs that one party shall pay the other party's costs or any part thereof, he shall fix the amount of the costs to be so paid.

(9) Costs awarded under this section to the committee shall be recoverable by the committee as if they were arrears of a tax due from the appellant.

(10) The pendency of any appeal from a decision of the sub-committee shall not operate to delay or prevent the levy of any tax, or, when the tax is payable by installments, of any installment of any tax payable in respect of any property according to the assessment of the committee; but if, by the final decision upon an objection, it is determined that such tax or installment ought not to have been levied in whole or in part, the committee shall refund to the person from whom the same has been levied the amount of such tax or installment, or the excess thereof over the amount properly leviable in accordance with such final decision, as the case may be.

(11) If, in accordance with the provisions of this section, a refund of any payment made by an appellant be required, the committee shall make such refund within ten days after receipt of a certified copy of the final decision of the Deputy Commissioner or Commissioner, as the case may be.

(12) If the committee fails to pay any costs awarded to an appellant under sub-section (8) or any refund due to an appellant under sub-sections (10) and (11) within ten days from receipt of a certified copy of the final decision of the Deputy Commissioner or Commissioner, as the case may be, the Deputy Commissioner or Commissioner shall, on the application of the appellant, order the person having the custody of the balance of the municipal fund to

pay the amount, together with the costs of the application and of the service of the order, and such person shall be legally bound to comply with such order and shall debit the amount so paid against the balance of the municipal fund.

(15) The assessment list shall be amended under the direction and signature or the Chairman or Vice-Chairman so as to make it correspond with the decisions upon objections submitted, or, in the case of appeals from such decisions, with the decisions on such appeals; and, subject to such amendments as may thereafter be duly made, the assessments in the list shall be the assessments on which the tax shall be calculated and levied for the year of assessment next ensuing, and, in the case of a tax imposed for the first time, for the period between the date of the coming into force of the tax and the commencement of the next year of assessment.

(14) The assessment-list, when amended under this section, shall be deposited in the committee's office, and shall there be open to inspection during office hours by all owners or occupiers of property comprised therein, and a public notice that it is so open to inspection shall forthwith be published.

80. (1) The committee may at any time amend the list by inserting the name of any person whose name ought to have been inserted, or by including any property which ought to have been included, or by altering the assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake, after giving notice, to the person interested in the amendment, or a time, not less than one month from the date of service of such notice, at which the amendment is to be made.

(2) Any person interested in any such amendment may tender his objection to the committee in writing before the time lined in the notice, or orally or in writing at that time, and shall be allowed an opportunity of being heard in support of the same, either in person or by authorized agent, as he may think fit.

(3) The provisions of section 79 shall apply to objections and appeals in such cases.

81. When a new building is erected after the completion of the assessment list, the committee may cause it to be added to the list, and in such a case the provisions of sections 76 to 78 and section 79 shall apply, except that no public notice shall be required. In such a case the assessment shall take effect from the beginning of the month following the date on which the assessment is settled by the committee.

82. It shall be in the discretion of the committee to prepare a new assessment list every year, or to adopt the valuation and assessment contained in the list for any year, with such alterations as may in particular cases be deemed necessary, the valuation and assessment for the year following, giving the same notice as if a new valuation and assessment list had been prepared.

83. Every tax payable under section 62, sub-section (1), division (A), clause (a), clause (b), clause (c) or clause (d), or section 63 or section 64 or section 65 or section 66, in respect of any building or land, shall be payable jointly and severally by all persons who have been either owners or occupiers of the building or land at any time during the year of assessment, or, when the tax is payable by installments, at any time during the period in respect of which the installment is payable.

84. (1) In the absence of any agreement to the contrary between an owner and an occupier of any building or land, any tax payable under section 62, sub-section (1), division (A), clause (ri), clause (b), clause (c) or clause.

(d), which is paid by or recovered from the occupier, shall be recoverable by him from the owner, and any tax payable under section 63, section 64, section 65 or section 66, which is paid by or recovered from the owner, shall be recoverable by him from the occupier.

(2) A sum recoverable under sub-section (1) by an occupier from an owner may be deducted by the occupier from any rent due or afterwards accruing due from him to the owner.

Remission and Refund.

85. (1) When any building in respect of which a tax is leviable under section 62, sub-section (1), division (A), clause (a), or clause (b), or clause (c), or under section 63, or section 64, or section 65 or section 66, remains unoccupied throughout the period on account of which an instalment of such tax is payable, the amount payable in respect of such building on account of such period shall, on application in writing to the committee, be remitted, and, if such amount has been paid, it shall be refunded:

Provided that it shall be in the discretion of the committee to direct that no such remission or refund shall be granted under this sub-section unless notice in writing of the vacancy has been given to it within such time after the beginning of the year or of the period as it may, from time to time, fix in this behalf.

(2) When any such building as aforesaid:

(a) has not been occupied or productive of rent for any period of not less than sixty consecutive days, or

(b) is wholly or in greater part demolished or destroyed by fire or otherwise,

the committee may remit or refund such portion (if any) of the tax or installment as it may think equitable.

(3) The burden of proving the facts entitling any person to claim relief under this section shall lie upon such person.

CHAPTER V
FUNDS AND PROPERTY

86. There shall be formed for each municipality a municipal fund and there shall, save as by this Act otherwise provided, be credited thereto:

- (a) all sums received by or on behalf of the committee under this Act or otherwise;
- (b) all fines realized from persons convicted under this Act or the rules or bye-laws thereunder, or under section 34 of the Police Act, for offences committed within the municipality;
- (c) the whole, or any such part as the President of the Union may approve, of any contributions from the port fund of any port abutting on, or situated within, the municipality, made under the authority of the Ports Act.

87. (1) The committee shall set apart and apply annually out of the municipal fund:

(a) first, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it;

(b) secondly, such sum as may be required to meet the charges of its own establishment, including such subscriptions, payments, and contributions as are referred to in sections 50, 51, 52 and 53 and the payment of advances granted to members of the establishment for the purpose of enabling them to acquire or construct residences for themselves or for any other purpose for which advances may be made to servants of the Government; and

(c) thirdly, such sums as may be required to pay the expenses of pauper lunatics and [paupers affected with leprosy] [Substituted by Act XL, 1950] sent to public asylums from the municipality, the expenses incurred in auditing the accounts of the committee, and such portion of the cost of the departments of [...] [Deleted by Act LII, 1950] Sanitation, Vaccination, Periodic Relief and Public Works as may be deemed by the President of the Union to be equitably debitable to the committee in return for services rendered to it by such departments or any of them.

(2) Subject to the charges specified in sub-section (1) and to such rules as the President of the Union may make with respect to the priority to be given to the several obligations of the committee, the municipal fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the undermentioned matters within the municipality and with the sanction of the Commissioner outside the municipality, when such application of the fund is for the benefit of the inhabitants, namely:-

- (a) the construction, maintenance, improvement, cleansing, and repair of streets and of public bridges, embankments, drains, latrines, tanks and water-courses;
- (b) the watering and lighting of the streets or any of them;

(c) the prevention and extinction of fires;

(d) the construction, establishment and maintenance of [.....] [Deleted by Act LII, 1950] hospitals, dispensaries, [leprosy homes] [Substituted by Act XI, 1950] and other institutions [.....] [Deleted by Act LII, 1950] for the benefit of the public health, and of resthouses, zayats, wharves, poor houses, markets, encamping grounds, pounds and other works of public utility, and the control and administration of public institutions of any of these descriptions;

(e) grants-in-aid to [.....] [Deleted by Act LII, 1950] hospitals, dispensaries, poor-houses, [leprosy homes] [Substituted by Axt XI, 1950] and other [.....] [Deleted by Act LII, 1950] charitable institutions;

[Deleted by Act LII, 1950] (f) [.....]

(g) the giving of relief and the establishment and maintenance of relief works in time of scarcity or famine;

(h) the supply, storage and preservation from pollution of water for the use of men or animals;

(i) the planting and preservation of trees;

(j) the taking of a census, the registration of births, marriages and deaths, public vaccination and any other sanitary measures;

(k) the keeping and auditing of the accounts of the municipal fund [Deleted by Act LII, 1950] and the hospital fund;

(l) the holding of fairs and industrial exhibitions; and

(m) all other acts and things which are likely to promote the safety, health, welfare or convenience of the inhabitants, or expenditure whereon may be declared by the committee, with the sanction of the President of the Union, to be an appropriate charge on the municipal fund.

[Deleted by Act LII, 1950] 88. [.....]

89. (1) There may be formed for each municipality a hospital fund, to which shall be credited -

(a) any fees received from paying patients in any hospital maintained by the fund;

(b) any money realized by the sale of medicines or other stores or articles purchased by the fund;

(c) any assignment that may be made to the hospital fund from the revenues of the Union of Burma or from any district or local fund;

(d) any other funds or income that may be entrusted to the committee for the construction or maintenance of hospitals, dispensaries or [leprosy homes] [Substituted by Act XL, 1950], or the provision of medical aid or relief; and

(e) any sums assigned for medical purposes from the municipal fund.

(2) No expenditure, except expenditure for the construction or maintenance of dispensaries, hospitals or [leprosy homes] [Substituted by Act XI, 1950], or the provision of medical aid or relief or vaccination, shall be charged against the hospital fund. In case of doubt the Commissioner shall decide whether any expenditure is or is not for any of the purposes above mentioned, and his decision shall be final.

90. (1) The balances standing to the credit of the municipal [Deleted by Act LII, 1950] and hospital funds shall be kept in the nearest Government treasury or sub-treasury or, with the previous sanction of the President of the Union, in such bank as may be approved by the President of the Union in this behalf.

Where such treasury, sub-treasury or bank is situated outside the limits of the municipality, money required for current expenditure shall be kept by the committee in a strong box in such place and under such precautions as the committee may, from time to time, direct.

(2) Save as provided in section 92, no disbursement from the municipal fund [Deleted by Act LII, 1950] or the hospital fund shall be made except under the signature of the Chairman or Vice-Chairman and one other member of the committee.

91. (1) The committee may, from time to time, with the previous sanction of the President of the Union, invest any portion of the municipal fund [Deleted by Act LII, 1950] or hospital fund in [Deleted by Act XL, 1950] Union of Burma Government securities or such other securities as the President of the Union may approve in this behalf, and may, with the like sanction, realize any such funds so invested or vary such investments for others of a like nature.

(2) The income resulting from such securities and the proceeds of the sale of the same shall be credited to the municipal fund, [Deleted by Act LII, 1950] or hospital fund, as the case may be.

92. (1) The committee may delegate [Deleted by Act LII, 1950] to a hospital sub-committee the management of the hospital fund.

(2) [The hospital subcommittee] [Substituted by Act LII, 1950] (if any) formed under subsection (1) shall [...] [Deleted by Act LII, 1950] consist of such members of the committee as may be appointed by the committee for this purpose, and of such other persons (if any)

as may be nominated for this purpose by the committee, the President of the Union or the Commissioner under rules made by the President of the Union in this behalf.

(3) Every hospital sub-committee [...] [Deleted by Act LII, 1950] shall elect a chairman.

(4) When the management of the [...] [Deleted by Act LII, 1950] hospital fund has been delegated in manner provided by sub-section (1), disbursements therefrom may be made under the signature of the chairman of the [...] [Deleted by Act LII, 1950] hospital sub-committee and one other member of [such hospital sub-committee] [Substituted by Act LII, 1950].

93. Subject to any special reservation made by the President of the Union in this behalf, all property in a municipality of the nature hereinafter specified shall be vested in and belong to the committee, and shall, with all other property which may become vested in the committee, be under its direction, management and control, and shall be held and applied by it for the purposes of this Act, that is to say:

(a) all public town-halls, gates, markets, slaughter houses, manure and night-soil depots and public buildings of every description which have been constructed or are maintained out of municipal funds;

(b) all public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes and other water-works, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto and also any adjacent and (not being private property) appertaining to any public tank or well;

(c) all public sewers and drains, and all sewers, drains, tunnels, culverts, gutters and water-courses in, alongside or under any street, and all works, materials and things appertaining thereto;

(d) all dust, dirt, dung, ashes, refuse, animal-matter or filth, or rubbish of any kind, collected by the committee from the streets, drains, houses, privies, sewers, cesspools or elsewhere or deposited in places fixed by the committee under section 145;

(e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto;

(f) all land or other property transferred to the committee by the Government or by gift or otherwise, for local public purposes; and

(g) all streets, and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such streets.

94. (1) The management, control and administration of every public institution maintained out of the municipal fund shall vest in the committee:

Provided that the extent of the independent authority of the committee in respect of any such institution may be prescribed by the President of the Union:

Provided also that the committee may delegate its authority over [...] [Deleted by Act LII, 1950] hospitals maintained or aided by it to a [...] [Deleted by Act LII, 1950] hospital sub-committee, if any, formed under section 92.

(2) When the management, control and administration of any public institution are vested in the committee, all property, endowments and funds belonging to such institution shall be held by the committee in trust for the purposes to which such property, endowments and funds are lawfully applicable.

95. The committee may, with the sanction of the President of the Union, transfer to the [State] [Substituted for the word “Crown” by the Union of Burma (Adaptation of Laws) Order, 1948] any property vesting in and belonging to the committee under section 93, or any property, endowments and funds held by the committee in trust under section 94, subsection (2), but not so as to affect any trusts or public rights subject to which such property, endowments and funds are held.

96. If any land which is vested in the committee, and which has been transferred from the [State] [Substituted for the word “Crown” by the Union of Burma (Adaptation of Laws) Order, 1948] to the committee, is required by the Government for a public purpose, it may be resumed by the Government without compensation to the committee, except for the cost or the present value, whichever may be less, of any permanent buildings erected, or other works executed, thereon by the committee, and for the amount (if any) paid to the Government therefore.

97. If any question arises between the Government and the committee as to the boundaries of any land vested in the committee by section 93, or as to the compensation to be paid under section 96 to the committee in respect of anything on any land to be resumed, the decision of the President of the Union shall be final.

CHAPTER VI

POWERS FOR SANITARY AND OTHER PURPOSES

Streets and Buildings.

98. When any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on the sides of the street.

99. The committee may close temporarily any street vested in it, or any part thereof, for the purpose of repairs, or for the purpose of constructing or repairing any drain, culvert or bridge, or for any other public purpose; and may divert, discontinue or permanently close

any such street, and sell the land or such part thereof as is not required for the purposes of this Act.

100. The committee may by public notice prohibit the driving, riding or leading of animals or vehicles of any particular kind along any street or part of a street vested in it.

101. The committee may grant permission in writing for the temporary occupation of any street or land vested in it for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon, or, subject to the provisions of the Dramatic Performances Act, the Towns Act, and of any other law for the time being in force, for holding a pwé or other entertainment thereon, and may make such conditions as it may think fit, either by bye-law or in any particular case by resolution, for the safety or convenience of persons passing by, or dwelling or working in, the neighbourhood, and may charge fees for such permission, and may at its discretion withdraw such permission.

102. The committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any inconvenience or injury thereto.

103. The committee may at a meeting cause a name to be given to any street, and to be affixed on any building in such place as it thinks fit, and may also cause a number to be affixed to any building; and in like manner may, from time to time, cause such names and numbers to be altered.

104. The committee may, by bye-law, fix limits within which the roof and external walls of huts or other buildings shall not be made or renewed of bamboos, grass, mats, leaves, or other highly inflammable material unless with its permission in writing; and may, by notice in writing, require any person who has disobeyed any such bye-law to remove or alter the roofs or external walls so made or renewed as it may think fit.

105. (1) The committee may, by bye-law, prescribe that, within certain limits and after a day to be fixed by the bye-law, no building shall have a roof or external walls of bamboos, grass, mat, leaves, or other highly inflammable material without its permission in writing.

(2) The committee may, after the date so fixed, by notice in writing, require the owner of any building situated within the limits specified in such bye-law to remove any roof or external wall made of any such material.

(3) The date to be specified in a bye-law made under sub-section (1) of this section shall be such as, in the opinion of the committee, to allow the roofs and external walls of any such material in existence at the time of the making of such bye-law to remain until they would in ordinary course, if not repaired, require to be removed.

106. (1) If any building or part of a building projects beyond the regular line of a street, either existing or in process of formation, or beyond the front of the buildings on either side thereof, the committee may, whenever such first-named building or part has been

either entirely or in greater part taken down or burnt down, or has fallen down, by notice in writing require such building or part, when being rebuilt, to be set back to or towards the said regular line of the front of the adjoining buildings; and the portion of the land added to the street by such setting back or removal shall become part of the street and shall vest in the committee:

Provided that the committee shall make full compensation to the owner for any damage which he may sustain in consequence of his building or any part thereof being set back.

(2) The committee may, on such terms as it may think fit, allow any building to be set forward for the improvement of the line of a street.

107. (1) The committee may, by notice in writing, require the owner or occupier of any building to remove or alter any projection, encroachment, or construction built or placed against or in front thereof so as to form part thereof, if the same overhangs, or projects into, or encroaches on, any street or any sewer, drain or aqueduct in the street, or any door, gate, bar, window, venetian shutter or other thing opening outwards into any street, so as to cause any obstruction therein.

The committee may, without giving any notice, remove any other encroachment or obstruction which has been erected or set up in a street, or in or over any sewer, drain or aqueduct in the street, whether the offender be prosecuted or not:

Provided that in lieu of requiring the removal or alteration of any such projection, encroachment, obstruction, door, gate, bar, window, venetian shutter or other thing opening outwards into a street, the committee may, upon such terms as to it shall seem fit, grant permission for the continuance thereof, either at the will of the committee or for a period of years not exceeding seven, and may reserve a rent for such permission.

(2) It shall not be lawful, unless with the permission in writing of the committee, for the owner or occupier of any building abutting on a street to add to or place against or in front of the building, any projection or structure overhanging, projecting into, or encroaching on, the street or any sewer, drain or aqueduct therein, or to spread, deposit, hang out or suspend any cloth, mat, goods or other article in or over any street or any sewer, drain or aqueduct therein.

(3) The committee may give permission in writing to the owners or occupiers of buildings in streets to put up open verandahs, balconies, or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement-wall, and at a height from the level of the ground or street, to be specified in such written permission.

108. (1) The committee may make bye-laws in respect of the demolition of buildings or of parts of a building for the purpose of prescribing the precautions to be taken for the prevention of danger or injury to the public and those engaged in the work, and for the protection of other parts of the same building and of other property in the vicinity thereof.

(2) Such bye-laws may also require any persons intending to demolish a building or part of a building to give at least three days' previous notice to such officer as may be specified in the bye-law, together with particulars of the proposed demolition and of the precautions to be taken during the progress of the work, and may prohibit:

(i) the commencement of the demolition within such period of three days without the express consent of such officer as aforementioned, or

(ii) the commencement or continuance of the demolition unless and until all precautions have been and are being taken in accordance with such bye-laws and with any directions or requisitions in writing which the committee may serve on the person in charge of the work or on the person who submitted the notice, if any, required under such bye-laws.

(3) This section shall not take effect in any municipality until it has been specially declared to apply thereto by the President of the Union at the request of the committee.

109. The committee may carry any cable, wire, pipe, drain or channel of any kind required for the establishment or maintenance of any system of drainage, water-supply or lighting through, across, under or over any street or railway or any place laid out as or intended for a street, and, after giving reasonable notice in writing to the owner or occupier, through, across, under, over or up the side of any land or building whatsoever within or without the municipality, and may place and maintain any posts, poles, standards, brackets or other contrivances for supporting cables, wires, pipes, channels and lights on any immovable property in the municipality, and may do all acts necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, channel, post, pole, standard, bracket or other similar contrivance in an effective state for the purpose for which it is intended to be used or for removing the same.

110. No person shall, without the permission of the committee, utilize, sell, lease, or otherwise dispose of land for the construction of buildings. except where each site abuts on an existing street, until he has laid down and constructed a street or streets giving access to each site and connecting with an existing public or private street.

111. (1) Any person intending to make or lay out a new private street shall make a written application to the committee accompanied by plans and sections showing the following particulars, namely:-

(a) the intended level, direction and width of the street;

(b) the connection of the street with any existing street or streets;

(c) the street alignment and the building line; and

(d) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewerage, draining, conserving and lighting the street.

(2) Within sixty days after the receipt of any application under sub section (1), the committee shall either sanction the making of the street on such conditions as it may think fit, or disallow it, or ask for further information with respect to it.

(3) Such sanction may be refused:

(i) if the proposed streets would conflict with any arrangements which have been made, or which are in the opinion of the committee likely to be made, for carrying out any general scheme for the laying out of streets;

(ii) if the width or level of the proposed street is, in the opinion of the committee, not in accordance with the requirements of the public health, safety and convenience;

(iii) if the proposed street is not designed so as to connect at one end with an existing street;
or

(iv) if the connection of the proposed street with any existing street is, in the opinion of the committee, not in accordance with the requirements of the public health, safety or convenience.

(4) No person shall make or lay out any new private street without or otherwise than in conformity with the orders of the committee. If further information is asked for, no steps shall be taken to make or lay out the street until orders have been passed upon receipt of such information; provided that the passing of such orders shall not in any case be delayed for more than sixty days after the committee has received all the information which it considers necessary to enable it to deal finally with the said application. Any application not disallowed within a period of one hundred and twenty days from the date of receipt by the committee shall be deemed to have been sanctioned.

112. (1) If any person makes or lays out any street referred to in section 111 without or otherwise than in conformity with the orders of the committee, the committee may, whether or not the offender be prosecuted under this Act, by notice:

(a) require the offender to show sufficient cause, by a written statement signed by him or his duly authorized agent and sent to the committee on or before such day as may be specified in the notice, why such street should not be altered to the satisfaction of the committee or, if such alteration be impracticable, why such street should not be demolished, or

(b) require the offender to appear before the committee either personally or by a duly authorized agent on such day and at such time and place as may be specified in the notice, and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show sufficient cause to the satisfaction of the committee why such street should not be so altered or demolished, the committee may by notice require the said person to alter or demolish the said street.

113. (1) If any private street be not levelled, metalled or paved, sewered, drained, channelled and lighted to the satisfaction of the committee, it may, by written notice, require the owners of the several premises fronting or adjoining the said street or abutting thereon, or to which access is obtained through such street, or which will benefit by works executed under this section, to level, metal or pave, drain and light the same in such manner as it shall direct.

(2) If such requisition be not complied with on or before the date specified in such notice, the committee may cause the work to be done by municipal or other agency under its own orders, and the expenses incurred by the committee in so doing shall be paid by the owners of the premises aforesaid in such proportions as the committee shall think fit.

(3) Not less than fifteen days before the commencement of any work under sub-section (2) the committee shall give written notice to all the said owners of:

(a) the nature of the intended work;

(b) the estimated expenses thereof; and

(c) the proportion of such expenses payable by each owner.

(4) Any owner who is of opinion that the proportion of expenses payable by him in accordance with the order of the committee under sub-section (2) is incorrect or unjust may appeal against such order to the District Court.

(5) Effect shall be given by the committee to the decision of the Court under sub-section (4).

114. When any private street has been levelled, metalled or paved, sewered, drained, channelled and made good to the satisfaction of the committee, the committee may, with the consent of, and shall, upon the request of the owner or of any of the owners of such street, by notice put up in any part of such street, declare the same to be a public street and thereupon the same shall become a public street.

115. (1) The committee shall make bye-laws for the control of buildings which may, without prejudice to the generality of the foregoing power, provide for and regulate the following matters, namely:-

(a) rendering compulsory a notice to the committee of intention to erect or re-erect any building;

(b) 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;

- (c) rendering compulsory the appointment of a person to supervise the work of erection or re-erection of buildings or of any specified class or classes of buildings and the description of the qualifications which such person shall possess;
- (d) the grant of completion certificates in respect of newly erected or re-erected buildings, including the description of the cases in which, and of the persons by whom, such certificates shall be granted;
- (e) the height of buildings, whether absolute or relative to the width of streets;
- (f) the level and width of the foundation, the level of the lowest floor or plinth, and the stability of the structure;
- (g) the number and height above the ground, or above the next lower storey, of the storeys of which any building may consist;
- (h) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on;
- (i) the free passage or way in front of buildings;
- (j) the space to be left about any building to secure the free circulation of air and facilitate scavenging and for the prevention of fire;
- (k) the ventilation and drainage of buildings;
- (l) the means and appliances to be provided and maintained for egress from a building and protection of life in case of fire;
- (m) the materials to be used and method of construction to be adopted;
- (n) the number, position, materials and methods of construction of fire-places, smoke-escapes, chimneys, staircases, water-closets, closet accommodation, latrines, urinals, privies, sewers, sewerage-connection, ventilating pipes, cesspools, traps, sinks, sullage trays, water connections, wells and drains in buildings;
- (o) specifying the parts or portions of building sites on which no building shall be erected and the position thereof;
- (p) the paving of any passage between two buildings or appurtenant to any buildings;
- (q) the restrictions on the use of inflammable materials in buildings;
- (r) the precautions to be taken for the purpose of preventing danger or injury to the public or to persons employed in the work and of securing the stability of the various parts of the

structure and of buildings and property in the vicinity thereof, during the progress of the work or of any demolition or excavation therefore; and

(s) the building line, if the building abuts on a street:

Provided that the committee may, for sufficient reasons to be recorded, by a resolution dispense with the observance of any or all of the bye-laws (if any) made under this sub-section in regard to the erection or re-erection of any particular building.

(2) The committee may, at any time within six weeks after the receipt of any notice required by any bye-law made under sub-section (1), clause (a), and any document required by any bye-law made under sub-section (1), clause (b), by notice in writing either prohibit the erection or re-erection of the building, or may require further plans, specifications and particulars of the kind referred to in any bye-law made under sub-section (1), clause (b), or give any directions consistent with this Act or any bye-laws made thereunder.

(3) If any building is begun or erected or re-erected in contravention of any such bye-law, prohibition, or direction as aforesaid or in contravention of the provisions of sub-section (5), the committee may, by notice in writing, require the building to be altered or demolished, as it may deem necessary.

(4) If any person, after delivering plans and specifications regarding any building under any bye-law made under sub-section (1), clause (b), departs, except under the orders or with the permission of the committee, from such plans and specifications, the committee may, by notice in writing, require such building to be altered or demolished, as it may deem necessary.

(5) The work of the erection or re-erection of a building or of any excavation for the foundations thereof shall not be commenced unless and until such erection or re-erection has been permitted by the committee under sub-section, (2). But if within six weeks next following the day on which all documents, plans, specifications and particulars called for have been submitted to the committee, or if such have not been called for within six weeks of an application, the committee shall not have passed orders granting or refusing permission, such permission shall be deemed to have been given, and the applicant may proceed to erect or re-erect such building but not so as to contravene any provision of this Act.

Lodging-Houses.

116. (1) No person shall, except under and in conformity with the terms and conditions of a licence granted by the committee, keep any lodging-house.

(2) The committee may, and in the case of common lodging-houses shall, make bye-laws providing for:

(a) fixing the number of persons who may occupy a lodging-house;

- (b) the inspection of lodging-houses;
- (c) promoting cleanliness and ventilation in lodging-houses, and a clean and sanitary condition in the premises connected therewith;
- (d) the lighting of common spaces and staircases in lodging-houses;
- (e) the precautions to be taken in the case of any dangerous disease breaking out in a lodging-house; and
- (f) the general regulation and control of lodging-houses.

Theatres, Music Halls, Etc.

117. The committee may make bye-laws:

- (a) for the inspection and general and sanitary regulation of theatres music halls and other buildings used for public entertainment;
- (b) for regulating the holding of entertainments in such buildings in order to ensure the health, safety and convenience of persons employed in or resorting to the same; and
- (c) for rendering licences necessary for the keeping of such buildings:

Provided that no bye-laws under this section shall apply to any building to which the Cinematograph Act applies.

Insanitary and Dangerous Buildings, Etc.

118. The committee may make bye-laws for:

- (a) the prevention of overcrowding by fixing the number of persons who may occupy any building;
- (b) the removal or improvement of insanitary buildings or buildings in a dangerous or ruinous condition; and
- (c) the cleansing, lime-washing or painting of buildings.

119. (1) If for any reason it shall appear to the committee that any building or part of a building, intended for or used for human habitation or human occupation for any purpose whatever, is unfit for such habitation or occupation, it shall give to the owner or occupier of such building notice in writing stating such reason and signifying its intention to prohibit the further use of such building or part of a building for such purpose and calling upon the owner or occupier of such building to state in writing any objection thereto within

seven days after the receipt of such notice, and, if no objection is raised by such owner or occupier within such period as aforesaid, or if any objection which is raised by such owner or occupier within such period appears to the committee invalid or insufficient, it may, by an order in writing, prohibit the further use of such building or part of a building for human habitation or occupation.

(2) When any such prohibition as aforesaid has been made, the committee shall cause notice of such prohibition to be served upon the owner of, and upon every person who occupies or uses for any purpose, the building or part of a building thereby affected; such notice shall specify a day, being not earlier than fourteen days after the date thereof, on or before which every such occupier shall remove himself and his property from the said building or part of a building, and, if on the day so appointed any occupier has failed to comply with the terms of the said notice, the committee may cause such occupier and his property to be removed from the said building or part of a building and may for such purpose enforce the prohibition by calling upon the senior police-officer within the municipality to enforce such removal, and such police-officer, on receipt of such requisition, shall cause all the persons aforesaid to be removed from such building, and shall take such measures as will prevent any such person from again entering into or remaining upon such building or part of a building except with the permission of the committee; and all expenditure incurred in such enforcement may be recovered from the person offending.

(3) When a building or part of a building has been evacuated under sub-section (2), the committee shall [mark it in such a way as to indicate clearly that it is unfit for human habitation] [Substituted by the Union of Burma (Adaptation of Laws) Order, 1948], and no person shall, except with the permission of the committee and in accordance with the terms and conditions of such permission, enter into or remain in such building or part of a building.

(4) At any time after a building or part of a building has been evacuated under sub-section (2), the committee may, if it considers that such building or part of a building can be rendered fit for human habitation by structural alterations or repairs, by notice in writing call upon the owner to execute, within a period of six months from the date of receipt of such notice, such structural alterations or repairs as it deems necessary, or may, if it considers it impossible to render such building or part of a building fit for human habitation, by notice in writing call upon the owner to demolish such building or part of a building within a period of thirty days from the date of receipt of such notice.

(5) If at the expiration of the aforesaid period of six months such structural alterations or repairs have not been executed to the satisfaction of the committee, it shall issue to the owner thereof a notice in writing ordering the demolition of such building or part of a building within a period of thirty days from the date of receipt of such notice.

(6) For sufficient cause, the committee may extend the time allowed under, or prescribed by, sub-sections (4) and (5).

(7) If any building or part of a building in respect of which an order under this section has been made is the subject of a lease, such lease shall be avoidable at the option of the lessee with effect from the date on which the said order comes into force.

Ruinous Buildings, Structures, Wells, Etc.

120. If any building, wall, structure or anything affixed thereto, or any tree, branch or hedge is in a ruinous state or in any way dangerous the committee 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 be necessary in order to prevent imminent danger, it shall forthwith take such steps as may be necessary to avert such danger.

121. If any well, tank or other excavation is, for want of sufficient repair, protection or enclosure, dangerous to persons passing by or dwelling or working in the neighbourhood, the committee may, by notice in writing, require the owner or occupier thereof to repair, protect, or enclose the same, and if it appears to it to be necessary in order to prevent immediate danger, it shall forthwith take such steps as may be necessary to avert such danger.

Fences.

122. Where the Committee decides that it is necessary, it may, by notice in writing, require the owner of any land to erect, and thereafter to maintain, a fence around such land, or to put in repair to the satisfaction of the committee any existing fence on such land.

Clearing of noxious Vegetation, Etc.

123. The Health Officer, or any officer or servant of the committee authorized by the Health Officer or the committee in this behalf, may, by notice in writing, require the owner or occupier of any building or land to clear away and remove any thick or noxious vegetation, jungle or undergrowth, to cut or trim any hedge bordering on, or any branch of any tree overhanging, any street or public place or land or building vested in or belonging to the committee, or, if such land or building is in a filthy or unwholesome state, to cleanse the same and otherwise put it in a proper state.

Parks and Recreation Grounds.

124. The committee may establish and maintain public parks and recreation grounds and may make bye-laws for the sanitary and general regulation thereof.

Precautions against Fire.

125. The committee may, where it appears to it to be necessary for the prevention of danger to life or property, by public notice:

(a) prohibit all persons from stacking or collecting bamboos, dry grass, straw, or other inflammable material, or lighting fires, in any place or within any limits specified in such notice;

(b) declare under what conditions, and at what times, fires may be lighted in any such place or within any such limits; and

(c) require the owners or occupiers of any buildings with thatched roofs within the municipality to place mats thereon of such descriptions as the committee may prescribe.

Camping Grounds.

126. (1) No person shall, except under and in conformity with the terms and conditions of a licence granted by the committee, establish or keep open any public camping ground or halting place for vehicles or animals of any description.

(2) The committee may make bye-laws prescribing the conditions which shall apply to licences issued under sub-section (1) and for the general and sanitary regulation of camping grounds and halting places.

(3) The committee may charge a fee not exceeding five rupees per annum for such licence.

(4) The committee may provide and maintain public camping grounds and halting places for vehicles and animals and may charge fees for the use of the same.

Bathing and Washing Places.

127. (1) The committee may set apart suitable places for the purpose of bathing, and may by public notice prescribe the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness, or comfort of the inhabitants; and may by public notice prohibit bathing or the washing of animals or clothes in any public place not so set apart, or at times or by persons other than those so specified, and any other acts, to be specified in such notice, by which water in public places may be rendered foul or unfit for use.

(2) The committee may provide such bathing and washing places and may charge a rent or fee for the use of the same.

(3) The committee may make bye-laws for the management and general and sanitary regulation of bathing and washing places.

Burial and Burning Grounds.

128. No person shall, without the permission in writing of the Health Officer or, where there is no Health Officer, of such officer or person as may be authorized by the committee in this behalf, keep a corpse or cause a corpse to be kept unburied when seventy-two hours or, if the cause of death was cholera or small-pox, twenty-four hours after death have elapsed.

129. The committee may provide and maintain or may assist in the provision and maintenance of burial or burning grounds.

130. (1) The committee may, by public notice, order any burial or burning ground to be closed from a date to be specified in the notice, and shall in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(2) Private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the committee may impose in this behalf:

Provided that the limits of such burial-places are sufficiently defined, and that they are used only for the burial of members of the family of the owner thereof.

(3) No burial or burning ground, whether public or private, shall be made or formed after the passing of this Act without the permission in writing of the committee.

131. The committee may, by public notice, prescribe routes for the removal of corpses to burial or burning grounds.

132. The committee may make bye-laws for controlling and regulating the use and management of burial and burning grounds.

Registration of Births and Deaths.

133. The committee shall make bye-laws for the registration of all births and deaths which take place within the municipality, and for the taking of a census.

Private Markets.

134. (1) No person shall, without or otherwise than and in conformity with the terms of a licence granted by the committee in this behalf.

(a) keep open,

(b) newly establish,

(c) remove from one place to another,

(d) re-open, or re-establish after discontinuance for a period of not less than one year, or

(e) enlarge the area or dimensions of a private market:

Provided that the committee shall not refuse, cancel or suspend any licence for keeping open a private market lawfully in existence on the 1st July 1898 [Date of Commencement of this Act] for any other cause than the failure of the owner thereof to comply with some provision of this Act or the rules and bye-laws thereunder or condition of his licence after his attention has been drawn to such failure.

(2) When the committee has refused, cancelled or suspended any licence to keep open a private market it shall cause a notice of its having done so to be affixed [...] [Deleted by the Union of Burma (Adaptation of Laws) Order, 1948] on some conspicuous spot on or near the building or place where such market has been held.

(3) The committee may charge a fee not exceeding one hundred rupees per annum for such licence.

(4) The committee may make bye-laws for the management and sanitary and general regulation of markets or of any market whether municipal or private.

Occupation and Obstruction of Streets.

135. The committee may grant permission in writing for the occupation of any street or land vested in or belonging to it for the purpose of erecting stalls or booths for the sale of any commodity and may charge rent for such permission and may make such conditions as it may think fit by bye-law for the regulation of such stalls or booths:

Provided that such permission shall, in the case of a public street, be at the will of the committee.

136. No person shall, except with the permission of the committee, and in accordance with such conditions, including the payment of rent, as the committee may impose either generally or specially in that behalf, place or deposit upon any street or drain, well, or channel therein, any stall, chair, bench, box, ladder, bale, tray or other things, and the committee may, after giving three days' notice, remove any such stall, chair, bench, box, ladder, bale, tray or other thing or may, in lieu of such removal, collect such rent for the use of the land as it may impose.

Offensive and Dangerous Trades.

137. (1) No person shall, except under and in conformity with the terms and conditions of a licence granted by the committee -

(a) keep in or upon any premises for any purpose whatever, any blood;

(b) keep in or upon any premises for sale or for other than domestic use any of the following articles, namely:-bamboos, celluloid goods, charcoal, cinematograph films, bones, coal, coir,

coke, dani, firewood, flax, hair, hay, hemp, hides (dried or wet), hoofs, horns, jute, matches (more than one gross of boxes), petroleum and dangerous petroleum as defined in the Petroleum Act, rags, skins, straw, timber, thatching grass, wool, or any other article which the President of the Union may, by notification, declare to be in his opinion dangerous to life, health or property, or likely to create a nuisance; or

(c) carry, on or allow to be carried on, in or upon any premises, any of the following trades or operations connected with such trades, namely:- breeding pigs or ducks, dyeing cloth or yarn, tanning, pressing or packing hides or skins, whether raw or dried, par-boiling of paddy, oil boiling, manufacturing, packing, pressing, cleaning, cleansing or preparing by any process whatever any of the following articles, namely: bones, bratties (cowdung cakes), bricks or tiles, candles, catgut, chemicals, cotton, cotton refuse, cotton seed, fat, flax, ghee, lac, lime, ngapi, oilcloth, paper, pitch, pottery, rags, soap, soy sauce, sugar, tallow, tar, wool, or any trade or operation which the President of the Union may, by notification, declare to be in his opinion dangerous to life, health or property, or likely to create a nuisance, either from its nature or by reason of the manner in which or the conditions under which the same is or is proposed to be carried on.

(2) The committee may make bye-laws prescribing the general conditions which shall apply to all licences granted under sub-section (1) and special conditions for the storage of any article or carrying on any trade or operation, which conditions may include the provision of suitable buildings and their separation from other buildings.

(3) Subject to such conditions, the licence shall not be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in or frequenting the immediate neighbourhood:

Provided that the committee may, with the approval of the President of the Union, by public notice prohibit the establishment or maintenance of any business or class of business referred to in sub-section (1) in the whole or any part of the municipality:

Provided also that nothing in this section shall affect the provisions of the Petroleum Act or the Explosives Act.

138. If it is shown to the satisfaction of the committee at a meeting that any place licensed under the last foregoing section is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, it may, by notice in writing, require the occupier thereof to discontinue the use of the place, or to use it in such manner as will, in the opinion of the committee, render it no longer a nuisance or likely to be dangerous.

Bakeries Eating-Houses, Etc.

139. The committee may make bye-laws for the inspection and general and sanitary regulation of milk-sellers, bakeries, places where sweets are manufactured, public eating-

houses, refreshment stalls and aerated water and ice factories, and for rendering licences necessary for the same.

Slaughter-Houses.

140. No person shall, at any place other than a municipal slaughter-house, slaughter or cause or permit to be slaughtered any four-footed animal, the flesh of which may be used as human food:

Provided that:

(i) Any person may slaughter animals, the flesh of which is not intended for sale, on the occasion of any festival or ceremony, provided that not less than twelve hours' notice before such slaughter has been given to the committee and provided further that this section shall not apply to the sacrifice of animals in religious temples or other places of worship.

(ii) The committee may, with the previous sanction of the President of the Union and in accordance with such conditions as the President of the Union may prescribe, grant a licence for a private slaughter-house and charge a fee for such licence.

141. The committee may charge rents or fees for the use or occupation of any municipal slaughter-house or any shed, standing, pen, lairage or other building or space therein.

142. The committee may make bye-laws for -

(a) the management and sanitary and general regulation of slaughter-houses or of any slaughter-house, and of the slaughtering of animals therein;

(b) the prohibition of the sale of the flesh of any four-footed animal not slaughtered in a municipal slaughter-house and the prohibition and regulation of the importation into the municipality of the flesh of any such animal slaughtered without the municipality;

(c) the prohibition of the sale of meat by any person except under and in conformity with the terms and conditions of a licence granted by the committee; and

(d) requiring sellers of meat to procure from the committee and, on requisition, to produce passes showing that the meat sold or exposed for sale by them has been derived from animals slaughtered in a municipal slaughterhouse.

143. Whenever it appears to the District or Subdivisional Magistrate that a breach of the peace is imminent, he may prohibit or regulate, by proclamation published in such manner as the President of the Union may, by notification, prescribe, the slaughter within the limits of a municipality or of any portion thereof of animals or of any specified description of animals for purposes other than sale, and may by order prescribe the mode and route in and by which meat shall be conveyed from the place where such animals are slaughtered.

Keeping and Importation of Animals.

144. The committee may make bye-laws for-

- (a) the prohibition and regulation of the keeping of animals in the municipality;
- (b) the inspection and general and sanitary regulation of dairies, stables and buildings or enclosures where animals are kept, whether or not the animals therein are kept for profit, and, if the animals are kept for profit, for the regulation of the feeding of such animals and for rendering licences necessary for the same;
- (c) the prohibition and regulation of the importation of animals into the municipality and the transport of animals within the municipality;
- (d) the destruction and confiscation of swine and dogs found straying in the municipality, and the confinement and destruction of dogs suffering or reasonably suspected to be suffering from rabies or bitten by any dogs so suffering or suspected, and the control and muzzling of dogs likely to annoy or intimidate the public, and the destruction of crows and crows' nests;
- (e) the disposal of carcasses of animals dying in the municipality;
- (f) the destruction of any animals in the municipality which from old age or other causes are in a moribund or infirm state or have received such injuries or are suffering from such dangerous disease that their recovery therefrom is unlikely;
- (g) the prevention of the sale or use as human food of the carcasses of animals which die naturally or from disease;
- (h) the prohibition of importation into the municipality, or sale or disposal or use of any animal or the hide, or any portion of the carcasce, of any animal dying or slaughtered on account of, or suffering from, any disease; and
- (i) the segregation of diseased animals.

Deposit of Offensive Matter.

145. (1) The committee shall, subject to any rules made in this behalf by the President of the Union, provide for the cleansing of all streets, drains and public places within the limits of the municipality, and the removal therefrom of all refuse or rubbish of every kind, and shall provide for the removal of all sewage and house refuse of any kind from premises within such limits.

(2) The committee shall provide, and shall equip and maintain in a sanitary condition, sufficient suitable places for the collection, deposit, and disposal of all refuse, rubbish,

sewage and offensive matter, either within the municipality, or, subject to the consent of the District Council or other local authority having jurisdiction or, where no local authority has jurisdiction, of the Deputy Commissioner, outside the municipality.

(3) Where any such local authority or Deputy Commissioner refuses consent, or where there is a dispute as to the suitability of the places so provided outside the municipality or as to the standard of equipment or maintenance thereof, the case shall be referred to the Commissioner, who may overrule all objections of the local authority or Deputy Commissioner, and may decide all other points in dispute.

(4) The committee may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish, sewage or offensive matter may be removed along any street and deposited at such places.

(5) The committee may make bye-laws to provide for the levy of a charge on any person from whose premises garden rubbish or stable or trade refuse is deposited in any street, drain or public place, sufficient to cover the cost of removing and disposing of such rubbish or refuse.

146. The committee may by public notice require the owners or occupiers of buildings or lands, within the whole or any specified portion of the municipal limits, to provide proper receptacles for collecting and keeping rubbish and offensive matter prior to removal by the committee or its agents and to place such receptacles where they may conveniently be emptied by the persons employed by the committee to remove the same.

147. No owner or occupier of any building or land shall keep or allow to be kept, otherwise than in some proper receptacle. any rubbish, offensive matter or sewage in or upon such building or land or shall allow any such receptacle to be in a filthy or noxious state.

148. No person:

(a) shall throw or place any sewage, offensive matter or rubbish on any street, or in any place not provided or appointed for the purpose under the provisions of this Act;

(b) who is the owner or occupier of any building or land, shall allow any sewage or offensive matter to flow, soak or be thrown therefrom or keep or suffer to be kept therein or thereupon anything so as to be a nuisance to any person, or negligently suffer any receptacle or place for the deposit of offensive matter or rubbish on his premises to be kept in such a state as to be offensive or injurious to health.

Drainage, Sewerage and Water Supply.

149. The committee may, by notice in writing, require the owner of any building to put up and keep in good condition proper and sufficient troughs and pipes for receiving and carrying the water from the roof and other parts of the building, and for discharging the

water so that it shall not fall upon any street or damage any street or any property vested in or belonging to the committee.

150. For the purpose of efficiently draining any building or land the committee may, by notice in writing served on the owner:

(a) require any courtyard, alley or passage between two or more buildings to be paved with such materials and in such manner as may be approved of by it; and

(b) require such paving to be kept in proper repair.

151. The committee may, by notice in writing, require the owner or occupier of any land or building to cleanse, repair, cover, fill up or drain off any private tank, well, reservoir, pool or excavation therein which appears to the committee to be injurious to health or offensive:

Provided that if, for the purpose of effecting any drainage under this section, it is necessary to acquire any land not belonging to the person who is required to drain his land, or any easement over land not so belonging, or to pay compensation to any other person, the committee shall acquire such land or pay such compensation.

152. (1) If for any reason it shall appear to a committee that the level of the site of any building is so low that such site cannot be effectively drained and that such building is, or is likely to become, insanitary or to create a nuisance, it shall give to the owner of such building notice in writing, calling upon such owner to show cause in writing within thirty days after the receipt of such notice why the said site, together with such land as in the opinion of the committee may reasonably be required for the proper occupation of the building, should not be reclaimed with such materials and raised to such a height and within such period, being not less than six months from the date of the notice, as it shall think fit.

(2) If no objection is raised by such owner within such period as aforesaid or any objection which is raised by such owner appears to the committee invalid or insufficient, it may, by notice in writing, direct such owner or occupier to carry out such reclamation and raising of the height within the period prescribed.

153. No person shall, except in any area which the committee may, with the previous sanction of the President of the Union, exclude from the operation of this section, make any excavation in any land which is likely to render such land unsuitable for building or to render the effective drainage of such land impracticable.

154. The committee may, without prejudice to the generality of the powers conferred by sections 149, 150, 151, 152 and 153, make bye-laws for:

(a) requiring owners or occupiers of lands and buildings to prevent the collection of water in or on any building or land;

- (b) prohibiting and regulating the collection and storage of water on any premises; and
- (c) in general, the prevention of the breeding of mosquitoes.

155. The committee may, if in its opinion the cultivation of any description of crop, or the use of any kind of manure, or the irrigation of land in any specified manner in any place within any municipality is injurious to the health of persons dwelling in the neighbourhood, by public notice prohibit the cultivation of such crop, the use of such manure or the use of the method of irrigation so reported to be injurious, or impose such conditions with respect thereto as may prevent injury arising therefrom:

Provided that, when on any land to which such public notice applies the act prohibited has been practised during the five years next preceding such public notice in the ordinary course of husbandry, compensation shall be paid from the municipal fund to all persons interested therein for any damage caused to them by the effect of such public notice.

156. The committee may by public notice prohibit the use of any waterworks, whether public or private, for the supply of water for human consumption and may require the owner thereof to take such steps as may be necessary effectually to prevent such use and, in the case of a water-work vested in or belonging to the committee, may permanently close such water-work.

157. The committee may make bye-laws for:

- (a) the regulation of the use by the public of any water-works vested in or belonging to it;
- (b) the prevention of pollution of any such water-works; and
- (c) the prevention of waste of the water supplied from any such water-works.

158. (1) The committee may, by notice in writing, require the owner of any building or land to provide, in such manner as it may direct, any water-closet, latrine, urinal, privy, sewer, sewerage-connection, cesspool, trap, sink, sullage-trays or ventilating pipes which should, in its opinion, be provided for such building or land.

(2) The committee may, by notice in writing, require any person employing more than twenty workmen or labourers to provide such water-closets, latrines, urinals, privies, sewers, sewerage-connections, cesspools, traps, sinks, sullage-trays, or ventilating-pipes as it may think fit, and to cause the same to be kept in proper order and, in the case of water-closets, latrines, urinals, and privies, to be daily cleansed.

(3) The committee may, by notice in writing, require the owner or occupier of any building or land to have any water-closet, latrine, urinal or privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the

neighbourhood, or to remove or alter, as it may direct, any door or trap-door of a water closet, latrine urinal or privy opening on to any street or drain.

159. (1) The committee may, by notice in writing, require the owner or occupier of any building or land to close, remove, repair, alter or put in good order any water-closet, latrine, urinal, privy, sewer, sewerage-connection, cesspool, or other receptacle for sewerage, or any trap, sink, sullage-tray or ventilating pipe belonging thereto.

(2) The committee may, by notice in writing, require any person who makes or alters any water-closet, latrine, urinal, privy, sewer, sewerage-connection, cesspool, trap, sink, sullage-tray or ventilating pipe without its permission in writing, or contrary to its requisition in writing or to the provisions of this Act, or who constructs, re-erects, or opens any water-closet, latrine, urinal, privy, sewer, sewerage-connection, cesspool, trap, sink, sullage-tray or ventilating pipe, which it has required to be closed or removed, to demolish such sewerage-connection, water-closet, latrine, urinal, privy, sewer, cesspool, trap, sink, sullage-tray or ventilating pipe, or to make such alteration therein as it may think fit.

160. (1) Where any building or land situated within one hundred feet of a sewer is at any time not provided to the satisfaction of the committee with a sufficient sewerage-connection with such sewer, the committee may, by notice in writing, require the owner of such building or land to make and maintain a sewerage-connection with the sewer in such manner as it may think fit, and within such time, not being less than ninety days, as may be specified in the notice.

(2) The provisions of sections 198 and 199 shall apply to any default in compliance with a requisition under sub-section (1) notwithstanding that part of the land through which the said sewerage-connection is required to pass may not belong to the person so making default, unless such person shall prove that the default was caused by the act of the owner or occupier of such last mentioned land.

161. The committee may cause all or any municipal sewers or drains to empty into any river, creek or other place, whether within or without the municipality, and may dispose of sewage at any place, whether within or without the municipality, and in any manner which it shall deem suitable for such purpose:

Provided that the President of the Union may prohibit the committee from causing any municipal sewer or drain to empty into any place, or from disposing of any sewage at any place or in any manner, which he considers unsuitable.

162. For the purpose of receiving, storing, disinfecting, distributing, or otherwise disposing of sewage the committee may:

(a) construct any work within or without the municipality, and

(b) purchase or take on lease any land, building, engine, material or apparatus either within or without the municipality.

163. Any power conferred by section 161 or 162 shall be exercised in such manner as to create the least practicable nuisance.

164. (1) If it appears to the committee that the only or most convenient means by which the owner of any building or land can make a sewerage-connection or water-connection is by carrying the same into, through, or under land belonging to, or occupied by, another person, the committee, after giving such other person a reasonable opportunity of stating any objection, may, if no objection is raised, or if any objection which is raised appears to it to be invalid or insufficient, by notice in writing, require such other person to permit the owner first mentioned to carry the sewerage-connection or water connection into, through, or under his land in such manner as shall be specified in the said notice, and on such equitable terms as to compensation for disturbance or temporary damage as to the committee may appear reasonable.

(2) After the service of the said notice the committee may, by an order in writing, authorize the first mentioned owner to carry the sewerage-connection or water-connection into, through, or under the said land in the manner aforesaid, and every such order shall be a complete authority to the person in whose favour it is made or to any agent or person employed by him for this purpose, after giving to such other person as aforesaid reasonable written notice of his intention so to do, to enter upon the said land with assistants and workmen at any time between sunrise and sunset, and to construct the said sewerage connection or water-connection, and thereafter, upon the necessity arising and after the like notice, to repair and alter the same, or to construct a new sewerage-connection or water-connection in place thereof in such manner and at such time as aforesaid.

165. All compensation payable to such other person as aforesaid under the foregoing section shall be paid by the committee out of the municipal fund, and the committee may recover the amount from the first-mentioned owner.

166. If it appears to the committee that it is desirable to use an existing sewerage connection for the purpose of connecting any building or land with the sewers, or to use an existing water-connection for the purpose of supplying water to any building or land, the committee may, by notice in writing, require the owner of such sewerage-connection or water-connection to allow a connection therewith to be made on such terms as may to it seem equitable:

Provided that the owner of such sewerage-connection or water-connection may refuse to allow the connection to be made until any payment to which he may be entitled in respect thereof has been made by the committee, which payment may be recovered by the committee from the owner of any building or land served by the connection made under the circumstances aforesaid.

Dangerous and Epidemic Diseases.

167. In the event of any person within the municipality, other than a patient in a public hospital, being attacked with any dangerous disease, each of the following persons, namely:-

(a) every registered medical practitioner or person openly and usually practising the medical profession, who in the course of such practice becomes cognizant of the fact, and

(b) the occupier of the building in which the person so attacked may be residing or, if the occupier is himself the person attacked, then every adult member of the household, and

(c) every person in charge of or in attendance on any person so attacked,

shall, as soon as he becomes cognizant of the fact, forthwith report the same, or cause a report thereof to be made, to the Health Officer or any officers authorized by him to receive such reports or, if there is no Health Officer, to such officers as the committee may appoint in this behalf:

Provided that no person shall be bound to make such report, or cause such report to be made, if he has reason to believe that such report has been made by some other person.

168. The Health Officer, and any Assistant Health Officer or Inspector of Public Health, or any medical officer of Government authorized by the committee or by the President of the Union in this behalf, may at any time enter and inspect any building where there is reason to believe that there is any person suffering from a dangerous disease in respect of whom no report has been made under section 167.

169. When any person suffering from any dangerous disease is:

(a) without proper lodging or accommodation, or

(b) living in a Zayat or inn, or in a building registered as a lodging-house in pursuance of bye-laws under section 116, sub-section (2), or

(c) living in a room or house which he neither owns nor pays rent for, the Health Officer, or if there is no Health Officer, any officer authorized by the committee in this behalf, may remove or cause to be removed such person to any hospital or place at which persons suffering from such diseases are received for medical treatment, and may do anything necessary for such removal, and no person so removed shall leave such hospital without the permission of the medical officer in charge thereof.

170. (1) No person suffering from any dangerous disease shall willfully expose himself without proper precautions against spreading the said disease in any street, public place, shop or public conveyance, or enter any public conveyance without previously notifying to the owner, conductor or driver thereof that he is so suffering.

(2) No person being in charge of any person so suffering shall so expose the sufferer.

(3) No person shall give, lend, sell, keep, transmit or expose, without previous disinfection, any bedding, clothing, rags or other things which have been exposed to infection from any such disease.

171. Every owner, puller or driver of a public conveyance which has to his knowledge conveyed any person suffering from any dangerous disease shall disinfect such conveyance to the satisfaction of the Health Officer or, if there be no Health Officer, of the officer authorized by the committee in this behalf, and the Health Officer or any person authorized by him, or such officer, as the case may be, may inspect the process of disinfection, but no such owner or driver shall be required to convey any person so suffering until he has been paid a sum sufficient to cover any loss or expense likely to be incurred by him in complying with the provisions of this section.

172. The Health Officer, and any other officer of the committee authorized by it in this behalf, may require the owner or occupier of any building in which a case of dangerous disease has occurred immediately to disinfect the whole or any part of such building in such manner and with such materials as he may deem necessary.

173. In the event of the municipality being at any time visited or threatened with an outbreak of any dangerous disease, the Chairman, if he is of the opinion that the ordinary provisions of this Act or of any other law for the time being in force are insufficient for the purpose, may -

(a) take such special measures, and

(b) by public notice prescribe such temporary regulations to be observed by the public or by any person or class of persons, as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

174. (1) If the committee is of opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease, it may, after giving to the owner or occupier of such hut or shed such previous notice of its intention as may in the circumstances of the case appear to it reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

(2) If the committee is of opinion that the disinfection or destruction of any clothing, bedding or other articles which have become infected with disease, or are reasonably suspected to have become so infected, is necessary to prevent the spread of any dangerous disease, it may cause such clothing, bedding or other articles to be seized and destroyed or disinfected.

(3) Compensation may be paid by the committee, in any case in which it thinks fit, to any person who sustains substantial loss by the destruction of any such hut, shed, clothing,

bedding or other articles; but except as so allowed by the committee, no claim for compensation shall lie for any loss or damage caused by an exercise of the power conferred by this section.

175. On the occurrence of any sudden accident or unforeseen event, or in the threatened occurrence of any disaster, involving or likely to involve extensive damage to any property, or danger to human or animal life, the Chairman or, in his absence the Vice-Chairman, shall, if he is of opinion that the ordinary provisions of this Act or any other law for the time being in force are insufficient to secure the safety of life and property, take such action as the emergency shall appear to him to justify or to require.

176. Whenever the Chairman or Vice-Chairman takes any action under section 173 or 175 he shall immediately report to the committee the action he has taken, the reasons therefore and the cost incurred thereby; and he shall comply with any directions given him by the committee in respect of such matter.

177. Nothing in sections 173, 174, 175 and 176 shall be deemed to affect the provisions of the -Epidemic Diseases Act.

178. The Director of Public Health, Burma, may, if in his opinion the measures taken by the Chairman, Vice-Chairman or the committee under sections 173, 174 or 175 are insufficient, issue directions to the committee and in the event of non-compliance by the committee with such directions, may authorize the Deputy Commissioner or an Assistant Director of Public Health to exercise all the powers of the Chairman, Vice-Chairman, and committee under those sections.

Entry and Inspection.

179. Any municipal officer duly authorized to make inspections or surveys or execute any works may enter into or upon any building or land, with or without assistants or workmen, whenever in his opinion such entry is necessary or expedient for the purposes of this Act:

Provided that, except where it is in this Act otherwise expressly provided:

- (i) no such entry shall be made between sunset and sunrise;
- (ii) no building which is used as a human dwelling shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier not less than six hours' previous written notice of the intention to make the said entry, and, unless for any sufficient reason it shall be deemed inexpedient to furnish such information, of the purpose thereof;
- (iii) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed; and

(iv) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

180. (1) If there are reasonable grounds for believing that any animal has been or is being or is likely to be slaughtered in contravention of the provisions of section 140, the Health Officer or any other officer or servant of the committee authorized by the Health Officer or by the committee in this behalf may, at any time by day or night, enter into and inspect any such place or premises and may seize any animal or the carcass of any slaughtered animal found therein.

(2) The said officer may remove and sell by auction or otherwise dispose of any animal or the carcass of any animal seized under sub-section (1), and shall place in deposit in the municipal fund the proceeds of any such sale.

(3) If the owner of any animal or carcass so seized fails to appear within one month from the date of such seizure, and prove his claim to the satisfaction of the committee, or if such owner is convicted of an offence under this Act with respect to such animal or carcass, the proceeds of the aforesaid sale shall vest in the committee.

(4) If the owner of any animal or carcass so seized appears and proves his claim to the animal or carcass or to the proceeds of the sale thereof to the satisfaction of the committee within one month from the date of such seizure, the committee shall, if it does not prosecute such owner or if as a result of the institution of a prosecution such owner is acquitted or discharged pay to such owner the proceeds of the sale, if any, of such animal or carcass.

181. (1) If there are reasonable grounds for believing that any animal is being kept in any place or premises in contravention of any bye-law made under section 144, the Health Officer or any officer or servant authorized by the Health Officer or by the committee in this behalf may, at any time by day or night, enter into and inspect any such place and may seize and remove such animal found therein.

(2) If the owner of any animal seized under this section fails to appear and substantiate his claim to the animal to the satisfaction of the committee within one month from the date of seizure, the committee shall have power to sell such animal by auction or otherwise and the proceeds of such sale shall be at the disposal of the committee.

(3) If the owner of any animal seized under this section appears and substantiates his claim to the animal to the satisfaction of the committee within one month from the date of seizure, the animal shall be returned to him on payment of the ordinary charges leviable under the Cattle Trespass Act, section 5, but it shall be open to the committee to prosecute him for breach of bye-law under section 144.

182. (1) The Health Officer or any other officer of the committee authorized by it in this behalf may, at all reasonable times, enter into and inspect any market, building, shop,

stall or place used for the sale of any kind of food, drink or drugs for man, or for the preparation, manufacture or storage of the same for sale, or as a slaughter-house, and inspect and examine any food, drink, drug or animal which may be therein; and, if any article of food or drink or any animal therein appears to be intended for the consumption of man and to be unfit therefore or to have been manufactured or exposed for sale in contravention of any bye-laws made under sections 139, 142 or 144, may seize and remove the same, or may cause it to be destroyed or to be so disposed of as to prevent its exposure for sale or its use for such consumption; and, in case any drug is reasonably suspected to be adulterated in such manner as to lessen its efficacy or to change its operation, or to render it noxious, may remove the same, giving a receipt therefore, and may cause it to be brought before a Magistrate for inquiry whether any offence has been committed in respect thereof, and for his orders as to its disposal.

Explanation - Meat into which air has been blown, or which has been watered in order to make it appear fresher than it really is, shall be deemed to be unfit for human food.

(2) The Health Officer or any other officer of the committee authorized by it in this behalf may, at all reasonable times, enter into and inspect any premises, for the licensing or regulation of which bye-laws have been made under sections 116, 117, 118, 126, 132, 134, 135, 137, 139, 142 and 144.

183. (1) The Health Officer or any other officer of the committee authorized by it in this behalf may, after giving six hours' notice in writing to the occupier of any land or building in which any sewers, sewerage connections, privies or cesspools are situated, inspect any such sewers, sewerage-connections, privies or cesspools at any time between sunrise and sunset and may, if necessary, cause the ground to be opened where the committee or person may think fit for the purpose of preventing or removing any nuisance arising from the sewers, sewerage-connections, privies or cesspools.

(2) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building; but if it is found that no nuisance exists, or but for such opening would have arisen, the ground shall be closed and made good as soon as may be, and the expense of opening, closing and making it good shall be borne by the committee.

184. The Health Officer or any other officer of the committee authorized by it in this behalf may, after giving twenty-four hours' notice in writing to the occupier or, if there is no occupier to the owner of any building or land, at any time between sunrise and sunset, enter and inspect the building or land for the purpose of ascertaining whether any of the provisions of this Chapter or of any bye-law thereunder have been complied with, or generally for the purpose of ascertaining the sanitary condition of such building or land.

185. The persons employed by the committee for the collection and removal of sewage, offensive matter and rubbish may enter any building, water-closet, latrine, urinal, privy,

sewer, cesspool, dust-bin, or other receptacle for sewage or offensive matter or rubbish, or enter on any land at all reasonable times, in so far as may be necessary for the proper discharge of those duties; and the Health Officer or any other officer of the committee authorized by it in this behalf may enter on such property at all reasonable times for the purpose of ascertaining whether such duties have been duly performed.

186. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice in writing to the occupier or, if there is no occupier to the owner, at any time between sunrise and sunset:

- (a) enter on and survey and take levels of any land;
- (b) enter, inspect and measure any building for the purpose of valuation; and
- (c) enter any building or land for the purpose of ascertaining the course of sewers, sewerage-connections, water-works and water connections, or repairing any work which it is by this Act empowered to execute or maintain:

Provided that, in the exercise of these powers, the committee shall do as little damage as may be. and shall make full compensation to all persons interested for all damage sustained by them through the exercise of these powers, and the amount of such- compensation shall be determined. as nearly as may be in accordance with the provisions of the Land Acquisition Act.

187. In cases of emergency the Chairman, or in his absence the Vice-Chairman, of the committee may direct the execution of any work or the doing of any act which the committee is empowered by the foregoing provisions of this Act to execute or do and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be paid from the municipal fund:

Provided that:

- (a) no order shall be made under this section in contravention of any order of the committee passed at a meeting; and
- (b) every order made under this section, and all proceedings consequent thereon, shall be reported to the committee at its next meeting.

188. When any building used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious sentiments of the occupiers; and before any apartment in the actual occupancy of any woman who, according to custom, does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

189. No person shall prevent any person duly authorized in that behalf from exercising his power under this Act of entering on any land or into any building.

190. No person shall obstruct or molest any person, with whom the committee has entered into a contract, in the performance or execution by such person of his duty, or of anything which he is empowered or required to do by virtue or in consequence of this Act.

Extinction of Fire.

191. (1) For the prevention and extinction of fire the committee may establish and maintain a fire-brigade, and may provide any implements, machinery or means of communicating intelligence which it may think necessary for the efficient discharge of their duties by the brigade.

(2) The committee may recognize and aid a volunteer fire-brigade, and make bye-laws for the guidance, training, discipline and conduct of the members thereof.

192. (1).On the occasion of a fire the person directing operations for extinguishing or arresting the fire or for saving life or property being:

(i) a Magistrate, or

(ii) a police-officer of or above the rank of Inspector, or

(iii) a member or officer of the committee, or

(iv) a member of a fire-brigade maintained or aided by the committee, may give orders for the following matters:-

(a) the removal of any person who by his presence interferes with or impedes such operations;

(b) the closure of any street or passage in or near which the fire is burning;

(c) the breaking into or through or demolition of any premises, or the use thereof for the passage of any hose or other appliance, and the taking of water from any stream, tank, cistern, well or other source or store of water, whether public or private property;

(d) the closure of mains and pipes so as to give greater pressure of water in or near the place where the fire has occurred;

(e) the rendering of such assistance as he may deem advisable by the persons in charge of any fire-engine or others; and

(f) generally such measures as may appear necessary for the preservation of life or property.

(2) No person shall be liable to pay damages for any act done by him in good faith under sub-section (1).

(3) Any damage caused by the exercise of a power conferred or a duty imposed by this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

(4) Every person empowered by sub-section (1) to do any of the acts enumerated therein shall in that behalf for the purposes of Chapter X of the Penal Code be deemed to be a public servant within the meaning of section 21 of the said Code.

193. The powers conferred by the last foregoing section shall be subject to any regulations, conditions or restrictions which may be imposed by rules made in this behalf by the President of the Union.

194. Sections 191, 192 and 193 shall not take effect in any municipality until they have been specially declared to apply thereto by the President of the Union at the request of the committee.

Additional Power to make Bye-laws.

195. The committee may, from time to time, at a special meeting, make bye-laws:

(a) for rendering licences necessary for the proprietors or drivers of vehicles, boats or beasts plying for hire within the limits of the municipality, and for fixing the fees payable for such licences and the conditions on which they shall be granted and may be revoked;

(b) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance, or of beasts hired to carry loads, or for the service of persons hired to carry loads, and the loads to be carried by such conveyances, beasts or persons, where they are hired within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;

(c) for rendering licences necessary for pawn-brokers and determining by public auction or otherwise the amount to be paid for any such licence and the conditions subject to which they shall be granted and may be revoked:

Provided that the committee may, for sufficient reason and with the prior sanction of the Commissioner, remit any portion of the licence fee payable by the pawn-broker;

(d) for the inspection and proper regulation of camping grounds, pounds, zayats, wharves not within the limits of any port, markets, wash-houses, washerman's tanks and public washing and bathing places;

(e) for controlling and regulating the use of any public river, creek or stream, and the foreshore and banks thereof, within the municipality and not included within the limits of a port, and for levying fees for the use of such public river, creek or stream;

(f) for the holding of fairs and industrial exhibitions within the municipality and under the committee's control;

(g) for requiring and regulating the exhibition of tables showing the rates of tolls chargeable on vehicles and animals entering the, municipality;

(h) for requiring occupiers of houses to keep ready at hand buckets or pots of water, hooks, bamboo-flappers, and other appliances for extinguishing small fires;

(i) (i) for prescribing, notwithstanding the provisions of the Weights and Measures of Capacity Act, the standard weights and measures to be used within the municipality, and for making the use of such standards compulsory; and

(ii) for preventing and detecting the use of false or defective instruments for weighing, weights and measures in any market, building, shop, stall or place used for the sale of any goods, food, drink or drug;

(j) for protecting from injury or interference anything within the municipality which is the property of the committee;

(k) for regulating or prohibiting the exposure of goods for sale on the streets and for levying fees from persons setting up stalls or otherwise selling goods on streets;

(l) for regulating or prohibiting the use of barbed wire or any material likely to cause injury to persons or animals on any land or premises abutting upon any street or place which persons are entitled to use or frequent; and

(m) generally, for carrying out the purposes of this Act:

Provided that the committee of a municipality in which the Hackney Carriage Act is in force shall not make bye-laws under clauses (a) and (b) in respect of any vehicles to which that Act applies.

196. Where under any section of this Act power is conferred on the committee to make bye-laws for the issue of a licence, such bye-laws may prescribe and fix:-

(a) a fee for any licence; and

(b) an fee for any inspection required by such bye-law as a preliminary to the issue or renewal of such licence.

Supplemental.

197. (1) No bye-law made under any section of this Chapter shall come into force until it has been confirmed by the President of the Union.

(2) The President of the Union may, by notification, cancel the confirmation of any such bye-law, and thereupon such bye-law shall cease to have effect.

198. (1) When any notice under this Chapter requires any act to be done for which no time is fixed by this Act, such notice shall fix a reasonable time for doing the same:

Provided that it shall rest with the Court to determine, in any case in which the question arises, whether the time so fixed was a reasonable time within the meaning of this Act.

(2) When the owner or occupier of any land or building fails to comply with the terms of any notice under this Chapter requiring him to do any act upon such land or building, the committee may, after six hours' notice, by its officers cause such act to be done.

199. (1) Where under this Act the owner or occupier of property is required by the committee to execute any work and makes default in complying with such requisition, and the committee executes the work, the committee may recover the cost of the work from the person in default.

(2) If the person in default is the owner, the committee may, by way of additional remedy, recover the whole or any part of the cost from the occupier, and in such case the occupier may deduct any sum paid by him under this sub-section from the rent from time to time becoming due from him to the owner of the property in respect of which the payment is made or otherwise recover it from the owner.

(3) Provided that an occupier shall not be required to pay under sub-section (2) any sum greater than the amount of rent which is for the time being due from him to the owner, or which, after demand for payment of the money payable by him to the committee and after notice not to pay rent without first deducting the amount so demanded, becomes payable by him to the owner, unless he refuses on application to him by the committee truly to disclose the amount of his rent and the name and address of the person to whom it is payable; but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(4) Nothing in this section shall affect any contract between an owner and an occupier.

200. (1). The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it, its officers and servants, under this Act, and shall make such compensation where the person sustaining

the damage was not himself in default in the matter in respect of which the power was exercised.

(2) If any dispute arises touching the amount of any compensation which the committee is required by this Act to pay for injury to any building or land, it shall be settled in such manner as the parties may agree upon, or in default of agreement in the manner provided by the Land Acquisition Act, so far as the provisions of the said Act can be made applicable.

201. (1) Any person aggrieved by any order made by the committee under the powers vested in it by section 119, section 130, section 138, section 149 or section 150, may appeal within thirty days from the date thereof to the Commissioner or to the Deputy Commissioner, according as the President of the Union may direct in this behalf; and no such order shall be liable to be called in question otherwise than by such appeal:

Provided that, if the Deputy Commissioner is himself a member of the Committee, the appeal shall lie to the Commissioner.

(2) The appellate authority may, for sufficient cause, extend the period hereby allowed for an appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the order appealed against shall be final:

Provided that the order appealed against shall not be set aside until the appellant and the committee have had a reasonable opportunity of being heard.

CHAPTER VII OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY OR CONVENIENCE

202. Whoever:

(a) contravenes, or fails to comply with, any provision of any of the sections, sub-sections or clauses of this Act mentioned in the first column of the following table, or of any rule or bye-law made thereunder; or

(b) fails to comply with any direction lawfully given to, or requisition lawfully made upon him, under any of the said provisions, shall be punished for each such offence with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation - The entries in the second column of the said table, headed "Subject", are not intended as definitions of the offences described in the sections, sub-sections and clauses mentioned in the first column, or even as abstracts of those sections, sub-sections and

clauses, but are inserted merely as references to the subjects of the sections, sub-sections and clauses, the numbers of which are given in the first column:

<i>Section, sub-section or clause</i>	<i>Subject</i>	<i>Fine which may be imposed</i>
Section 107, sub-section (1)	Notice requiring removal or alteration of projection, encroachment or obstruction	One Hundred Rupees
Section 107, sub-section (2)	Prohibition of encroachments on, and obstruction of public streets	One Hundred Rupees
Section 110	Prohibition of disposal of land for construction of buildings not abutting on street without constructing street giving access thereto	One Hundred Rupees
Section 111, sub-section (4)	Prohibition of making of new private street without or otherwise than in conformity with orders of committee	One Hundred Rupees
Section 115	Bye-laws for control of buildings	One Hundred Rupees
Section 116, sub-section (1)	Prohibition of keeping unlicensed lodging-house	One Hundred Rupees
Section 116, sub-section (2)	Bye-laws relating to lodging houses	One Hundred Rupees
Section 117	Bye-laws for the inspection and general and sanitary regulation of theatres, music halls, etc, regulating the holding of entertainment therein and rendering licences necessary for keeping such buildings	One Hundred Rupees
Section 118	Bye-laws for prevention of overcrowding of buildings, removal or improvement of insanitary or dangerous buildings and cleansing, lime washing or painting of buildings	One Hundred Rupees
Section 119	Notice prohibiting the use of building unfit for human habitation	One Hundred Rupees
Section 120	Notice requiring removal of building, wall, structure etc, in ruinous or dangerous state	One Hundred Rupees
Section 121	Notice requiring dangerous wells, tanks or other excavations to be repaired, protected or enclosed	One Hundred Rupees
Section 122	Notice requiring the fencing of land and repairing of existing fences	One Hundred Rupees

<i>Section, sub-section or clause</i>	<i>Subject</i>	<i>Fine which may be imposed</i>
Section 123	Notice requiring owner or occupier of building or land to clear away noxious vegetation etc, to cut or trim hedges or branches of trees and to put filthy or unwholesome building in proper state.	One Hundred Rupees
Section 124	Bye-laws for the sanitary and general regulation of public parks and recreation grounds	One Hundred Rupees
Section 126, sub-section (1)	Prohibition of establishing public camping ground or halting place for vehicles of animals, without licence	One Hundred Rupees
Section 126, sub-section (2)	Bye-laws prescribing conditions applicable to licences issued under sub-section (1) and for the general and sanitary regulation of camping grounds and halting places	One Hundred Rupees
Section 127, sub-section (1)	Prohibition of bathing or the washing of animals or clothes in public places not set apart therefore or of other acts specified in public notice	One Hundred Rupees
Section 127, sub-section (3)	Bye-laws for the management and regulation of bathing and washing places	One Hundred Rupees
Section 128	Prohibition of keeping corpses unburied beyond specified period	One Hundred Rupees
Section 130, sub-section (1)	Closure and formation of burial and burning grounds	One Hundred Rupees
Section 130, sub-section (3)	Prohibition of formation of new burial or burning grounds without permission	One Hundred Rupees
Section 131	Notice prescribing routes for removal of corpses to burial or burning grounds	One Hundred Rupees
Section 132	Bye-laws for registration of births and deaths and taking of a census	One Hundred Rupees
Section 133	Bye-laws for registration of births and deaths and taking of a census	One Hundred Rupees
Section 134, sub-section (1)	Prohibition of keeping open etc, without licence, private markets	One Hundred Rupees
Section 134, sub-section (4)	Bye-laws for the management and sanitary and general regulation of markets	One Hundred Rupees

<i>Section, sub-section or clause</i>	<i>Subject</i>	<i>Fine which may be imposed</i>
Section 135	Bye-laws for regulation of stalls or booths	One Hundred Rupees
Section 136	Prohibition of obstructions in streets, drains, wells or channels	One Hundred Rupees
Section 137, sub-section (1)	Prohibition of carrying on of offensive or dangerous trades without licence	Five Hundred Rupees
Section 137, sub-section (2)	Bye-laws prescribing the general conditions applicable to licences issued under sub-section (1) and special conditions for the storage of any article or carrying on any trade or operation	Five Hundred Rupees
Section 138	Notice requiring the discontinuance of use of place licensed under section 137	Five Hundred Rupees
Section 139	Bye-laws for inspection and general and sanitary regulation of milk-sellers, bakeries, public eating houses, refreshment stalls and aerated water and ice factories, and for the licensing thereof	One Hundred Rupees
Section 140	Prohibition of establishment of slaughter houses	One Hundred Rupees
Section 142	Bye-laws for management and sanitary and general regulation of slaughter houses or of any slaughter house, and of the slaughtering of animals therein etc	One Hundred Rupees
Section 143	Prohibition or regulation of slaughter of animals when breach of peace is imminent	Five Hundred Rupees
Section 144	Bye-laws for prohibition and regulation of keeping, importation, etc, of animals, destruction of swine, dogs, crows, crows' nests and disposal of carcasses etc	One Hundred Rupees
Section 145	Notice giving directions as to removal and deposit of rubbish and offensive matter	One Hundred Rupees
Section 146	Notice requiring provision of proper receptacles for rubbish and offensive matter	One Hundred Rupees
Section 147	Prohibition of keeping rubbish, offensive matter or sewerage otherwise than in proper receptacle or allowing receptacle to be in filthy or noxious state	One Hundred Rupees

<i>Section, sub-section or clause</i>	<i>Subject</i>	<i>Fine which may be imposed</i>
Section 148	Prohibition of accumulation of offensive matter	One Hundred Rupees
Section 149	Notice requiring provision of troughs and pipes for rain water	One Hundred Rupees
Section 150	Notice requiring pavement of courtyard, alley or passage between buildings for efficient drainage	One Hundred Rupees
Section 151	Notice requiring the cleansing off of private tanks, wells, reservoirs, pools or excavations therein	One Hundred Rupees
Section 152	Notice directing the carrying out of reclamation of low-lying sites	One Hundred Rupees
Section 153	Prohibition of making excavation in any land rendering such land unsuitable for building or the effective drainage thereof impracticable	One Hundred Rupees
Section 154	Bye-laws requiring prevention of overcrowding of buildings, prohibiting storage of water and for prevention of the breeding of mosquitoes	One Hundred Rupees
Section 155	Notice prohibiting the cultivation of crops, use of manure or irrigation of land injurious to health	One Hundred Rupees
Section 156	Notice prohibiting the use of public or private water works	One Thousand Rupees
Section 157	Bye-laws for regulating the use, etc of water works	One Thousand Rupees
Section 158, sub-section (1)	Notice requiring provision of water closets, latrines, urinals, privies, sewers etc, for building or lands	One Hundred Rupees
Section 158, sub-section (2)	Notice requiring employers of more than twenty workmen or labourers to provide water closets, latrines etc	One Hundred Rupees
Section 158, sub-section (3)	Notice requiring provision of water closets, latrines, urinals or privies to be shut out from view by roof, wall or fence	One Hundred Rupees
Section 159, sub-section (1)	Notice requiring water-closets, latrines, urinals etc, to be closed, removed, repaired, altered or put in good order	One Hundred Rupees

<i>Section, sub-section or clause</i>	<i>Subject</i>	<i>Fine which may be imposed</i>
Section 159, sub-section (2)	Notice requiring demolition of alteration of water closets, latrines, urinals etc, made without permission or contrary to bye-law, directions etc	One Hundred Rupees
Section 160	Notice requiring making and maintaining of sufficient sewerage connection with sewer	One Hundred Rupees
Section 164	Notice requiring carriage of sewerage connection or water connection through adjoining land	One Hundred Rupees
Section 166	Notice requiring connection with existing water connection or sewerage connection	One Hundred Rupees
Section 167	Obligation to report outbreak of dangerous disease	Five Hundred Rupees
Section 169	Prohibition of person suffering from dangerous disease from leaving hospital without permission	Five Hundred Rupees
Section 170	Prohibition of exposure of person suffering from dangerous disease or of things exposed to infection	Five Hundred Rupees
Section 171	Disinfection of conveyance used by person suffering from dangerous disease	One Hundred Rupees
Section 172	Requisition for immediate disinfection of whole or part of any building in which dangerous disease has occurred	One Hundred Rupees
Section 195, clause (c)	Bye-laws for licensing of pawn-brokers	Five Hundred Rupees

203. Whoever, after having been convicted of:

(a) contravening, or failing to comply with, any provision of any of the sections, sub-sections or clauses of this Act mentioned in the first column of the following table, or of any rule or bye-law lawfully made thereunder, or

(b) failing to comply with any direction lawfully given to or requisition lawfully made upon him under any of the said provisions,

continues to contravene the said provision or to neglect to comply with the said direction or requisition or fails to remove or rectify any work or thing done in contravention of the said provision, as the case may be, shall be punished for each day that he continues so to offend with line which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation - The entries in the second column of the said table, headed "Subject", are not intended as definitions of the offences described in the sections, sub-sections and clauses mentioned in the first column, or even as abstracts of those sections, sub-sections and clauses, but are inserted merely as references to the subject of the sections, sub-sections and clauses, the numbers of which are given in the first column:

<i>Section, sub-section or clause</i>	<i>Subject</i>	<i>Daily fine which may be imposed</i>
Section 107, sub-section (1)	Notice requiring removal or alteration of projection, encroachment or obstruction	Ten Rupees
Section 107, sub-section (2)	Prohibition of encroachment on and obstruction of, public streets	Ten Rupees
Section 111, sub-section (4)	Prohibition of making of new private street without, or otherwise than in conformity with, orders, of committee	One Hundred Rupees
Section 115	Bye-laws for control of buildings	Ten Rupees
Section 116, sub-section (1)	Prohibition of keeping unlicensed lodging-house	Ten Rupees
Section 116, sub-section (2)	Bye-laws relating to lodging-houses	Ten Rupees
Section 117	Bye-laws for the inspection and general and sanitary regulations of theatres, music-halls, etc, for regulating the holding of entertainments therein and rendering licenses necessary for the keeping of such buildings	Ten Rupees
Section 118	Bye-laws for prevention of overcrowding of buildings, removal or improvement of insanitary or dangerous buildings and cleansing, lime-washing or painting of buildings	Ten Rupees
Section 119	Notice prohibiting the use of building unfit for human habitation	Fifty Rupees
Section 120	Notice requiring removal of building wall, structure etc, in ruinous or dangerous state	Ten Rupees

<i>Section, sub-section or clause</i>	<i>Subject</i>	<i>Daily fine which may be imposed</i>
Section 121	Notice requiring dangerous wells, tanks or other excavations to be repaired, protected or enclosed	Ten Rupees
Section 122	Notice requiring the fencing of land and repairing of existing fences	Ten Rupees
Section 123	Notice requiring owner or occupier of building or land to clear away noxious vegetation etc, to cut or trim hedges or branches of trees and to put filthy or unwholesome building in proper state	Ten Rupees
Section 124	Bye-laws for the sanitary and general regulation of public parks and recreation grounds	Ten Rupees
Section 126, sub-section (1)	Prohibition of establishing public camping ground or halting place for vehicles or animals without licence	Ten Rupees
Section 126, sub-section (2)	Bye-laws prescribing conditions applicable to licences issued under sub-section (1) and for the general and sanitary regulation of camping grounds and halting places	Ten Rupees
Section 127, sub-section (1)	Prohibition of bathing or the washing of animals or clothes in public places not set apart therefore, or of other acts specified in public notice	Ten Rupees
Section 127, sub-section (3)	Bye-laws for the management and regulation of bathing and washing places	Ten Rupees
Section 128	Prohibition of keeping corpses unburied beyond specified period	Ten Rupees
Section 130, sub-section (1)	Closure and formation of burial and burning grounds	Ten Rupees
Section 130, sub-section (3)	Prohibition of formation of new burial or burning grounds without permission	Ten Rupees
Section 132	Bye-laws for controlling and regulating the use and management of burial and burning grounds	Ten Rupees
Section 134, sub-section (1)	Prohibition of keeping open etc, without licence private markets	Fifty Rupees

<i>Section, sub-section or clause</i>	<i>Subject</i>	<i>Daily fine which may be imposed</i>
Section 134, sub-section (4)	Bye-laws for the management and sanitary and general regulation of markets	Ten Rupees
Section 135	Bye-laws for regulation of stalls or booths	Ten Rupees
Section 136	Prohibition of obstruction in streets, drains, wells or channels	Ten Rupees
Section 137, sub-section (1)	Prohibition of carrying on of offensive or dangerous trades without licence	Fifty Rupees
Section 137, sub-section (2)	Bye-laws prescribing the general conditions applicable to licences issued under sub-section (1) and special conditions for the storage of any article or carrying on any trade or operation	Fifty Rupees
Section 138	Notice requiring the discontinuance of use of place licensed under section 137	Fifty Rupees
Section 139	Bye-laws for inspection and general and sanitary regulation of milk-sellers, bakeries, public eating-houses, refreshment stalls, and aerated water, and ice factories, and for the licensing thereof	Ten Rupees
Section 140	Prohibition of establishment of slaughter houses	Ten Rupees
Section 142	Bye-laws for management and sanitary and general regulation of slaughter houses or of any slaughter houses and of the slaughtering of animals therein etc	Ten Rupees
Section 143	Prohibition or regulation of slaughter of animals when breach of peace is imminent	Ten Rupees
Section 144	Bye-laws for prohibition and regulation of keeping, importation etc of animals, destruction of swine, dogs, crows, crows' nests and disposal of carcasses etc	Ten Rupees
Section 146	Notice requiring provision of proper receptacles for rubbish and offensive matter	Ten Rupees

<i>Section, sub-section or clause</i>	<i>Subject</i>	<i>Daily fine which may be imposed</i>
Section 147	Prohibition of keeping rubbish, offensive matter or sewerage otherwise than in proper receptacle, or allowing receptacle to be in filthy or noxious state	Ten Rupees
Section 149	Notice requiring provisions of troughs and pipes for rain water	Ten Rupees
Section 150	Notice requiring pavement of courtyard, alley or passage between buildings for efficient drainage	Ten Rupees
Section 151	Notice requiring the cleansing, repairing, covering, filling up or draining off of private tanks, wells, reservoirs, pools or excavation therein	Ten Rupees
Section 152, sub-section (2)	Notice directing the carrying out of reclamation of low-lying sites	Ten Rupees
Section 153	Prohibition of making excavation in any land rendering such land unsuitable for building or the effective drainage thereof impracticable	Ten Rupees
Section 154	Bye-laws requiring prevention of overcrowding of buildings, prohibiting storage of water and for prevention of the breeding of mosquitoes	Ten Rupees
Section 155	Notice prohibiting the cultivation of crops, use of manure or irrigation of lands injurious to health	Ten Rupees
Section 156	Notice prohibiting the use of public or private water works	One Hundred Rupees
Section 157	Bye-laws for regulating the use etc, of water works	One Hundred Rupees
Section 158, sub-section (1)	Notice requiring provision of water closets, latrines, urinals, privies, sewers etc, for building or lands	Ten Rupees
Section 158, sub-section (2)	Notice requiring employers of more than twenty workmen or labourers to provide water closets, latrines etc	Ten Rupees
Section 158, sub-section (3)	Notice requiring water closets, latrines, urinals or privies to be shut out from view by roof, wall or fence	Ten Rupees

<i>Section, sub-section or clause</i>	<i>Subject</i>	<i>Daily fine which may be imposed</i>
Section 159, sub-section (1)	Notice requiring water closets, latrines, urinals etc to be closed, removed, repaired, altered or put in good order	Ten Rupees
Section 159, sub-section (2)	Notice requiring demolition or alteration of sewerage connection, water closets, latrines, urinals etc made without permission or contrary to bye-laws, directions etc	Ten Rupees
Section 160	Notice requiring making and maintaining of sufficient sewerage connection with sewer	Ten Rupees
Section 164	Notice requiring carriage of sewerage connection or water connection through adjoining land	Ten Rupees
Section 166	Notice requiring connection with existing water connection or sewerage connection	Ten Rupees
Section 170	Prohibition of exposure of persons suffering from dangerous disease of things exposed to infection	Fifty Rupees
Section 171	Disinfection of conveyance used by person suffering from dangerous disease	Ten Rupees
Section 172	Requisition for immediate disinfection of whole or part of any building in which dangerous disease has occurred	Ten Rupees
Section 195, clause (c)	Bye-laws for licensing of pawn-brokers	Fifty Rupees

204. Whoever contravenes any of the provisions of section 189 or 190 or any regulation prescribed under section 173 may be punished for each such offence with imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

205. Whoever contravenes or fails to comply with any notice, direction, requisition or bye-law made or issued by the committee under this Act may, if no penalty for such contravention or failure is provided by this Act, be punished with fine which may extend to one hundred rupees, and shall further be punished for each day that he continues so to offend with a fine which may extend to ten rupees.

206. A prosecution for an offence consisting in the failure to comply with or contravention of any order which is appealable shall, if and when the Court learns that an appeal has been instituted against such order, be stayed pending such appeal.

207. Whoever drives any vehicle after dark in any street, unless the vehicle is properly supplied with lamps, shall be punishable with fine which may extend to twenty rupees.

208. Whoever discharges fire-arms or lets off fire-works or fire-balloons, without the permission of such officer as the President of the Union may appoint in this behalf for in a place other than that specified by such officer and whoever engages in any game in such manner as to cause, or be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punishable with fine which may extend to twenty rupees.

209. Whoever allows any animal in his possession or under his control and power to stray into or be loose in any street, or in any unfenced place adjacent to a street, and whoever fastens or tethers any such animal so near to any street as to render it possible for it to enter into such street, shall be punishable with fine which may extend to twenty rupees.

210. Whoever, in contravention of a public notice issued by the committee under section 100, rides, drives or leads any animal or vehicle, shall be punishable with fine which may extend to twenty rupees.

211. Whoever quarries, blasts, cuts timber or carries on building operations in such a manner as to cause, or be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, shall be punishable with fine which may extend to fifty rupees.

212. Whoever in a public place, without being authorized by the committee, defaces or disturbs any direction post or lamp-post or fence, or injures any tree or gabion, or extinguishes any light, shall be punishable with fine which may extend to ten rupees.

213. Whoever destroys, pulls down, or defaces any name or number affixed by order of the committee under section 103, or puts up any different name or number from that put up by order of the committee, shall be punishable with fine which may extend to twenty rupees.

214. (1) Whoever, not being authorized by law so to do, affixes any poster, advertisement or notice on any public property without the consent of the person in charge thereof, or on any private property without the consent of the owner or occupier thereof, shall be punishable with fine which may extend to twenty rupees.

(2) Any person by whose direction any such poster, advertisement or notice is so affixed shall be punishable as if he himself had affixed the same.

[Repealed by Act XXIV, 1949]

CHAPTER VIII
CONTROL

218. (1) The Commissioner or the Deputy Commissioner may:

(a) enter on and inspect, or cause to be entered on and inspected, any immovable property situate within the limits of his division or district, as the case may be, and occupied by any committee, hospital sub-committee [...] [Deleted by Act LII, 1950] or joint committee, or any work which is in progress within such limits under the direction of any such committee, sub-committee or joint committee;

(b) call for and inspect any book or document in the possession or under the control of any such committee, sub-committee or joint committee having authority within such limits;

(c) require any such committee, sub-committee or joint committee to furnish such statements, accounts, reports, and copies of documents relating to the proceedings or duties of such committee, sub-committee or joint committee as he may think fit to call for; and

(d) record in writing, for the consideration of any such committee, sub-committee or joint committee, any observations he may think proper in regard to the proceedings or duties at such committee, sub-committee or joint committee:

Provided that:

(i) when the Deputy Commissioner is a member of a committee, sub-committee or joint committee, he shall not exercise, in respect of that committee, sub-committee or joint committee, the powers conferred upon him by this section; and

(ii) in the case of any municipality, the President of the Union may, by notification in the Gazette, direct that all or any of the powers conferred on the Commissioner and Deputy Commissioner by this section shall be exercised by him alone, and not by such Commissioner and Deputy Commissioner.

(2) When the President of the Union, the Commissioner or Deputy Commissioner requests the committee to consider any observations under sub-section (1), clause (d), nothing in any bye-law made under section 31 shall prevent such consideration.

219. (1) The Commissioner or the Deputy Commissioner may, by order in writing, suspend within the limits of his division or district, as the case may be, the execution of any resolution or order of a committee or joint committee, or prohibit the doing within such limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, such resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

(2) When the Commissioner or Deputy Commissioner makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it and of any representations regarding it submitted to him by the committee, to the President of the Union, who may thereupon rescind the order or direct that it shall continue in force, with or without modification, permanently or for such period as he may think fit.

220. (1) In cases of emergency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act which a committee is empowered to execute or to do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be forthwith paid by the committee.

(2) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is from time to time possible, from the balance in preference to any or all other charges against the same.

(5) The Deputy Commissioner shall forthwith report to the Commissioner every case in which he uses the powers conferred upon him by this section.

221. (1) If at any time it appears to the President of the Union that the committee has made default in performing any duty imposed on it by or under this or any other Act for the time being in force, the President of the Union may, by order in writing, fix a period for the performance of such duty.

(2) If such duty is not performed within the period so fixed, the President of the Union may appoint the Deputy Commissioner to perform it, and may direct that the expense of performing it shall be paid, within such time as the President of the Union may fix, to the Deputy Commissioner by the committee.

(3) If the expense is not so paid, the Deputy Commissioner, with the previous sanction of the President of the Union, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is from time to time possible, from the balance in preference to any or all other charges against the same.

222. (1) The President of the Union and the Commissioner and Deputy Commissioner, within their respective jurisdictions, acting under the orders of the President of the Union, shall be bound to require the proceedings of every committee to be in conformity with law and with any rules in force under any enactment for the time being applicable to the Union of Burma generally or to the area over which such committee has authority.

(2) The President of the Union may exercise all powers necessary for the performance of the duty, and may, amongst other things, by order in writing annul or modify any proceeding which he may consider not to be in conformity with law or with any such rules as aforesaid.

(3) The Commissioner and the Deputy Commissioner may, within their respective jurisdictions, for the same purpose, exercise such powers as may be conferred upon them by rule made in this behalf by the President of the Union.

223. (1) If the committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the President of the Union may, by an order published, with the reasons for making it, in the Gazette, declare the-committee to be incompetent, or in default, or to have exceeded or abused its powers, as the case may be, and direct its supersession for a period to be specified in such order.

(2) When the committee is so superseded, the following consequences shall ensue, namely:

(a) all members of the committee shall, as from the date of the order published under sub-section (1), vacate their offices as such members;

(b) all powers and duties of the committee may, during the period of supersession, be exercised and performed by such person or persons as the President of the Union shall appoint in that behalf; and

(a) all property vested in the committee shall, during the period of supersession, vest in the [State] [Substituted for the word "Crown" by the Union of Burma (Adaptation of Laws) Order, 1948];

(3) On the expiration of the period of supersession specified in the order published under sub-section (1), the committee shall be re-constituted, and the persons who vacated their offices under sub-section (2), clause (a), shall not, if otherwise qualified, be deemed disqualified from being members thereof.

224. (1) If any dispute for the decision of which this Act does not otherwise provide arises between the committee and any other local authority, it shall be referred:

(1) to the Deputy Commissioner if the local authorities concerned are in the same district;

(b) to the Commissioner if the local authorities concerned are in different districts of the same division;

(c) to the President of the Union if the local authorities concerned are in different divisions.

(2) The decision of the authority to which any dispute is referred under this section shall be final.

(3) If in the case mentioned in sub-section (1), clause (a), the Deputy Commissioner is one of the persons constituting any of the local authorities concerned, his functions under this section shall be discharged by the Commissioner.

225. (1) The Committee shall, at the close of each year or of such other period as may, from time to time, be fixed by the President of the Union in this behalf, submit to the President of the Union a statement of its receipts and disbursements in such form as the President of the Union may prescribe, and a general report of its proceedings during that period:

Provided that separate accounts shall be submitted of:

(a) all receipts of the water-tax and all expenditure on the purposes for which the water-tax is levied;

(b) all receipts of the lighting-tax and all expenditure on the purposes for which the lighting-tax is levied;

(c) all receipts of the latrine-tax, and all expenditure on the purposes for which the latrine-tax is levied;

(d) all receipts of the scavenging-tax, and all expenditure on the purposes for which the scavenging-tax is levied; and

(e) [...] [Deleted by Act LII, 1950];

(f) all income under the heads mentioned in section 89, and all expenditure on medical purposes.

(2) Accounts submitted under this section shall be examined or audited in such manner as the President of the Union may prescribe.

226. (1) The committee shall submit, before such date in each year as may be directed by the President of the Union, for the sanction of such authority as the President of the Union may appoint in this behalf, an estimate of its probable receipts for the financial year next following, with proposals for the expenditure, and may, from time to time, submit in like manner further estimates or proposals or in modification of those submitted as aforesaid.

(2) No expenditure shall be incurred by a committee unless it is provided for in an estimate and proposals sanctioned under this section.

227. (1) No work, the estimated cost of which exceeds five hundred rupees, shall be begun by the committee, nor shall any contract be entered into by it in respect of any such work, until a plan and estimate thereof have been approved by the committee at a meeting.

(2) If the estimated cost of any such work has not been specifically provided for in proposals submitted and sanctioned in manner mentioned in section 226, or exceeds:

twenty thousand rupees in the case of the municipalities of Moulmein, Basscin and Akyab, or one-tenth of the estimated annual income of the municipal fund in the case of any other municipality,

such work shall not be begun, nor shall any contract be entered into in respect of it, until the plan and estimate have been submitted to and approved by the President of the Union, or by an officer empowered by the President of the Union in this behalf.

228. In all matters connected with the administration of this Act, the Commissioner shall have and exercise the same authority and control over every Deputy Commissioner subordinate to him as he has and exercises over such Deputy Commissioner in the general and revenue administration.

229. The President of the Union may frame forms for any of the proceedings of committees for which he considers that a form should be provided, and may, in addition to rules made under any other powers conferred by this Act, make rules consistent with this Act -

(a) as to the officers to be addressed by committees when desirous of communicating with the President of the Union or officers of the Government;

(b) as to the preparation of estimates of the receipts and expenditure of committees, and as to the conditions subject to which such estimates may be sanctioned;

(c) as to the returns, statements and reports to be submitted by committees;

(d) as to the keeping and auditing of the accounts of municipal funds [...] [Deleted by Act LII, 1950] and hospital funds;

(e) as to the appointment and removal of a Chief Executive Officer and the management by him of municipal business;

(f) as to the appointment and removal of officers and servants of committees; and

[Substituted by Act XXXVI, 1953] (g) generally for all matters connected with the carrying out of this Act.

CHAPTER IX SUPPLEMENTAL

Criminal Procedure.

230. (1) Every police-officer employed within the limits of the municipality shall give immediate information to the committee of any offence committed against this Act or the rules or bye-laws thereunder, and shall be bound to assist all members, officers and servants of the committee in the exercise of their lawful authority.

(2) Any such police-officer may arrest any person committing in his view any offence against this Act or the rules or bye-laws thereunder:

(a) if the name and address of the person are unknown to him, and

(b) if the person declines to give his name and address, or there is reason to doubt the accuracy of the name and address if given.

(3) A person arrested under this section may be detained until his name and address are correctly ascertained:

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a Magistrate unless an order of a Magistrate for his detention is obtained.

231. No Court shall take cognizance of any offence punishable under this Act or any rule or bye-law thereunder except on the complaint of the committee or of some person authorized by the committee in this behalf.

Explanation - The committee may by resolution authorize persons to prosecute either generally in regard to all offences against this Act and the rules or bye-laws thereunder, or specially in regard only to specified offences or offences of a specified class. The person authorized may be authorized by office, if he is Chairman, Vice-Chairman, ex-officio member, secretary engineer, or health officer of the committee; in other cases the authority must be personal. The authority must in all cases be in writing, and may at any time by resolution be cancelled by the committee.

232. In any municipality to which the President of the Union may, by notification, apply this section, it shall not be necessary, in respect of any offence punishable under this Act or any rule or bye-law thereunder, to examine the complainant when the complaint is presented in writing, notwithstanding anything contained in section 200 of the Code of Criminal Procedure.

233. (1) In any municipality the President of the Union may empower the committee or its Chairman, Vice-Chairman, secretary, health officer or engineer or, any member appointed by office, or any sub-committee, to accept from any person, against whom a reasonable suspicion exists that he has committed an offence against this Act or any rule or bye-law thereunder, a sum of money by way of composition for such offence.

(2) On payment of such sum of money, the suspected person, if in custody, shall be discharged, and no further proceedings shall be taken against him in regard to the offence or alleged offence so compounded.

(3) Sums paid by way of composition under this section shall be credited to the municipal fund.

(4) Power under sub-section (1) to accept composition for alleged offences may be given either generally in regard to all offences under this Act and the rules and bye-laws thereunder, or particularly in regard only to specified offences or offences of a specified class, and may at any time be withdrawn by the President of the Union.

(5) The President of the Union may make rules to regulate the proceedings of persons empowered to accept composition under this section for alleged offences.

234. No Judge or Magistrate shall be deemed to be a party to, or personally interested in, any prosecution for an offence punishable under this Act or any rule or bye-law thereunder, or under any other law, within the meaning of the Code of Criminal Procedure, by reason only of his being a member of the committee by the order or with the approval of which such prosecution has been instituted.

235. Nothing in this Act shall prevent any person from being prosecuted under any other law for the time being in force for any act or omission which constitutes an offence against this Act or the rules or bye-laws thereunder, or from being liable under any other law to any other or higher punishment or penalty than that provided by this Act or the rules or bye-laws thereunder:

Provided that no person shall be punished twice for the same offence

Rules, Bye-laws and Public Notices.

236. Before making any bye-law the committee shall publish, in such manner as may be sufficient for giving information to all persons interested, a draft of the proposed bye-law, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

237. (1) Every bye-law shall, after being sanctioned or confirmed by the President of the Union, be published in the Gazette [...] [Omitted by the Union of Burma (Adaptation of Laws) Order, 1948]; and such publication shall be conclusive evidence that the bye-law was made in accordance with the requirements of this Act.

(2) Every public notice which, under this Act, does not require the sanction of, or confirmation by, the President of the Union, and every rule which the President of the Union is by this Act empowered to make, shall be published in such manner as the President of the Union may by notification direct, and shall have no force or validity until so published.

238. [...]

Notices.

239. (1) Every notice in writing issued by the committee under this Act shall be sufficiently authenticated by the signature of the Chairman, Vice-Chairman, health officer, engineer or secretary, or of any officer specially authorized by the committee to sign such notice, and may be served on the person to whom it is addressed, or left at his usual place of abode or business with some adult male member or servant of his family, or, if it cannot be so served, may be affixed to some conspicuous part of his place of abode or business.

(2) If the place of abode or business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(3) If the place of abode or business of the owner of any property is not known, every such notice addressed to him as such owner may be served on the occupier.

(4) If the place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by affixing it to some conspicuous part of the property.

(5) No notice issued by the committee under this Act shall be invalid merely by reason of any defect of form.

240. When any notice in writing is under the provisions of this Act to be given to, or served on, the owner or occupier of any property and he is unknown, it may be given or served:

(a) by delivery to some person on the property, or if there is no person on the property to whom it can be delivered, by affixing it to some conspicuous part of the property, or

(b) by posting a prepaid letter containing it, and addressed to the "owner" or "occupier" of the property (to be named) in respect of which the notice is given, without further name or description.

Powers to except Municipalities from provisions of the Act.

241. (1) If the circumstances of any municipality are such that, in the opinion of the President of the Union, any of the provisions of this Act are unsuited thereto, the President of the Union may, by notification, except the municipality from the operation of such provisions; and thereupon Such provisions shall cease to apply to the municipality.

(2) While an exception notified under sub-section (1) remains in force, the President of the Union may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

Recovery of Money claimable by Committee.

242. (1) Any arrears of any tax or fee or any other money claimable by the committee under this Act or from any person who has collected the same, or his surety may be recovered as if they were arrears of land revenue.

(2) The President of the Union may, by notification, prescribe by whose order and on whose application such arrears may be recovered.

Miscellaneous.

243. Nothing in this Act shall affect the Local Authorities Loans Act.

244. If any question arises as to whether a person [is an inhabitant] [Substituted by Act LII, 1950] of a local area within the meaning of this Act, it shall be referred to the President of the Union, and the decision of the President of the Union thereon shall be final.

245. The President of the Union may, by notification, extend to any municipality any of the provisions of the Rangoon Water-works Act, other than those contained in section 3 thereof, and may, by such notification, declare with what modifications, not affecting the substance, such provisions shall apply to the said municipality.

CHAPTER X SMALL TOWNS

246. (1) The President of the Union may, by notification, declare that, in respect of some or all of the matters upon which a municipal fund may be expended under section 87, improved arrangements are required within a specified area which nevertheless it is not expedient to establish as a municipality.

(2) An area with regard to which a notification has been issued under sub-section (1) is hereinafter called a “notified area”.

(3) No area shall be declared a notified area unless it contains less than ten thousand inhabitants according to the returns of the most recent official census, is not a purely agricultural village, and contains a town or market.

(4) The President of the Union may at any time, in like manner, vary or rescind any notification issued under this section.

247. (1) The President of the Union may, by notification:

(i) appoint, or empower the Commissioner to appoint, two or more persons to be a town committee for any notified area;

(ii) extend or apply to any notified area the provisions of any section of this Act or of any rules for the time being in force under this Act, subject to such restrictions and modifications (if any) as the President of the Union may think fit;

(iii) impose in any notified area any tax which could have been imposed therein if such area were a municipality;

(iv) arrange for the due expenditure of the proceeds of taxes imposed under clause (iii) and of any other funds which may come to the hands of the committee for the purposes of the notified area, and for the preparation and maintenance of proper accounts; and

(v) vary or rescind any notification issued under this section.

(2) The proceeds of any tax levied in any notified area under this section shall not be expended except in payment of charges and expenses incidental to some one or more of the matters on which the municipal fund of such area might be expended if such area were a municipality.

248. For the purposes of any section or rules extended or applied to a notified area under this Chapter, and of Part I of the Vaccination Act, and of any other enactment which the President of the Union may, by notification, specify in this behalf for any notified area, the town committee appointed under section 247 shall be deemed to be a committee and the area a municipality.

249. Where by reason of a notification under section 246, sub-section (4), any local area is included in or excluded from or ceases to be a notified; area, the provisions of section 6 shall apply as if the notified area were a municipality altered or abolished under section 4.

THE LAW AMENDING THE MUNICIPAL ACT (1990)

[Repealed by the Development Committees Law 1993]

The State Law and Order Restoration Council Law No. 1/90
The 13th Waxing Day of Pyatho, 1351 M.E

8 January 1990

The State Law and Order Restoration Council hereby enacts the following Law:-

1. This Law shall be called the Law Amending the Municipal Act.

2. In the Municipal Act-

(a) in section 62 sub-section (1) division (A) clause (f) the expression “not exceeding fifteen kyats per quarter” shall be deleted;

(b) in section 62 sub-section (1) division (A) clause (h) the expression “not exceeding one kyat” shall be deleted.

Sd./

Saw Maung

General

Chairman

The State Law and Order Restoration Council

THE GOVERNMENT BUILDINGS ACT (1899)

[Repealed by the Law for the Repeal of Laws (19 February 1992)]

India Act V, 1899

3 February 1899

1. [...]

2. In this Act, the expression “municipal authority” includes a municipal corporation or a body of municipal commissioners constituted by, or under the provisions of, any law or enactment for the time being in force.

3. Nothing contained in any law or enactment for the time being in force to regulate the erection, re-erection, construction, alteration or maintenance of buildings within the limits of any municipality shall apply to any building used or required for the public service or for any public purpose, which is in the property of the [State] or in the occupation of the Government, or which is to be erected on land which is the property or in the occupation of the Government:-

Provided that, where the erection, re-erection, construction or material structural alteration of any such building as, aforesaid (not being a building connected with defence, or a building the plan or construction of which ought, in the opinion of the President of the Union, to be treated as confidential or secret) is contemplated, reasonable notice of the proposed work shall be given to the municipal authority before it is commenced.

4. (1) In the case of any such building as is mentioned in the last preceding section (not being a building connected with defence or a building the plan or construction of which ought, in the opinion of the President of the Union, to be treated as confidential or secret), the municipal authority, or any person authorized by it in this behalf, may, with the permission of the President of the Union previously obtained, but not otherwise, and subject to any restrictions or conditions which may, by general or special order, be imposed by the President of the Union, inspect the land and building and all plans connected with its erection, re-erection, construction or material structural alteration, as the case may be, and may submit to the President of the Union a statement in writing of any objections or suggestions which such municipal authority may deem fit to make with reference to such erection, re-erection, construction or material structural alteration;

(2) Every objection or suggestion submitted as aforesaid shall be considered by the President of the Union; who shall, after such investigation (if any) as he shall think advisable, pass orders thereon, and the building referred to therein shall be erected, re-erected, constructed or altered, as the case may be, in accordance with such orders;

Provided that, if the President of the Union overrules or disregards any such objection or suggestion as aforesaid, he shall give his reasons for so doing in writing.

THE ANCIENT MONUMENTS PRESERVATION ACT (1904)

[Repealed by Law No. 15 (1957)]

India Act VII, 1904

18 March 1904

1. [...]

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

(1) “ancient monument” means any structure, erection or monument, or any tumulus or place of internment, or any cave, rock sculpture, inscription or monolith, which is of historical, archeological or artistic interest, or any remains thereof, and includes:

(a) the site of an ancient monument;

(b) such portion of land adjoining the site of an ancient monument as may be required for fencing or covering in or otherwise preserving such monument;

(2) “antiquities” include any moveable objects which the President of the Union, by reason of their historical or archeological associations, may think it necessary to protect against injury, removal or dispersion;

(3) “Commissioner” includes any officer authorised by the President of the Union to perform the duties of a Commissioner under this Act;

(4) “maintain” and “maintenance” include the fencing, covering in, repairing, restoring and cleansing of a protected monument, and the doing of any act which may be necessary for the purpose of maintaining a protected monument or of securing convenient access thereto;

(5) “land” includes a revenue-free estate, a revenue-paying estate, and a permanent transferable tenure, whether such estate or tenure be subject to incumbrance or not; and

(6) “owner” includes a joint owner invested with powers of management on behalf of himself and other joint owners and any manager or trustee exercising powers of management over an ancient monument, and the successor in title of any such owner and the successor in office of any such manager or trustee;

Provided that nothing in this Act shall be deemed to extend the powers which may lawfully be exercised by such manager or trustee.

3. (1) The President of the Union may, by notification in the Gazette declare an ancient monument to be a protected monument within the meaning of this Act.

(2) A copy of every notification published under sub-section (1) shall be fixed up in a conspicuous place on or near the monument, together with an intimation that any objection to the issue of the notification, received by the President of the Union within one month of from the date when it is so fixed upon will be taken into consideration.

(3) On the expiry of the said period of one month, the President of the Union, after considering the objections, if any, shall confirm or withdraw the notification.

(4) A notification published under this section shall, unless and until it is withdrawn, be conclusive evidence of the fact that the monument to which it relates is an ancient monument within the meaning of this Act.

Ancient Monuments

4. (1) The Collector, with the sanction of the President of the Union may purchase or take a lease of any protected monument.

(2) The Collector, with the like sanction, may accept a gift or bequest of any protected monument.

(3) The owner of any protected monument may by written instrument constitute the Commissioner the guardian of the monument, and the Commissioner may, with the sanction of the President of the Union, accept such guardianship:

(4) When the Commissioner has accepted the guardianship of a monument under sub-section (3), the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Commissioner had not been constituted guardian thereof.

(5) When the Commissioner has accepted the guardianship of a monument under sub-section (3), the provisions of this Act relating to agreements executed under sub-section 5 shall apply to the written instrument executed under the said sub-section.

(6) Where a protected monument is without an owner, the Commissioner may assume the guardianship of the monument.

5. (1) The Collector may, with the previous sanction of the President of the Union, propose to the owner to enter into an agreement with the Government for the preservation of any protected monument in his district.

(2) An agreement under this section may provide for the following matters or for such of them as it may be found expedient to include in the agreement:-

(a) the maintenance of the monument;

(b) the custody of the monument, and the duties of any person who may be employed to watch it;

(c) the restriction of the owner's right to destroy, remove, alter or deface the monument or to build on or near the site of the monument;

(d) the facilities of access to be permitted to the public or to any portion of the public and to persons deputed by the owner or the Collector to inspect or maintain the monument;

(e) the notice to be given to the Government in case the land on which the monument is situated is offered for sale by the owner, and the right to be reserved to the Government of purchase such land, or any specific portion of such land, at its market value;

(f) the payment of any expense incurred by the owner or by the Government in connection with the preservation of the monument;

(g) the proprietary or other rights which are to vest in [the States] in respect of the monument where any expenses are incurred by the Government in connection with the preservation of the monument;

(h) the appointment of an authority to decide any dispute arising out of the agreement; and

(i) any matter concerned with the preservation of the monument which is a proper subject of agreement between the owner and the Government.

(3) An agreement under this section may be executed by the Collector on behalf of the Government, but shall not be so executed until it has been approved by the President of the Union.

(4) The terms of an agreement under this section may be altered from time to time with the sanction of the President of the Union and with the consent of the owner.

(5) With the previous sanction of the President of the Union, the Collector may terminate an agreement under this section on giving six months' notice in writing to the owner.

(6) The owner may terminate an agreement under this section on giving six months' notice to the Collector.

(7) An agreement under this section shall be binding on any person claiming to be owner of the monument to which it relates, through or under a party by whom or on whose behalf the agreement was executed.

(8) Any rights acquired by Government in respect of expenses incurred in protecting or preserving a monument shall not be affected by the termination of an agreement under this section.

6. (1) If the owner is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 5.

(2) In the case of village-property, the headman or other village-officer exercising powers of management over such property may exercise the power conferred upon an owner by section 5.

(3) Nothing in this section shall be deemed to empower any person not being of the same religion as the person on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

7. (1) If the Collector apprehends that the owner or occupier of a monument intends to destroy, remove, alter, deface, or imperil the monument or to build on or near the site thereof in contravention of the terms of an agreement for its preservation under section 5, the Collector may make an order prohibiting any such contravention of the agreement.

(2) If an owner or other person who is bound by an agreement for the preservation or maintenance of a monument under section 5 refuses to do any act which is in the opinion of the Collector necessary to such preservation or maintenance, or neglects to do any such act within such reasonable time as may be fixed by the Collector, the Collector may authorize any person to do any such act, and the expense of doing any such act or such portion of the expenses as the owner may be liable to pay under the agreement may be recovered from the owner as if it were an arrear of land-revenue.

(3) A person aggrieved by an order made under this section may appeal to the Commissioner, who may cancel or modify it and whose decision shall be final.

8. Every person who purchases as a sale for arrears of land-revenue or any other public demand, an estate or tenure in which is situated a monument in respect of which any instrument has been executed by the owner for the time being, under section 4 or section 5, and every person claiming any title to a monument from, through or under an owner who executed any such instrument, shall be bound by such instrument.

9. (1) If any owner or other person competent to enter into an agreement under section 5 for the preservation of a protected monument refuses or fails to enter into such an agreement when proposed to him by the Collector and if any endowment has been created for the purpose of keeping such monument in repair, or for that purpose among others, the Collector may institute a suit in the Court of the District Judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application to the District Judge for the proper application of such endowment or part thereof.

(2) On the hearing of an application under sub-section (1), the District Judge may summon and examine the owner and any person whose evidence appears to him necessary, and may

pass an order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were the decree of a civil Court.

10. (1) If the President of the Union apprehends that a protected monument is in danger of being destroyed, injured or allowed to fall into decay, the President of the Union may proceed to acquire it under the provisions of the Land Acquisition Act, as if the preservation of a protected monument were a “public purposes” within the meaning of that Act.

(2) The powers of compulsory purchase conferred by sub-section (1) shall be exercised in the case of:

(a) any monument which or any part of which is periodically used for religious observances;
or

(b) any monument which is the subject of a subsisting agreement executed under section 5.

(3) In any case other than the cases referred to in sub-section (2) the said powers of compulsory purchase shall not be exercised unless the owner or other persons competent to enter into an agreement under section 5 has failed, within such reasonable period as the Collector may fix in this behalf, to enter to an agreement proposed to him under the said section or has terminated or given notice of his intention to terminate such agreement.

10A. (1) If the President of the Union is of opinion that mining, excavating, blasting and other operations of a like nature should be restricted or regulated for the purpose of protecting or preserving any ancient monument, the President of the Union may, by notification in the Gazette, make rules:

(a) fixing the boundaries of the area to which the rules are to apply,

(b) forbidding the carrying on of mining, quarrying, excavating, blasting or any operation of a like nature except in accordance with the rules and with the terms of a licence, and

(c) prescribing the authority by which, and the terms on which, licences may be granted to carry on any of the said operations.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(3) A rule made under this section may provide that any person committing a breach thereof shall be punishable with fine which may extend to two hundred rupees.

(4) If any owner or occupier of land included in a notification under sub-section (1) proves to the satisfaction of the President of the Union that he has sustained loss by reasons of such land being so included, the Government shall pay compensation in respect of such loss.

11. (1) The Commissioner shall maintain every monument in respect of which the Government has acquired any of the rights mentioned in section 4 or which the Government has acquired under section 10.

(2) When the Commissioner has accepted the guardianship of a monument under section 4, he shall for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself and by his agent, subordinates, and workmen, for the purpose of inspecting the monument, and for the purpose of brining such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

12. The Commissioner may receive voluntary contributions towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds received by him;

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

13. (1) A place of worship or shrine maintained by the Government under this Act shall not be used for any purpose inconsistent with its character.

(2) Where the Collector has, under section 4, purchased or taken a lease of any protected monument, or has accepted a gift of bequest, or the Commissioner has, under the same section, accepted the guardianship thereof and such monument, or any part thereof, is periodically used for religious worship or observance by any community, the Collector shall make due provision for the protection of such monument, or such part thereof from pollution or desecration:

(a) by prohibiting the entry therein, except in accordance with conditions prescribed with the concurrence of the persons in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used, or

(b) by taking such other action as he may think necessary in this behalf.

14. With the sanction of the President of the Union, the Commissioner may:

(a) where rights have been acquired by Government in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish the rights so acquired to the person who would for the time being be the owner of the monument if such right had not been acquired; or

(b) relinquish any guardianship of a monument which he has accepted under this Act.

15. (1) Subject to such rules as may after previous publication be made by the President of the Union, the public shall have a right of access to any monument maintained by the Government under this Act.

(2) In making any rule under sub-section (1) the President of the Union may provide that a breach of it shall be punishable with fine which may extend to twenty rupees.

16. Any person other than the owner who destroys, removes, injures, alters, defaces or imperils a protected monument, and any owner who destroys, removes, injures, alters, defaces, or imperils a monument maintained by Government under this Act or in respect of which an agreement has been executed under section 5, and any owner or occupier who contravenes an order made under section 7, sub-section (1), shall be punishable with fine which may extend to five thousand rupees or with imprisonment which may extend to three months, or with both.

Traffic in Antiquities

17. (1) If the President of the Union apprehends that antiquities are being sold or removed to the detriment of the Union of Burma or of any neighbouring country, he may, by notification in the Gazette, prohibit or restrict the bringing or taking by sea or by land of any antiquities or class of antiquities described in the notification into or out of the Union of Burma or any specified part of the Union of Burma.

(2) Any person who brings or takes or attempts to bring or take any such antiquities into or out of the Union of Burma or any part of the Union of Burma, in contravention of a notification issued under sub-section (1), shall be punishable with fine which may extend to five hundred rupees.

(3) Antiquities in respect of which an offence referred to in sub-section (2) has been committed shall be liable to confiscation.

(4) Antiquities in respect of which an offence referred to in sub-section (2) has been committed shall be liable to confiscation.

(4) An officer of Customs, or an officer of police of a grade not lower than sub-inspector, duly empowered by the President of the Union in this behalf, may search any vessel, cart or any other means of conveyance and may open any baggage or package of goods, if he has reason to believe that goods in respect of which no offence has been committed under sub-section (2) are contained therein.

(5) A person who complains that the power of search mentioned in sub-section (4) has been vexatiously or improperly exercised may address his complaint to the President of the Union, and the President of the Union shall pass such order as may award such compensation, if any, as appears to him to be just.

Protection of Sculptures, Carvings, Images, Bas-reliefs, Inscriptions or like objects.

18. (1) If the President of the Union considers that any sculptures, carvings, images, bas-reliefs, inscriptions or other like objects ought not to be moved from the place where they are without the sanction of the Government, the President of the Union may, by notification in the Gazettes, direct that any such object or any class of such objects shall not be moved unless with the written permission of the Collector.

(2) A person applying for the permission mentioned in sub-section (1) shall specify the object or objects which he proposes to move, and shall furnish, in regard to such object or objects, any information which the Collector may require.

(3) If the collector refuses to grant such permission, the applicant may appeal to the Commissioner, whose decision shall be final.

(4) Any person who moves any object in contravention of a notification issued under sub-section (1) shall be punishable with fine which may extend to five hundred rupees.

(5) If the owner of any property proves to the satisfaction of the President of the Union that he has suffered any loss or damage by reason of the inclusion of such property in a notification published under sub-section (1), the President of the Union shall either -

(a) exempt such property from the said notification;

(b) purchase such property, if it be moveable, at its market-value; or

(c) pay compensation for any loss or damage sustained by the owner of such property, if it be immoveable.

19. (1) If the President of the Union apprehends that any object mentioned in a notification issued under section 18, sub-section (1), is in danger of being destroyed, removed, injured or allowed to fall into decay, the President of the Union may pass orders for the compulsory purchase of such object at its market-value, and the Collector shall thereupon give notice to the owner of the object to be purchased.

(2) The power of compulsory purchase given by this section shall not extend to:

(a) any image or symbol actually used for the purpose of any religious observances; or

(b) anything which the owner desires to retain on any reasonable ground personal to himself or to any of his ancestors or to any member of his family.

Archeological Excavation.

20. (1) If the President of the Union is of the opinion that excavation for archeological purposes in any area should be restricted and regulated in the interests of archeological research, the President of the Union may, by notification in the Gazette specifying the boundaries of the area, declare it to be a protected areas.

(2) From the date of such notification all antiquities buried in the protected area shall be the property of the [State] and shall be deemed to be in the possession of Government until ownership thereof is transferred; but in all other respects the right of any owner or occupier of land in such areas shall not be affected.

20A. (1) Any officer of the archeological department or any person holding a licence under section 20B may, with the written permission of the Collector, enter upon and make excavation in any protected area.

(2) Where, in the exercise of the power conferred by sub-section (1), the rights of any person are infringed by the occupation or disturbance of the surface of any land, the Government shall pay to that person compensation for the infringement.

20B. (1) The President of the union may make rules:

(a) Prescribing the authorities by whom licences to excavate for archeological purposes in a protected area may be granted;

(b) regulating the conditions on which such licences may be granted, the form of such licences, and the taking of security from licences;

(c) prescribing the manner in which antiquities found by a licence shall be divided between Government and the licensee; and

(d) generally to carry out the purposes of section 20.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(3) Such rules may be provide that any person committing any breach of any rule or of any condition of a licence shall be punishable with fine which may extend to five thousand rupees, and may further provide that where the breach has been by the agent of a licensee the licensee himself shall be punishable.

20C. If the President of the Union is of the opinion that a protected area contains an ancient monument or antiquities of national interest and value he may acquire such area or any parth thereof under the Land Acquisition Act as for a public purpose.

General.

21. (1) The market-value of any property which Government is empowered to purchase as such value under this Act, or the compensation to be paid by Government in respect of anything done under this Act, shall where any dispute arises in respect of such market-value or compensation, be ascertained in the manner provided by the Land Acquisition Act, sections 3, 8, 34, 45 to 47, 51 and 52, so far as they can be made applicable;

Provided that when making an inquiry under the said Land Acquisition Act, the Collector shall be assisted by two assessors, one of whom shall be a competent person, nominated by the Collector, and one a person nominated by the owner or, in case the owner fails to nominate an assessor within such reasonable time as may be fixed by the Collector in this behalf, by the Collector.

22. A magistrate of the third class shall not have jurisdiction to try and person charged with an offence against this Act.

23. (1) The President of the Union may make rules for carrying out any of the purposes of this Act.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

24. No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act done, or in good faith intended to be done, in the exercise of any power conferred by this Act.

THE HIGHWAYS ACT (1907)

[Repealed by the Highways Law (2000)]

Burma Act V, 1907

4 May 1907

1. This Act shall apply to such local areas as the President of the Union may, by notification, direct:

2. (1) The President of the Union may make rules for the regulation of traffic on public roads and places and for the preservation of the surface of such roads and places.

(2) Without prejudice to the generality of the foregoing power, such rules may contain directions as to all or any of the following matters, namely:-

(a) prohibiting or restricting the use of vehicles of any particular class or description considered likely to cause damage or excessive wear to the surface of the roadway or to drop materials or obstructions thereon, and in particular, where a berm or side-track is provided, confining such vehicles to the berm or side-track during the dry season;

(b) prohibiting or restricting the use of vehicles not provided with brakes of such character as may be required by the rules;

(c) prohibiting or restricting the use of vehicles or animals which are of such a nature or in such a condition as to be likely to cause annoyance, inconvenience or danger to the public;

(d) providing for the granting of licences to drive vehicles of any particular class or description the fees chargeable in respect of such licences and the authority by which and the conditions upon which such licence may be granted and revoked;

(e) prohibiting the driving of any such vehicle by unlicensed persons;

(f) prohibiting the leaving of vehicles or animals unattended or in the charge of incompetent persons;

(g) the speed at which vehicles or animals may be driven or ridden;

(h) the rule of the road;

(i) the registration of vehicles plying for hire, the fees chargeable in respect of such registration and the carrying of number or name plates on vehicles so registered;

(j) prohibiting the driving or riding of vehicles or animals on footways or other places where their use may be attended with danger to the public;

(k) prohibiting the halting of vehicles or animals at places other than the proper camps or refuges;

(l) the carrying and use on vehicles and animals of a bell or other instrument for giving audible and sufficient warning of their approach or position;

(m) the carrying of lights on vehicles between sunset and sunrise and the description of lights to be carried and the position in which they should be placed;

(n) the stoppage of vehicles or animals when required by the police for the regulation of traffic or for other reasonable purpose;

(o) the maximum weight or the number of passengers to be carried on each description of vehicle or animal;

(p) empowering specified officers to issue notices requiring owners or occupiers of land:

(i) to lop the branches of any trees growing on such land and overhanging the road so as to cause obstruction or danger, and

(ii) to cut or trim any hedges or noxious vegetation, growing on such land, which may be considered likely to intercept a view of approaching traffic on the road, or any side road or other approach thereto, and

(iii) to remove from the road any branches, trimmings and vegetation lopped or cut by such owners or occupiers;

(q) imposing on such owners or occupiers of land the duty to comply with such notices within a reasonable time, and authorizing such officers to lop, cut or trim such trees, hedges and vegetation in a case of default;

(r) and generally the prevention of obstruction to traffic and of annoyance, danger or injury to the public.

(3) All rules made under this section shall be made after previous publication, and when made shall be finally published in the Gazette, and shall come into operation from the date of such final publication.

3. Any breach of any rule made under this Act may on conviction be punished with fine which may extend to fifty rupees, or, in the case of a second or subsequent conviction, to two hundred rupees.

4. (1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest and person committing in his view a breach of any rule made under section 2, if the

name and residence of such a person be unknown to such officer and cannot be ascertained by him then and there;

(2) When any such arrest has been made, the provisions of section 57, sub-sections (2) and (3) and sections 60 to 63 of the Code of Criminal Procedure shall apply.

THE ELECTRICITY ACT (1911)

[Repealed by the Electricity Act (1984)]

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8. Provisions where no purchase and licence revoked with consent of licensees.
9. [...]
10. General power for President to vary terms of purchase.
11. Annual accounts of licensee.

Works.

12. Provisions as to the opening and breaking up of streets, railways and tramways.
13. Notice of new works.
14. Alteration of pipes or wires.
15. Laying of electric supply-lines or other works near sewers, pipes or other electric supply lines or works.
16. Streets, railways, tramways, sewers, drains or tunnels broken up to be reinstated without delay.
17. Notice to telegraph authority.
18. Aerial lines.
19. Compensation for damage.

Supply.

- 19A. Power where supply is delivered.
20. Power for licensee to enter premises and to remove fittings or other apparatus of licensee.
21. Restrictions on licensee's controlling or interfering with use of energy.
22. Obligation on licensee to supply energy.

23. Charges for energy to be made without undue preference.
24. Discontinuance of supply to consumer neglecting to pay charge.
25. Exemption of electric supply-lines or other apparatus from attachment in certain cases.
26. Meters.
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PART III

SUPPLY, TRANSMISSION AND USE OF ENERGY BY NON-LICENSEES

28. Sanction required by non-licensees in certain cases.
29. Power for non-licensees to break up streets.
- 29A. Application of section 18 to aerial lines maintained by railways.
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PART IV

GENERAL

Protective Clauses.

31. Protection of railways, and canals, docks, wharves and piers.
32. Protection of telegraphic, telephonic and electric signaling lines.
33. Notice of accidents and inquiries.
34. Prohibition of connection with earth, and power for President to interfere in certain cases of default.

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35. Advisory Boards.
36. Appointment of Electric Inspectors.
37. Power to make rules.
38. Further provisions respecting rules.

Criminal Offences and Procedure.

39. Theft of energy.
40. Penalty for maliciously wasting energy or injuring works.
41. Penalty for unauthorized supply of energy by non-licensees.
42. Penalty for illegal or defective supply or for non-compliance with order.
43. Penalty for illegal transmission or use of energy.
44. Penalty for interference with meters or licensee's works, and for improper use of energy.
45. Penalty for extinguishing public lamps.
46. Penalty for negligently wasting energy or injuring works.
47. Penalty for offences not otherwise provided for.
48. Penalties not to affect other liabilities.
49. Penalties where works belong to Government.

50. Institution of prosecutions.

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51. Exercise in certain cases of powers of telegraph-authority.

52. Arbitration.

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54. Recovery of sums recoverable under certain provisions of Act.

55. Delegation of certain functions of President to Electric Inspectors.

56. Protection for acts done in good faith.

57. Amendment of the Land Acquisition Act.

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Provisions to be deemed to be incorporated with, and to form part of, every licence granted under Part II so far as not added to, varied or excepted by the licence.

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I. Security for execution of works of licensee not being local authority.

II. Audit of accounts of licensee not being local authority.

III. Separate accounts.

IV. Execution of work after commencement of licence.

V. Provisions as to laying down of further distributing mains.

VI. Requisition for supply to owners or occupiers in vicinity.

VII. Further provisions as to laying of service lines.

VIII. Supply for public lamps.

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X. Methods of charging.

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XVI. Plan of area of supply to be made and kept open for inspection.

Additional notice of certain works.

XVII. Notice to Electric Inspector.

THE ELECTRICITY ACT

India Act 1910
1 January, 1911

PART I PRELIMINARY

1. [...]

2. In this Act, expressions defined in the Burma Telegraph Act have the meanings assigned to them in that Act, and, unless there is anything repugnant in the subject or context:

(a) “aerial line” means any electric supply line which is placed above ground and in the open air;

(b) “area of supply” means the area within which alone a licensee is for the time being authorized by his licence to supply energy;

(c) “consumer” means any person who is supplied with energy by a licensee, or whose premises are for the time being connected for the purposes of a supply of energy with the works of a licensee;

(d) “daily fine” means a fine for each day on which an offence is continued after conviction therefore;

(e) “distributing” means the portion of any main with which a service line is, or is intended to be, immediately connected;

(f) “electric supply-line” means a wire, conductor or other means used for conveying, transmitting or distributing energy, together with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy;

(g) “energy” means electrical energy when generated, transmitted, supplied or used for any purpose except the transmission of a message;

(h) “licensee” means any person licensed under Part II to supply energy;

(i) “main” means any electric supply-line through which energy is, or is intended to be, supplied by a licensee to the public;

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

(k) “public lamp” means an electric-lamp used for the lighting of any street;

(l) “service line” means any electric supply-line through which energy is, or is intended to be, supplied by a licensee -

(i) to a single consumer either from a distributing main or immediately from the licensee’s premises, or

(ii) from a distributing main to a group of consumers on the same premises or on adjoining premises supplied from the same point of the distributing main;

(m) “street” includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway; and

(n) “works” includes electric supply-lines and any buildings, machinery or apparatus required to supply energy and to carry into effect the objects of a licence granted under Part II.

PART II SUPPLY OF ENERGY

Licences.

3. (1) The President of the Union may, on application made in the prescribed term and on payment of the prescribed fee (if any), grant to any person a licence to supply energy in any specified area, and also to lay down or place electric supply lines for the conveyance and transmission of energy:

(a) where the energy to be supplied is to be generated outside such area, from a generating station situated outside such area to the boundary of such area, or

(b) where energy is to be conveyed or transmitted from any place in such area to any other place therein across an intervening area not included therein across such area.

(2) In respect of every such licence and the grant thereof the following provisions shall have effect, namely:

(a) any person is applying for a licence under this Part shall publish a notice of his application in the prescribed manner and with the prescribed particulars, and the licence shall not be granted:

(i) until all objections received by the President of the Union with reference thereto have been considered by him:

Provided that no objection shall be so considered unless it is received before the expiration of three months from the date of the first publication of such notice as aforesaid; and

(ii) until, in the case of application for a licence for an area including the whole or any part of any cantonment, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for naval or military purposes, the President of the Union has ascertained that there is no objection to the grant of the licence on the part of the Defence Department;

(b) where an objection is received from any local authority concerned, the President of the Union shall, if in his opinion the objection is insufficient, record in writing and communicate to such local authority his reasons for such opinion;

(c) no application for a licence under this Part shall be made by any local authority except in pursuance of a resolution passed as a meeting of such authority held after one month's previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given;

(d) a licence under this Part:

(i) may prescribe such terms as to the limits within which, and the conditions under which, the supply of energy is to be compulsory or permissive, and as to the limits of price to be charged in respect of the supply of energy, and generally as to such matters as the President of the Union may think fit; and

(ii) save in cases in which, under section 10, clause (b), the provisions of sections 5 and 7, or either of them, have been declared not to apply, every such licence shall declare whether any generating station to be used in connection with the undertaking shall or shall not form part of the undertaking for the purpose of purchase under section 5 or section 7;

(e) the grant of a licence under this Part for any purpose shall not in any way hinder or restrict the grant of a licence to another person within the same area of supply for a like purpose;

(f) the provisions contained in the Schedule shall be deemed to be incorporated with, and to form part of, every licence granted under this Part, save in so far as they are expressly added to, varied or excepted by the licence, and shall, subject to any such additions, variations or exceptions, which the President of the Union is, hereby empowered to make, apply to the undertaking authorized by the licence:

Provided that, where a licence is granted in accordance with the provisions of clause IX of the Schedule for the supply of energy to other licensees for distribution by them, then, in so far as such licence relates to X such supply, the provisions of clauses IV, V, VI, VII, VIII and XII of the Schedule shall not be deemed to be incorporated with the licence.

4. (1) The President of the Union may, if in his opinion the public interest so requires, revoke a licence in any of the following cases, namely:

(a) where the licensee, in the opinion of the President of the Union, makes willful and unreasonably prolonged default in doing anything required of him by or under this Act;

(b) where the licensee breaks any of the terms or conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation;

(c) where the licensee fails, within the period fixed in this behalf by his licence or any longer period which the President of the Union may substitute therefore by order under sub-section (3), clause (b), and before exercising any of the powers conferred on him thereby in relation to the execution of works:

(i) to show, to the satisfaction of the President of the Union, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his licence, or

(ii) to make the deposit or furnish the security required by his licence;

(d) where the licensee is, in the opinion of the President of the Union, unable, by reason of his insolvency, fully and efficiently to discharge the duties and obligations imposed on him by his licence.

(2) Where the President of the Union might, under sub-section (1), revoke a licence, he may, instead of revoking the licence, permit it to remain in force subject to such further terms and conditions as he thinks fit to impose, and any further terms or conditions so imposed shall be binding upon, and be observed by the licensee and shall be of like force and effect as if they were contained in the licence.

(3) Where in his opinion the public interest so permits, the President of the Union may, on the application or with the consent of the licensee, and, if the licensee is not a local authority, after consulting the local authority (if any) concerned,

(a) revoke a licence as to the whole or any part of the area of supply upon such terms and conditions as he thinks, or

(b) make such alterations or amendments in the terms and conditions of a licence, including the provisions specified in section 3, sub-section - (2), clause (f), as he thinks fit.

5. Where the President of the Union revokes, under section 4, sub-section (1), the licence of a licensee, not being a local authority, the following provisions shall have effect, namely:-

(a) the President of the Union shall serve a notice of the revocation upon the licensee, and, where the whole of the area of supply is included in the area for, which a single local authority is constituted, upon that local authority also, and shall in the notice fix a date on

which the revocation shall take effect; and on and with effect from that date all the powers and liabilities of the licensee under this Act shall absolutely cease and determine;

(b) where a notice has been served on a local authority under clause (a), the local authority may, within three months after the service of the notice, and with the written consent of the President of the Union, by notice in writing, require the licensee to sell, and thereupon the licensee shall sell the undertaking to the local authority on payment of the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him for, the purposes of the undertaking, other than a generating station declared by the licence, not to form part of the undertaking for the purpose of purchase, such value to be, in case of difference or dispute, determined by arbitration:

Provided that the value of such lands, buildings, works, materials and plant shall be deemed to be their fair market value at the time of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant, and to the state of repair thereof, and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking, but without any addition in respect of compulsory purchase, or of goodwill or of any profits which may be or might have been made from the undertaking, or of any similar considerations;

(c) where no purchase has been effected the local authority under clause (b), and any other person is willing to purchase the undertaking, the President of the Union may, if he thinks fit, with the consent of the licensee in case the price is not less than that for which the local authority might have purchased the same, require the licensee to sell, and thereupon the licensee shall sell, the undertaking to such other person;

(d) where no purchase has been effected under clause (b) or clause (c) within such time as the President of the Union may consider reasonable, or where the whole of the area of supply is not included in the area for which a single local authority is constituted, the Government shall have the option of purchasing the undertaking and, if the Government elects to purchase, the licensee shall sell the undertaking to the Government upon terms and conditions similar to those set forth in clause (b);

(e) where a purchase has been effected under any of the preceding clauses:

(i) the undertaking shall vest in the purchasers free from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking;

Provided that any such debts, mortgages or similar obligations shall attach to the purchase-money in substitution for the undertaking; and

(ii) the revocation of the licence shall extend only to the revocation of the rights, powers, authorities, duties and obligations of the licensee from whom the undertaking is purchased,

and, save as aforesaid, the licence shall remain in full force, and the purchaser shall be deemed to be the licensee:

Provided that where the Government elects to purchase under clause (d), the licensee shall, after purchase, in so far as the Government is concerned, cease to have any further operation.

(f) where no purchase has been effected under any of the foregoing clauses the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit:

Provided that, if the licensee does not exercise such option within a period of six months from the date on which the same became exercisable, the President of the Union may forthwith cause the works of the licensee in, under, over, along or across any street to be removed and every such street to be reinstated, and recover the cost of such removal and reinstatement from the licensee;

(g) if the licensee has been required to sell the undertaking, and if the sale has not been completed by the date fixed in the notice issued under clause (a), the purchaser may, with the previous sanction of the President of the Union, work the undertaking pending the completion of the sale.

6. (1) Where the President of the Union revokes the licence of a local authority under section 4, sub-section (1), and any person is willing to purchase the undertaking, the President of the Union may, if he thinks fit, require the local authority to sell, and thereupon the local authority shall sell, the undertaking to such person on such terms as the President or the Union thinks just.

(2) Where no purchase has been effected under sub-section (1), the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as it may think fit:

Provided that, if the licensee does not exercise such option within a period of six months from the date on which the same became exercisable the President of the Union may forthwith cause the works of the licensee in, under, over, along or across any street to be removed and every such street to be reinstated, and recover the cost of such removal and reinstatement from the licensee;

7. [...] [Repealed by Act LXIX 1948]

8. Where, on the expiration of any of the periods referred to in section 7, sub-section (1), neither a local authority nor the Government purchases the undertaking, and the licence is, on the application or with the consent of the licensee, revoked, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit:

Provided that, if the licensee does not exercise such option within a period of six months, the President of the Union may. proceed to take action as provided in section 5, clause (f).

9. [...] [Repealed by Act LXIX 1948]

10. Notwithstanding anything in sections 5, 7 and 8, the President of the Union may, in any licence to be granted under this Act, vary the terms and conditions upon which, and the periods on the expiration of which, the licensee shall be bound to sell his undertaking, or

(b) direct that, subject to such conditions and restrictions (if any) as he may think fit to impose, the provisions of the said sections or any of them shall not apply.

11. (1) Every licensee shall, unless expressly exempted from the liability by his licence, or by order in writing on the President of the Union, prepare and render to the President of the Union or to such authority as the President of the Union may appoint in this behalf, on or before the prescribed date in each year, an annual statement of accounts of his undertaking made up to such date, in such form, and containing such particulars, as may be prescribed in this behalf.

(2) The licensee shall keep copies of such annual statement at his office, and sell the same to any applicant at a price not exceeding five rupees per copy.

2. (1) Any licensee may, from time to time but subject always to the terms and conditions of his licence, within the area of supply, or, when permitted by the terms of his licence to lay down or place electric supply lines without the area of supply, without that area:

(a) open and break up the soil and pavement of any street, railway or tramway;

(b) open and break up any sewer, drain or tunnel in or under any street, railway or tramway;

(c) lay down and place electric supply lines and other works;

(d) repair, alter or remove the same; and

(e) do all other acts necessary for the due supply of energy.

(2) Nothing contained in sub-section (1) shall be deemed to authorize or empower a licensee, without the consent of the local authority or of the owner and occupier concerned, as the case may be, to lay down or place any electric supply line or other work in, through or against any building, or on, over or under any land not dedicated to public use whereon, wherever or whereunder any electric supply-line or work has not already been lawfully laid down or placed by such licensee:

Provided that any support of an aerial line or any stay or strut required for the sole purpose of securing in position any support of an aerial line may be fixed on any building or land or, having been so fixed, may be altered, notwithstanding the objection of the owner or occupier of such building or land, if the District Magistrate or, in Rangoon, the Commissioner of Police by order in writing so directs:

Provided also that, if any time the owner or occupier of any building or land on which any such support, stay or strut has been fixed shows sufficient cause, the District Magistrate or, in Rangoon the Commissioner of Police may by order in writing direct any such support, stay or strut to be removed or altered.

(3) When making an order under sub-section (2), the District Magistrate or the Commissioner of Police, as the case may be, shall fix the amount of compensation or of annual rent, or of both, which should in his opinion be paid by the licensee to the owner or occupier.

(4) Every order made by a District Magistrate or a Commissioner of Police under sub-section (2) shall be subject to revision by the President of the Union.

(5) Nothing contained in sub-section (1) shall be deemed to authorize or empower any licensee to open or break up any street not repairable by the Government or a local authority, or any railway or tramway, except such streets, railways or tramways (if any), or such parts thereof, as he is specially authorized to break up by his licence, without the written consent of the person by whom the street is repairable or of the person for the time being entitled to work the railway or tramway, unless with the written consent of the Union:

Provided that the President of the Union shall not give any such consent as aforesaid until the licensee has given notice by advertisement or otherwise as the President of the Union may direct, and within such period as the President of the Union may fix in this behalf, to the person above referred to, and until all representations or objections received in accordance with the notice have been considered by the President of the Union.

13. (1) Where the exercise of any of the powers of a licensee in relation to the execution of any works involves the placing of any works in, under, over, along or across any street, part of a street, railway, tramway, canal or water way, the following provisions shall have effect, namely:

(a) not less than one month before commencing the execution of the works (not being a service line immediately attached, or intended to be immediately attached, to a distributing main, or the repair, renewal or amendment of existing works of which the character or position is not to be altered, the licensee shall serve upon the person responsible for the repair of the street or part of a street (hereinafter in this section referred to as "the repairing authority") or upon the person for the time being entitled to work the railway, tramway, canal or waterway (hereinafter in this section referred to as "the owner"), as the case may be at notice in writing describing the proposed works, together with a section and plan thereof

on a scale sufficiently large to show clearly the details of the proposed works, and not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally, and intimating the manner in which, and the time at which, it is proposed to interfere with or alter any existing works, and shall, upon being required to do so by the repairing authority or owner, as the case may be, from time to time give such further information in relation thereto as may be desired;

(b) if the repairing authority intimates to the licensee that it disapproves of such works, section or plan, or approves thereof subject to amendment, the licensee may, within one week of receiving such intimation, appeal to the President of the Union whose decision, after considering the reasons given by the repairing authority for its action, shall be final;

(c) if the repairing authority fails to give notice in writing of its approval or disapproval to the licensee within one month, it shall be deemed to have approved the works, section and plan, and the licensee after giving not less than forty-eight hours notice in writing to the repairing authority, may proceed to carry out the works in accordance with the notice and the section served under clause (a);

(d) if the owner disapproves of such works, section or plan, or approves thereof subject to amendment, he may, within three weeks after the service of the notice; under clause (a), serve a requisition upon the licensee demanding that any question in relation to the works or to compensation, or to the obligations of the owner to others in respect thereof, shall be determined by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration;

(e) where no requisition has been served by the owner upon the licensee under clause (d) within the time named, the owner shall be deemed to have approved of the works, section and plan, and in that case, or where after a requisition for arbitration the matter has been determined by arbitration, the works may, upon payment or securing of compensation, be executed according to the notice and the section and plan, subject to such modifications as may have been determined by arbitration or agreed upon between the parties;

(f) where the works to be executed consist of the laying of any underground service line immediately attached, or intended to be immediately attached, to, a distributing main, the licensee shall give to the repairing authority or owner, as the case may be, not less than forty-eight hours notice in writing of his intention to execute such works;

(g) where the works to be executed consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered, the licensee shall, except in cases of emergency, give to the repairing authority, or to the owner, as the case may be, not less than forty eight hours notice in writing of his intention to execute such works, and, on the expiry of such notice, such works shall be commenced forthwith and shall be carried on with all reasonable dispatch and, if possible, both by day and by night until completed.

(2) Where the licensee makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason hereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

(3) Notwithstanding anything in this section, the licensee may, in case of emergency due to the breakdown of an underground electric supply-line, after giving notice in writing to the repairing authority or the owner, as the case maybe, of his intention to do so, place an aerial line without complying with the provisions of sub-section (1):

Provided that such aerial line shall be used only until the defect in the underground electric supply-line can be made good, and in no case (unless with the written consent of the President of the Union) for a period exceeding six weeks, and shall be removed as soon as may be after such defect is removed.

14. (1) Any licensee may alter the position of any pipe (not forming, in a case where the licensee is not a local authority, part of a local authority's main sewer), or of any wire under or over any place which he is authorized to open or break up, if such pipe or wire is likely to interfere with the exercise of his powers under this Act; and any person may alter the position of any electric supply-lines or works of a licensee under or over any such place as aforesaid, if such electric supply-lines or works are likely to interfere with the lawful exercise of any powers vested in him;

(2) In any such case as aforesaid the following provisions shall, in the absence of an agreement to the contrary between the parties concerned, apply, namely:

(a) not less than one month before commencing any alteration, the licensee or other person desiring to make the same (hereinafter in this section referred to as "the operator") shall serve upon the person for the time being entitled to the pipe, wire, electric, supply-lines or works, as the case may be, (hereinafter in this section referred to as "the owner"), a notice in writing, describing the proposed alteration, together with a section and plan thereof on a scale sufficiently large to show clearly the details of the proposed works, and not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally, and intimating the time when it is to be commenced, and shall subsequently give such further information in relation thereto as the owner may desire;

(b) within fourteen days after the service of the notice, section and plan upon the owner, the owner may serve upon the operator requisition to the effect that any question arising upon the notice, section or plan shall be determined by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration;

(c) every arbitrator to whom a-reference is made under clause (b) shall have regard to any duties or obligations which the owner is under, and may require the operator to execute any temporary or other works soas to avoid, as far as possible, interference therewith;

(d) where no requisition is served upon the operator under clause (b), within the time named, or where such a requisition has been served and the matter has been settled by agreement or determined by arbitration, the alteration may, upon payment or securing of any compensation accepted or determined, by arbitration, be executed in accordance with the notice, section, and plan and subject to such modifications as may have been determined by arbitration or agreed upon between the parties;

(e) the owner may, at any time before the operator is entitled (to commence the alteration, serve upon the operator a statement in writing to the effect that he desires to execute the alteration himself and requires the operator to give such security for the repayment of any expenses as may be agreed upon or, in default of agreement, determined by arbitration;

(f) where a statement is served upon the operator under clause (e), he shall, not less than forty-eight hours before the execution of the alteration is required to be commenced furnish such security and serve upon the owner a notice in writing intimating the time when the alteration is required to be commenced, and the manner in which it is required to be made, and thereupon the owner may proceed to execute the alteration as required by the operator;

(g) where the owner declines to comply, or does not, within the time and in the manner prescribed by a notice served upon him under, clause (f), comply with the notice, the operator may himself execute the alteration;

(h) all expenses properly incurred by the owner in complying with a notice served upon him by the operator under clause (f) may be recovered by him from the operator.

(3) Where the licensee or other person desiring to make the alteration makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

15. (1) Where:

(a) the licensee requires to dig or sink any trench for laying down any new electric supply-lines or other works, near to which any sewer, drain, water course or work under the control of the Government or of any local authority, or any pipe, siphon, electric supply-line or other work belonging to any duly authorized person, has been lawfully placed, or

(b) any duly authorized person requires to dig or sink any trench for laying down or constructing any new pipes or other works, near to which any electric supply-lines or works of a licensee have been lawfully placed,

the licensee or such duly authorized person, as the case may be, (hereinafter in this section referred to as "the operator"), shall, unless it is otherwise agreed upon between the parties interested or in case of sudden emergency, give to the President of the Union or local authority, or to such duly authorized person or to the licensee, as the case may be,

(hereinafter in this section referred to as “the owner”), not less than forty-eight hours’ notice in writing before commencing to dig or sink the trench, and the owner shall have the right to be present during the execution of the work, which shall be executed to the reasonable satisfaction of the owner.

(2) Where the operator finds it necessary to undermine, but not to alter, the position of any pipe, electric supply-line or work, he shall support it in position during the execution of the work, and before completion shall provide a suitable and proper foundation for it where so undermined.

(3) Where the operator (being the licensee) lays any electric supply-line across, or so as to be liable to touch, any pipes, lines or service-pipes or service-lines belonging to any duly authorized person or to any person supplying, transmitting or using energy under this Act, he shall not, except with the written consent of such person and in accordance with section 34, sub-section (1), lay his electric supply-lines so as to come into contact with any such pipes, lines or service-pipes or service-lines.

(4) where the operator makes default in complying with any of the provisions of this section, he shall make full compensation for any loss or damage incurred by reason thereof.

(5) Where any difference or dispute arises under this section, the matter shall be determined by arbitration.

(6) Where the licensee is a local authority, the references in this section to the local authority and to sewers, drains, water-courses or works under its control shall not apply.

16. (1) Where any person, in exercise of any of the powers conferred by or under this Act, opens or breaks up the soil or pavement of any street, railway or tramway, or any sewer, drain or tunnel, he shall:

(a) immediately cause the part opened or broken up to be fenced and guarded;

(b) before sunset cause a light or lights, sufficient for the warning of passengers, to be set up and maintained until sunrise against or near the part opened or broken up;

(c) with all reasonable speed fill in the ground and reinstate and make good the soil or pavement, or the sewer, drain or tunnel, opened or broken up, and carry away the rubbish occasioned by such opening or breaking up; and

(d) after reinstating and making good the soil or pavement, or the sewer, drain or tunnel broken or opened up, keep the same in good repair for three months and for any further period, not exceeding nine months, during which subsidence continues.

(2) Where any person fails to comply with any of the provisions of sub-section (1), the person having the control or management of the street, railway, tramway, sewer, drain or

tunnel in respect of which the default has occurred, may cause to be executed the work which the defaulter has delayed or omitted to execute, and may recover from him the expenses incurred in such execution.

(3) Where any difference or dispute arises as to the amount of the expenses incurred under sub-section (2), the matter shall be determined by arbitration.

17 (1) A licensee shall, before laying down or placing, within ten yards of any part of any telegraph line, any electric supply-line or other works (not being either service lines or electric supply-lines for the repair, renewal for amendment of existing works of which the character or position is not to be altered), give not less than ten days' notice in writing to the telegraph authority, specifying,

- (a) the course of the works or alteration proposed,
- (b) the manner in which the works are to be utilised,
- (c) the amount and nature of the energy to be transmitted, and
- (d) the extent to, and manner in, which (if at all) earth returns are to be used;

and the licensee shall conform with such reasonable requirements, either general or special, as may be laid down by the telegraph-authority within that period for preventing any telegraph-line from being injuriously affected by such works or alterations:

Provided that, in case of emergency (which shall be stated by the licensee in writing to the telegraph-authority) arising from defects in any of the electric supply-lines or other works of the licensee, the licensee shall be required to give only such notice as may be possible after the necessity for the proposed new works or alterations has arisen.

(2) Where the works to be executed consist of the laying for placing of any service line, the licensee shall, not less than forty-eight hours before commencing the work, serve upon the telegraph-authority a notice in writing of his intention to execute such works.

18. (1) Save as provided in section 13, sub-section (3), nothing in this Part shall be deemed to authorize or empower a licensee to place any aerial line along or across any street, railway, tramway, canal or waterway unless and until the President of the Union has communicated to him a general approval in writing of the methods of construction which he proposes to adopt:

Provided that the communication of such approval shall in no way relieve the licensee of his obligations with respect to any other consent required by or under this Act.

(2) Where any aerial line has been placed or maintained by a licensee in breach of the provisions of sub-section (1), the President of the Union may require the licensee forthwith

to remove the same, or may cause the same to be removed, and recover from the licensee the expenses incurred in such removal.

(3) Where any tree standing or lying near an aerial line, or where any structure or other object which has been placed or has fallen near an aerial line subsequently to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with the conveyance or transmission of energy or the accessibility or any works, a Magistrate of the first class or, in Rangoon, the Commissioner of Police may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he thinks fit.

(4) When disposing of an application under sub-section (3), the Magistrate or Commissioner of Police, as the case may be, shall, in the case of any tree in existence before the placing of the aerial line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.

Explanation: For the purposes of this section, the expression "tree" shall be deemed to include any shrub, hedge, jungle growth or other plant.

19. (1) A licensee shall, in exercise of any of the powers conferred by or under this Act, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage, detriment or inconvenience caused by him or by any one employed by him.

(2) Save in the case provided for in section 12, sub-section (3), where any difference or dispute arises as to the amount or the application of such compensation, the matter shall be determined by arbitration.

Supply.

19A. For the purposes of this Act, the point at which the supply of energy by a licensee to a consumer shall be deemed to commence shall be determined in such manner as may be prescribed.

20. (1) A licensee or any person duly authorized by a licensee may, at any reasonable time, and on informing the occupier of his intention, enter any premises to which energy is or has been supplied by him, for the purpose of:

(a) inspecting and testing the electric supply-lines, meters, fittings, works and apparatus for the supply of energy belonging to the licensee; or

(b) ascertaining the amount of energy supplied and the electrical quantity contained in the supply; or

(c) removing, where a supply of energy is no longer required, or where the licensee is authorized to take away and cut off such supply, any electric supply-lines, meters, fittings, works or apparatus belonging to the licensee.

(2) A licensee or any person authorized as aforesaid may also, in pursuance of a special order in this behalf made by the District Magistrate or, in Rangoon, by the Commissioner of Police, and after giving not less than twenty-four hours' notice in writing to the occupier, enter any premises to which energy is or has been supplied, or is to be supplied, by him for the purpose of examining and testing the electric-wires, fittings, works and apparatus for the use of energy belonging to the consumer.

(3) Where a consumer refuses to allow a licensee or any person authorized, as aforesaid to enter his premises in pursuance of the provisions of sub-section (1) or sub-section (2), or, when such licensee or person has so entered, refuses to allow him to perform any act which he is authorized by those sub-sections to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.

21 (1) A licensee shall not be entitled to prescribe any special form of appliance for utilising energy supplied by him, or, save as provided by section 23, sub-section, (2) or by section 26, sub-section (7), in any way to control or interfere with the use of such energy:

Provided that no person may adopt any form of appliance, or use the energy supplied to him, so as unduly or improperly to interfere with the supply by the licensee of energy to any other person.

(2) Subject to the provisions of sub-section (1), a licensee may, with the previous sanction of the President of the Union, given after consulting the local authority where the licensee is not the local authority, make conditions not inconsistent with this Act or with his licence or with any rules made under; this Act, to regulate his relations with persons who are or intend to become consumers, and may with the like sanction, given after the like consultation add to or alter or amend any such conditions; and any conditions made by a licensee without such sanction shall be null and void:

Provided that any such conditions made before the 23rd day of January, 1922, shall, if sanctioned by the President of the Union on application made by the licensee before such date as the President of the Union may, by general or special order, fix in this behalf, be deemed to have been made in accordance with the provisions of this sub-section.

(3) The President of the Union may, after the like consultation, cancel any condition or part of a condition previously sanctioned under sub-section (2) after giving to the licensee not less than one month's notice in writing of his intention so to do.

(4) Where any difference or dispute arises as to whether a licensee has prescribed any appliance or controlled or interfered with the use of energy in contravention of sub-section (1); the matter shall be either referred to an Electric Inspector and decided by him or, if the licensee or consumer so desires, determined by arbitration.

22. Where energy is supplied by a licensee, every person within the area of supply shall, except in so far as is otherwise provided by the terms and conditions of the licence, be entitled, on application, to a supply on the same terms as those on which any other person in the same. area is entitled in similar circumstances to a corresponding supply:

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of energy for any premises having a separate supply unless he has agreed with the licensee to pay to him such minimum annual sum as will give him a reasonable return on the capital expenditure, and will cover other standing charges incurred by him in order to meet the possible maximum demand for those premises, the sum payable to be determined in case of difference or dispute by arbitration.

23 (1) A licensee shall not, in making any agreement for the supply of energy, show undue preference to any person, but may, save as aforesaid, make such charges for the supply of energy as may be agreed upon, not exceeding the limits imposed by his licence.

(2) No consumer shall, except with the consent in writing of the licensee, use energy supplied to him under one method of charging in a manner for which a higher method of charging is in force.

(3) In the absence of an agreement to the contrary, a licensee may charge for energy supplied by him to any consumer:

(a) by the actual amount of energy so supplied, or

(b) by the electrical quantity contained in the supply, or

(c) by such other method as may be approved by the President of the Union.

(4) Any charges made by a licensee under clause (c) of sub-section (3) may be based upon, and vary in accordance with, any one or more of the following considerations, namely-

(a) the consumer's load factor, or

(b) the power factor of his load, or

(c) his total consumption of energy during any stated period, or

(d) the hours at which the supply of energy is required.

24. (1) Where any person neglects to pay any charge for energy or any sum, other than a charge for energy due from him to a licensee in respect of the supply of energy to him, the licensee may, after giving not less than seven clear days' notice in writing to such person and without prejudice to his right to recover such charge or other sum by suit, cut off the supply and for that purpose cut or disconnect any electric supply-line or other works, being the property of the licensee, through which energy may be supplied, and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and re-connecting the supply, are paid, but no longer.

(2) Where any difference or dispute has been referred under this Act to an Electric Inspector before notice as aforesaid has been given by the licensee, the licensee shall not exercise the powers conferred by this section until the Inspector has given his decision:

Provided that the prohibition contained in this sub-section shall not apply in any case in which the licensee has made a request in writing to the consumer for a deposit with the Electric Inspector of the amount of the licensee's charges or other sums in dispute or for the deposit of the licensee's further charges for energy as they accrue, and the consumer has failed to comply with such request.

25. Where any electric supply-lines, meters, fittings, works or apparatus belonging to a licensee are placed in or upon any premises, not being in the possession of the licensee, for the purpose of supplying energy, such electric supply-lines, meters, fittings, works and apparatus shall not be liable to be taken in execution under any process of any civil Court or in any proceedings in insolvency against the person in whose possession the same may be.

26 (1) In the absence of an agreement to the contrary, the amount of energy supplied to a consumer the electrical quantity contained in the supply shall be ascertained by means of a correct meter, and the licensee shall, if required by the consumer, cause the consumer to be supplied with such a meter:

Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof unless the consumer elects to purchase a meter.

(2) Where the consumer so enters into an agreement for the hire of a meter, the licensee shall keep the meter correct, and, in default of his doing so, the consumer shall, for so long as the default continues, cease to be liable to pay for the hire of the meter.

(3) Where the meter is the property of the consumer, he shall keep the meter correct, and, in default of his doing so, the licensee may, after giving him seven days' notice, for so long as the default continues, cease to supply energy through the meter.

(4) The licensee or any person duly authorized by the licensee shall, at any reasonable time and on informing the consumer of his intention, have access to, and be at liberty to inspect and test, and for that purpose, if he thinks fit, take off and remove, any meter referred to in

sub-section (1); and, except where the meter is so hired as aforesaid, all reasonable expenses of and incidental to, such inspecting, testing, taking off and removing shall, if the meter is found to be otherwise than correct, be recovered from the consumer; and, where any difference or dispute arises as to the amount of such reasonable expenses, the matter shall be referred to an Electric Inspector, and the decision of such Inspector shall be final:

Provided that the licensee shall not be at liberty to take off or remove any such meter if any difference or dispute of the nature described in subsection (6) has arisen until the matter has been determined as therein provided.

(5) A consumer shall not connect any meter referred to in sub-section (1) with any electric supply-line through which energy is supplied by a licensee, or disconnect the same from any such electric supply line, without giving to the licensee not less than forty-eight hours' notice in writing of his intention.

(6) Where any difference or dispute arises as to whether any meter referred to in sub-section (1) is or is not correct, the matter shall be decided, upon the application of either party, by an Electric Inspector, or by a competent person specially appointed by the President of the Union in this behalf; and, where the meter has, in the opinion of such Inspector or person, ceased to be correct, such Inspector or person shall estimate the amount of the energy supplied to the consumer, or the electrical quantity contained in the supply, during such time as the meter shall not, in the opinion of such Inspector or person, have been correct; and where the matter has been decided by any person other than the Electric Inspector, an appeal shall lie to the Inspector, whose decision shall in every case be final; but, save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity:

Provided that, before either a licensee or a consumer applies to the Electric Inspector under this sub-section, he shall give to the other party not less than seven days' notice of his intention so to do.

(7) In addition to any meter which may be placed upon the premises of a consumer in pursuance of the provisions of sub-section (1), the licensee may place upon such premises such meter, maximum demand indicator or other apparatus as he may think fit for the purpose of ascertaining or regulating either the amount of energy supplied to the consumer, or the number of hours during which the supply is given, or the rate per unit of time at which energy is supplied to the consumer, or any other quantity or time connected with the supply:

Provided that the meter, indicator or apparatus shall not, in the absence of an agreement to the contrary, be placed otherwise than between the distributing mains of the licensee and any meter referred to in sub-section (1):

Provided, also, that, where the charges for the supply of energy depend wholly or partly upon the reading or indication of any such meter, indicator or apparatus as aforesaid, the

licensee shall, in the absence of an agreement to the contrary, keep the meter, indicator or apparatus correct; and the provisions of sub-sections (4),(5) and (6) shall in that case apply as though the meter, indicator or apparatus were a meter referred to in sub-section (1).

Explanation: A meter shall be deemed to be “correct” if it registers the amount of energy supplied, or the electrical quantity contained in the supply, within the prescribed limits of error, and a maximum indicator or other apparatus referred to in sub-section (7) shall be deemed to be “correct” if it complies with such conditions as may be prescribed in the case of any such indicator or other apparatus.

27. Notwithstanding anything in this Act, the President of the Union may, by order in writing, and subject to such conditions and restrictions, if any, as he thinks fit to impose, authorize any licensee to supply energy to any person outside the area of supply, and to lay down or place electric supply-lines for that purpose:

Provided, first, that no such authority shall be conferred on the licensee within the area of supply of another licensee without that licensee’s consent, unless the President of the Union considers that his consent has been unreasonably withheld:

Provided, secondly, that such authority shall not be conferred unless the person to whom the supply is to be given has entered into a specific agreement with the licensee for the taking of such supply:

Provided, thirdly, that a licensee on whom such authority has been conferred shall not be deemed to be empowered outside the area of supply to open or break up any street, or any sewer, drain or tunnel in or under any street, railway or tramway, or to interfere with any telegraph line, without the written, consent of the local authority or person by whom such street, sewer, drain or tunnel is repairable, or of the telegraph authority, as the case may be, unless the President of the Union after such inquiry as he thinks fit, considers that such consent has been unreasonably withheld:

Provided, fourthly, that, save as aforesaid, the provisions of this Act shall apply in the case of any supply authorized under this section as if the said supply were made within the area of supply.

PART III SUPPLY, TRANSMISSION AND USE OF ENERGY BY NON-LICENSEES

28. (1) No person, other than a licensee, shall engage in the business of supplying energy except with the previous sanction of the President of the Union and in accordance with such conditions as the President of the Union may fix in this behalf, and any agreement to the contrary shall be void:

Provided that such sanction shall not be given within the area for which a local authority is constituted, without that local authority’s consent, or within the area of supply of any

licensee, without that licensee's consent, unless the President of the Union considers that consent has been unreasonably withheld.

(2) Where any difference or dispute arises as to whether any person is or is not engaging, or about to engage, in the business of supplying energy within the meaning of sub-section (1), the matter shall be referred to the President of the Union, and the decision of the President of the Union thereon shall be final.

29 (1) The local authority may, by order in writing, confer and impose upon any person, who has obtained the sanction of the President of the Union under section 28 to engage in the business of supplying energy, all or any of the powers and liabilities of a licensee under sections 12 to 19, both inclusive, and the provisions of the said sections shall thereupon apply as if such person were a licensee under Part II.

(2) A local authority, not being a licensee, shall, for the purpose of lighting any street, have the powers and be subject to the liabilities respectively conferred and imposed by sections 12 to 19, both inclusive, so far as applicable, as if it were a licensee under Part II.

(3) In cases other than those for which provision is made by sub-section (1), the person responsible for the repair of any street may, by order in writing, confer and impose upon any person who proposes to transmit energy in such street all or any of the powers and liabilities of a licensee under sections 12 to 19 (both inclusive), in so far as the same relate to:

(a) opening or breaking up of the soil or pavement of such street, or

(b) laying down or placing electric supply-lines in, under, along or across such street, or

(c) repairing, altering or removing such electric supply-lines, and thereupon the provisions of the said sections shall, so far as aforesaid, apply to such person as if he were a licensee under Part II.

(4) If no order is made within fourteen days after the receipt of an application for the same under sub-section (1) or sub-section (3), the order so applied for shall be deemed to have been refused, and every order, and every refusal to make an order, under sub-section (1) or sub-section (3), shall be subject to revision by the President of the Union.

29A, The provisions of sub-sections (3) and (4) of section 18, and of the Explanation thereto shall apply in the case of any aerial line placed by any railway administration as if references therein to the licensee were references to the railway administration.

30. (1) No person, other than a licensee duly authorized under the terms of his licence, shall transmit or use energy at a rate exceeding two hundred and fifty watts -

(a) in any street, or

(b) in any place:

(i) in which one; hundred or more persons are-likely ordinarily to be assembled, or

(ii) which is a factory within the meaning of the Factories Act, or

(iii) which is a mine within the meaning of the Mines Act, or

(iv) to which the President of the Union, by general or special order, declares the provisions of this sub-section to apply,

without giving not less than seven clear days' notice in writing of his intention to the District Magistrate, or, in Rangoon, to the Commissioner of Police and complying with such of the provisions of Part IV, and of the rules made thereunder, as may be applicable:

Provided that nothing in this section shall apply to energy used for the public carriage of passengers, animals or goods on, or for the lighting or ventilation of the rolling stock of, any railway or tramway subject to the provisions of the Railways Act:

Provided, also, that the President of the Union may, by general or special order and subject to such conditions and restrictions as may be specified therein, exempt from the application of this section or of any such provisions or rule as aforesaid any person or class of persons using energy on premises upon or in connection with which it is generated, or using energy supplied under Part II in any place specified in clause (b).

(2) Where any difference or dispute arises as to whether a place is or is not one in which one hundred or more persons are likely ordinarily to be assembled, the matter shall be referred to the President of the Union, and the decision of the President of the Union thereon shall be final.

(3) The provisions of this section shall be binding on the Government.

PART IV GENERAL

Protective Clauses.

31. No person shall, in the generation, transmission, supply or use of energy, in any way injure any railway, tramway, canal or waterway, or any dock, wharf or pier, vested in or controlled by a local authority, or obstruct or interfere with the traffic on any railway, tramway, canal or water-way.

32. (1) Every person generating, transmitting, supplying or using energy hereinafter in this section referred to as the "operator" shall take all reasonable precautions in constructing, laying down and placing his electric supply-lines and other works, and in working his

system, so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line used for the purpose of telegraphic, telephonic or electric signaling communication, or the currents in such wire or line.

(2) Where any difference or dispute arises between the operator and the telegraph-authority as to whether the operator has constructed, laid down or placed his electric supply-lines or other works, or worked his system, in contravention of sub-section (1), or as to whether the working of any wire, line or current is or is not injuriously affected thereby, the matter shall be referred to the President of the Union; and the President of the Union, unless he is of Opinion that the wire or line has been placed in unreasonable proximity to the electric supply-lines or works of the operator after the construction of such lines or works, may direct the operator to make such alterations in, or additions to, his system as may be necessary in order to comply with the provisions of this section, and the operator shall make such alterations or additions accordingly:

Provided that nothing in this sub-section shall apply to the repair, renewal or amendment of any electric supply-line so long as the course of the electric supply-line and the amount and nature of the energy transmitted thereby are not altered.

(3).Where the operator makes default in complying with the requirements of this section, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

Explanation: For the purposes of this section, a telegraph-line shall be deemed to be injuriously affected if telegraphic, telephonic or electric signaling communication by means of such line is, whether through induction or otherwise, prejudicially interfered with by an electric supply-line or work or by any use-made thereof.

33. (1) If any accident occurs in connection with the generation, transmission, supply or use of energy or in connection with, any part of the electric supply-lines or other works of any person, and the accident results or is likely to have resulted in loss of life or personal injury, such person shall give notice of the occurrence, and of any loss of life or personal injury actually occasioned by the accident, in such form and within such time and to such authorities as the President of the Union may, by general or special order, direct.

(2) The President of the Union may, if he thinks fit, require any Electric Inspector, or any other competent person appointed by him in this behalf, to inquire and report:

(a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by, or in connection with, the generation, transmission, supply or use of energy, or

(b) as to the manner in and extent to, which the provisions of this Act or of any licence or rules thereunder, so far as those provisions affect the safety of any person, have been complied with.

34. (1) No person shall, in the generation, transmission, supply or use of energy, permit any part of his electric supply-lines to be connected with earth except so far as maybe prescribed in this behalf or may be specially sanctioned by the President of the Union.

(2) If at any time it is established to the satisfaction of the President of the Union:

(a) that any part of an electric supply-line is connected with earth contrary to the provisions of sub-section (1); or

(b) that any electric supply lines or other works for the generation, transmission, supply or use of energy are attended with danger to the public safety or to human life or injuriously affect any telegraph line, or

(c) that any electric supply line or other works are defective so as not to be in accordance with the provisions of this Act or of any rule thereunder,

the President of the Union may, by order in writing, specify the matter complained of and require the owner or user of such electric supply-lines or other works to remedy it in such manner as shall be specified in the order, and may also in like manner forbid the use of any electric, supply-lines or works until the order is complied with or for such time as is specified in the order.

Administration and Rules.

35. (1) The President of the Union may, by notification, constitute an Advisory Board or Advisory Boards for the whole or any part of the Union of Burma.

(2) Every such Board shall consist of a chairman and not less than two other members.

(3) The President of the Union may by general or special order:

(a) determine the number of members of which any such Board shall be constituted and the manner in which such members shall be appointed,

(b) define the duties and regulate the procedure of any such Board,

(c) determine the tenure of office of the members of any such Board, and,

(d) give directions as to the payment of fees to, and the travelling expenses incurred by, any member of any such Board in the performance of his duty.

36. (1) The President of the Union may, by notification in the Gazette, appoint duly qualified persons to be Electric Inspectors, and every Electric Inspector so appointed shall exercise the powers and perform the functions of an Electric Inspector under this Act within such areas and subject to such restrictions as the President of the Union may direct.

(3) In the absence of express provision to the contrary in this Act or any rule thereunder, an appeal shall lie from the decision of an Electric Inspector to the President of the Union or, if the President of the Union by general or special, order so directs, to an Advisory Board.

37. The President of the Union may make rules, for the whole or any part of the Union of Burma, to regulate the generation, transmission, supply and use of energy, and, generally, to carry out the purposes and objects of this Act.

In particular, and without prejudice to the generality of the foregoing power, such rules may:

(a) prescribe, the form of applications for licences and the payments to be made in respect thereof;

(b) regulate the publication of notices;

(c) prescribe the manner in which objections with reference to any application under Part II are to be made;

(d) provide for the preparation and submission of accounts by licensees in a specified form;

(e) provide for, the securing of a regular, constant and sufficient supply of energy by licensees to consumers and for the testing at various parts of the system of the regularity and sufficiency of such supply and for the examination of the records of such tests by consumers;

(f) provide for the protection of persons and property from injury by contact with, or the proximity of, or by reason of the defective or dangerous condition of, any appliance or apparatus used in the generation, transmission, supply or use of energy;

(g) for the purposes of electric traction regulate the employment of insulated returns, or of uninsulated metallic returns of low resistance, in order to prevent fusion or injurious electrolytic action of or on metallic pipes, structures or substances, and to minimise, as far as is reasonably practicable, injurious interference with the electric wires, supply-lines and apparatus of parties other than the owners of the electric traction system, or with the currents therein, whether the earth is used as a return or not;

(h) provide for preventing telegraph-lines and magnetic observatories or laboratories from being injuriously affected by the generation, transmission, supply or use of energy;

- (i) prescribe the qualifications to be required of Electric Inspectors;
 - (j) authorize any Electric Inspector or other officer of a specified rank and class to enter, inspect and examine any place, carriage or vessel in which he has reason to believe any appliance or apparatus used in the generation, transmission, supply or use of energy is to be, and to carry out tests therein, and to prescribe the facilities to be given to such Inspectors or officers, for the purposes of such examinations and tests;
 - (k) authorize and regulate the levy of fees for any such testing or inspection and generally for the services of Electric Inspectors under this Act; and
 - (l) provide for any matter which is to be or may be prescribed.
- (3) Any rules made in pursuance of clause (f) or clause (h) of sub-section (2) shall be binding on the Government.
- (4) In making any rule under this Act, the President of the Union may direct that every breach thereof shall be punishable with fine which may extend to three hundred rupees, and, in the case of continuing breach, with a further daily fine which may extend to fifty rupees.

38. (1) The power to make rules under section 37 shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with the Burma General Clauses Act, as that after which a draft of rules proposed to be made under section 37 will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(3) Any rule to be made under this Act shall, before it is published, for criticism under sub-section (2), be referred to the Advisory Board (if any) constituted for the whole of the Union of Burma, or, if no such Board has been constituted, then to such Board or Boards (if any) as the President of the Union may direct, and the rule shall not be so published until such Board or Boards (if any) has or have reported as to the expediency of making the proposed rule and as to the suitability of its provisions.

(4) All rules made under section 37 shall be published in the Gazette and, on such publication, shall have effect as if enacted in this Act.

Criminal Offences and Procedure.

39. Whoever dishonestly abstracts, consumes or uses any energy shall be deemed to have committed theft within the meaning of the Penal Code; and the existence of artificial means for such abstraction shall be prima facie evidence of such dishonest abstraction.

40. Whoever maliciously causes energy to be wasted or diverted, or with intent to cut off the supply of energy, cuts or injures, or attempts to cut or injure, any electric supply line or works, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

41. Whoever, in contravention of the provisions of section 28, engages in the business of supplying energy shall be punishable with line which may extend to three thousand rupees, and, in the case of a continuing contravention, with a daily fine which may extend to three hundred rupees.

42. Whoever:

being a licensee, save as permitted under section 27 or section 51 or by his licence, supplies energy or lays down or places any electric supply-line or works outside the area of supply; or

(b) being a licensee, in contravention of the provisions of this Act or of the rules thereunder or in breach of the conditions of his licence and without reasonable excuse, the burden of proving which shall lie on him, discontinues the supply of energy or fails to supply energy; or

(c) makes default in complying with any order issued to him under section 34, sub-section (2);

shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence or default, with a daily fine which may extend to one hundred rupees.

43. Whoever, in contravention of the provisions of section 3Q, transmits or uses energy without giving the notice required thereby, shall be punishable with fine which may extend to five hundred rupees, and, the case of a continuing offence, with a daily fine, which may extend to fifty rupees.

44. Whoever:

(a) connects any meter referred to in section 26, sub-section (1), or any meter, indicator or apparatus referred to in section 26, sub-section (7), with any electric supply-line through which energy is supplied by a licensee, or disconnects the same from any such electric supply-line, without giving to the licensee forty-eight hours' notice in writing of his intention; or

(b) lays, or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee, without such licensee's consent; or

(c) maliciously injures any meter referred to in section 26, sub-section (1), or any meter, indicator or apparatus referred in section 26, sub-section (7), or willfully or fraudulently alters the index of any such meter, indicator or apparatus, or prevents any such meter, indicator or apparatus from duly registering; or

(d) improperly uses the energy of a licensee;

shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with a daily fine which may extend to fifty rupees; and if it is proved that any artificial means exists for making such connection as if referred to in clause(a), or such as is referred to in clause (b), or for causing such alteration or prevention as is referred to in clause (c), or for facilitating such improper use as is referred to in clause (d), and that the meter, indicator or apparatus is under the custody or control of the consumer, whether it is his property or not; it shall be presumed, until the contrary is proved, that such connection, communication, alteration, prevention or improper use, as the case may be, has been knowingly and willfully caused by such consumer.

45. Whoever, maliciously extinguishes any public lamp, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to three hundred rupees, or with both:

46. Whoever negligently causes energy to be wasted or diverted, or negligently breaks, throws down or damages any electric supply-line, post, pole or lamp, or other apparatus connected with the supply of energy, shall be punishable with fine which may extend to two hundred rupees.

47. Whoever in any case not already provided for by sections 39 to 46 (both inclusive), makes default in complying with any of the provisions of this Act, or with any order issued under it, or, in the case of a licensee, with any of the conditions of his licence, shall be punishable with fine which may extend to one hundred rupees and, in the case of a continuing default, with a daily fine which may extend to twenty rupees:

Provided that, where a person has made default in complying with any or the provisions of sections 13, 14, 15, 17 and 32, as the case maybe, he shall not be so punishable if the Court is of opinion that the case was one of emergency, and that the offender complied with the said provisions as far as was reasonable in the circumstances.

48. The penalties imposed by sections 39 to 47 (both inclusive) shall be in addition to, and not in derogation of, any liability in respect of the payment of compensation or, in the case of a licensee, the revocation of his licence, which the offender may have incurred.

49. The provisions of sections 39, 40, 44, 45 and 46 shall, so far as they are applicable, be deemed to apply also when the acts made punishable thereunder are committed in the case of energy supplied by, or of works belonging to, the Government.

50. No prosecution shall be instituted against any person for any offence against this Act or any rule, licence or order thereunder, except at the instance of the Government or an Electric Inspector, or of a person aggrieved by the same.

Supplementary.

51. Notwithstanding anything in sections 12 to 16 (both inclusive) and sections 18 and 19, the President of the Union may, by order in writing, for the placing of appliances and apparatus for the transmission of energy confer upon any public officer or licensee, subject to such conditions and restrictions (if any) as the President of the Union may think fit to impose, and to the provisions of the Burma Telegraph Act, any of the powers which the telegraph authority possesses under that Act, with respect to the placing of telegraph lines and posts for the Purposes, of a telegraph established or maintained by the Government or to be so established or maintained.

52. Where any matter is, by or under this Act, to be determined by arbitration, the matter shall, unless it is otherwise expressly provided in the licence of a licensee, be determined by such persons as the President of the Union may nominate in that behalf on the application of either party; but in all other respects the arbitration shall be subject to the provisions of the Arbitration Act.

53. (1) Every notice order or document by or under this Act required or authorized to be addressed to any person may be served by post or left:

(a) where the Government is the addressee, at the office of such officer as the President of the Union may designate in this behalf;

(b) where a local authority is the addressee, at the office of the local authority;

(c) where a company is the addressee, at the registered office of the company or, in the event of the registered office of the company not being in the Union of Burma, at the head office of the company in the Union of Burma;

(d) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Act required or authorized to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

54. Every sum declared to be recoverable by section 5, clause (f), section 6, sub-section (2), section 14, sub-section (2), clause (1), section 16, sub-section (2), section 18, sub-section (2) or sub-section (4), or section 26, sub-section (4); and every fee leviable under this Act, may be recovered, on application to a Magistrate having jurisdiction where the person liable to pay the same is for the time being resident, by the distress and sale, of any moveable property belonging to such person.

55. The President of the Union may, by general or special order, authorize the discharge of any of his functions under section 13, or section 18, or section 34, sub-section (2), or clause V, sub-clause (2), or clause XIII of the Schedule, by an Electric Inspector.

56. No suit, prosecution or other proceeding shall lie against any public officer, or any servant of a local authority, for anything done, or in good faith purporting to be done, under this Act.

57 (1) In section 40, sub-section (1), clause (b), and section 41, sub section (5), of the Land Acquisition Act, the term "work" shall be deemed to include electrical energy supplied, or to be supplied, by means of the work to be constructed.

(2) The President of the Union may, if he thinks fit, on the application of any person, not being a company, desirous of obtaining any land for the purposes of his undertaking, direct that he may acquire such land under the provisions of the Land Acquisition Act, in the same manner and on the same conditions as it might be acquired if the person were a company.

THE WILD LIFE PROTECTION ACT (1936)

[Repealed by the Protection of Wildlife and Conservation of Natural Areas Law (1994)]

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THE WILD LIFE PROTECTION ACT

Burma Act VII, 1936

7 November 1936

CHAPTER I PRELIMINARY

1. The President of the Union, may, by notification, exclude any area from the operation of this Act. Such exclusion shall not affect anything done, or the liability for any offence committed, or any fine or penalty imposed, in such area before such exclusion.

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

(a) “to hunt” with its grammatical variations includes hunting, wounding, killing, capturing or (in reserved forests) fishing by any method;

(b) “Forest Officer” means a Forest Officer as defined by sub-section (5) of section 3 of the Forest Act;

(c) “police officer” means a police officer in charge of a police station or other police officer of and above the rank of sub inspector;

(d) “Game Warden” means any person appointed to be a Game Warden under this Act;

(e) “offence” means anything made punishable under the provisions of this Act;

(f) “reserved forest” means a reserved forest as defined by sub-section (11) of section 3 of the Forest Act;

(g) “sanctuary” means any area which has been or may be declared by the President of the Union, by notification, to be a sanctuary for the preservation of animals;

(h) “Magistrate” means a Magistrate of the first or second class, and any Magistrate of the third class specially empowered by the President of the Union to try offences punishable under this Act;

(i) “animal” includes all birds, mammals and reptiles, other than snakes, that are found in a wild state in the Union of Burma, and also includes fish in reserved forests.

CHAPTER II
GENERAL PROTECTION OF ANIMALS, THEIR PARTS AND PRODUCTS

Sanctuaries

3. The President of the Union, may, by notification, declare and land which is at the disposal of the [State] and, subject to the consent of the owner and to such conditions as may be determined by mutual agreement, and land which is private property, to be a sanctuary;

Provided that before any area is to be declared a sanctuary, notices of the proposal to declare such area as a sanctuary shall be published for a period of not less than three months calling for objections to such proposal.

4. No person shall in a sanctuary-

(a) hunt any animal except with the special permission of the President of the Union which shall be granted only for scientific purposes or to preserve the balance of animals;

(b) drive, stampede or willfully disturb any animal.

5. Subject to any right created by grant or contract in the manner prescribed in section 23 of the Forest Act, no person shall in a reserved forest, save under and in accordance with the conditions of a licence,

(a) hunt, drive, stampede or willfully disturb any animal;

(b) remove any animals or part or product thereof.

Outside Sanctuaries and Reserved Forests.

6. No person shall hunt any of the following animals, or knowingly possess, sell or buy them alive or dead, or any part or product thereof, save under and in accordance with the conditions of a special licence issued by the President of the Union for scientific purposes:

Rhinoceros, tapir, argus, pheasant, masked finfoot, and any other animals that the President of the Union may, by notification, declare to be completely protected animals under this section;

Provided that it shall not be an offence for any physician or druggist to possess or sell, or for any person to possess for private medical purposes, rhinoceros blood or any preparation thereof;

Provided further that it shall not be an offence for any person to continue in the possession of any article which he possessed before this Act came into force, or to possess or sell or buy

any product of any animal specified therein which has been a process of bona fide manufacture lost its original identity.

7. No person shall hunt any of the following animals, or knowingly possess or sell or buy them alive or dead, or any part or product thereof, save under and in accordance with the conditions of a licence:

Elephant, bison, saing, thamin, serow and goral, and any other animals that the President of the Union may, by notification, declare to be protected animals under this section;

Provided that it shall not be an offence to possess, buy or sell any domesticated elephant or any part or product thereof;

Provided further that it shall not be an offence for any person to continue in the possession of any article which he possessed before this Act came into force, or to possess or sell or buy any part or product of any animal specified therein which has by a process of bona fide manufacture lost its original identity.

8. No person shall hunt any of the following animals, or sell or buy or possess them alive or dead, during the close seasons specified against them below; and no person shall possess or sell or buy any part or product of and such animal as it has been killed or captured during the close season, and, if the corpse or flesh of any such animal is found in the possession of any person during a close season, it shall be presumed, until the contrary is proved that the animal was unlawfully killed or captured by him during the close season:

Hog-deer - 15th June to 30th September
Sambhur - 15th June to 30th September
Barking deer - 15th June to 30th September

All species of:-

Peafoal - 15th March to 30th September
Pheasant (except Argus pheasant) - 15th March to 30th September
Partridge - 15th March to 30th September
Jungle Fowl - 15th March to 30th September
Quail - 15th March to 30th September
Wild Duck - 15th March to 30th September
Teal - 15th March to 30th September

Provided that the President of the Union may, by notification, vary the close seasons given above, or add any other animal to the list of animals protected therein and prescribe the close seasons therefore.

9. No person shall capture or possess or sell or buy any live animal herein specified during any part of the year:-

All species of snipe, wild duck, teal, wild geese;

Provided that the President of the Union may, by notification, add any other animal to the above list protected therein.

General

10. No person shall do any of the following acts, namely:-

(a) lay down poison for any animals except as permitted under section 11A, sub-section (3) of the Fisheries Act; or

(b) hunt any animals by means of pitfalls; or

(c) hunt any animals other than carnivora from any platform or machan hide or pit; or

(d) use artificial light for the purpose of hunting any animal other than carnivora; or

(e) shoot any animal other than carnivora from the back of an elephant or from any kind of wheeled vehicle or aircraft; or

(f) use any elephant, wheeled vehicle or aircraft in such manner as to drive, stampede or disturb any animal other than carnivora for any purpose whatsoever, including that of filming and photographing; or

(g) hunt within two hundred yards or the compound of an inhabited Buddhist monastery or of a religious edifice for which trustees have been appointed; or

(h) use explosive for fishing in reserved forests; or

(i) hunt with dogs or animals except carnivoras, hares and birds;

Provided that the President of the Union may, by notification, prohibit any other method of hunting.

11. No person shall export from or import into the Union of Burma any of the following animals or products or any part or product thereof:

(i) rhinoceros;

(ii) except under licences issued by an officer empowered to do so by the President of the Union:

(a) any living animal other than rhinoceros;

(b) any part or product of elephant, and egret's feathers;

Provided that this section shall not apply to any such part or product which has by a process of bona fide manufacture lost its original identity;

Provided further than the President of the Union may, by notification, extend this section to any animal not specified therein.

(2) Any Customs Officer or other officer authorized by the President of the Union may detain any animal or any part or product of any animal specified in clause (i) and sub-clause (ii) (b) of sub-section (1) unless a licence has been obtained as herein required.

12. Nothing in this Chapter shall be deemed to apply to the killing or wounding or any animal by any person in defence of himself or of any other person or in bona fide defence of property;

Provided that:

(a) any such person killing, capturing or wounding any animal protected under section 6, 7 and 8 shall at once report the fact to the nearest Magistrate, Forest Officer, Game Warden or police-officer, and

(b) that the animal so captured or destroyed and all parts thereof, other than parts subject to speedy decay, shall be the property of the [State] but such animal or any part thereof may at the discretion of a Forest Officer specially empowered by the President of the Union in this behalf be given to the person who has killed it.

CHAPTER III PENALTIES AND PROCEDURE

Penalties, Police Powers and Protection and Seizure of Property

13. Whoever commits or attempts to commit an offence under this Act shall be punishable with imprisonment for a term which may extend to six month, or with fine which may extend, where the damages resulting from the offence amounts to more than two hundred and fifty rupees to double the amount of such damage, and in any other case, to five hundred rupees, or with both;

Provided that for the offence of illegal possession under sections 6, 7, 8 and 9 no person shall be prosecuted without the prior sanction of the District Magistrate.

14. Every Magistrate, Forest Officer, Game Warden and police officer shall prevent, and may interfere for the purpose of preventing, the commission of any offence under this Act.

15. (1) Any Forest Officer, Game Warden or police-officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any offence under this Act if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(2) Every officer making an arrest under this sub-section (1) shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case or the officer in charge of the nearest police station.

16. (1) When there is reason to believe that an offence has been committed in respect of any animal, such animal or any part or product thereof, together with all hunting implements, as well as all tools, animals, vehicles, vessels or other conveyances used in the commission of such offence, may be seized by any Forest Officer, Game Warden or police-officer.

(2) Every officer seizing any article or thing under this section shall place on such article or thing, or the receptacle, if any, in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made;

Provided that when the offender is unknown it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Compounding of, and Compensation for, Offences

17. (1) The President of the Union may, by notification, empower any Forest Officer of or above the rank of Extra Assistant Conservator and any Game Warden-

(a) to accept from any person against whom a reasonable suspicion exists that he had committed an offence under this Act, a sum of money not exceeding fifty rupees by way of compensation for the offence which such person is suspected to have committed, and

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, of both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

Disposal of Property Seized

18. (1) When any person is convicted of an offence under this Act, any animal and any part or product thereof in respect of which such offence has been committed, and all hunting implements, as well as all tools, animals, vehicles, vessels or other conveyances used in the commission of such offence, may be confiscated by order of the Court.

(2) Such confiscation may be in addition to any other penalty prescribed for such offence.
19. When the trial of any offence under this Act is concluded anything or animal confiscated under section 18 may be disposed of in such manner as the Court may order.

20. (1) When the offender is not known or cannot be found, the Magistrate inquiring into the offence may, if he finds that an offence has been committed and on application in this behalf, order any thing or animal liable to confiscation under section 18 to be confiscated and taken possession of by a Forest Officer or Game Warden specially empowered in this behalf, or to be made over to such Forest Officer or Game Warden or other person as the Magistrate considers entitled to the same;

Provided that no such order shall be made until the expiration of one month from the date of the seizure of such thing or animal and without hearing the person, if any, claiming within that period any right thereto, and the evidence, if any, which he may produce in support of his claim.

(2) The Magistrate shall either cause a notice of any application under sub-section (1) to be served upon any person whom he has reason to believe to be interested in the thing or animal seized, or publish such notice in any way in which he thinks fit.

21. Notwithstanding anything hereinbefore contained, the Magistrate may at any time direct the sale of anything or animal seized under section 16, if such thing or animal is subject to speedy decay, and may deal with such thing or animal if it has not been sold.

22. Any person claiming to be interested in any article, thing or animal seized under section 16 may, within one month from the date of any order passed by a Magistrate under section 18, 19 and 20, present an appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

23. When an order for the confiscation of any article, thing or animal has been passed under section 18 or section 20, and the period limited by section 22 for presenting an appeal from such order has elapsed and no such appeal has been presented, or when such an appeal being presented the appellate Court confirms such order in respect of the whole or a portion of such thing or animal, such thing or animal or portion, as the case may be shall vest in the [State] free from all claims.

24. Notwithstanding anything hereinbefore contained, any Forest Officer, Game Warden or police-officer empowered in this behalf by the President of the Union may direct at any time the

immediate release of anything or animal seized under section 16 which is not the property of the [State] and the withdrawal of any charge is made in respect of such property.

25. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Contract Act, be recovered from him in case of such breach as if it were an arrear of land revenue.

CHAPTER IV FOREST OFFICERS, GAME WARDENS AND POLICE OFFICERS

26. The President of the Union may invest any Forest Officer, Game Warden or police officer with all or any of the following powers, to be exercised for the purpose of this Act, namely:-

- (a) the powers of a Demarcation Officer under the Boundaries Act;
- (b) the powers of a civil Court to compel the attendance of witnesses and production of documents;
- (c) power to hold inquiries into offences under this Act, and in the course of such inquiries to receive and record evidence;
- (d) power to take possession of property under this Act;
- (e) power to direct the release of property or withdrawal of charge;
- (f) power to Forest Officers and Game Wardens only to issue licences referred to in sections 5 and 7.

27. All Forest Officers, Game Wardens and police officer performing functions under this Act shall be deemed to be public servants within the meaning of the Penal Code.

CHAPTER V
SUPPLEMENTAL RULES

Rules

28. (1) The President of the Union may make rules to carry out the objects and purposes of this Act.

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

(a) declare by what Forest Officers, Game Wardens or police officer the powers or duties conferred or imposed by or under this Act on a Forest Officer, Game Warden or police officer are to be exercised or performed;

(b) regulate the rewards to be paid to officer and informers from the proceeds of fines and confiscations under this Act or from the public treasury;

(c) prescribe the form and conditions of licences and provided for the issue, production and return of licences for regulating any matter provided for in this Act and fix the fees payable for such licences;

(d) regulate the appointment and prescribe the duties of Game Wardens;

(e) prescribe the measures to be taken in areas adjacent to sanctuaries to prevent the occurrence of spread of disease in sanctuaries.

(3) The President of the Union may, by a rule under this section, attach to the breach of any rule under this section any punishment not exceeding imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

29. All rules made by the President of the Union under this Act shall be published in the Gazette and shall thereupon have the same effect as if enacted in this Act.

30. No suit or criminal prosecution shall lie against any public servant for anything in good faith done or purported to be done under this Act.

31. The Government shall not be responsible for any loss or damage which may occur in respect of anything or animal while detained for the purposes of this Act, and no Forest Officer, Game Warden or police officer shall be responsible for any such loss or damage unless he causes the same negligently or maliciously.

Acquisition of Land

32. Whenever it appears to the President of the Union that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act.

Saving Clause

33. (1) Nothing in this Act shall apply to the acquisition, possession, sale, exchange, import and export of any animals by or on behalf of the Trustees of the Victoria Memorial in good faith for the purposes laid down in the Rangoon Victoria Memorial Act.

(2) Nothing in sections 8 and 9 shall apply to the keeping in captivity of animals for purposes of display, educational purposes or in public parks and gardens.

THE LAND ALIENATION ACT (1939)

[Repealed by the Law for the Repeal of Laws (1992)]

Burma Act XII, 1939

19 August 1939

PREAMBLE

1. (1) This Act may be called the Land Alienation Act, 1939.

(2) It shall come into force on such date as the President of the Union may by notification specify in this behalf

2. Nothing in this Act shall apply to transfers of land:

(a) under the Land Acquisition Act;

(b) by or to Government;

(c) by or to co-operative societies engaged in the provisions of agricultural credit or the marketing of agricultural credit or the marketing of agricultural produce;

(d) by or to credit institutions controlled or organised by Government and prescribed as such;

(e) made in good faith for a religious, charitable or public purpose;

(f) resulting from inheritance;

(g) made between joint owners of the land;

(h) made in execution of an order or decree of a civil Court passed before the commencement of this Act;

(i) by the mortgagor of the land to the mortgagee in cases where the mortgage was entered into and registered under the Registration Act before the commencement of this Act.

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

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

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

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

(1) “agriculturalist” means a person:

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

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

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

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

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

Explanation (2) - The wife or the minor son or the minor daughter of an agriculturalist shall be deemed to be an agriculturalist for the purposes of this Act;

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

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

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

(c) rights of a usufructuary mortgagor or mortgagee;

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

(e) and right of occupation under any law in force.

- (3) “non-agriculturalist” means a person who is not an agriculturalist;
- (4) “permanent alienation includes sales, exchanges and gifts;
- (5) “prescribed” means prescribed by this Act or by rules made under this Act;
- (6) “Revenue Officer” means any person whom the President of the Union may appoint to do anything required by this Act to be done by a Revenue Officer; provided that, except in the case of a Myook in charge of subdivision and except for special reasons to be recorded in writing, no person who is lower in rank than an Extra Assistant Commissioner or Superintendent of Land Records shall be appointed a Revenue Officer under this Act.

Permanent Alienation of Land.

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

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

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

Temporary Alienation of Land.

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

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

or

(b) in the form of a mortgage without possession subject to the condition that, if the mortgagor fails to pay principal and interest according to his contract, the mortgagee may apply to the civil Court to place him in possession for such term not exceeding fifteen years as the Court may consider to be equitable, the mortgage to be treated as a usufructuary mortgage for the term of the mortgagee's possession and for such period as the Court may think reasonable; or

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

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

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

(1) no interest shall accrue during the period for which the mortgagee is in possession of the land or no receipt of rent;

(2) at the end of such period of possession the mortgage-debt shall be deemed to be extinguished;

(3) the mortgagor may redeem his land at any time during the currency of the mortgage on payment of the mortgage debt or in the case of a mortgage under sub-section (1) of section 5 of such proportion of the mortgage debt as the civil Court may determine;

(4) any covenant of personal liability to repay the mortgage-debt in a usufructuary mortgage shall be null and void, notwithstanding the provisions of any law to the contrary; and

(5) if a mortgagor proves to the satisfaction of the Court that he has paid the mortgage-debt or such proportion thereof as the Court has determined, or deposits with the Court the amount of such mortgage-debt or of such proportion thereof as the Court has determined, the redemption of the land shall be deemed to have taken place, a certificate to that effect shall be given by the Court to the mortgagor on request, and the Court shall have power to eject the mortgagee or any person whom he may have put in possession and as against them to place the mortgagor in possession.

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

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

(b) conditions limiting the right of a mortgagor or mortgagee in possession to cut, sell or mortgage or to do any act affecting the permanent value of the land; and

(c) any condition which the President of the Union may prescribe either generally or for particular areas.

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

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

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

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

Provisions Relation to Minimum Areas.

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

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

13. Where an agriculturalist owns solely or jointly with others land exceeding such minimum area as may have been prescribed under section 11, the prescribed minimum area shall be exempted from attachment by order of a civil Court or Revenue Officer unless the attachment is on account of a sum due to Government and recoverable as an arrear of land-revenue, or to a co-operative society of which he is a member.

General Provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) prescribing the officers to whom applications may be made and the manner in which such applications shall be made and disposed of;

(b) prescribing the matters in which, and the officer by whom, powers of appeal or revision in respect of orders passed under this Act may be exercised, the procedure and the period of limitation for such appeals and revisions;

(c) prescribing the credit institutions controlled or organised by Government;

(d) prescribing the form of mortgage for the purposes of the proviso to sub-section (2) of section 2;

(e) prescribing additional forms in which mortgages may be made under section 5;

(f) prescribing additional conditions which may be added by agreement in permitted mortgages under section 7;

(g) prescribing the minimum areas under section 11;

(h) prescribing the procedure for registration of agriculturalists under section 21 and the manner in which such registration shall be effected.

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

THE BURMA LAND PURCHASE ACT (1941)

[Repealed by the Law for the Repeal of Laws (1992)]

Burma Act XIV, 1941

10 May 1941

CHAPTER I PRELIMINARY

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

(1) “agriculturalist” means a person:

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

(b) who satisfied both the following conditions, namely:

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

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

(2) “Collector” means the Collector of the district in which land to be purchased is situate and includes any officer specially appointed by the President of the Union to perform the functions of a Collector under this Act;

(3) “compensation” includes the price of land that is purchased under this Act;

(4) “land” means land which:

(a) is not owned by an agriculturalist; and

(b) is not occupied as the site of any building in a town or a village; and

(c) is occupied or is let for agricultural purposes or for purposes subservient to agriculture;

And includes:

(i) sites of buildings and other structures on agricultural land;

(ii) rights to rents or profits of any agricultural land;

- (iii) rights of a mortgagor, mortgagee, lessor, lessee, grantor or grantee;
- (iv) any right to water enjoyed by the owner or occupier of land as such; and
- (v) any right of occupation under any law in force;
- (5) “Land Commissioner” means any officer not below the rank of a substantive Deputy Commissioner whom the President of the Union may appoint to do anything required by this Act to be done by such officer;
- (6) the expression “person interested” includes all persons claiming an interest in the land or in the compensation to be paid on account of the purchase of the land under this Act; and a person shall be deemed to be interested if he is interested in any of the rights mentioned in sub-section (4);
- (7) “prescribed” means prescribed by this Act or by rules made thereunder.

CHAPTER II PURCHASE

Preliminary Investigation.

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

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

To enter upon and survey and land in such locality;

To set out the boundaries of the land proposed to be purchased;

To mark such boundaries by placing marks and cutting trenches and, where otherwise the survey cannot be completed and the boundaries and line marked to cut down and clear away any part of any standing crop, tree, fence or jungle; and

To do all other acts necessary to ascertain the extent, nature and circumstance of the land required;

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

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

Objections.

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

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

(3) The Land Commissioner shall:

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

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

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

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

Declaration.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) the true area of the land,
- (b) the compensation which in his opinion should be paid for the land, and
- (c) the apportionment of the said compensation among the persons interested.

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

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

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

(c) the damage (if any) sustained by the person interested at the time of the Land Commissioner's taking possession of the land by reason of severing such land from his other land, and

(d) if in consequence of the Land Commissioner's taking possession of the land the person interested is compelled to move any building from the land the reasonable expenses incidental to such removal.

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

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

But he shall not take into consideration:

(a) any sale of land in which he believes, for reasons to be recorded by him in writing, the price was fixed with the intention of providing evidence to support a claim for compensation under this Act; and

(b) any improvement on the land which was commenced, made or effected without the sanction of the Collector after the issue of the notification under sub-section (1) of section 2.

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

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

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

Payment, Deposit and Apportionment of Compensation.

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

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

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

(ii) receive the money under the protest as to its sufficiency, or

(iii) refuse to receive the money.

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

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

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

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

Taking Possession.

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

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

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

CHAPTER III APPEAL AND PENALTIES

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

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

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

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

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

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

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

CHAPTER IV MISCELLANEOUS

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

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

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

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

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

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

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

(a) prescribing the method of selecting land for notification under section 2;

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

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

THE MONTHLY LEASES (TERMINATION) ACT (1946)

[Repealed by the Law for the Repeal of Laws (19 February 1992)]

Burma Act XLIX, 1946
23 December 1941

Whereas it is expedient to provide for the termination of certain leases from month to month of immovable property which cannot be enjoyed by reason of enemy occupation of Burma;

it is hereby enacted as follows:

1. (1) This Act may be called the Monthly Leases (Termination) Act,
- (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:

Provided that nothing herein contained shall affect any leases of immovable property which have been determined at any time after the twenty 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:

(a) “enemy” means any State or Sovereign of a State which is at war with His Britannic Majesty:

(b) “lease” includes a sub-lease: and

(c) “lessee” includes a “ sub-lessee.

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:

(a) The lessee shall be absolved from all liability for payment from the date on which the lease is deemed under the provisions of this Act to have been determined,

- (b) The less or 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 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 less or his agent shall be deemed to be a trespasser.

THE BUILDINGS (REGULATION OF CONSTRUCTION AND REPAIR) ACT (1946)

[Repealed by the Law for the Repeal of Laws (19 February 1992)]

Burma Act II, 1946

9 January 1946

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

It is hereby enacted as follows:

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

(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 President of the Union may from time to time, by notification, prescribe.

2. In this Act:

(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 [1946] and when no such appointment has been made, the Deputy Commissioner for the area or any other authority appointed in this behalf by the President of the Union.

3. The President of the Union, or with the approval of the President of the Union, the competent authority, may frame a scheme with respect to any area, whether there are buildings thereon or not, with the general object of controlling the development of the land comprised in the area to which the scheme applies, or 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:

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

(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.

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 interest of public health convenience and safety and shall have regard to, and be guided by the principles specified in section 3 in respect of the framing of a scheme.

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

(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 buildings;

(d) the height of the buildings, whether absolute or relative to the width of the 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;

(j) 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 trays, 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:

(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 a 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 and 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.

9. (1) 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.

(2) The fines realized from persons convicted of any offence under this Act or the rules framed thereunder shall be payable to the local authority concerned.

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.

THE BUILDINGS (REGULATION OF CONSTRUCTION AND REPAIR) (AMENDMENT) ACT (1948)

[Repealed by the Law for the Repeal of Laws (1992)]

Shan State Act V, 1948
28 November 1948

It is hereby enacted as follows:

1. (i) This Act shall be called the Buildings (Regulation of Construction and Repair) (Amendment) Act, 1948.

(ii) It shall come into force at once;

2. The present section 9 of the Buildings (Regulation of Construction and Repair) Act, 1946 shall be numbered as sub-section (1) of section 9 and the following shall be inserted as sub-section (2) thereof:

“(2) the fines realized from persons convicted of any offence under this Act or the rules framed thereunder shall be payable to the local authority concerned.”

THE TENANCY ACT (1946)

[Repealed by the Law for the Repeal of Laws (1992)]

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THE TENANCY ACT (1946)

Burma Act XXI, 1946

2 July 1946

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

It is hereby enacted as follows:-

CHAPTER I PRELIMINARY

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

(2) The provisions of sections 1 and 72 shall be applicable to the whole of the Union of Burma, and the remaining provisions of this Act shall extend to such areas as the President of the Union may, from time to time, by notification, appoint.

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

(b) any person who holds land directly under the Government; or

(c) any credit institution created, controlled or guaranteed by Government, the principal business of which is the granting of loans to agriculturalists;

Provided that the President of the Union may, by notification, declare that in any locality, to be specified in the notification, or in respect of land on which nay 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 of context:

(1) “agriculturalist” means a person:

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

(b) who satisfies the following conditions, namely:

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

(ii) that he derives the major part of his income either from such superintendence or from

the cultivation of land with his own hands or jointly from such superintendence and such cultivation;

(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, leveling and terracing of land for agricultural purposes;

(d) the renewal or reconstruction of any of the foregoing works, or such alteration therein or additions thereto as are not of the nature of mere repairs;

But does not include manuring or such clearance, 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 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 to a tenant on account of the use or occupation of the land held by him to or on account of the landlord;

(11) “Rent Settlement Officer” means any person, not lower in rank than a Deputy Commissioner, whom the President of the Union may appoint for any specified district or districts to exercise and perform the powers, duties and functions of a Rent Settlement Officer under this Act;

(12) “Revenue Officer” means any person whom the President of the Union may appoint to exercise and perform, within such local limits as are specified in the order of appointment, the powers, duties and functions of a Revenue Officer under this Act;

Provided that, except in case of a Myook 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 Superintendant of Land Records shall be appointed a Revenue Officer.

(13) “sub-tenancy” means the holding of a sub-tenant under a single sub-lease;

(14) “sub-tenant” means a person who holds land under a tenant and is liable to pay rent for the said land to the said tenant but does not include an agent or labourer employed by a tenant;

(15) “tenancy” means the holding of a tenant under a single lease;

(16) “tenancy year” means the twelve months beginning with the Burmese New Year day, or from such other date as the President of the Union may, by notification, appoint for leases of any particular kind of land;

(17) “tenant” means a person who holds land under a landlord and is liable to pay rent for the said land to or on account of the said landlord, but does not include a sub-tenant, or a mortgagee, or an agent or labourer employed by a landlord;

(18) “wages” means the amount in money or kind which an employed 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.

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

(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:-

(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 costs 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;

(e) the certainty or uncertainty of crops on such land and within such area;

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

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

(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 agriculturalists 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.

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

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

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

(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 enhancements or reductions shall be determined with due regard to the increase or decrease of the normal gross outturn of the tenancy resulting from such improvements 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 may be reduced by the Revenue Officer on the ground that the landlord has for that year obtained a remission of land-revenue.

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

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

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

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

CHAPTER III
CHARGES OF LANDLORDS, LABOURERS AND OWNERS OF CATTLE

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

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

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

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.

18. When the produce of the tenancy is sufficient to satisfy the first charge, but 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.

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

(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 each 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 of 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, as 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:

(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.

(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 a 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) seen grain in such quantity as according to rules made in this behalf, is sufficient for the cultivation of the tenancy.

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 charge 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.

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.

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 part of a tenancy.

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.

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

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.

(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:-

(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;

(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.

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.

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 determined 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:-

- (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 agriculturalist, intends to work the land himself; or
- (iv) that the landlord, not being an agriculturalist, 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 agriculturalist and who will work the land himself or herself; or
- (vi) that the landlord intends to use the land for industrial, residential, religious or public purposes, or for the construction of roads, bridges, embankments, drainages, 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.

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.

(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.

(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 limited 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;

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 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 be necessary for him to enquire into the reasons for such evasion or refusal;

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

42. Every order passed under this Chapter giving a lease of a tenancy to an applicant therefore 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.

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.

44. No tenant who is in occupation of a tenancy by virtue [...] 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;

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.

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

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

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:

(a) If the tenant has, before the date of his ejection, 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 ejection, 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 has cultivated or prepared the land contrary to any local usage or practice.

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

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

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

(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.

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 communicate to the appellant.

52. (1) The period of limitation for 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.

(2) On a 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 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.

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, and 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:

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

(b) [...] [Deleted by Act V, 1931]

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. [...] [Deleted by Act V, 1931]

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.

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.

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.

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 a summons.

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.

62A. [Inserted by Act VII, 1948] Notwithstanding anything contained in any other law, where any cultivator sells or agrees to sell outright his interest in the standing crops on any land which he cultivates in satisfaction of any loan or debt incurred by him, the purchaser shall not be entitled to the produce so sold which is in excess of the amount which the purchaser can lawfully claim at the date of such sale under the Money Lenders Act or any other law for the time being in force, and notwithstanding any such sale the seller shall be deemed to be the owner of that portion of the produce which is in excess of the sum lawfully payable by the seller in respect of such loan or debt.

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 what amount costs shall be paid, or out of what fund they shall be payable.

64. Any sum payable or recoverable under any order passed by any authority under this Act may be recoverable as if it were an arrear 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 his agent duly authorized in that behalf.

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

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.

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.

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 of otherwise, that he is in fact the tenant of that land.

69. Any provision in a lease that the 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.

70. Any provision in any contract whereby a tenant of 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.

71. (1) The President of the Union may make rules [For such rules, see Burma Gazette, 1947, Part 1, page 162] to carry out the purposes of this Act.

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

(a) the date on or before which an application for the determination of standard rent shall be made under section 7;

(b) the form of warrant of attachment under section 20;

(c) the remuneration payable to persons appointed under section 20 to take care of attached produce;

(d) the quantity of produce which a tenant may retain under clause (i) of section 26, and the quantity of seed grain sufficient for cultivation under clause (ii) of section 26;

(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. [...] [Omitted by the Union of Burma (Adaptation of Laws) Order, 1948].

THE TRANSFER OF IMMOVABLE PROPERTY (RESTRICTION) ACT (1947)

[Repealed by the Transfer of Immovable Property Restriction Act 1987]

Burma Act LXXXVI, 1947
30 December 1947

Whereas it is expedient to restrict the transfer of immovable property to foreigners:

It is hereby enacted as follows:

1. This Act may be cited as the Transfer of Immovable Property (Restriction), Act, 1947.
2. In this Act, unless there is something repugnant in the subject or context:
 - (a) “foreigner” means any person who is not a citizen of the Union: and includes any company or association or body of individuals whether incorporated in the Union of Burma or not whose central and control are not vested in the hands of the: citizens of the Union or whose major interests or shares are no: held by the citizens of the Union;
 - (b) “immovable property” shall have the meanings assigned to it under the Registration Act;
 - (c) “lease”, “sale”, “gift” and “mortgage” shall have the meanings assigned to them in the Transfer of Property Act.
3. Notwithstanding anything contained in any other law for the time being in force, no person shall transfer any immovable property by way of sale, gift, mortgage, or otherwise, or grant a lease for a term exceeding one year of any immovable property, in favour of a foreigner or any person on his behalf, and no foreigner shall acquire any immovable property by way of purchase, gift, mortgage or otherwise or accept any lease of immovable property for a term exceeding one year:

Provided that this section shall not apply to any transfer or lease of immovable property to a foreign Government for the use of its diplomatic mission accredited to the President of the Union of Burma if the Minister for Foreign Affairs certifies that such transfer or lease should be exempted from the provisions of this Act:

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

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

5. (1) Whoever contravenes the provisions of section 3 shall be punished:

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

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

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

6. Upon conviction in a prosecution under sub-section (1) of section 5 the President of the Union:

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

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

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

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

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

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

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

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

THE CONSTITUTION OF THE UNION OF BURMA (1948)

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THE CONSTITUTION OF THE UNION OF BURMA

PREAMBLE

WE, THE PEOPLE OF BURMA including the Frontier Areas and the Karenni States, Determined to establish in strength and unity a SOVEREIGN INDEPENDENT STATE, To maintain social order on the basis of the eternal principles of JUSTICE, LIBERTY AND EQUALITY and To guarantee and secure to all citizens JUSTICE social, economic and political; LIBERTY of thought, expression, belief, faith, worship, vocation, association and action; EQUALITY of status, of opportunity and before the law, IN OUR CONSTITUENT ASSEMBLY this Tenth day of Thadingyut waxing, 1309 B.E. (Twenty-fourth day of September, 1947 A.D.). DO HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

CHAPTER I

Form of State

1. Burma is a Sovereign Independent Republic to be known as “the Union of Burma”.
2. The Union of Burma shall comprise the whole of Burma, including:
 - (i) all the territories that were heretofore governed by His Britannic Majesty through the Governor of Burma, and
 - (ii) the Karenni States.
3. The sovereignty of the Union resides in the people.
4. All powers, legislative, executive and judicial, are derived from the people and are exercisable on their behalf by, or on the authority of, the organs of the Union or of its constituent units established by this Constitution.
5. The territories that were heretofore known as the Federated Shan States and the Wa States shall form a constituent unit of the Union of Burma and be hereafter known as “the Shan State”.
6. The territories that were heretofore known as the Myitkyina and Bhamo Districts shall form a constituent unit of the Union of Burma and be hereafter known as “the Kachin State”.
7. The territories that were heretofore known as the Karenni States, viz., Kantarawaddy, Bawlake and Kyebogyi shall form a constituent unit of the Union of Burma and hereafter known as “the Karenni State”.

8. All powers, legislative, executive and judicial, in relation to the remaining territories of the Union of Burma shall, subject to the provisions of section 180, be exercisable only by, or on the authority of, the organs of the Union.

CHAPTER II

Fundamental Rights

Definition of “State”

9. In this Chapter and in Chapters III and IV, the term “State” means the executive or legislative authority of the Union or of the unit concerned according as the context may require.

“Citizenship”.

10. There shall be but one citizenship throughout the Union; that is to say, there shall be no citizenship of the unit as distinct from the citizenship of the Union.

11. (i) Every person, both of whose parents belong or belonged to any of the indigenous races of Burma;

(ii) every person born in any of the territories included within the Union, at least one of whose grand-parents belong or belonged to any of the indigenous races of Burma;

(iii) every person born in any of territories included within the Union, of parents both of whom are, or if they had been alive at the commencement of this Constitution would have been, citizens of the Union;

(iv) every person who was born in any of the territories which at the time of his birth was included within His Britannic Majesty’s dominions and who has resided in any of the territories included within the Union for a period of not less than eight years in the ten years immediately preceding the date of the commencement of this Constitution or immediately preceding the 1st January 1942 and who intends to reside permanently there in and who signifies his election of citizenship of the Union in the manner and within the time prescribed by law, shall be a citizen of the Union.

12. Nothing contained in section 11 shall derogate from the power of the Parliament to make such laws as it thinks fit in respect of citizenship and alienage and any such law may provide for the admission of new classes of citizens or for the termination of the citizenship of any existing classes.

Rights of Equality.

13. All citizens irrespective of birth, religion, sex or race are equal before the law; that is to say, there shall not be any arbitrary discrimination between one citizen or class of citizens and another.

14. There shall be equality of opportunity for all citizens in matters of public employment and in the exercise or carrying on of any occupation, trade, business or profession.

15. Women shall be entitled to the same pay as that received by men in respect of similar work.

Rights of Freedom.

16. No citizen shall be deprived of his personal liberty, nor his dwelling entered, nor his property confiscated, save in accordance with law.

17. There shall be liberty for the exercise of the following rights subject to law, public order and morality:-

i. The right of the citizens to express freely their convictions and opinions.

ii. The right of the citizens to assemble peaceably and without arms.

iii. The right of the citizens to form associations and unions. Any association or organization whose object or activity is intended or likely to undermine the Constitution is forbidden.

iv. The right of every citizen to reside and settle in any part of the Union, to acquire property and to follow any occupation, trade, business or profession.

18. Subject to regulation by the law of the Union trade, commerce and intercourse among the units shall be free:

Provided that any unit may by law impose reasonable restrictions in the interests of public order, morality, health or safety.

19. (i) Traffic in human beings, and

(ii) forced labour in any form and involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall be prohibited.

Explanation: Nothing in this section shall prevent the State from imposing compulsory service for public purposes without any discrimination on grounds of birth, race, religion or class.

Rights Relating to Religion.

20. All persons are equally entitled to freedom of conscience and the right freely to profess and practise religion subject to public order, morality or health and to the other provisions of this Chapter.

Explanation 1: The above right shall not include any economic, financial, political or other secular activities that may be associated with religious practice.

Explanation 2: The freedom guaranteed in this section shall not debar the State from enacting laws for the purpose of social welfare and reform.

21. (1) The State recognizes the special position of Buddhism as the faith professed by the great majority of the citizens of the Union.

(2) The State also recognizes Islam, Christianity, Hinduism and Animism as some of the religions existing in the Union at the date of the coming into operation of this Constitution.

(3) The State shall not impose any disabilities or make any discrimination on the ground of religious faith or belief.

(4) The abuse of religion for political purposes is forbidden; and any act which is intended or is likely to promote feelings of hatred, enmity or discord between racial or religious communities or sects is contrary to this Constitution and may be made punishable by law.

Cultural and Educational Rights.

22. No minority, religious, racial or linguistic, shall be discriminated against in regard to admission into State educational institutions nor shall any religious instruction be compulsorily imposed on it.

Economic Rights.

23. (1) Subject to the provisions of this section, the State guarantees the rights of private property and of private initiative in the economic sphere.

(2) No person shall be permitted to use the right of private property to the detriment of the general public.

(3) Private monopolist organizations, such as cartels, syndicates and trusts formed for the purpose of dictating prices or for monopolizing the market or otherwise calculated to injure the interests of the national economy, are forbidden.

(4) Private property may be limited or expropriated if the public interest so requires but only in accordance with law which shall prescribe in which cases and to what extent the owner shall be compensated.

(5) Subject to the conditions set out in the last preceding sub-section, individual branches of national economy or single enterprises may be nationalized or acquired by the State by law if the public interest so requires.

Rights in Relation to Criminal Law.

24. No person shall be convicted of crime except for violation of a law in force at the time of the commission of the act charged as an offence, nor shall he be subjected to a penalty greater than that applicable at the time of the commission of the offence.

Rights of Constitutional Remedies.

25. (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of any of the rights conferred by this Chapter is hereby guaranteed.

(2) Without prejudice to the powers that may be vested in this behalf in other Courts, the Supreme Court shall have power to issue directions in the nature of Habeas Corpus, mandamus, prohibition, quo warranto and certiorari appropriate to the rights guaranteed in this Chapter.

(3) The right to enforce these remedies shall not be suspended unless, in times of war, invasion, rebellion, insurrection or grave emergency, the public safety may so require.

26. Every citizen, whether within or beyond the territories of the Union, shall be entitled to claim the protection of the Union in his relations with foreign States.

27. Except in times of invasion, rebellion, insurrection or grave emergency, no citizen shall be denied redress by due process of law for any actionable wrong done to or suffered by him.

28. The Parliament may by law determine to what extent any of the rights guaranteed by this Chapter shall be restricted or abrogated for the members of the Defence Forces or of the Forces charged with the maintenance of public order so as to ensure fulfillment of their duties and the maintenance of discipline.

29. The Parliament shall make laws to give effect to those provisions of this Chapter which require such legislation and to prescribe punishment for those acts which are declared to be offences in this Chapter and are not already punishable.

CHAPTER III

Relations of the State to Peasants and Workers

30. (1) The State is the ultimate owner of all lands.

(2) Subject to the provisions of this Constitution, the State shall have the right to regulate, alter or abolish land tenures or resume possession of any land and distribute the same for collective or co-operative farming or to agricultural tenants.

(3) There can be no large land holdings on any basis whatsoever. The maximum size of private land holding shall, as soon as circumstances permit, be determined by law.

31. By economic and other measures the State may assist workers to associate and organize themselves for protection against economic exploitation.

The State shall protect workers by legislation intended to secure to them the right of association, to limit their hours of work, to ensure to them the right to annual holidays and to improve working conditions, and as soon as circumstances permit by promoting schemes for housing and social insurance.

CHAPTER IV

Directive Principles of State Policy

32. The principles set forth in this Chapter are intended for the general guidance of the State. The application of these principles in legislation and administration shall be the care of the State but shall not be enforceable in any court of law.

33. The State shall direct its policy towards securing to each citizen:

- (i) the right to work,
- (ii) the right to maintenance in old age and during sickness or loss of capacity to work,
- (iii) the right to rest and leisure, and
- (iv) the right to education.

In particular the State shall make provision for free and compulsory primary education.

34. The State shall pay special attention to the young and promote their education.

35. The State shall promote with special care the educational and economic interests of the weaker and less advanced sections of the people and shall protect them from social injustice and all forms of exploitation.

36. The State shall regard the raising of the standard of living of its people and the improvement of public health as among its primary duties.

37. (1) The State shall ensure that the strength and health of workers and the tender age of children shall not be abused and that they shall not be forced by economic necessity to take up occupations unsuited to their sex, age and strength.

(2) The State shall specially direct its policy towards protecting the interests of nursing mothers and infants by establishing maternity and infant welfare centres, children's homes and day nurseries and towards securing to mothers in employment the right to leave with pay before and after child birth.

38. The State shall promote the improvement of public health by organizing and controlling health services, hospitals, dispensaries, sanatoria, nursing and convalescent homes and other health institutions.

39. The State shall take special care of the physical education of the people in general and of the youth in particular in order to increase the health and working capacity of the people and in order to strengthen the defensive capacity of the State.

40. The State shall ensure disabled ex-Servicemen a decent living and free occupational training. The children of fallen soldiers and children orphaned by wars shall be under the special care of the State.

41. The economic life of the Union shall be planned with the aim of increasing the public wealth, of improving the material conditions of the people and raising their cultural level, of consolidating the independence of the Union and strengthening its defensive capacity.

42. The State shall direct its policy towards giving material assistance to economic organizations not working for private profit. Preference shall be given to co-operative and similar economic organizations.

43. All useful arts and sciences, research and cultural institutes and the study of Pali and Sanskrit shall enjoy the protection and support of the State.

44. (1) The State shall direct its policy towards operation of all public utility undertakings by itself or local bodies or by peoples' co-operative organizations.

(2) The State shall direct its policy towards exploitation of all natural resources in the Union by itself or local bodies or by peoples' co-operative organizations.

CHAPTER V

The President

45. There shall be a President of the Union hereinafter called "the President" who shall take precedence over all other persons throughout the Union and who shall exercise and

perform the powers and functions conferred on the President by this Constitution and by law.

46. The President shall be elected by both Chambers of Parliament in joint session by secret ballot. Subject of the provision of this Chapter, election to the office of the President shall be regulated by an Act of the Parliament.

47. (1) The President shall not be a member of either Chamber of Parliament.

(2) If a member of either Chamber of Parliament be elected President, he shall be deemed to have vacated his seat in that Chamber.

(3) The President shall not hold any other office or position of emolument.

48. (1) The President shall hold office for five years from the date on which he enters upon his office, unless before the expiration of the period he resigns or dies, or is removed from office, or becomes permanently incapacitated.

(2) No person shall serve as President for more than two terms in all.

49. No person shall be eligible for election to the office of President unless he:

(i) is a citizen of the Union who was, or both of whose parents were, born in any of the territories included within the Union, and

(ii) is qualified for election to the Union Parliament.

50. The first President shall enter upon his office as soon as may be after his election, and every subsequent President shall enter upon his office on the day following the expiration of the term of office of his predecessor or as soon as may be thereafter, or in the event of his predecessors removal from office, resignation, permanent incapacity or death, as soon as may be after his own election.

51. The president shall enter upon his office by making and subscribing publicly in the presence of both Chambers of Parliament assembled and of the judges of the Supreme Court, the following declaration:

“I do solemnly and sincerely promise and declare that I will maintain the Constitution of the Union and uphold its laws, that I will fulfill my duties faithfully and conscientiously in accordance with the Constitution and the law, that I will diligently avert every injury and danger to the Union and that I will dedicate myself to the service of the Union.”

52. The President shall not leave the Union during his term of office save on the advice of the Union Government.

53. The President shall summon the Parliament for the purpose of electing a new President, during the three months preceding the expiration of his term of office.

54. (1) The President may be impeached for:

(i) high treason;

(ii) violation of the Constitution; or

(iii) gross misconduct.

(2) The charge shall be preferred by either Chamber of Parliament subject to and in accordance with the provisions of this section.

(3) A proposal to either Chamber of Parliament to prefer a charge against the President under this section shall not be entertained except upon a notice of resolution in writing signed by not less than one-fourth of the total membership of that Chamber.

(4) No such proposal shall be adopted by either Chamber of Parliament save upon a resolution of that Chamber supported by not less than two-thirds of the total membership thereof.

(5) When a charge has been preferred by one Chamber of Parliament, the other Chamber shall investigate the charge or cause the charge to be investigated.

(6) The President shall have the right to appear and to be represented at the investigation of the charge.

(7) If, as the result of the investigation, a resolution be passed, supported by not less than two-thirds of the total membership of the Chamber of Parliament by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained and that the office, the subject of the charge, was such as to render him unfit to continue in office, such resolution shall operate to remove the President from his office.

55. The President shall have an official residence and shall receive such emoluments and allowances as shall be prescribed by law. Emoluments and allowances of the President shall not be varied during his term of office.

56. (1) The President shall, on the nomination of the Chamber of Deputies, appoint a Prime Minister who shall be the head of the Union Government.

(2) The President shall, on the nomination of the Prime Minister, appoint other members of the Union Government.

(3) The President shall, on the advice of the Prime Minister, accept the resignation or terminate the appointment of any member of the Union Government.

57. The Chamber of Deputies shall be summoned, prorogued or dissolved by the President on the advice of the Prime Minister:

Provided that, when the Prime Minister has ceased to retain the support of a majority in the Chamber, the President may refuse to prorogue or dissolve the Chamber on his advice and shall in that event forthwith call upon the Chamber to nominate a new Prime Minister:

Provided further that, if the Chamber fails to nominate a new Prime Minister within fifteen days, it shall be dissolved.

58. (1) Every Bill, passed or deemed to have been passed by both Chambers of Parliament, shall require the signature of the President for its enactment into law.

(2) The President shall promulgate every law enacted by the Parliament.

59. Subject to the provisions of this Constitution, the executive authority of the Union shall be vested in the President; but nothing in this section shall prevent the Parliament from conferring functions upon subordinate authorities, or be deemed to transfer to the President any functions vested in any court, judge, or officer, or any local or other authority by any existing law.

60. The right of pardon shall be vested in the President.

61. (1) The President may communicate with the Parliament by message or address on any matter of national or public importance.

(2) The President may also address a message to the nation at any time on any matter.

62. (1) The President shall not be answerable to either Chamber of Parliament or to any Court for the exercise or performance of the powers and functions of his office or for any act done or purporting to be done by him in the exercise and performance of these powers and functions.

(2) The behaviour of the President may, however, be brought under review in either Chamber of Parliament for the purpose of section 54, or by any Court, tribunal or body, appointed or designated by either Chamber of Parliament for the investigation of its charges under the said section.

(3) The validity of anything purporting to have been done by the President under this Constitution shall not be called in question on the ground that it was done otherwise than in accordance with the provisions contained or referred to in the next succeeding section.

63. (1) The powers and functions conferred on the President by this Constitution shall be exercisable and performable by him only on the advice of the Union Government, save where it is provided by this Constitution that he shall act in his discretion or on the advice or nomination of or on receipt of any communication from any other person or body.

(2) The question whether any, and if so, what advice, nomination or communication was tendered to or received by the President shall not be enquired into in any Court.

64. (1) In the event of the death, resignation, removal from office, absence or incapacity whether temporary or permanent, of the President, or at any time at which the office of the President may be vacant, the powers and functions conferred on the President by this Constitution shall be exercised and performed by a Commission constituted as hereinafter provided.

(2) The Commission shall consist of the following persons, namely, the Chief Justice of the Union, the Speaker of the Chamber of Nationalities and the Speaker of the Chamber of Deputies.

(3) Such judge of the Supreme Court as has been appointed to perform the duties of the Chief Justice, or if there is no such judge, then the senior available judge of the Supreme Court, shall act as a member of the Commission in place of the Chief Justice on any occasion on which the office of the Chief Justice is vacant or on which the Chief Justice is unable to act.

(4) The Deputy Speaker of the Chamber of Nationalities shall act as a member of the Commission in the place of the Speaker of the Chamber of Nationalities on any occasion on which the office of the Speaker of the Chamber is vacant or on which the said Speaker is unable to act.

(5) The Deputy Speaker of the Chamber of Deputies shall act as a member of the Commission in place of the Speaker of the Chamber on any occasion on which the office of the Speaker of the Chamber Deputies is vacant or on which the said Speaker is unable to act.

(6) The Commission may act by any two of its members and may act notwithstanding a vacancy in its membership.

(7) The provisions of this Constitution which relate to the exercise and performance by the President of the powers and functions conferred on him by this Constitution shall apply to the exercise and performance of the said powers and function under this section.

CHAPTER VI PARLIAMENT

PART I GENERAL

65. The legislative power of the Union shall be vested in the Parliament which shall consist of the President, a Chamber of Deputies and a Chamber of Nationalities and which is in this Constitution called “the Parliament” or “the Union Parliament”.

66. There shall be a session of the Parliament once at least in every year so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

67. (1) The Chamber of Deputies shall, as soon as may be, choose two members of the Chamber to be respectively the Speaker and the Deputy Speaker thereof, and, so often as the office of the Speaker or Deputy Speaker becomes vacant, the Chamber shall choose another member to be Speaker or Deputy Speaker, as the case may be.

(2) A member holding office as Speaker or Deputy Speaker of the Chamber shall vacate his office if he ceases to be a member of the Chamber, may at any time resign his office by writing under his hand addressed to the President, and may be removed from his office by a resolution of the Chamber passed by a majority of the then members of the Chamber; but no resolution for the purpose of this sub-section shall be moved unless at least fourteen days’ notice has been given of the intention to move the resolution.

Provided that, whenever the Chamber is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Chamber after the dissolution. (3) While the office of the Speaker is vacant the duties of his office shall be performed by the Deputy Speaker or, if the office of the Deputy Speaker is also vacant, by such member of the Chamber as the President may appoint for the purpose, and during the absence of the Speaker from any sitting of the Chamber the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the Chamber, or, if no such person is present, such other person as may be determined by the Chamber, shall act as Speaker.

(4) There shall be paid to the Speaker and the Deputy Speaker of the Chamber such salaries as may be respectively determined by an Act of the Parliament.

(5) The foregoing provisions of this section shall apply in relation to the Chamber of Nationalities as they apply in relation to the Chamber of Deputies with the substitution of references to the Chamber of Nationalities for references to the Chamber of Deputies.

68. (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Parliament, there shall be freedom of speech in

the parliament, and no member of the Parliament shall be liable to any proceedings in any Court in respect of anything said or any vote given by him in the Parliament or any Committee thereof, and no person shall be so liable in respect of publication by or under the authority of a Chamber of the Parliament of any report, paper, votes, or proceedings.

(2) In other respects, the privileges of members of either Chamber of Parliament shall be such as may, from time to time, be defined by an Act of the Parliament and, until so defined, shall be such as were immediately before the commencement of this Constitution enjoyed by members of the Legislature of Burma.

69. (1) All question at any sitting or joint sitting of the Chambers shall, save as otherwise provided by this Constitution, be determined by a majority of votes of the members present and voting, other than the Speaker or person acting as such, who shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) The number of members necessary to constitute the quorum of either Chamber for the exercise of its powers shall be determined by its rules.

(3) A Chamber of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Parliament shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled to do so sat or voted or otherwise took part in the proceedings.

(4) Without prejudice to the generality of the foregoing provisions, the Chamber of Nationalities shall have power to act notwithstanding the failure of any unit to provide for its representation in the Chamber.

70. All official reports and publications of the Parliament or of either Chamber thereof shall be absolutely privileged.

71. The Parliament may make provision by law for the payment of salaries and allowances to the members of each Chamber in respect of their duties as public representatives and for the grant to them of such travelling and other facilities in connection with their duties as the Parliament may determine.

72. Every member of either Chamber of Parliament shall before taking his seat make and subscribe before the President, or some person authorized by him, an oath or affirmation of allegiance in the form set forth in the First Schedule to this Constitution.

73. (1) No person may at the same time be a member of both Chamber of Parliament, and, if any person who is already a member of either Chamber becomes a member of the other Chamber, he shall forthwith be deemed to have vacant his first seat.

(2) If a member of either Chamber:

(a) becomes subject to any of the disqualifications mentioned in sub-section (1) of the next succeeding section; or

(b) by writing under his hand addressed to the President resigns his seat, his seat shall thereupon become vacant.

(3) If for a period of thirty days a member of either Chamber is without permission of the Chamber absent from all meetings thereof, the Chamber may declare his seat vacant:

Provided that in computing the said period of thirty days no account shall be taken of any period during which the Chamber is prorogued, or is adjourned for more than four consecutive days.

74. (1) Any person who:

(i) is under any acknowledgement of allegiance or adherence to a foreign Power, or is a subject or citizen or entitled to the rights and privileges of a subject or a citizen of a foreign Power; or

(ii) is an undischarged bankrupt or insolvent; or

(iii) is of unsound mind and stands so declared by a competent Court; or

(iv) hold any office of profit in the service of the Union or of any unit other than an office declared by an Act of the Parliament not to disqualify its holder; or

(v) whether before or after the commencement of this Constitution, has been convicted or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty of an offence or corrupt or illegal practice relating to elections which has been declared by an Act of the Legislature of Burma or of the Parliament to be an offence or practice entailing disqualification for membership of the Legislature or of the Parliament, unless such period had elapsed as may be specified in that behalf in the provisions of that Act; or

(vi) whether before or after the commencement of this Constitution, has been convicted, in any of the territories included within the Union, of any other offence, and has, in either case, been sentenced to transportation or to imprisonment for not less than two years, unless a period of five years or such less period as the President may, in his discretion, allow in any particular case, has elapsed since his release; or

(vii) having been nominated as a candidate for the Parliament or having acted as an election agent of any person so nominated, has failed to lodge a return of the election expenses within the time and in the manner required by any Order made under this Constitution or by any Act of the Parliament, unless five years have elapsed from the date by which the

return ought to have been lodged, or the President, in his discretion, had removed the disqualification;

Shall be disqualified for being as and for being a member of either Chamber: Provided that a disqualification under paragraph (vii) of this sub-section shall not take effect until the expiration of one month from the date by which the return ought to have been lodged, or of such longer period as the President acting in his discretion may, in any particular case, allow.

(2) A person shall not be qualified for being chosen a member of either Chamber while he is serving a sentence of transportation or of imprisonment for a criminal offence:

Provided that, where the sentence does not exceed two years, the President may in his discretion remove such disqualification.

(3) Where a person who, by virtue of a conviction or a conviction and a sentence, becomes disqualified by virtue of paragraph (v) or paragraph (vi) of sub-section (1) of this section is at the date of the disqualification a member of a Chamber, his seat shall, notwithstanding anything in this or the last preceding section, not become vacant by reason of the disqualification until three months have elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of, but, during any period wherein his membership is preserved by this sub-section, he shall not sit or vote.

75. If a person sits or votes as a member of either Chamber when he is not qualified or is disqualified for membership thereof, or when he is prohibited from so doing by the provisions of sub-section (3) of section 74 or before he has complied with the requirements of section 72 he shall be liable in respect of each day on which he so sits or votes to a penalty of rupees one thousand to be recovered as a debt due to the Union Government.

76. (1) Every citizen, who has completed the age of twenty-one years and who is not placed under any disability or incapacity by this Constitution or by law, shall be eligible for membership of the Parliament.

(2) Every citizen, who has completed the age of eighteen years and who is not disqualified by law and complies with the provisions of the law regulating elections to the Parliament, shall have the right to vote at any election to the Parliament.

(3) There shall be no property qualification for membership of the Parliament or for the right to vote at elections to the Parliament.

(4) No law shall be enacted or continued placing any citizen under disability or incapacity for membership of the Parliament on the ground of sex, race or religion or disqualifying any citizen from voting at elections to the Parliament on any such ground:

Provided that notwithstanding anything contained in section 21 (3), members of any religious order may bylaw be debarred from voting at any such elections or from being a member of either Chamber of Parliament.

(5) Voting shall be by secret ballot.

77. Subject to the provisions of this Constitution, all matters relating to elections for either Chamber of Parliament including the delimitation of constituencies, the filling of casual vacancies, and the decision of doubts and disputes arising out of or in connection with such elections shall be regulated in accordance with law.

78. The Parliament may by law prescribe the conditions under and the manner in which a member of either Chamber of Parliament may be recalled.

79. Every member of the Union Government and the Attorney-General shall have the right to speak in, and otherwise take part in the proceedings of, either Chamber, any joint sitting of the Chambers and any Committee of the Parliament of which he may be named a member, but he shall not by virtue of this section be entitled to vote.

80. (1) Each Chamber of the Parliament may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

(2) The President, after consultation with the Speaker of the Chamber of Nationalities and the Speaker of the Chamber of Deputies, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Chambers.

(3) At a joint sitting of the two Chambers the Speaker of the Chamber of Nationalities, or in his absence the Speaker of the Chamber of Deputies or such person as may be determined by rules of procedure made under this section, shall preside.

81. No discussion shall take place in the Parliament with respect to the conduct of any judge of the Supreme Court or of the High Court in the discharge of his duties, except upon a resolution for the removal of the judge as provided in this Constitution.

82. (1) The validity of any proceedings in the Parliament shall not be called in question in any Court on the ground of any irregularity of procedure.

(2) The Speaker of the Chamber of Deputies or the Speaker of the Chamber of Nationalities or any other member of either Chamber of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business or for maintaining order in the Chamber shall not be subject to the jurisdiction of any Court in respect of the exercise by him of those powers.

PART II
CHAMBER OF DEPUTIES

83. (1) The Chamber of Deputies shall be composed of members who represent constituencies determined by law. Provision shall, however, be made to reserve such number of seats as may be proportionate to the population of Karens to be filled by their representatives.

(2) The number of members of this Chamber shall be, as nearly as practicable, twice the number of member of the Chamber of Nationalities. The number of members shall from time to time be fixed by law but the total number of the members of the Chamber of Deputies shall not be fixed at less than one member for each 100,000 of the population, or at more than one member for each 30,000 of the population.

(3) The ratio between the number of members to be elected at any time for a constituency and the population of that constituency, as ascertained at the last preceding census, shall, so far as practicable, be the same for all constituencies throughout the Union, except in the case of the constituencies of the Special Division of the Chins (referred to in Part V of Chapter IX) and the Karenni State, in respect of which the ratio may be higher.

(4) The Parliament shall revise the constituencies at least once in every ten years, with due regard to changes in the distribution of the population, but any alternation in the constituencies shall not take effect until the termination of the then existing Parliament.

84. (1) The general election for members of the Chamber of Deputies shall take place not later than sixty days after the dissolution of the Chamber.

Polling at every general election shall, as far as practicable, take place on the same day throughout the Union.

(2) The Chamber of Deputies shall meet within sixty days from the polling day.

85. Every Chamber of Deputies shall continue for four years from the first meeting of the Chamber:

Provided that the Chambers of Parliament may by resolution passed by not less than two-thirds of the members present and voting at a joint sitting extend the said period from year to year in the event of a grave emergency declared by Proclamation under section 94:

Provided further that the Chamber of Deputies may be dissolved by the President at any time as provided by section 57.

86. (1) As soon as possible after the presentation to the Chamber of Deputies under Chapter VII of the estimates of receipts and estimates of expenditure of the Union for any financial year, the Chamber shall consider the estimates.

(2) Save in so far as may be provided by specific enactment in each case, the legislation required by specific enactment in each case, the legislation required to give effect to the financial resolutions of each year shall be enacted within that year.

(3) The Chamber of Deputies shall not pass any vote or resolution, and no law shall be enacted, for the appropriation of revenue or other public moneys, unless the purpose of the appropriation shall have been recommended to the Chamber by the Union Government.

PART III CHAMBER OF NATIONALITIES

87. There shall be one hundred and twenty-five seats in the Chamber of Nationalities as allocated in the Second Schedule to this Constitution.

88. (1) A dissolution of the Chamber of Deputies shall operate also as a dissolution of the Chamber of Nationalities.

(2) The general election for the Chamber of Nationalities shall be completed not later than the fifteenth day from the first meeting of the Chamber of Deputies held after the dissolution.

89. The first meeting of the Chamber of Nationalities after the general election shall take place on a date to be fixed by the President on the advice of the Prime Minister.

PART IV POWER OF THE PARLIAMENT

90. Subject to the provisions of this Constitution, the sole and exclusive power of making laws in the Union shall be vested in the Parliament:

Provided that an Act of the Parliament may authorize any person or authority therein specified to make rules and regulations consonant with the Act and having the force of law, subject, however, to such rules and regulations being laid before each Chamber of Parliament at its next ensuing session and subject to annulment by a motion carried in both Chambers within a period of three months of their being so laid, without prejudice, however, to the validity of any action previously taken under the rules or regulations.

91. Provision may, however, be made by law on principles of regional autonomy for delegating to representative bodies of such regions as may be defined in the law, specified powers in administrative, cultural and economic matters. A law embodying such provisions shall determine the rights, powers and duties of such representative bodies and their relations to the Parliament and to the Union Government.

92. (1) The Parliament shall have power to make laws of the whole or any part of the Union except in so far as such power is assigned by the next succeeding sub-section exclusively to the Shan Councils.

For greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that, notwithstanding anything in the next succeeding sub-section, the exclusive legislative authority of the Parliament shall extend to all matters enumerated in List I of the Third Schedule to this Constitution (hereinafter called "the Union Legislative List").

Any matter coming within any of the classes of subjects enumerated in the said List, shall not be deemed to come within the class of matters of a local or private nature comprised in the list of subjects assigned by the next succeeding sub-section exclusively to the State Councils.

(2) Each State Council shall have power exclusively to make laws for the State or any part thereof with respect to any of the matters enumerated in List II of the said Schedule (hereinafter called "the State Legislative List").

(3) Any State Council may by resolution surrender any of its territories or any of its powers and rights to the Union.

93. The powers exercisable by the Union by reason of the entry in the Union Legislative List relating to the regulation of forces, mines and oil-fields and mineral development, shall be subject to the condition that before the issue of any certificate, licence, or other form of authorization, for the exploitation, development or utilization of any forest, mine or oil-field, the issuing authority shall consult the Union Minister for the State concerned.

94. (1) Notwithstanding anything in section 92, the Parliament shall, if the President has declared by Proclamation (in this Constitution referred to as a "Proclamation of Emergency"), that a grave emergency exists whereby the security of the Union is threatened, whether by war or internal disturbance, or that a grave economic emergency affecting the Union has arisen in any part of the Union, have power to make laws for a State or any part thereof with respect to any of the matters enumerated in the State Legislative List.

(2) Nothing in this section shall restrict the power of a State Council to make any law which, under this Constitution it has power to make, but if any provision of a State law is repugnant to any provision of a Union law which the Parliament has under this section power to make, the Union law, whether passed before or after the State law, shall prevail, and the State law shall, to the extent of the repugnancy, but so long as the Union law continues to have effect, be inoperative.

(3) A Proclamation of Emergency:

(a) may be revoked by a subsequent Proclamation, and

(b) shall cease to operate at the expiration of six months, unless before the expiration of that period it has been approved by resolutions of both Chambers of Parliament:

Provided that, if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Chambers of Parliament, the Proclamation shall, unless revoked, continue in force for a further period of twelve months from the date on which under this sub-section it would otherwise have ceased to operate.

(4) A law made by the Parliament which it would not but for the issue of a Proclamation of Emergency have been competent to make shall cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before expiration of the said period.

95. If it appears to the State Councils of two or more States to be desirable that any of the matters enumerated in the State Legislative List should be regulated in these States by an Act of the Parliament, and if resolutions to that effect are passed by those State Councils, it shall be lawful for the Parliament to pass an Act for regulating that matter accordingly; but any Act so passed may, as respects any State to which it applies, be amended or repealed by an Act of the State Council.

96. (1) All revenue from the sources enumerated in the Fourth Schedule to this Constitution shall form part of the revenues of the State in or by which they are raised or received.

(2) All revenues other than such as are assigned to the States by the last preceding sub-section shall form part of the revenues of the Union:

Provided that the Union may make such grants or contributions out of its revenue in aid of the revenues of the units as it may determine to be necessary upon the recommendations of any Board or other authority appointed for the purpose.

97. (1) The right to raise and maintain military, naval and air forces is vested exclusively in the Parliament.

(2) No military, naval or air forces, or any military or semi-military organization of any kind (not being a police force maintained under the authority of any unit solely for duties connected with the maintenance of public order) other than the forces raised and maintained by the Union with the consent of the Parliament shall be raised or maintained for any purpose whatsoever.

PART V LEGISLATION

98. Every Bill initiated in and passed by the Chamber of Deputies shall be sent to the Chamber of Nationalities and may, unless it be a Money Bill, be amended in the Chamber of Nationalities and sent back to the Chamber of Deputies for its consideration.

99. Every Bill other than a Money Bill, may be initiated in the Chamber of Nationalities and if passed by the Chamber, shall be sent to the Chamber of Deputies which may amend the Bill and sent it back to the Chamber of Nationalities for its consideration.

100. A Bill passed by one Chamber and accepted by the other Chamber shall be deemed to have been passed by both Chambers of Parliament.

101. A Bill which appropriates revenue or money for the ordinary annual services of the Government shall deal only with such appropriations.

102. Bills imposing taxation shall deal only with imposition of taxation and any provision therein dealing with any other matter shall be of no effect.

Money Bills

103. Money Bills shall be initiated in the Chamber of Deputies only.

104. Every Money bill passed by the Chamber of Deputies shall be sent to the Chamber of Nationalities for its recommendations.

105. (1) Every Money Bill sent to the Chamber of Nationalities for its recommendations shall, within twenty one days after it shall have been sent to the Chamber of Nationalities, be returned to the Chamber of Deputies which may accept or reject all or any of the recommendations of the Chamber of Nationalities.

(2) If such Money Bills is not returned by the Chamber of Nationalities to the Chamber of Deputies within twenty-one days or is returned within twenty-one days with recommendations which the Chamber of Deputies does not accept, it shall be deemed to have been passed by both Chambers at the expiration of twenty-one days.

106. (1) A Money Bill means a Bill which contains only provisions dealing with all or any of the following matters, namely, the imposition, repeal, remission, alternation or regulation of taxation; the imposition, for the payment of debt or other financial purposes, of charges on the revenues of the Union or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue or audit of accounts of public money, the raising or guaranteeing of any loan or the repayment thereof; matters subordinate and incidental to these matters or any of them.

(2) In this definition the expressions "taxation", "revenues of the Union" and "loan", respectively, do not include any taxation, money or loan raised by local authorities or bodies for local purposes.

107. (1) The Speaker of the Chamber of Deputies shall certify any Bill which in his opinion is a Money Bill to be "a Money Bill" and his certificate shall, subject to the subsequent provisions of this section, be final and conclusive.

(2) The Chamber of Nationalities may, by a resolution passed at a sitting at which not less than two-thirds of the total members are present, request the President to refer the question whether the Bill is or is not “a Money Bill” to a Committee of Privileges.

(3) If the President in his discretion decides to accede to the request, he shall appoint a Committee of Privileges consisting of an equal number of members of the Chamber of Deputies and of the Chamber of Nationalities and a Chairman who shall be a judge of the Supreme Court.

(4) The President shall refer the question to the Committee of Privileges so appointed and the Committee shall report its findings thereon to the President within twenty-one days after the day on which the Bill was sent to the Chamber of Nationalities.

(5) The decision of the President, in his discretion, on such report shall be final.

108. If the President, in his discretion, decides not to accede to the request of the Chamber of Nationalities or if the Committee of Privileges fails to report within the time hereinbefore specified, the certificate of the Speaker of the Chamber of Deputies shall stand confirmed.

109. If one Chamber passes any other Bill, and the other Chamber rejects or fails to pass it, or passes it with amendments to which the Chamber where the Bill originated will not agree, the President shall convene a joint sitting of the two Chambers. The members present at the joint sitting may deliberate and shall vote together upon the Bill as last passed by the Chamber where the Bill originated and upon amendments, if any; which have been made therein by the other Chamber and if the Bill with the amendments, if any, is passed by a majority of the total number of members of both Chambers present and voting, it shall be deemed to have been passed by both Chambers:

Provided that at a joint sitting:

(a) if the Bill, having been passed by one Chamber is rejected by the other Chamber and returned to the Chamber in which it originated, no amendment shall be proposed to the Bill other than such amendments, if any, as are made necessary by the delay in the passage of the Bill;

(b) if the Bill is, however, passed by the other Chamber with amendments and returned to the Chamber which it originated, only such amendments as aforesaid and such other amendments as are relevant to the matters with respect to which the Chambers have not agreed, shall be proposed to the Bill;

and the decision of the person presiding as to the amendments which are admissible under this section shall be final.

110. (1) If at any time when both Chambers of Parliament are not in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate

action, he may promulgate such ordinances as the circumstances appear to him to require. An Ordinance promulgated under this section shall have the same force and effect as an Act of the Parliament assented to by the President.

(2) Every such Ordinance shall be laid before both Chambers of Parliament within forty-five days from the date of promulgation thereof, unless it shall have been withdrawn earlier by the President, and shall cease to operate at the expiration of fifteen days from the re-assembly of the Chamber of Deputies or the Chamber of Nationalities, whichever is later.

Provided that the President may, with the consent of both Chambers of Parliament, extend the Ordinance for such further period as may be deemed necessary.

(3) If the Ordinance shall have been withdrawn within forty-five days from the date of its promulgation, it shall be laid before the Parliament in its next ensuing session.

(4) If and in so far as an Ordinance under this section makes any provision which the Parliament would not under this Constitution be competent to enact, it shall be void.

Signing and Promulgation

111. (1) As soon as any Bill shall have been passed by both Chambers of Parliament, it shall be presented to the President for his signature and promulgation as an Act in accordance with the provisions of this section.

(2) Save as otherwise provided by this Constitution, every Bill so presented to the President shall be signed by him not later than seven days after the date of presentation.

(3) If any Bill is not signed by the President within seven days after the date of presentation, the same shall become an Act in the like manner as if he had signed it on the last of the said seven days.

112. (1) Every Bill signed or deemed to have been signed by the President under this Constitution shall become an Act on and from the date on which the Bill shall have been signed or be deemed to have been signed.

(2) Every such Act shall be promulgated by the President by publication under his direction in the official gazette. Every Act shall come into force on the date of such promulgation unless the contrary intention is expressed.

113. The signed texts of Acts and Ordinances shall be enrolled for record in the office of the Registrar of the Supreme Court and such signed texts shall be conclusive evidence of the provisions of such Acts and Ordinances.

CHAPTER VII
THE UNION GOVERNMENT

114. The Union Government shall consist of the Prime Minister and other members appointed under section 56.

115. The Government shall be collectively responsible to the Chamber of Deputies.

116. A member of the Government who for any period of six consecutive months is not a member of the Parliament shall at the expiration of the period cease to be a member of the Government.

117. (1) The Prime Minister may resign from office at any time by placing his resignation in the hands of the President.

(2) Any other member of the Government may resign from office by placing his resignation in the hands of the Prime Minister for submission to the President and the resignation shall take effect upon its being accepted by the President under the next succeeding sub-section.

(3) The President shall accept the resignation of a member of the Government, other than the Prime Minister, if so advised by the Prime Minister.

118. The Prime Minister may, at any time, for reasons which to him seem sufficient request a member of the Government to resign; should the member concerned fail to comply with the request, his appointment shall be terminated by the President if the Prime Minister so advises.

119. The Prime Minister shall resign from office upon his ceasing to retain the support of a majority in the Chamber of Deputies unless on his advice the President dissolves the Parliament under section 57 and on the re-assembly of the Parliament after the dissolution the Prime Minister secures the support of a majority in the Chamber of Deputies.

120. (1) If the Prime Minister at any time resigns from office, the other members of the Government shall be deemed also to have resigned from office, but the Prime Minister and the other members of the Government shall continue to carry on their duties until their successors shall have been appointed.

(2) The members of the Government in office at the date of dissolution of the Parliament shall continue to hold office until their successors shall have been appointed.

121. (1) All executive action of the Union Government shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President

and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(3) The President shall make rules for the transaction of the business of the Union Government, and for the allocation among Ministers of the said business in so far as it is not business with respect to which the President is by or under this Constitution required to act in his discretion.

Without prejudice to the generality of the foregoing provisions the allocation of business may be region wise as well as subject wise.

122. Subject to the provisions of this Constitution, the executive authority of the Union extends:

(a) to the matters with respect to which the Parliament has power to make laws; and

(b) to the government, in accordance with the provisions of any treaty or agreement in this behalf, of any Armed Forces not raised in the Union that may, with the consent of the Government of the Union, be stationed in the Union or placed at the disposal of the Union.

123. (1) War shall not be declared and the Union shall not participate in any war save and except with the assent of the Parliament.

(2) In case of actual or imminent invasion, however, the Government may take whatever steps they may consider necessary for the protection of the Union, and the Parliament if not sitting shall be summoned to meet at the earliest possible date.

124. The Prime Minister shall keep the President generally informed on all matter of domestic and international policy.

125. (1) The Government shall prepare estimates of receipts and estimates of expenditure of the Union for each financial year, and shall present them to the Chamber of Deputies for consideration.

(2) The procedure to be adopted in the Chambers of Parliament with respect to the submission of estimates of expenditure, the appropriation of the revenue of the Union and all matters connected therewith shall, in so far as provision is not made in that behalf by this Constitution, be regulated in accordance with law.

Attorney-General.

126. (1) The President shall appoint a person, being an advocate of the High Court, to be Attorney-General on the nomination of the Prime Minister.

(2) It shall be the duty of the Attorney-General to give advice to the Government upon legal matters and to perform such other duties of a legal character, as may, from time to time, be assigned to him by the President.

127. (1) The Attorney-General may, at any time, resign from office by placing his resignation in the hands of the Prime Minister for submission to the President.

(2) The Prime minister may, for reasons which to him seem sufficient, request the resignation of the Attorney-General.

(3) In the event of failure to comply with the request, the appointment of the Attorney-General shall be terminated by the President if the Prime Minister so advises.

(4) The Attorney-General shall resign from office upon the resignation of the Prime Minister, but may continue to carry on his duties until the successor to the Prime Minister shall have been appointed.

(5) Subject to the foregoing provisions of this Constitution, the office of the Attorney-General, including the remuneration to be paid to the holder of the office, shall be regulated by law.

Auditor-General.

128. There shall be an Auditor-General to control on behalf of the Union all disbursements and to audit all accounts of moneys administered by and under the authority of the Parliament and the State Councils.

129. The Auditor-General shall be appointed by the President with the approval of both Chambers of Parliament and shall only be removed from office in the like manner and on the like grounds as a judge of the High Court. The Auditor-General shall not be a member of either Chamber of Parliament nor shall he hold any other office or position of emolument. He shall not be eligible for further office in the service of the Union or the States after he has ceased to hold office.

130. Neither the salary of the Auditor-General nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment, unless he voluntarily agrees to any reduction in his salary in the event of general economy and retrenchment in relation to all the services of the Union.

131. The Auditor-General shall submit to the Chamber of Deputies, at such periods as may be determined by law, reports relating to the accounts of the Union and the States.

132. Subject to the foregoing provisions, the terms and conditions of the office of the Auditor-General shall be determined by-law.

CHAPTER VIII
UNION JUDICIARY

133. Justice throughout the Union shall be administered in Courts established by this Constitution or by law and by judges appointed in accordance therewith.

134. The Courts shall comprise Courts of First instance and Courts of appeal:

(a) The Courts of first instance shall include a High Court which shall, subject to law, have original and appellate jurisdiction and power to determine all matters and questions whether of law or of fact.

(b) The head of the High Court shall be called “the Chief Justice of the High Court”.

135. (1) The High Court shall have exclusive original jurisdiction:

(a) in all matters arising under any treaty made by the Union;

(b) in all disputes between the Union and a unit or between one unit and another;

(c) in such other matters, if any, as may be defined by law.

(2) if the High Court is satisfied that a case pending in any inferior Court involves or is likely to involve substantially a question of the validity of any law having regard to the provisions of this Constitution, the High Court shall transfer the case to itself for trial.

136. (1) The Court of final appeal shall be called “the Supreme Court”.

(2) The head of the Supreme Court shall be called “the Chief Justice of the Union”.

(3) Without prejudice to the powers conferred upon the Supreme Court by any other provisions of this Constitution, the Court shall, with such exceptions and subject to such regulations as may be prescribed by law, have appellate jurisdiction from all decisions of the High Court, and shall also have appellate jurisdiction from such decisions of other Courts as may be prescribed by law.

137. No law shall be enacted excepting from the appellate jurisdiction of the Supreme Court cases which involve questions as to the validity of any law having regard to the provisions of this Constitution.

138. The decisions of the Supreme Court shall in all cases be final.

139. (1) Every person appointed a judge of the Supreme Court and of the High Court under this Constitution shall make and subscribe the following declaration:

“I do solemnly and sincerely promise and declare that I will duly and faithfully to the best of my knowledge and ability execute the office of the Chief Justice (or judge as the case may be) without fear or favour, affection or ill-will towards any part, and that I will uphold the Constitution and the laws.”

(2) This declaration shall be made and subscribed by the Chief Justice of the Union in the presence of the President, and by each of the other judges of the Supreme Court and of the judges of the High Court in the presence of the Chief Justice of the Union or the senior available judge of the Supreme Court.

(3) The declaration shall be made and subscribed by every judge before entering upon his duties as such judge, and in any case not later than ten days after the date of his appointment or such later date as may be determined by the President.

(4) Any judge who declines or neglects to make such declaration as aforesaid shall be deemed to have declined to accept the appointment.

140. (1) The Chief Justice of the Union shall be appointed by the President by an order under his hand and seal, with the approval of both Chambers of the Parliament in joint sitting.

(2) All the other judges of the Supreme Court and all the judges of the High Court shall be appointed by the President by an order under his hand and seal, with the approval of both Chambers of the Parliament in joint sitting.

141. All judges shall be independent in the exercise of their judicial functions and subject only to this Constitution and the laws.

142. (1) A person shall not be qualified for appointment as a judge of the Supreme Court unless he is a citizen of the Union who was or whose parents were born in any of the territories included within the Union, or unless he has been for at least five years a citizen of the Union; and

(a) has been for at least five years a judge of the High Court of Judicature at Rangoon of the High Court established under this Constitution; or

(b) is an advocate of the High Court of at least fifteen years' standing:

Provided that a person shall not be qualified for appointment as Chief Justice of the Union unless he:

(i) is, or when first appointed to judicial office was, an advocate, and

(ii) is an advocate of at least fifteen years' standing.

(2) A person shall not be qualified for appointment as a judge of the High Court unless he is a citizen of the Union; and

(a) is an advocate of at least ten years' standing; or

(b) has for at least five years held judicial office in Burma or in the Union not inferior to that of a district and secession judge or Chief Judge of the Rangoon City Civil Court:

Provided that a person shall not be qualified for appointment as the Chief Justice of the High Court unless he:

(i) is, or when first appointed to judicial office was, an advocate, and

(ii) an advocate of at least fifteen years' standing.

(3) In computing for the purpose of this section the standing of an advocate, any period during which he has held judicial office after he became an advocate shall be included.

143. (1) A judge of the Supreme Court or the High Court may by resignation under his hand addressed to the President resign his office.

(2) A judge of the Supreme Court or of the High Court shall not be removed from office except for proved misbehaviour or incapacity.

(3) The charge shall be preferred by either Chamber of Parliament subject to and in accordance with the provisions of this section.

(4) A proposal to either Chamber of Parliament to prefer a charge under this section shall not be entertained except upon a notice of resolution signed by not less than one-fourth of the total membership of that Chamber.

(5) A proposal to either Chamber of Parliament to prefer a charge under this section shall not be entertained except upon a notice of resolution signed by not less than one-fourth of the total membership of that Chamber.

(6) No such proposal shall be adopted by either Chamber of Parliament save upon a resolution of that Chamber, supported by a majority of the members present.

(7) Where the charge relates to a judge of the Supreme Court it shall be investigated by a Special Tribunal consisting of the President or a person appointed by him in his discretion, the Speaker of the Chamber of Nationalities and the Speaker of the Chamber of Deputies.

Where the charge relates to a judge of the High Court it shall be investigated by a Special Tribunal consisting of the Chief Justice of the Union, the Speaker of the Chamber of Nationalities and the Speaker of the Chamber of Deputies.

(8) The judge against whom the charge is preferred shall have the right to appear and to be represented at the investigation of the charge.

(9) The Special Tribunal shall, after investigation, submit its report to the Chamber by which the charge was preferred. The finding of the Special Tribunal declaring that the charge has not been proved, if unanimous, shall be final. But in all other cases, the report of the Special Tribunal shall be considered by both Chambers of Parliament in joint sitting.

If, after consideration, a resolution be passed supported by a majority of the members present and voting at the joint sitting declaring that the charge preferred against the judge has been proved and that the misbehaviour was, or incapacity is, such as to render him unfit to continue in office, the President shall forthwith by an order under his hand and seal remove from office the judge to whom it relates.

144. Neither the salary of a judge of the Supreme Court or of the High Court nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment, unless he voluntarily agrees to any reduction in his salary in the event of general economy and retrenchment in relation to all the services of the Union.

145. If the office the Chief Justice of the Union or of the Chief Justice of the High Court becomes vacant, or if either of them is, by reason of absence or for any other reason, unable to perform the duties of his office, those duties shall, until some person appointed to the vacant office has entered on the duties thereof, or until the Chief Justice of the Union or of the High Court, as the case may be, has resumed his duties, be performed by such other judge of the Supreme Court or of the High Court as the President may appoint for the purpose.

146. (1) If at any time there should not be a quorum of the judges of the Supreme Court available to hold or continue any session of the Court, owing to a vacancy or vacancies, or to the absence through illness or on leave or in the discharge of other duties assigned by statute or otherwise, or to the disqualification of a judge or judges, the Chief Justice or any acting Chief Justice of the Union, or in their absence, the senior puisne judge, may in writing request the attendance at the sitting of the Court, for such period as may be necessary, of a judge of the High Court, to be designated in writing by the Chief Justice or any acting Chief Justice or in their absence the senior puisne judge of the Supreme Court.

(2) It shall be the duty of the judge, whose attendance has been so requested or who has been so designated, in priority to the other duties of his office, to attend the sittings of the Supreme Court at the time and for the period for which his attendance shall be required, and while so attending he shall possess the powers and privileges and shall discharge the duties of a puisne judge of the Supreme Court.

147. If the office of any puisne judge of the High Court becomes vacant, or if any such judge is by reason of absence, or for any other reason, unable to perform the duties of his office, the President may in his discretion appoint a person duly qualified for appointment

as a judge to act as a judge of the Court, and the person so appointed shall, unless the President in his discretion thinks fit to revoke his appointment, be deemed to be a judge of the Court, until some person appointed under sub-section (2) of section 140 of this Constitution to the vacant office has entered on the duties thereof, or until the permanent judge has resumed his duties.

148. The Supreme Court and the High Court shall be courts of record and shall sit in the capital city of the Union and at such other place or places as the President may, after consultation with the Chief Justice of the Union from time to time, appoint:

Provided that one or more judges of the High Court shall sit at such place in the Shan State as the President may, after consultation with the Chief Justice of the Union from time to time, appoint.

149. Subject to the foregoing provisions of this Constitution relating to the Courts, the following matters shall be regulated in accordance with law:

(i) The number of judges of the Supreme Court and of the High Court, the remuneration, age of retirement and pension of such judges; and

(ii) The constitution and organization of such Courts, the distribution of business among the Courts and judges, their jurisdiction and all matters of procedure.

150. Nothing in this Constitution shall operate to invalidate the exercise of limited functions and powers of a judicial nature by any person or body of persons duly authorized by law to exercise such functions or powers notwithstanding that such person or such body or persons is not a judge or a Court appointed or established as such under this Constitution.

151. (1) If at any time it appears to the President that a question of law has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that Court for consideration, and the Court may, after such hearing as it thinks fit, report to the President thereon.

(2) No report shall be made under this section save in accordance with an opinion delivered in open Court with the concurrence of a majority of the judges present at the hearing of the case, but nothing in this sub-section shall be deemed to prevent a judge who does not concur from delivering a dissenting opinion.

152. The law declared by the Supreme Court shall, so far as applicable, be recognized as binding on, and shall be followed by, all Courts within the territories subject to the jurisdiction of the Union.

153. The Parliament may make provision by an Act for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution

as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by under this Constitution.

CHAPTER IX

PART I THE SHAN STATE

The Shan State Council:

154. (1) All the members of the Parliament representing the Shan State shall constitute the Shan State Council.

(2) All the representative from the Shan State in the Chamber of Nationalities shall be elected by the Saohpas of the Shan State from among themselves. The Saohpas shall not be eligible for membership of the Chamber of Deputies.

(3) Any member of the State Council who shall have ceased to be a member of the Parliament shall be deemed to have vacant his seat in the Council, but may continue to carry on his duties until his successor shall have been elected.

155. The State Council may recommend to the Parliament the passing of any law relating to any matter in respect of which the Council is not competent to legislate.

156. When a Bill has been passed by the State Council it shall be presented to the President for his signature and promulgation. The President shall sign the Bill within one month from the presentation of the Bill, unless he refers the Bill to the Supreme Court for its decision under the next succeeding section.

157. (1) The President may, in his discretion, refer any Bill presented to him under the last preceding section to the Supreme Court for decision on the question whether such Bill or any specified provision thereof is repugnant to this Constitution.

(2) The Supreme Court, consisting of not less than three judges, shall consider the question referred to it and, after such hearing as it thinks fit, shall pronounce its decision on such question in open Court as soon as may be, and in any case not later than thirty days after the date of such reference. The decision of the majority of the judges shall, for the purposes of this section, be the decision of the Court.

(3) In every case in which the Supreme Court decides that any provision of the Bill, the subject of a reference to the Supreme Court under this section, is repugnant to this Constitution, the President shall return the Bill to the State Council for reconsideration and shall decline to sign it unless the necessary amendments shall have been made thereto.

(4) In every other case, the President shall sign the Bill and promulgate the Act as soon as may be after the decision of the Supreme Court shall have been pronounced.

(5) When the President has signed a Bill presented to him under the last preceding section whether without or after a reference to the Supreme Court, the validity of any provision of the Bill shall not be called in question on the ground that it was beyond the competence of the State Council.

158. The signed text of every Act shall be enrolled for record in the office of the Registrar of the Supreme Court and a copy of the same shall be enrolled for record in the office of the Minister for the Shan State.

159. The Head of the Shan State may from time to time summon and prorogue the State Council:

Provided that there shall be a session of the State Council once at least in every year so that a period of twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session.

Government of the Shan State.

160. A member of the Union Government to be known as the Minister for the Shan State shall be appointed by the President on the nomination of the Prime Minister acting in consultation with the Shan State Council from among the members of the Parliament representing the Shan State. The Minister so appointed shall also be the Head of the Shan State for the purposes of this Constitution.

161. (1) The Head of the State shall be in charge of the administration of the State that is to say, the executive authority of the State shall be exercised by the Head of the State either directly or through officers subordinate to him.

(2) Without prejudice to the generality of the provisions of the next succeeding section, the said executive authority shall extend to all matters relating to recruitment to the State civil services to postings and transfers, and to disciplinary matters relating to these services.

162. (1) Subject to the provisions of this Constitution, the executive authority of the State extends to the matters with respect to which the State Council has power to make laws, and in all such matters the decision of the Council shall be binding on the Head of the State.

(2) The Head of the State shall consult the State Council in all other matters relating to the State.

(3) In order to facilitate the communication of the decisions and the views of the State Council to the Head of the State, the Council shall at its first meeting after a general

election elect from among its members or otherwise a Cabinet of State Ministers to aid and advise the Head of the State in the exercise of his functions.

163. The Head of the State shall give or cause to be given an account of his work to the State Council in each ordinary session, present or cause to be presented to the Council a report upon all matters relating to the State, and recommend for the consideration of the Council such measures as he thinks fit for promoting the general welfare.

164. (1) The Head of the State shall prepare or cause to be prepared the estimates of the receipts and of the expenditure of the State for each financial year and shall present them or cause them to be presented to the State Council for consideration.

(2) Subject to any conditions that may be imposed by the Union in respect of any contributions from the Union, the State Council shall have power to approve the budget of the State; and in order to enable the President to satisfy himself that the conditions have been duly observed, such budget shall be incorporated in the Union budget.

165. Subject to the provisions of this Constitution, all matters relating to the Constitution of the State including those relating to the powers and duties of the Head of the State, of the State Council and of the Cabinet of State ministers, and their relations to each other and to the Union Government shall be determined by law.

PART II THE KACHIN STATE

The Kachin State Council

166. (1) All the members of the Parliament representing the Kachin State shall constitute the Kachin State Council.

(2) Of the twelve seats in the Chamber of Nationalities six shall be filled by representatives of the Kachins and the other six by those of the non-Kachins of the Kachin State.

(3) Any member of the State Council who shall have ceased to be a member of the Parliament shall be deemed to have vacated his seat in the Council, but may continue to carry on his duties until his successor shall have been elected.

167. (1) A Bill prejudicially affecting any right or privilege which the Kachins or the non-Kachins, as a class or community, enjoyed immediately before the commencement of this Constitution, shall not be deemed to have been passed by the Council unless the majority of the members representing the Kachins or the non-Kachins, as the case may be, present and voting, have voted in its favour.

(2) If any question arises in the State Council whether a Bill is of the character described in the last preceding sub-section, the presiding officer shall take the vote of the members representing the Kachins and those representing the non-Kachins in the Council separately on such question and if a majority of either class of members vote in the affirmative, the Bill shall be deemed to be of the character mentioned.

168. The State Council may recommend to the Parliament the passing of any law relating to any matter in respect of which the Council is not-competent to legislate.

169. When a Bill has passed by the State Council it shall be presented to the President for his signature and promulgation. The President shall sign the Bill within one month from the presentation of the Bill, unless he refers the Bill to the Supreme Court for its decision under the next succeeding section.

170. (1) The President may, in his discretion, refer any Bill presented to him under the last preceding section to the Supreme Court for decision on the question whether such Bill or any specified provision thereof is repugnant to this Constitution.

(2) The Supreme Court, consisting of not less than three judges, shall consider the question referred to it and, after such hearing as it thinks fit, shall pronounce its decision on such question in open Court as soon as may be, and in any case not later than thirty days after the date of such reference. The decision of the majority of the judges shall, for the purpose of this section, be the decision of the Court.

(3) In every case in which the Supreme Court decides that any provision of the Bill, the subject of a reference to the Supreme Court under this section, is repugnant to this Constitution, the President shall return the Bill to the State Council for reconsideration and shall decline to sign it unless the necessary amendments shall have been made thereto.

(4) In every other case, the President shall sign the Bill and promulgate the Act as soon as may be after the decision of the Supreme Court shall have been pronounced.

(5) When the President has signed a Bill presented to him under the last preceding section whether without or after a reference to the Supreme Court, the validity of any provision of the Bill shall not be called in question on the ground that it was beyond the competence of the State Council.

171. The signed text of every Act shall be enrolled for record in the office of the Registrar of the Supreme Court and a copy of the same shall be enrolled for record in the office of the Minister for the Kachin State.

172. The Head of the Kachin State may from time to time summon and prorogue the State Council:

Provided that there shall be a session of the State Council once at least in every year so that a period of twelve months shall not intervene between that last sitting of the Council in one session and its first sitting in the next session.

Government of the Kachin State.

173. A member of the Union Government to be known as the Minister for the Kachin State shall be appointed by the President on the nomination of the Prime Minister acting in consultation with the Kachin State Council from among the Kachin members of the Parliament representing the Kachin State. The Minister so appointed shall also be the Head of the Kachin State for the purpose of this Constitution.

174. (1) The Head of the State shall be in charge of the administration of the State; that is to say, the executive authority of the State shall be exercised by the Head of the State either directly or through officers subordinate to him.

(2) Without prejudice to the generality of the provisions of the next succeeding section, the said executive authority shall extend to all matters relating to recruitment to the State civil services, to postings and transfers, and to disciplinary matters relating to these services:

Provided that in respect of areas where the non-Kachins form the majority of the population, the Head of the State shall act only in consultation with the members representing the non-Kachins in the Cabinet in all such matters.

175. (1) Subject to the provisions of this Constitution, the executive authority of the State extends to the matters with respect to which the State Council has power to make laws, and in all such matters the decision of the Council shall be binding on the Head of the State.

(2) The Head of the States shall consult the State Council in all other matters relating to the State.

(3) In order to facilitate the communication of the decision and the views of the State Council to the Head of the State, the Council shall at its first meeting after a general election elect from among its members or otherwise a Cabinet of State Ministers to aid and advise the Head of the State in the exercises of his functions:

Provided that not less than one-half of the members of the Cabinet shall be non-Kachins.

176. The Head of the State shall give or cause to be given an account of his work to the State Council in each ordinary session, present or cause to be presented to the Council, a report upon all matter relating to the State, and recommend for the consideration of the Council such measures as he thinks fit for promoting the general welfare.

177. (1) The Head of the State shall prepare or cause to be prepared the estimates of the receipts and of the expenditure of the State for each financial year and shall present them or cause them to be presented to the State Council for consideration.

(2) Subject to any conditions that may be imposed by the Union in respect of any contributions from the Union, the State Council shall have power to approve the budget of the State; and in order to enable the President to satisfy himself that the conditions have been duly observed, such budget shall be incorporated in the Union budget.

178. The provisions of Chapter X of this Constitution shall not apply to the Kachin State.

179. Subject to the provisions of this Constitution, all matters relating to the Constitution of the State including those relating to the powers and duties of the Head of the State, of the State Council and of the Cabinet of State Ministers, and their relations to each other and to the Union Government shall be determined by law.

PART III THE KAREN STATE

180. (1) The following areas:

(a) the Karenni State,

(b) the Salween District and

(c) such adjacent areas occupied by the Karens as may be determined by a Special Commission to be appointed by the President shall, if the majority of the people of these three areas and of the Karens living in Burma outside these areas so desire, form a constituent unit of the Union of Burma to be known as the Karen State, which shall thereupon have the same status as the Shan State.

(2) The procedure for ascertaining the desire of the majority in each of the case mentioned in the last preceding sub-section shall be such as may be prescribed by the law of the Union.

Kaw-thu-lay.

181. Until the Karen State is constituted under the last preceding section, the Salween District, and such adjacent areas occupied by the Karens as may be determined by a Special Commission to be appointed by the President, shall be a Special Region to be known as Kaw-thu-lay, subject to the following provisions:

(1) All the members of the Chamber of Deputies representing Karens shall constitute the Karen Affairs Council. They shall co-opt not more than five members of the Chamber of Nationalities representing Karens.

(2) A Member of the Union Government to be known as “the Minister for Karen Affairs” shall be appointed by the President on the nomination of the Prime Minister, acting in consultation with the Karen Affairs Council, from amongst the members of the Parliament representing Karens.

(3) Subject to the powers of the Union Government:

(i) the general administration of the Kaw-thu-lay Special Region and in particular all matters relating to recruitment to the civil service in Kaw-thu-lay, to postings and transfers, and to disciplinary matters relating to these services; (ii) all matter relating to schools and cultural institutions for Karens, and (iii) all matters affecting the special rights of the Karens under this Constitution shall be under the superintendence, direction and control of the Minister for Karen Affairs.

(4) The Karen Affairs Council shall aid and advise the Minister in the discharge of his duties.

(5) Any member of the Council who shall have ceased to be a member of the Parliament shall be deemed to have vacated his seat in the Council but he may continue to carry on his duties until his successor shall have been elected.

(6) Subject to the provisions of this Constitution, all matters relating to the powers and duties of the Minister and of the Council and their relations to each other and to the Union Government shall be determined by law.

PART IV

THE KARENNI STATE

182. (1) The territory heretofore known as Mongpai State in the Federated Shan States shall be acceded to the Karenni State if the majority of the people of the territory so desire.

(2) The procedure for ascertaining the desire of the majority shall be such as may be prescribed by law.

183. (1) Until the Parliament otherwise provides:

(i) The Sawphyas of Kantarawaddy, Bawlake and Kyebogyi shall represent the Karenni State in the Chamber of Nationalities;

(ii) The Saohpa of Mongpai shall also be one of the representatives of the Karenni State in the Chamber of Nationalities on the accession of Mongpai to the Karenni State under the last preceding section;

(iii) The Sawphyas and the Saohpa shall not be eligible for membership of the Chamber of Deputies.

(2) All the members of the Parliament representing the Karenni State shall constitute the Karenni State Council.

(3) Any member of the State Council who shall have ceased to be a member of the Parliament shall be deemed to have vacated his seat in the Council, but may continue to carry on his duties until his successor shall have been elected.

184. The State Council may recommend to the Parliament the passing of any law relating to any matter in respect of which the Council is not competent to legislate.

185. When a Bill has been passed by the State Council it shall be presented to the President for his signature and promulgation. The President shall sign the Bill within one month from the presentation of the Bill, unless he refers the Bill to the Supreme Court for its decision under the next succeeding section.

186. (1) The President may, in his discretion, refer any Bill presented to him under the last preceding section to the Supreme Court for decision on the question whether such Bill or any specified provision thereof is repugnant to this Constitution.

(2) The Supreme Court, consisting of not less than three judges, shall consider the question referred to it and, after such hearing as it thinks fit, shall pronounce its decision on such question in open Court as soon as may be, and in any case not later than thirty days after the date of such reference.

(3) In every case in which the Supreme Court decides that any provision of the Bill, the subject of a reference to the Supreme Court under this section, is repugnant to this Constitution, the President shall return the Bill to the State Council for reconsideration and shall decline to sign it unless the necessary amendments shall have been made thereto.

(4) In every other case, the President shall sign the Bill and promulgate the Act as soon as may be after the decision of the Supreme Court shall have been pronounced.

(5) When the President has signed a Bill presented to him under the last preceding section, whether without or after a reference to the Supreme Court, the validity of any provision of the Bill shall not be called in question on the ground that it was beyond the competence of the State Council.

187. The signed text of every Act shall be enrolled for record in the office of the Register of the Supreme Court and a copy of the same shall be enrolled for record in the office of the Minister for the Karenni State.

188. The Head of the Karenni State may from time to time summon and prorogue the State Council;

Provided that there shall be a session of the State Council once at least in every year so that a period of twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session.

Government of the Karenni State.

189. A member of the Union Government to be known as the Minister for the Karenni State shall be appointed by the President on the nomination of the Prime Minister acting in consultation with the Karenni State Council from among the members of the Parliament representing the Karenni State. The Minister so appointed shall also be the Head of the Karenni State for the purposes of this Constitution.

190. (1) The Head of the State shall be in charge of the administration of the State, that is to say, the executive authority of the State shall be exercised by the Head of the State either directly or through officers subordinate to him.

(2) Without prejudice to the generality of the provisions of the next succeeding section, the said executive authority shall extend to all matter relating to recruitment to the State civil services, to postings and transfers, and to disciplinary matters relating to these services.

191. (1) Subject to the provisions of this Constitution, the executive authority of the State extends to the matters with respect to which the State Council has power to make laws, and in all such matters the decision of the Council shall be binding on the Head of the State.

(2) The Head of the State shall consult the State Council in all other matters relating to the State.

(3) In order to facilitate the communication of the decisions and the views of the State Council to the Head of the State, the Council may at its first meeting after a general election elect from among its members or otherwise a State Minister or Ministers to aid and advise the Head of the State in the exercise of his functions.

192. The Head of the States shall give or cause to be given an account of his work to the State Council in each ordinary secession, present or cause to be presented to the Council a report upon all matters relating to the State, and recommend for the consideration of the Council such measure as he thinks fit for promoting the general welfare.

193. (1) The Head of the State shall prepare or cause to be prepared the estimates of the receipts and of the expenditure of the State for each financial year and shall present them or cause them to be presented to the State Council for consideration.

(2) Subject to any conditions that may be imposed by the Union in respect of any contributions from the Union, the State Council shall have power to approve the budget of the State; and in order to enable the President to satisfy himself that the conditions have been duly observed, such budget shall be incorporated in the Union budget.

194. Subject to the provisions of this Constitution, all matter relating to the Constitution of the State including those relating to the powers and duties of the Head of the State, of the State Council and of the State Minister or Ministers and their relations to each other and to the Union Government shall be determined by law.

195. All the provisions in this Part (Part IV of Chapter IX) shall cease to have effect if and when the Karen State is constituted under section 180.

PART V SPECIAL DIVISION OF THE CHINS

196. There shall be a Special Division of the Chins comprising such areas in the Chin Hills District and the Arakan Hill Tracts as may be determined by the President.

197. (1) A Chin Affairs Council shall be constituted consisting of all the members of the Parliament representing the Chins.

(2) A member of the Union Government to be known as “the Minister for Chin Affairs” shall be appointed by the President on the nomination of the Prime Minister, acting in consultation with the Chin Affairs Council, from amongst the members of the Parliament representing the Chins.

(3) Subject to the powers of the Union Government:

(i) the general administration of the Special Division and in particular all matters relating to recruitment to the civil services in the Special Division, to postings and transfers, and to disciplinary matters relating to these services, and

(ii) all matters relating to schools and cultural institutions in the Special Division shall be under the superintendence, direction and control of the Minister in the discharge of his duties.

(4) The Chin Affairs Council shall aid and advise the Minister in the discharge of his duties.

(5) Any member of the Council who shall have ceased to be a member of the Parliament shall be deemed to have vacated his seat in the Council but he may continue to carry on his duties until his successor shall have been elected.

198. Subject to the provisions of this Constitution, all matters relating to the powers and duties of the Minister and of the Council and their relations to each other and to the Union Government shall be determined by law.

PART VI
NEW STATES

199. The Parliament may by an Act admit to the Union a new State upon such terms and conditions including the extent of representation of the State in the Parliament as may be specified in the Act.

200. The Parliament may by an Act, with the consent of the Council of every State whose boundaries are affected thereby:

- (a) establish a new unit;
- (b) increase the area of any unit;
- (c) diminish the area of any unit;
- (d) alter the boundaries of any unit;

and may, with the like consent, make such supplemental, incidental and consequential provisions as the Parliament may deem necessary or proper.

CHAPTER X
RIGHT OF SECESSION

201. Save as otherwise expressly provided in this Constitution or in any Act of Parliament made under section 199, every State shall have the right to secede from the Union in accordance with the conditions hereinafter prescribed.

202. The right of secession shall not be exercised within ten years from the date on which this Constitution comes into operation.

203. (1) Any State wishing to exercise the right of secession shall have a resolution to that effect passed by its State Council. No such resolution shall be deemed to have been passed unless not less than two-thirds of the total number of members of the State Council concerned have voted in its favour.

(2) The Head of the State concerned shall notify the President of any such resolution passed by the Council and shall send him a copy of such resolution certified by the Chairman of the Council by which it was passed.

204. The President shall thereupon order a plebiscite to be taken for the purpose of ascertaining the will of the people of the State concerned.

205. The President shall appoint a Plebiscite Commission consisting an equal number of members representing the Union and the State concerned in order to supervise the plebiscite.

206. Subject to the provisions of this Chapter, all matter relating to the exercise of the right of secession shall be regulated by law.

CHAPTER XI AMENDMENT OF THE CONSTITUTION

207. Any provision of this Constitution may be amended, whether by way of variation, addition, or repeal, in the manner hereinafter provided.

208. (1) Every proposal for an amendment of this Constitution shall be in the form of a Bill and shall be expressed as a Bill to amend the Constitution.

(2) A Bill containing a proposal or proposals for the amendment of the Constitution shall contain no other proposals.

209. (1) Such Bill may be initiated in either Chamber of Parliament.

(2) After it has been passed by each of the Chambers of Parliament, the Bill shall be considered by both Chambers in joint sitting.

(3) The Bill shall be deemed to have been passed by both Chambers in joint sitting only when not less than two-thirds of the then members of both Chambers have voted in its favour.

(4) A Bill which seeks to amend:

(a) the State Legislative List in the Third Schedule, or

(b) the State Revenue list in the Fourth Schedule, or

(c) an Act of the Parliament making a declaration under paragraph (iv) of sub-section (1) of section 74 removing the disqualification of any persons for membership of the Parliament as representative from any of the States.

shall not be deemed to have been passed at the joint sitting of the Chamber unless a majority of the members present and voting, representing the State or each of the States concerned, as the case may be, have voted in its favour.

(5) A Bill seeks to abridge any special rights conferred by this Constitution on Karens or Chins shall not be deemed to have been passed by the Chambers in joint sitting unless a

majority of the members present and voting, representing the Karens or the Chins, as the case may be, have voted in its favour.

210. Upon the Bill being passed in accordance with the foregoing provisions of this Chapter, it shall be presented to the President who shall forthwith sign and promulgate the same.

CHAPTER XII INTERNATIONAL RELATIONS

211. The Union of Burma renounces war as an instrument of national policy, and accepts the generally recognized principle of international law as its rule of conduct in its relation with foreign States.

212. The Union of Burma affirms its devoting to the ideal of peace and friendly co-operation amongst nations founded on international justice and morality.

213. (1) Every international agreement to which the Union becomes a party shall be laid before the Parliament.

(2) No international agreement requiring or likely to require legislation in order to give effect thereto shall be ratified except with the approval of the parliament.

(3) No international agreement involving a charge upon the revenues of the Union shall be ratified unless the terms of the agreement shall have been approved by the Chamber of Deputies.

Explanation: This section shall not apply to inter-governmental agreements or conventions of a technical or administrative character.

214. No international agreement as such shall be part of the municipal law of the Union, save as may be determined by the Parliament.

CHAPTER XIII GENERAL PROVISIONS

215. The National Flag shall be rectangular in shape and red in colour with a canton of dark blue. In the canton shall be a five-pointed large white star with five smaller similar stars between points. One of the five points of each star, large or small, shall direct upwards. The dimensions of the Flag shall be nine feet by five feet and the canton shall be four feet by two and a half feet. The size of the large star shall be such that a circle drawn through the five points shall have a diameter of eighteen inches and the smaller stars nine inches. National Flags of other sizes shall conform as nearly as possible to the above proportions.

216. The official language of the Union shall be Burmese, provided that the use of the English language may be permitted.

217. Two copies of the Constitution shall be made, one in the Burmese language and the other in the English language, both copies to be signed by the President of the Constituent Assembly and enrolled for record in the office of the Registrar of the Supreme Court. Such copies shall be conclusive evidence of the provisions of this Constitution.

218. No certificate, licence or other form of authorization for the operation of any public utility service shall be granted by the Union or by a State except to:

(i) organizations controlled by the Union or by a State or by local authorities, or

(ii) citizens of the Union, or

(iii) companies or other associations organized under the laws in force in the Union, not less than sixty per cent of whose capital is owned by the Union or by any State or by any local authority or by citizens of the Union;

nor shall such certificate, licence or authorization be granted by the Union or by a State to any individual, firm or company for a longer period than twenty-five years and except under the condition that it shall be subject to amendment, alternation or repeal by law when the public interest so requires.

219. All timber and mineral lands, forests, water, Fisheries, minerals, coal, petroleum and other mineral oils, all sources of potential energy and other natural resources shall be exploited and developed by the Union; provided that subject to such specific exceptions as may be authorized by an Act of Parliament in the interest of the Union, the Union may grant the right of exploration, development or utilization of the same to the citizens of the Union or to companies or associations at least sixty per cent of the capital of which is owned by such citizens:

Provided further that no such right shall be granted by the Union except under the condition that it shall be subject to amendment, alternation or repeal by the Parliament when the public interest so requires.

No certificate, licence, or other form of authorization for the exploitation, development or utilization of any of the aforesaid natural resources of the Union shall be granted in future for a period exceeding twenty-five years.

220. Subject to such specific exceptions as may be authorized by an Act of Parliament in the interest of the Union, the Union shall not grant any agricultural land for the exploitation, development or utilization to any persons other than the citizens of the Union.

221. The Parliament shall, by law, set up a Public Service Commission to assist the Union Government in matters relating to recruitment to the civil services of the Union, and to advise in disciplinary matters affecting the sentences. The composition, powers and

functions of the Commission and the terms of service of its members shall be defined by an Act of the Parliament.

Interpretation.

222. (1) In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them that is to say:

“Burma” has the same meaning as in the Government of Burma Act, 1935;

“Existing law” means any law, Ordinance, Order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any legislature, authority or person in any territories included within the Union of Burma being a legislature, authority or person having power to make such law, Ordinance, Order, bye-law, rule or regulation;

“Saohpa” or “Sawphyia” means, in the event of any dispute, the person recognized as such by the President in accordance with the rules of succession applicable;

“Unit” means:

(a) any State forming a constituent unit of the Union of Burma;

(b) all the territories of the Union of Burma not forming part of any State.

(2) In Chapter VI, VII, X, XI and XIII and in Third and Fourth Schedules, the term “State” means, save where a contrary intention appears, the Shan State, the Kachin State, the Karenni State or any new State that may be constituted under Part VI of Chapter IX.

(3) Save where a contrary intention appears, the provisions of the Burma General Clauses Act shall extend to the interpretation and application of this Constitution.

CHAPTER XIV TRANSITORY PROVISIONS

223. All rights, authority, jurisdiction and prerogative heretofore belonging to His Britannic Majesty which appertain or are incidental to the government of the territories in Burma for the time being vested in him by virtue of the Government of Burma Act, 1935, or otherwise, and all rights, authority, jurisdiction and prerogative exercisable by him by treaty, grant, usage, sufferance or otherwise in, or in relation to, any other territories in Burma, are hereby declared to belong to the Union:

Provided that any prerogative which subsisted in His Britannic Majesty and was exercisable by him in or in respect of British Burma immediately before the commencement of this Constitution shall cease to be exercisable as such by any authority in the Union.

224. All rights and assets which immediately before the commencement of this Constitution were vested in His Britannic Majesty or any other authority for the purposes of the government of Burma and the Karenni States shall, as from the commencement of this Constitution, be vested in the Union Government.

In particular, all forests and all mineral and other wealth underground, the waters including mineral and medicinal waters, the sources of natural power, the rail transport, posts, telecommunications and broadcasting shall be from the commencement of this Constitution the property of the Union.

225. (1) Any proceedings relating to contracts or liabilities which, if this Constitution had not come into operation, might have been brought against the Government of Burma, may be brought against the Union Government.

(2) The Union of Burma may sue and be sued by the name of the Union of Burma.

(3) If at the date of the coming into operation of this Constitution any legal proceedings are pending to which the Government of Burma is a party, the Union Government shall be deemed to be substituted in those proceedings for the Government of Burma.

226. (1) Subject to this Constitution and to the extent to which they are not inconsistent therewith, the existing laws shall continue to be in force until the same or any of them shall have been repealed or amended by a competent legislature or other competent authority.

(2) The President of the Union may, by Order provide that as from such date as may be specified in the order any existing law shall, until repealed or amended by the Parliament or other competent authority, have effect subject to such adaptations and modifications as appear to him to be necessary or expedient with due regard to the provisions of this Constitution.

227. The Union shall honour all legitimate obligations arising out of any treaties or agreements which immediately before the commencement of this Constitution were in force between the Government of Burma, or His Britannic Majesty or His Majesty's Government in the United Kingdom acting on behalf of the Government of Burma, and the Head of Government of any other State, provided that such other State honours any reciprocal obligations towards the Union.

228. All Courts existing at the date of the coming into operation of this Constitution shall continue to exercise their jurisdiction until new Courts are established by law in accordance with this Constitution. All cases, civil, criminal and revenue, pending in the said Courts, shall be disposed of as if this Constitution had not come into operation.

229. All persons who were in the service of the Government of Burma immediately before the coming into operation of this Constitution shall continue in service until the Union Government provide otherwise.

230. For the purpose of removing any unforeseen difficulties, particularly in relation to the transition from the provisions of the Government of Burma Act, 1935, to the provisions of this Constitution, the President of the Union may by Order direct that this Constitution shall during such period as may be specified in the Order have effect subject to such amendments, whether by way of variation, addition or repeal, as he may deem to be necessary or expedient. No such Order shall be made under this section after the first meeting of the Union Parliament duly constituted under Chapter VI; and so such Order shall be made unless it is approved by a resolution passed by this Constituent Assembly exercising the powers of both Chambers of Parliament under the provisions of the next succeeding section.

231. (1) Until the first meeting of the Union Parliament duly constituted under Chapter VI, this Constituent Assembly shall itself exercise all the powers, discharge all the duties and enjoy all the privileges of both Chambers of Parliament.

(2) Such person as the Constituent Assembly shall have elected in this behalf shall be the Provisional President of the Union until a President has been duly elected under Chapter V and shall exercise all the powers and discharge all the duties conferred or imposed upon the President by this Constitution. A period of service as Provisional President shall not count as a term of service for the purposes of sub-section (2) of section 48.

(3) Such persons as shall have been elected in this behalf by the Constituent Assembly shall be the Prime Minister and other members of the Provisional Union Government, until the President duly elected under Chapter V has appointed other persons in accordance with the provisions of section 56. 232. (1) Until the first meeting of the Union Parliament duly constituted under Chapter VI.

(a) all the members of the Constituent Assembly representing the Federated Shan States shall constitute the Provisional Shan State Council;

(b) all the members of the Constituent Assembly representing the Myitkyina and Bhamo Districts shall constitute the Provisional Kachin State Council;

(c) all the members of the Constituent Assembly representing the Karens shall constitute the Provisional Karen Affairs Council;

(d) all the members of the Constituent Assembly representing the Karenni State and such other persons from the Karenni State and such other persons from the Karenni State not exceeding two as may be nominated by the Provisional President shall constitute the Provisional Karenni State Council; and

(e) all the members of the Constituent Assembly representing the Chin Hills District and the Arakan Hill Tracts shall constitute the Provisional Chin Affairs Council.

(2) Each of the aforesaid Provisional Councils shall exercise all the powers and discharge all the duties of the corresponding Council constituted under Chapter IX.

233. The first general elections under this Constitution shall be held within eighteen months from the date of the coming into operation of this Constitution.

234. This Constitution shall come into operation on such date as the Provisional President may announce by proclamation not being later than the eighth day of Kas?n waxing, 1310 B.E. (fifteenth day of April, 1948 A.D.)

FIRST SCHEDULE

Form of Oath or Affirmation.

(See Section 72)

I having been chosen a member of the Chamber of Deputies/Nationalities do solemnly swear (affirm) that I will maintain the Constitution of the Union and uphold its laws, and that I will faithfully discharge the duty upon which I am about to enter.

SECOND SCHEDULE

Composition of the Chamber of Nationalities.

(See section 87)

Of the 125 seats in the Chamber of Nationalities:

- (a) twenty-five seats shall be filled by representatives from the Shan State;
- (b) twelve seats shall be filled by representatives from the Kachin State;
- (c) eight seats shall be filled by representatives from the Special Division of the Chins;
- (d) three seats shall be filled by representatives from the Karenni State;
- (e) twenty-four seats shall be filled by representatives of Karens;
- (f) fifty-three seats shall be filled by representatives from the remaining territories of the Union of Burma.

THIRD SCHEDULE

List 1. Legislative List.

(See Section 92 [1])

1. Defence: that is to say, the defence of the Union and of every part thereof, including generally all preparations for defence as well as all such acts in times of war as may be conducive to its successful prosecution and to effective demobilisation after its termination, and in particular:

(1) The raising, training, maintenance and control of Naval, Military and Air Force and employment thereof for the defence of the Union and the execution of the laws of the Union and the States.

(2) Defence Industries.

(3) Naval, Military and Air Forces Works.

(4) Local self-government in cantonment areas, the constitution and powers within such areas of cantonment authorities, the regulation of house accommodation in such areas and the delimitation of such areas.

(5) Arms, fire-arms, ammunition and explosives.

(6) Atomic energy, and mineral resources essential to its production.

(7) Conduct of War.

2. External Affairs:

(1) Diplomatic, consular and trade representation.

(2) United Nations Organization.

(3) Participation in international conferences, associations and other bodies and implementing of decisions made thereat.

(4) The declaration of war and conclusion of peace.

(5) The entering into and implementing of treaties and agreement with other countries.

(6) Regulation of trade and commerce with foreign countries.

(7) Foreign Loans.

(8) Citizens, aliens, acquisition and termination of citizenship.

(9) Extradition.

- (10) Passports and visas.
- (11) Foreign jurisdiction.
- (12) Admiralty jurisdiction.
- (13) Piracies, offences committed on the high seas and offences committed in the air against the law of nations.
- (14) Admission into, and emigration and expulsion from, the Union.
- (15) Fishing and fisheries beyond territorial waters.
- (16) Import and export across customs frontiers as defined by the Union Government.

3. Communications:

- (1) Port and inter-unit quarantine; seamen's and marine hospital and hospital connected with port quarantine.
- (2) Airways.
- (3) Highways and waterways declared by the Union to be Union highways and waterways.
- (4) Shipping and navigation as regards mechanically propelled vessels on inland waterways declared by the Union to be Union waterways; the rule of the road on such waterways; carriage of passengers and goods on such waterways.
- (5) Railways.
- (6) Maritime shipping and navigation, including shipping land navigation on tidal waters.
- (7) Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of port authorities therein.
- (8) Aircraft and air navigation; the provision of aerodromes; regulation and organization of air traffic and of aerodromes.
- (9) Carriage of passengers and goods by sea or by air.
- (10) Lighthouse, including lightships, beacons and other provisions for the safety of shipping and aircraft.
- (11) Posts and telegraphs, telephones, wireless, broadcasting and other like forms of communication.

4. Finance:

- (1) The borrowing of money on the credit of the Union.
- (2) Duties of customs including export duties.
- (3) Duties of excise excluding those enumerated in the State Legislative List but including taxes on the production, consumption and sale of electricity.
- (4) Taxes on the sale of goods.
- (5) Taxes on companies.
- (6) Taxes on income.
- (7) Taxes on the capital value of the assets of individuals and companies.
- (8) Taxes on the capital of companies.
- (9) Estate duty and duties in respect of succession to property.
- (10) Excess Profits Tax.
- (11) Savings Bank.
- (12) Stamp duty in respect of bills of exchange, cheques, promissory notes and other documents.
- (13) Terminal taxes on goods or passengers carried by railway, sea or air.
- (14) Taxes on railway fares and freights.
- (15) Fees in respect of any of the matters in this list but not including fees taken in any Court subordinate to the High Court.

5. General:

- (1) The Reserve Bank; banking including incorporation of banks, and the issue of paper money.
- (2) Currency, coinage and legal tender.
- (3) Enquiries, surveys and statistics for the purpose of the Union.
- (4) Acquisition of property for the purposes of the Union.

- (5) Any Museum, Library or other institutions declared by Union law to be of national importance.
- (6) Union agencies and institutes for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies.
- (7) Census.
- (8) Union Services.
- (9) Elections to the Union Parliament subject to the provisions of the Constitution.
- (10) Emoluments and allowances of the President, the salaries and allowances of the Prime Minister and other members of the Union Government, the salaries of the Speaker and the Deputy Speaker of the Chamber of Nationalities; the salaries of the Speaker and the Deputy Speaker of the Chamber of Deputies; the salaries, allowances and privileges of members of the Union Parliament.
- (11) Public debt of the Union.
- (12) Criminal Law and Procedure.
- (13) Civil Law and Procedure including in particular the laws relating to: infants and minors; adoption; transfer of property; trusts and trustees; contracts; arbitration; insolvency; actionable wrongs; lunacy.
- (14) Law of Evidence.
- (15) Legal, medical and other professions.
- (16) Newspapers, books and printing presses.
- (17) Poisons and dangerous drugs.
- (18) Mechanically propelled vehicles.
- (19) Factories.
- (20) Welfare of labour; conditions of labour; employers' liability and workmen's compensation; health insurance; old age pensions.
- (21) Unemployment insurance.
- (22) Trade Unions; industrial and labour disputes.

- (23) Electricity.
- (24) Insurance.
- (25) Company Law.
- (26) Cheques, bills of exchange, promissory notes and other like instruments.
- (27) Copyright; inventions; patents; trademarks and merchandise marks; trade designs.
- (28) Planning.
- (29) Regulation of land tenures, including the relation of landlord and tenant and the collection of rents; transfer, alienation and devolution of land.
- (30) Ancient and historical monuments; archeological sites and remains.
- (31) Standard weight and measures.
- (32) Opium, except as to excise duties thereon.
- (33) Petroleum and other liquids and substances declared by Union law to be dangerously inflammable.
- (34) Development of industries, where development under Union control is declared by Union law to be expedient in the public interests.
- (35) Co-operative societies.
- (36) Regulation of forests, mines and oil-fields (including labour and safety in mines and oil- fields) and mineral development.
- (37) Migration within the Union.
- (38) Jurisdiction and powers of all courts with respect to any of the matters enumerated in this list.
- (39) Offences against laws with respect to any of the matters in this list.
- (40) Any other matter not enumerated in List II.

List 2. State Legislative List.

[See Section 92 (2)]

1. Constitutional Affairs:

- (1) The constitution of the State, subject to the provisions of this Constitution.
- (2) State Public Services and State Public Service Commission.
- (3) State pensions, that is to say, pensions payable by the State or out of the State Revenues.
- (4) The salaries of the State Ministers, and of the Chairman of the State Council; salaries, allowances and privileges of the members of the State Council.

2. Economic Affairs:

- (1) Agriculture; cattle pounds and the prevention of cattle trespass.
- (2) Fisheries within the State.
- (3) Land; Land revenue; land improvement and agricultural loans; colonization; encumbered and attached estates; treasure trove.
- (4) Works, lands and building vested in or in the possession of the State.
- (5) Markets and fairs.
- (6) Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage, but excluding inter-unit rivers and water-courses.
- (7) Capitation and Thathameda taxes.
- (8) Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in the Union: -
 - (i) Opium.
 - (ii) Indian hemp and other narcotics; non-narcotics drugs.
 - (iii) Medicinal and toilet preparations containing alcohol or any substance included in item (ii) or (iii) above.
 - (iv) Alcoholic liquors for human consumption.
- (9) Taxes on trades and employments.
- (10) Taxes on animals and boats.

(11) Taxes on entertainments, amusements, betting and gambling.

(12) Tolls.

3. Security:

(1) Public order (but not including the use of naval, military or air forces of the Union).

(2) Police including Village Police.

(3) The administration of justice; constitution and organization of all Courts subordinate to the High Court, and fees taken therein; preventive detention for reasons connected with the maintenance of public order; persons subject to such detention.

(4) Jurisdiction and powers of all Courts subordinate to the High Court, with respect to any of the matters enumerated in this list.

(5) Prisons; persons detained therein; arrangements with other units for the use of prisons and other institutions.

(6) Offences against laws with respect to any of the matters enumerated in this list.

4. Communications:

(1) Roads, bridges, ferries and other means of communication other than such as extend beyond the borders of the State.

(2) Municipal tramways; rope-ways.

(3) Inland waterways and traffic thereon.

(4) Local works and undertakings within the State other than railways, subject to the power of the Union Parliament to declare any work a national work and to provide for its construction by arrangement with the State Council or otherwise.

5. Education:

(1) Education excluding, for a period of ten years from the commencement of this Constitution and thereafter until the Union Parliament otherwise provides, University, higher technical and professional education.

(2) All educational institutions controlled or financed by the State.

(3) Libraries, museums and other similar institutions controlled or financed by the State.

(4) Theaters, dramatic performances and cinemas, but not including the sanction of cinematographic films for exhibition.

6. Public Health:

(1) Public Health and sanitation.

(2) The establishment, maintenance and management of hospitals, asylums and dispensaries.

(3) Registration of births, deaths and marriages.

(4) Burials and burial grounds.

7. Local Government:

(1) Municipalities and other local authorities for the purpose of local self-government or village administration.

(2) Charities and charitable institutions.

8. General:

(1) Relief of the poor.

(2) Enquiries and statistics for the purpose of any of the matters enumerated in this list.

(3) Generally all matters which in the opinion of the President are of a merely local or private nature in the State.

FOURTH SCHEDULE

State Revenue List.

[See Section 96]

1. Land Revenue:

(i) Land revenue proper.

(ii) Rents and fees of fisheries.

(iii) Royalty on petroleum.

(iv) Royalty on minerals and taxes on mineral rights.

(v) Royalty on rubber.

(vi) Capitation and Thathameda taxes.

2. Duties of Excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in the Union:

(i) Alcoholic liquors for human consumption.

(ii) Opium.

(iii) Indian hemp and other narcotics; non-narcotic drugs.

(iv) Medicinal and toilet preparations containing alcohol or any substance included in item (ii) or (iii) above.

3. Fees taken in Courts subordinate to the High Court.

4. Forests.

5. Registration.

6. Taxes on trades and employments.

7. Taxes on animals and boats.

8. Taxes on entertainments, amusements, betting and gambling.

9. Taxes under the State Motor Vehicles Taxation Acts.

10. Irrigation dues.

11. Interests on advances made from the State revenues and on State investment.

12. Contributions from component parts to the State.

13. Contributions from the Union.

14. All fees, fines, sale proceeds and rents of property belonging to the State, recoveries of over-payments and payments for services rendered in connection with any or all matters enumerated above and also in connection with the following:

- (a) Administration of justice.
- (b) Jails and convict settlements.
- (c) Police.
- (d) Education.
- (e) Medical.
- (f) Public health.
- (g) Agriculture.
- (h) Veterinary.
- (i) Co-operative societies.
- (j) Registration of births, deaths and marriages.
- (k) Civil works.
- (l) Receipts in aid of superannuation of State employees.
- (m) Stationery and printing.
- (n) Unclaimed deposits.
- (o) Treasure trove.
- (p) Tolls.
- (q) Extraordinary receipts.

THE LAND NATIONALIZATION ACT (1948)

[Repealed by the Land Nationalisation Act (1953)]

Act LX, 1948

[Exact Date Unknown]

It is hereby enacted as follows:

1. (1) This Act may be called the Land Nationalization Act, 1948.

(2) It shall come into force on such date as the President may, by notification, appoint, and different dates may be appointed for different parts of the Union of Burma.

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

(a) “adult” means a person who has completed his eighteenth year;

(b) “agricultural land” means land which is occupied or is ordinarily utilized, or has been leased, for the purposes of agriculture or horticulture or husbandry or for purposes subservient to agriculture, horticulture or husbandry and includes the sites of buildings, dwelling houses and other structures on such land; but does not include land that is within a town or village and is occupied as the site of a dwelling;

(c) “agriculturist” means a person who works for the year 1948-49, or who habitually worked prior to that year, any agricultural land, as his principle means of subsistence:

(i) with his own hands as a land-holder or as a tenant or as an agricultural labourer,

(ii) in the case of a person disabled by age or physical defect under his personal superintendence, throughout the working periods of the year:

Provided that a woman who works any agricultural land under her personal superintendence, throughout the working periods of the year, as her principal means of subsistence shall be deemed to be an agriculturist;

(d) “lease of agricultural land” means a transfer of a right to enjoy such land, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised or of money, a share of crops, service or any other thing of value to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms;

(e) “agriculturist family” means a group of persons, related by blood or marriage, living together and depending for its maintenance on the earnings of one or more senior members thereof, who shall be an agriculturist or agriculturists;

Explanation: families living together but feeding separately shall be regarded as separate families.

(f) “possession” means the occupation of agricultural land by any person, or by his servant, agent, tenant, or mortgagee or by some other person holding under him:

Provided that, notwithstanding anything contained in any other law for the time being in force, an agricultural land under a use of usufructuary or English mortgage or a mortgage by conditional sale, shall be deemed to be in the possession of the mortgagee:

(g) “tenant” means a person or organisation that occupies land and is liable to pay rent for the said land;

(h) “constitutional improvement” means any work by which the value of the agricultural land has been permanently increased by the cost of or by the labour of the person in possession of the said agricultural land or his predecessor in interest, and includes any building erected on the agricultural land for the dwelling of a cultivator or for any other person subservient to agriculture; drainage works, irrigation channels, tanks, wells, embankments, roads or other permanent improvements; but does not include the clearance of land for purposes of cultivation, the construction of kazins or improvements not of a permanent nature.

3. The State shall, as from the commencement of this Act resume possession of all agricultural lands with the exception of the agricultural lands specified in the Schedule I and to the extent specified in the said schedule and section 4; and notwithstanding anything contained in any other law for the time being in force or in any agreement, contract, deed, grant, lease of licence, all rights whatsoever existing therein before the commencement of this Act other than the rights of the State shall thereupon cease absolutely; and no rights whatsoever other than the rights of the State shall, save as expressly provided in section 9, hereafter accrue on such land.

4. (1) Out of the first three classes of agricultural lands specified in Schedule I, an exemption from the operation of section 3 shall be granted to each agriculturist family which is in possession of any agricultural lands, in respect of one class of such lands to the extent specified therefore in the said Schedule:

Provided that if, after the commencement of this Act, any agricultural land, exempted from the operation of section 3, is reclassified in the records of the Land Records Department or is utilized for cultivation which would have resulted in reclassification, the State shall resume possession of any area in excess of the limits prescribed in this section and the Schedule I.

(2) Any agricultural family which is in possession of agricultural lands coming within the first three classes of the Schedule I shall be entitled to claim exemption from the operation of section 3 in respect of one or more such classes of agricultural lands, provided that if the claim is in respect of more than one class of such agricultural lands, the total limit for such

exemption shall be computed according to the proportion prescribed in respect of each class of such lands in the Schedule I.

(3) The President may, by rules, prescribe the conditions in which a joint or undivided family may, for the purpose of exemption under sub-section (1), be split into separate agriculturist families within the meaning of this Act.

(4) For the purpose of sub-section (1), a parentless minor who is in possession of any agricultural land shall be deemed to be an agriculturist if either or both of his parents was or were an agriculturist or agriculturists.

(5) Any agricultural land in respect of which an exemption has been granted under section 4 shall be inheritable:

Provided that any agricultural land falling to the share of a person by way of inheritance who is not an agriculturist, shall be resumed possession by the State.

(6) (1) No person who is in possession of any agricultural land, exempted from the operation of section 3, shall:

(a) leave any agricultural land fallow without sufficient cause, or

(b) mortgage, sell, or otherwise transfer such land to any other person or fragment or subdivide such land except in accordance with the rules prescribed by the President and subject to section 5, or

(c) rent or lease such land to any other person with or without consideration:

Provided that clause (c) shall not apply to any agricultural land in the possession of a religious institution or a member of the religious order or a minor or a person of unsound mind.

(2) If any person in possession of any agricultural land exempted under section 4, contravenes any provision of sub-section (1) or if the income derived from any agricultural land in the possession of a religious institution or a member of the religious order is not utilized exclusively for religious purposes, the agricultural land in respect of which such contravention is made shall be liable to be resumed possession by the State.

7. (1) Except where agricultural lands are liable to be resumed possession by the State for default or conditions prescribed under any other law for the time being in force, compensation in respect of agricultural land resumed possession by the State under section 3 shall be paid in accordance with the provisions of this section and the Schedule II.

(2) In respect of agricultural lands over which rights have been acquired by a grant or lease and for which a premium was paid to Government at the time of the grant or the lease the

premium so paid shall be payable to the person in possession of the said land, in addition to any compensation payable under the need succeeding sub-section and the Schedule II.

(3) Except in respect of the compensation payable for constructional improvements, the compensation shall be determined in accordance with the provisions prescribed in the Schedule II.

In determining such compensation the following factors shall be taken into consideration:-

- (a) the nature of the tenure of the agricultural land;
- (b) the length of time for which a person has been in possession of the agricultural land;
- (c) the benefits enjoyed by virtue of possession of the agricultural land; and
- (d) the costs incurred and any loss suffered in respect of the agricultural land, except the costs of the constructional improvements incurred on account of the possession of or the premium paid for the grant or the lease of the agricultural land.

(4) Constructional improvements shall be valued on the following formula:-

First cost of construction plus cost of improvements on the original construction minus the value depreciation minus the value of damage.

(5) The land revenue referred to in the Schedule II shall not include the water-rate chargeable in respect of the agricultural land.

(6) The President shall appoint a Commission consisting of ten members to determine the basis of compensation in accordance with sub-section (3) and the manner of payment of the compensation and the premium payable under sub-section (2).

(7) The Commission may sit at such times and in such places as it may deem fit and shall have the powers vested in a Civil Court under the Code of Civil Procedure in respect of the following matters:-

- (a) discovery and inspection;
- (b) enforcing attendance of witnesses;
- (c) compelling the production of documents;
- (d) examining witnesses on oath; and
- (e) reception of evidence taken on affidavit;

and the Commission shall be deemed to be a Civil Court within the meanings of sections 480 and 482 of the Code of Criminal Procedure.

(8) The findings of the Commission shall be final and the compensation and the premium payable under sub-section (2) shall be determined and paid in accordance therewith.

8. The President may, where he is satisfied that undue hardship has been caused to a person by the operation of section 3 or 7, cause to render such relief other than the grant of exemption under section 4, as he may deem fit.

9. (1) The agricultural lands resumed possession by the State under section 3 and all other agricultural lands under the control of the State shall be allotted for purposes of cultivation in accordance with the provisions of sub-section (3).

(2) Pending the distribution of all agricultural lands under this Act, the persons who have been working such agricultural lands immediately before the commencement of this Act shall remain in occupation of the said lands as State tenants:

Provided that the rents for agricultural lands leased before the commencement of this Act shall be payable to the persons who were in possession of such lands immediately before the commencement of this Act.

(3) Subject to the provisions of section 10 (1), all agricultural lands referred to in sub-section (1), except such lands as may be required for grazing grounds and village common lands, shall be distributed to all agricultural families other than those which have been granted exemption under section 4, and such area of agricultural land as can be served by one yoke of cattle shall be allotted to each agriculturalists family at least one of whose members is an able-bodied adult:-

Provided that:

(a) such area of agricultural land as can be served by two yokes of cattle may be allotted to an agricultural family consisting of more than four adults who are capable of working that area;

(b) is the agricultural land in the possession of an agriculturalist family, which has been granted an exemption under section 4, is less than an area which can be served by one yoke of cattle, such acreage of agricultural land may be allotted to such family as will enable it to cultivate an area which can be served by one yoke of cattle;

(c) in an area where the agricultural lands resumed possession by the State under section 3 and all other agricultural lands under control of the State are not sufficient for distribution to all agriculturalist families in that area as provided in this sub-section, the President may, by rules, prescribe to which of the different classes of agriculturalist families priority shall be given for the distribution of such agricultural lands; and

(d) in respect of taungya cultivation the acreage allotted to each agriculturalist family shall be such as is suitable for such cultivation.

10. (1) No agriculturalist family shall be allotted any agricultural land under the provisions of section 9 (3) unless one or more members thereof join or undertake to join a co-operative organisation approved by the State.

(2) The President may, by rules, prescribe the procedure to be followed in forming co-operative organizations.

(3) The State may take such measures as it may deem expedient to promote the formation of collective farms.

11. The grazing grounds and village common lands existing before the commencement of the Act shall continue to be preserved, and a sufficient number of grazing grounds and village common lands shall be provided for each village-tract or group of village-tracts as the case may be.

12. (1) An agriculturist family to which agricultural land has been allotted under section 9 (3) shall have the right to cultivate such land and enjoy all the benefits arising therefrom subject to the rights of the State and to the following conditions:-

(i) that one or more members of such family shall personally cultivate such land;

(ii) that it shall pay all impositions of the State;

(iii) that it shall not cease to be an agriculturist family;

(iv) that such land shall not be left fallow without sufficient cause;

(v) that such land shall not be mortgaged, sold or otherwise transferred to any other person or be fragmented or subdivide; and

(vi) that such land shall not be rented or leased to any other person with or without consideration.

(2) If an agriculturist family, to which agricultural land has been allotted under section 9 (3), fails to observe any of the conditions specified in sub-section (1) or if none of its members joins, or remains to be a member of, a co-operative organization, approved by the State, all the rights under this Act of such family relating to such agricultural lands shall be forfeited to the State.

13. Any agricultural land which is resumed possession by the State under the proviso to section 5 or section 6 (2) or in respect of which the rights of an agriculturist family are forfeited to the State under section 12 (2), shall be distributed as provided in section 9 (3).

14. (1) The President may appoint such land committee or other authorities, either by election or otherwise, and for such areas as he may deem necessary for carrying out the purposes of this Act, and may authorize such Committees or authorities to exercise all or any of the following powers:

(i) to resume possession of agricultural lands on behalf of the State under section 3 or under the proviso to section 6 (2) or to forfeit the rights of the agriculturist families under section 12 (2);

(ii) to grant exemption under section 4;

(iii) to distribute agricultural lands under section 9 (3);

(iv) to establish agricultural co-operative organizations and to exercise such powers and functions of the governing bodies thereof are duly elected;

(v) To take necessary action for ensuring the effective cultivation of all agricultural lands; and

(vi) such other powers as the President may deem necessary for carrying out the purposes of this Act.

(2) The President may also appoint such other bodies or authorities as he may deem necessary to provide for appeals under this Act and for receiving and examining claims for compensation and determining the compensation in accordance with the basis prescribed by the Commission appointed under section 7 (6).

(3) Such Land Committees, Bodies or authorities may be deemed to be Civil Courts within the meaning of section 480 and section 482 of the Code of Criminal Procedure and the President may invest such Land Committee, Bodies or authorities with all or any of the following powers of Civil Courts:-

(a) discovery and inspection,

(b) enforcing attendance of witnesses,

(c) compelling the production of documents,

(d) examining the witness on oath,

(e) such other powers as the President may deem necessary.

(4) Any person or authority, or a member of a Land Committee or other Body, appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.

15. Whoever obstructs:

- (a) any person in carrying out the orders made under this Act or the rules by the President or any Committee body or authority appointed under section 14, or
- (b) any Committee, Body, or authority appointed by the President in the discharge of its or his duties under this Act,

shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one thousand rupees or with both.

16. Whoever contravenes any order or direction issued by any Committee, Body or authority under this Act, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five hundred rupees or with both.

17. If five or more persons organize themselves with the common intention of committing an offence under section 15 or section 16 and if any one of them, in furtherance of their common intention, commits an offence under section 15 or section 16, each of such persons shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.

18. (1) The President may make rules for carrying out the purposes of this Act.

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

- (i) prescribe the manner in which the agricultural lands are to be resumed under section 3 of under the proviso to section 5 of under section 6 (2);
- (ii) prescribe the manner in which the agricultural lands to be exempted under section 4 are to be determined;
- (ii) prescribe the conditions referred to in section 6 (1) (b);
- (iv) prescribe the procedure to be followed in rendering relief referred to in section 8;
- (v) prescribe the procedure to be followed in distributing agricultural lands under section 9 (3);
- (vi) provide for election, if any, referred to in section 14 (1);
- (vii) provide for the circumstances in which, and the authorities to which, appeals shall lie in respect of any matter specified in section 3, section 4 or section 9 (3), or any matter connected with any election referred to in section 14 (1);

(viii) provide for the manner and the form in which and the authority to whom claims for compensation under section 7 shall be made; and the manner in which such claims shall be examined.

19. No suit, prosecution or other legal proceedings shall lie against any person or authority for anything in good faith done or intended to be done in pursuance of this Act.

20. Except where there is a dispute as to the title to the agricultural land or as to the apportionment of compensation no Civil Court shall have jurisdiction in any matter under this Act.

SCHEDULE I

1. Agricultural land, classified as Rice or Sugar Cane land in the records of the Land Records Department in the year 1947-48 or where no such record is maintained, ordinarily utilized for cultivation of paddy or sugar cane and in continuous possession of an agriculturist family from 4th January 1948 up to the extent of fifty acres.

2. Agricultural land, classified as Ya land in the in the records of the Land Records Department in the year 1947-48 or where no such record is maintained, ordinarily utilized for cultivation of Ya crops and in continuous possession of an agriculturist family from 4th January 1948 up to the extent of fifty acres.

3. Agricultural land, classified as Kaing land in the in the records of the Land Records Department in the year 1947-48 or where no such record is maintained, ordinarily utilized for cultivation of Kaing crops and in continuous possession of an agriculturist family from 4th January 1948 up to the extent of ten acres.

4. Agricultural land, classified as Dhani land in the in the records of the Land Records Department in the year 1947-48 or where no such record is maintained, ordinarily utilized for cultivation of Dhani to the extent of the whole.

5. Agricultural land, classified as Orchard or Garden lands in the in the records of the Land Records Department in the year 1947-48 or where no such record is maintained, ordinarily utilized for the cultivation of garden crops to the extent of the whole.

6. All agricultural lands classified in the records of the Land Records Department as being cultivated with Rubber in the year 1947-48 or where no such record is maintained, ordinarily utilized for the cultivation of Rubber to the extent of the whole.

7. All agricultural lands belonging to a religious institution or a member of the religious order to the extent of the whole:

(a) if they are either:

- (i) classified as wuttagan lands in the settlement records; or
- (ii) transferred to such institution or member by a registered deed of gift; and
- (iii) if the income derived from such lands is utilized exclusively for religious purposes.

SCHEDULE II

<i>Description of Land</i>	<i>Extent of Compensation</i>
1. Agricultural land defined as State land under the Upper Burma Land and Revenue Regulation, 1889, and situated in areas where the aforesaid Regulation is applicable.	(1) Compensation equal to the land revenue assessable in the year 1947-48 or when the agricultural land has been left fallow in 1947-48 the land revenue assessable when last under cultivation; and (2) Compensation for constructional improvements.
2. Agricultural land not defined as State land under the Upper Burma Land and Revenue Regulation, 1889, and situated in areas where the aforesaid Regulation is applicable.	(1) Compensation not exceeding twelve times the land revenue assessable on the land in the year 1947-48 or where the agricultural land has been left fallow in 1947-48 the land revenue assessable when last under cultivation; and (2) Compensation for constructional improvements.
3. Agricultural land over which rights have been created under sections 7 and 18 of the Land and Revenue Act (India Act II, 1876) and situated in areas where the aforesaid Act is applicable.	(1) Compensation not exceeding twelve times the land revenue assessable on the land in the year 1947-48 or where the agricultural land has been left fallow in 1947-48 the land revenue assessable when last under cultivation; and (2) Compensation for constructional improvements.
4. Agricultural land other than land over which rights under sections 7 and 18 of the Land and Revenue Act (India Act II, 1876) have been created and situated in areas where the aforesaid Act is applicable.	(1) Compensation equal to the land revenue assessable on the land in the year 1947-48 or where the agricultural land has been left fallow in 1947-48 the land revenue assessable when last under cultivation; and (2) Compensation for constructional improvements.

THE URBAN RENT CONTROL ACT (1948)

[Repealed by the Urban Rent Control Act (1960)]

Burma Act VI, 1948

10 January 1948

WHEREAS it is necessary to consolidate and amend the existing Urban Rent Control Act, 1946, and subsequent Amendment Acts which were enacted for the purpose of restricting rents of premises in urban areas and for making provision for other matters incidental to or connected with the purpose aforesaid:

It is hereby enacted as follows:-

1. (1) This Act may be called the Urban Rent Control Act, 1948

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

(3) The Act shall come into force at once except the provisions of sections 16A, 16B and 16BB which shall come into force on such date and in such area as the President may appoint in this behalf; and it shall be in force until the eighth day of October 1951; but the President may, by notification, direct that it shall continue to be in force for such further period or periods and in such areas as may be specified in that behalf.

Provided that the expiry of the Act shall not render recoverable any rent which during the continuance thereof was irrecoverable or affect the right of the tenant to recover any sum which during the continuance thereof was under the Act recoverable by him.

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

(a) "City of Rangoon" means the City of Rangoon as described in Schedule VI to the City of Rangoon Municipal Act as amended from time to time;

(b) "Controller" means the Controller of Rents appointed under this Act;

(c) "landlord" means any person for the time being entitled to receive rent in respect of any premises, whether on his own account or on account or on behalf or for the benefit of any other person, or as trustee, guardian or receiver for any other person, [or who would so receive the rent or be entitled to receive the rent, if the premises were let to a tenant,] 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) And land on which a building has been erected and any building or part of a building let [or occupied or intended to be let or occupied] separately for any purpose whatever, including a stall let for the retail sale of goods in a market or any other building, and any land, furniture or fixture let together with such building or part of a building;

(ii) any land let [or occupied or intended to be let or occupied] separately for any purpose whatsoever;

(iii) and land let [or occupied or intended to be let or occupied] separately for any purpose whatever;

(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 Controlled, subject to any order of the Chief Judge of the City Civil Court of Rangoon in respect of the City of Rangoon or to any order of the Judge prescribed under section 22, in respect of any other urban area;

(II) in all other cases:

(A) The rent at which the premises were let on the first day of September 1939;

(B) where the premises were not let on the first day of September 1939, the rent at which they were let before that date;

(C) where the premises were first let after the first day of September 1939 and before the first day of January 1941 the rent at which they were first let;

(D) where the premises were let on the first day of September 1939 on a lease providing for a periodical increase of rent:

(i) during the currency of the lease the rent so provided for from time to time, and

(ii) after the expiry of the lease the rent payable during the last period of the lease;

(E) where the premises were let under a lease for a period of five years or upwards commencing on or before the first day of September 1934, which has expired after the first day of September 1939, the rent fixed by such lease for the period containing the first day of September 1939; Provided that the President of the Union may prescribe generally or in the case of any urban area or of any class of premise 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 [...] if he considered that such increase is justified by prevailing economic conditions;

(g) “tenant” means any person by whom or on whose account rent is payable for any premises, and includes a legal representative as defined in the Code of Civil Procedure and every person from time to time deriving title under a tenant and also every person remaining in possession of the premises let to him after the termination of the tenancy or lease with or without the assent of the landlord;

(h) “urban area” includes the City of Rangoon, and any area declared to be a Municipality under Chapter II of the Municipal Act, any area declared to be a notified area under section 246 of the said Act, a Cantonment as defined in the Cantonments Act, any area notified as a town under the Towns Act and any other area, which the President may, by notification, declare to be an urban area for the purposes of this Act.

3. (1) The President of the Union may, by notification, exempt from the operation of this Act or any portion thereof any such area or class of premises as may be specified in such notification and may subsequently cancel or [...] 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 subsection (1), the decision of the President of the Union on such question shall be final.

(3) Nothing in sections 9, 11 or 12 of this Act shall apply to any premises providing board as well as lodging for its tenants which the President of the Union shall, by notification, declare to be primarily intended for the accommodation of travelers.

4. The President of the Union may, by notification, appoint a Controller and one or more Assistant Controllers for any urban area in which this Act is in operation and may, by general or special order, invest any Assistant Controller with all or any of the powers of the Controller.

5. (1) Subject to the provisions of this Act, where the rent of any premises has been or is hereafter during the continuance of this Act increased above the standard rent, the amount by which such increased rent exceeds the standard rent shall notwithstanding any agreement to the contrary, be irrecoverable:

Provided that nothing in this section shall apply:

(a) to any rent which became due before the commencement of this Act;

(b) to any periodical increment of rent accruing under any agreement entered into before the first day of September 1939; or

(c) to rent payable under any lease entered into before the first day of September 1939 which has not expired on the said date.

(2) For the purpose of sub-section (1) the rent shall be deemed to have accrued from day to day.

6. Where the landlord has since the first day of September 1939 incurred or during the continuance of this Act incurs increased expenditure in the maintenance and repairs owing to increased cost of building materials or expenditure on the improvement or structural alteration of any premises (not including expenditure on decorations or repairs), he may apply to the Controller to alter the standard rent.

7. (1) Where as the result of any alterations 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 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 date of September 1939.

9. (1) Wherever an increase of the rent of any premises is allowable under the provisions of this Act, no such increase shall be recoverable until the expiry of one month after the landlord has served on the tenant a notice in writing of his intention to increase the rent accompanied by a certificate from the Controller fixing the standard rent.

(2) Where such a notice has been served on any tenant, the increase may be continued without service of any fresh notice on any subsequent tenant.

10. It shall not be lawful for any person in consideration of the grant, renewal or continuance of a tenancy of any premises to require the payment of any fine, premium or any other [...] sum in addition to the rent or to demand any advance in excess of one month's rent;

Provided that nothing in this section shall apply to any payment under any written agreement entered into before the first day of September 1939.

10A. (1) Notwithstanding anything contained in any other law the Controller shall on application made to him in that behalf by a tenant including a person permitted to occupy

under the provisions of section 12 (1), in possession of any buildings to which this Act applies cause a notice to be served on the landlord thereof requiring him to make any or all repairs which are in the opinion of the Controller necessary to keep such buildings in a habitable state or to take any measures which are necessary for the maintenance of supply of water or electricity and the maintenance of drainage and sewerage services, if the Controller is satisfied that such supplies or service will be available [by taking such measures:

Provided that such supplies or services were maintained before the first day of January 1941.]

Explanation: For the purpose of this sub-section the expression “repairs” means any repairs required for the purpose of keeping buildings in good and tenantable repair and the landlord shall not be deemed to be responsible for any repairs for which the tenant is responsible under an express agreement in writing.

(2) This sub-section shall apply to tenancies created whether before or after the eighth day or October 1946.

(3) If after receipt of such notice the landlord fails or neglects to make within reasonable time such repairs or to take within reasonable time such measures as the case may be, the tenant may submit to the Controller an estimate of the cost of such repairs or measures and may apply to him for permission to make such repairs or to take such measures himself and thereupon the Controller may, after considering such estimate of cost and making such inquiries as he may consider necessary, by an order in writing, permit the tenant to make such repairs or to take such measures as the case may be at a cost not exceeding such amount as may be specified in the order and it shall thereafter be lawful for the tenant to make such repairs or to take such measures himself and to deduct the cost thereof which shall in no case exceed the amount so specified from the rent or otherwise recover it from the landlord.

11. (1) Notwithstanding anything contained in the Transfer of Property Act or the Contract Act or the Rangoon City Civil Court Act no order or decree for the recovery of possession of any premises to which this Act applies or for the ejectment of a tenant therefrom shall be made of given unless:

(a) any rent lawfully due from the tenant which accrued after the resumption of civil government on the conclusion of hostilities with Japan has not been paid to the landlord or deposited with the Controller [under section 14B] 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 hostilities with Japan in respect of which an order or decree has been made

or given by a Civil Court in favour of the landlord as against the tenant has not been paid;
or

(c) the tenant or any other person holding or residing with him has been guilty of conduct which is a nuisance or annoyance to adjoining neighbouring occupiers, or has been convicted of using the premises or allowing the premises to be used for an immoral or illegal purpose, or the condition of the premises has in the opinion of the Court deteriorated owing to acts of waste by or the neglect or default of the tenant or any such person; or

(d) the premises, in the case of land, are bona fide required by the landlord for erection or re-erection of a building or buildings and the landlord executes a bond in such amount as the Court may deem reasonable that the premises will be used for erection or re-erection of a building or buildings, and that he will give effect to such purpose within a period of one year from the date of vacating the premises by the tenant; or

(e) the building or part thereof to which this Act applies is reasonably and bona fide required by the landlord for re-erection or essential, major and structural repairs and the landlord executes a bond in such amount as the Court may deem reasonable that the said premises will be used for such repairs or re-erection, that he will give effect to such purpose within such period not exceeding nine months from the date of vacation of the premises by the tenant, as the Court may prescribe, and that he will, if so desired by the tenant, reinstate the tenant displaced from the premises on completion or such repairs or re-erection; or

(f) the building or a part of the thereof to which the Act applies is reasonably and bona fide required by the owner for occupation by himself exclusively for residential purposes and the owner executed a bond in such amount as the Court may deem reasonable that the said premises will be occupied by himself and that he will give effect to such purpose within three months from the date of vacation of the premises by the tenant;

Provided that for the purposes of this clause the term "owner" shall not include and person except the person who was the owner of the said premises on the first day of May 1945 or has after that date become the owner by the devolution of the said premises upon him by inheritance;

Provided also that this clause shall not apply to tenancies created for a definite period by a written tenancy agreement or by the terms of a consent decree of a Court until the expiry of the term of the tenancy or of the period allowed by the decree, as the case may be.

(2) In making any order or decree for the recovery of possession of any premises or for ejection of a tenant therefrom under clause (d), (e) or (f) of sub-section (1) of this section the Court shall specify the purpose for which such premises are required by the landlord or the owner as the case may be and shall send to the Controller a copy of such order or decree and of any bond into which the landlord or the owner has entered under the provisions of clause (d), (e) or (f) of sub-section (1). If the landlord or the owner uses the premises for any other purpose than that specified in the order of decree or bond or fails to use them

for such purpose within the period therein specified or fails to comply with any conditions imposed upon him in the bond, the Court may upon the application of the tenants against whom such decree or order was made or of the Controller declare that the amount entered into in the bond shall be forfeited to the Government, and direct that the landlord or the owner shall in addition pay to the tenant such compensation as the Court thinks fit unless the landlord or the owner proves that he was prevented from using the premises for the said purpose or from complying with the conditions imposed in the bond for reasons which appear to the Court satisfactory.

(3) In addition to awarding any compensation under sub-section (2) the Court shall and if the tenant against whom the decree or order was made so agree, place such person in possession of the premises on the terms and conditions upon which he had held the premises prior to the date of the order of decree.

(4) An order for the forfeiture of a bond or for compensation under this section may be enforced in such manner as is provided by the Code of Civil Procedure for the execution of decrees.

12. (1) In any area or in respect of any class of premises to which the President of the Union may, by notification, declare this section to apply, any person, not already being a tenant of any premises, but being in occupation of such premises, bona fide for residential or business purposes, may make application to the Controller to be permitted to continue in occupation of such premises, and the Controller shall, on the applicant making a written declaration of his willingness to pay the standard rent of such premises, issue a written order to the said applicant permitting him to continue in occupation of the said premises and shall send a copy of his order to the landlord, or his authorized agent, if his whereabouts are known.

(2) Subject to any orders passed by a Court under section 13 every order passed under sub-section (1) granting permission to any person to continue in occupation of any premises shall remain in force for so long as the provisions of this section apply to the area in which the said premises are situated or the class of premises within which the said premise [...] and for three months afterward;

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 ejection of any such person shall be made or given unless:

(a) any rent lawfully due from such person in respect of any period subsequent to the grant to such person by the Controller of permission to occupy the said premises has not been paid

to the landlord, or deposited with the Controller [under section 14B] after written demand for payment of such rent has been sent 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 for the occupation of any person for whose benefit the premises are held or for any other purpose deemed satisfactory by the Court and the landlord executes a bond in such amount as the Court may deem reasonable that the premises will be occupied by himself or by such member or person or that he will give effect to such purpose within such period as the Court may prescribe; or

(d) the order granting such permission has been cancelled under the proviso to section 12 (2).

(2) In making any order or decree for the recovery of possession of any premises under clause (c) of sub-section (1) of this section the Court shall specify the purpose for which such premises are required by the landlord and shall send to the Controller a copy of such order or decree and of any bond into which the landlord has entered under the provisions of clause (c) of sub-section (1). If the landlord uses the premises for any other purpose than that specified in the order or decree or bond or fails to use them for such purpose within the period therein prescribed, the Court may, upon the application of the person against whom such decree or order was made or of the Controller, declare that the amount entered in the bond shall be forfeited to the Government, and direct that the landlord shall, in addition pay to the tenant such compensation as the Court thinks fit unless the landlord proves that he was prevented from using the premises for the said purpose for reasons which appear to the Court satisfactory.

(3) In lieu of awarding any compensation under sub-section (2) or in addition thereto the Court may, in its discretion and if the person against whom the decree or order was made so agree, place such person in possession of the premises on the terms and conditions upon which he had held the premises prior to the date of the order or decree.

(4) An order for the forfeiture of a bond or for compensation under this section may be enforced in such manner as is provided by the Code of Civil Procedure for the execution of decrees.

14. (1) At the time of making or giving of any order or decree for recovery of possession of any premises to which this Act applies or for the ejection therefrom of a tenant or a person permitted to occupy under the provisions of section 12 (1) or in the case of any such order

or decree which has been made or given whether before or after the commencement of this Act and which has not yet been executed, either at the time of the application made by the tenant or the person permitted to occupy under section 12 (1) against execution of such order or decree, the Court shall, except in a case to which either clause (c) of section 11 (1) or clause (b) of section 13 (2) applies, stay or suspend execution of such order or decree or postpone the date of delivery of possession for such period or periods and subject to such conditions as it thinks fit, in regard to payment, by the tenant or by the person against whom the order or decree has been made or given, of arrears of rent or mesne profits, and if such conditions are complied with, the Court shall discharge or rescind the order or decree;

[Provided that in the case of suits for ejectment from or for recovery of possession of the premises on any of the grounds specified in clause (d), (e) or (f) of sub-section (1) of section 11 or in clause (c) of sub-section (1) of section 13, the order or decree which has been made or given shall not be discharged or rescinded.]

(2) Where any order or decree of the kind mentioned in sub-section (1) of section 11 or sub-section (1) of section 13 is made or given, whether before or after the commencement of this Act, and the order or decree has not been executed and the Court is of the opinion that such order or decree would not have been made or given if the provisions of section 11 or section 13, as the case may be, were in force or applicable thereto at the time when the order or decree was made, the Court shall, on an application by the tenant or persons permitted to occupy under section 12 (1), rescind or alter the order or decree in such manner as it thinks fit for the purpose of giving effect to this Act; and the provisions of sub-section (1) of section 11, or sub-section (1) of section 13, as the case may be, shall, for the purpose of such application, be deemed to be applicable to the suit or proceeding in which such order or decree was made.

14A. (1) No suit or proceeding by a landlord for ejectment or recovery of possession of any premises against a tenant or a person permitted to occupy under section 12 (1) in which any of the grounds specified in clause (d), (e) or (f) of section 11 or clause (c) of section 13 is taken as a ground for such ejectment or such recovery of possession shall be entertained by any Court unless the landlord has been permitted by the Controller by an order in writing under sub-section (3) to institute such suit or proceeding and has produced before such Court proof that such permission has been granted.

(2) A landlord who desires to obtain from the Controller an order referred to in sub-section (1) shall make an application to the Controller in that behalf.

(3) On receipt of such application, if the Controller, after making such enquiries as may be deemed necessary, is satisfied that there is sufficient cause to hold that any of the grounds specified in clause (d), (e) or (f) of sub-section (1) of section 11 or clause (c) of sub-section (1) of section 13 exists, the Controller shall make an order in writing granting the application and if the Controller is not so satisfied, he shall make an order rejecting the application.

14B. (1) When a landlord refuses to accept any rent referred to in clause (a) of section 11 (1) or clause (a) of section 13 (1) offered by a tenant though no demand is made by the landlord for payment of such rent in respect of any premises, the tenant:

(a) may deposit such rent; and

(b) may, also, unless the landlord signifies by a written notice or otherwise to the tenant his willingness to accept any subsequent rent which becomes due in respect of such premises, deposit such subsequent rent with the Controller.

(2) On any deposit being made under sub-section (3), the Controller shall cause a notice of the receipt of the deposit to be served on the landlord by tendering a copy of the notice to the landlord or his authorized agent or if the landlord or his authorized agent is not found by sending such copy by registered post to the last known address of the landlord or his authorized agent. The amount of the deposit may, subject to such rules as may be prescribed under section 31 (2) (f) of this Act, be withdrawn by the landlord or his authorized agent on application made by him to the Controller in that behalf.

14C. (1) Any landlord or tenant or any person acting in his behalf shall give a receipt for the true amount of rent or any sum paid to him in respect of an premises by the tenant or sub-tenant, as the case may be, duly signed by him or shall duly acknowledge the receipt of such rent or such sum in a book or booklet maintained for the purpose.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five hundred rupees.

15. An appeal on law and fact shall lie to the High Court from any decree or order made by any Judge of the Rangoon City Civil Court or any Judge of the District Court outside Rangoon in any suit or application or proceeding arising out of such suit or application for the recovery of possession of any premises to which this Act applies or for the ejection of a tenant therefrom.

16. No Civil Court shall accept a plaint in any suit or allow to be filed any application for distress warrant under section 22 of the Rangoon City Civil Court, for the recovery of rent which became due after the enactment of this Act in respect of any premises to which this Act may apply, unless a certificate by the Controller certifying the standard rent of the premises has been attached to the plaint or the application for distress warrant.

16A. (1) When any premises other than residential premises fall vacant or are likely to fall vacant [or when any new premises other than residential premises are constructed] and the landlord proposes to let the same to a tenant, he shall make an application to the Controller for a permit allowing him to let the same to a prospective tenant.

Similarly when a tenant proposes to sub-let any premises other than residential premises or a part thereof to a sub-tenant, he shall make an application to the Controller for a permit allowing him to sub-let the same or a part thereof to the prospective sub-tenant.

(2) The application under sub-section (1) shall contain the following particulars:-

(a) Description of premises, such as Room Number, Floor Number, house Number, Name of Street etc, or in the case of land, Lot Number, Block Number etc;

(b) Name and address of owner;

(c) Name, occupation and address of prospective tenant or sub-tenant;

(d) Monthly rent proposed;

(e) Monthly rental of September 1939, if available or ratable value of 1939-40, as assessed by the Rangoon Corporation/Municipality;

(f) Monthly rent charged at present;

(g) Nature of building (pucca, plank or mat);

(h) Nature of accommodation (business or residential);

(i) The date of approximate date on which such premises would be available for being let or re-let, as the case may be;

(j) A declaration that no salami or promise of payment of salami or such other consideration has been demanded and received.

(3) On receipt of the application under sub-section (1), the Controller may make a summary enquiry and if he is satisfied that there are no valid objections he shall grant a permit forthwith. In the case of sub-letting, the Controller shall at the same time send a copy of the permit to the owner by registered post:

Provided that:

(i) in case where such premises are likely to fall vacant or just fall vacant, the prospective tenant or sub-tenant when approved by the Controller shall pay rent from the date of occupation and in case where such premises had already fallen vacant for some time before the application is made under sub-section (1) the prospective tenant or sub-tenant shall pay rent from the date of the application;

(ii) in case the tenant sub-lets a portion of such premises which cannot be allotted as a

separate tenement, the sub-tenant shall pay the rent of such portion to the tenant who shall continue to be responsible to the landlord for the rent of the whole premises;

(iii) in case the tenant sub-lets the whole of such premises or a part thereof which can be allotted as a separate tenement to a sub-tenant, then the sub-tenant shall pay rent to the landlord (i.e the original lessor) and the tenancy shall be deemed to be assigned to the sub-tenant.

16AA. (1) When a landlord:

(a) Gives or receives notice in writing terminating the tenancy of any residential premises,
or

(b) otherwise receives information that any residential premises of which he is the landlord [are likely to be vacated by a tenant, or that any such premises have been vacated and are either unoccupied or occupied after the commencement of the Urban Rent Control (Amendment) Act, 1950, by any person without the permission of the Controller] or

(c) constructs any new residential premises or causes any such premises to be so repaired, altered or improved that additional residential accommodation has become available,

he shall send a written intimation to that effect to the Controller; similarly when a tenant occupying any residential premises:

(d) gives notice in writing terminating the tenancy in respect of any such premises, or

(e) has vacated such premises,

He shall send a written intimation to that effect to the Controller.

(2) In the absence of any reasonable [...], the intimation referred to in sub-section (1) shall be sent:

(a) In a case falling under clause (a) or clause (d) of sub-section (1) within three days of the notice;

(b) in a case falling under clause (b) or clause (c) of sub-section (1), within three days of the date on which the landlord receives the information or within three days of the date on which the premises are vacated, as the case may be;

(c) in a case falling under clause (c) of sub-section (1), within three days of the date of completion of the construction, repairs, alterations or improvements, as the case may be.

(3) while sending such intimation the landlord shall supply the particulars specified in clause (a), (b), (c), (d), (e), (f), (g), (h) and (i) of sub-section (2) section 16A.

(4) (a) When the Controller receives intimation under sub-section (1) or otherwise receives information that any residential premises are vacant or about to be vacant, [or that any such premises have been vacated by a tenant & & & are occupied, after the commencement of the Urban Rent Control (Amendment) Act, 1950, by any person without the permission of the Controller] he, acting with the advice of an Advisory Board which may be constituted by the President for that purpose, may direct the landlord to let the premises, when they become vacant or, if the premises are vacant, let the vacant premises, to a person or persons specified in such direction;

(b) every such direction shall be served upon the landlord by a written notice and on such service being effected, the landlord shall comply with such direction;

(c) if the Controller cannot procure a suitable tenant for allotment such premises as are referred to in clause (a) he shall so inform the landlord and the landlord may let such premises to any tenant;

Provided that [if] such direction or information given to the landlord under clause (a), (b) or (c) [related to vacant premises, it] shall be served upon the landlord within ten days of the receipt of the intimation sent [by him] under sub-section (1);

(d) every tenant or occupier who fails to deliver possession [or such premises to the landlord for allotment] to the person or persons specified in the direction issued under clause (a) or sub-section (4) shall be liable to be summarily evicted.

Explanation: For the purpose of this section and section 16A “residential premises” means premises used purely as residence or premises used mainly as residence and incidentally for business or profession.

16B. If any person contravenes the provisions of [sub-section (1) or (2) of section 16A or of sub-section (1) or (2) or (3) or of clause (b) of sub-section (4) or section 16AA] he shall be punishable with simple imprisonment which may extend to three months, or with fine which may extend to two thousand rupees, or with both;

Provided that the Controller may, on information received of a person having committed an offence under this section, institute an enquiry and cause the offender to be prosecuted in a Court.

16BB. (1) Whenever a person is convicted of an offence under section 16B [or of an offence of abetment of such offence] the tenants or occupiers of the premises concerned, who are not authorized to occupy by the Controller, shall be liable to be summarily evicted.

(2) For the purpose of evicting the tenants or occupiers who are liable to be summarily evicted under sub-section (1) of this section or under clause (d) or sub-section (4) of section 16AA, the Controller shall serve a notice upon such tenants or occupiers to remove themselves and their property from the said premises within seven days of the receipt of

such notice; and if any tenant or occupier has failed to comply with the terms of the said notice within such time, the Controller may call upon the District Superintendent of Police to enforce such removal and the District Superintendent of Police, on receipt of any such requisition, shall cause the aforesaid persons and their property to be removed from such premises and shall take such measures as will prevent any such person from again entering into or remaining upon such premises except with the permission of the Controller.

16C. The provisions of sections 16A, 16AA and 16BB shall have effect notwithstanding anything inconsistent therewith contained in any other enactment for the time being in force.

17 (1) Where any sum has after the commencement of this Act been paid on account of rent, being a sum which is by reason of the provisions of this Act irrecoverable, such sum shall at any time within a period of six months after the date of payment be recoverable by the tenant by whom it was paid from the landlord who received the payment and may without prejudice to any other method of recovery be deducted by such tenant from any rent payable within six months by him and such landlord.

(2) For the purpose of this section the expression "landlord" includes in the case of joint family property the joint family of which the landlord if deceased, was a member.

18. (1) Where any sum not exceeding three hundred rupees has after the commencement of this Act been overpaid by the tenant to a landlord on account of rent of any premises of which a standard rent has been fixed, being a sum in excess of the standard rent, such sum shall at any time within a period of six months after the date of payment be recoverable without prejudice to any other mode of recovery on application by the tenant to a Magistrate from the landlord under the provisions of the Criminal Procedure in like manner as if it were a fine and the balance of any rent recovered shall after deduction of the costs of recovery be paid to the tenant.

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

19. (1) The Controller shall on application made to him by any landlord or tenant grant a certificate certifying the standard rent of any premises leased or rented by such landlord or tenant as the case may be:

(2) In any of the following cases [the Controller shall, on application made to him by a landlord or tenant, or may of his own motion, fix the standard rent] at such amount as having regard to the provisions of this Act and the circumstances of the case he deems just:

(a) where by reason of any premises having been let at one time as a whole and at another time in parts, or where a tenant has sub-let a part of any premises let to him or where for any reason any difficulty arises in giving effect to this Act;

(b) where in the case of any premises let furnished or of any premises let at an inclusive charge for board and lodging it is necessary to distinguish for the purpose of giving effect to this Act the amount payable as rent from the amount payable as hire of furniture or charge for board and attendance;

(c) where any premises have been or are let rent free or at a nominal rent or for some consideration in addition to rent;

(d) where the rent paid on the first day of September 1939, or where the premises were not let on that date, 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 cost of building materials or an increase in the municipal rates, cesses or taxes in respect of any premises subsequent to the first day of September 1939;

(f) where any premises are let for the first time after the first day of January 1941;

(g) where for the reason that the condition of the premises has deteriorated since the first day of September 1939 or for any other sufficient reasons the rent at which the premises were let on the first day of September 1939 or at which the premises for the first time let after that date is in the opinion of the Controller excessive or not just and fair.

Provided that:

(i) Under clause (d) the standard rent should not exceed the highest rent at which the premises have been let at any time between the first day of September 1934 and the first day of September 1939 or the lowest rent at which they were let during that period plus twenty-five percent thereof, whichever amount is greater;

(ii) under clause (e) the Controller shall not increase the rent by more than six per cent per annum on the amount expended on the improvement or structural alteration or increased expenditure in the maintenance and repair of the premises as provided for in section 6;

(iii) under clause (g) the standard rent, in the case of private freehold land let separately for any purpose, shall not exceed the existing rate or rent charged by the Government or by the Rangoon Development Trust or the Rangoon Corporation or any other similar local body as the case may be, for its similar class of land let for similar purposes in the proximity of the land in question;

(iv) under clause (f) or (g) in the case of land let separately for any purpose and in respect of which the Government or the Rangoon Development Trust or the Rangoon Corporation

or any other similar local body is the landlord, the standard rent shall be the rent at which the land was let by the Government or the Rangoon Development Trust or the Rangoon Corporation or any other local body concerned.

19A. (1) Before exercising any of the powers conferred on him by this Act [other than those conferred on him under section 16AA], the Controller shall give notice of his intention to the landlord and tenant [or occupier], if any, and shall duly consider any application received by him for any person interested within such period as shall be specified in the notice.

(2) All orders of the Controller passed under this Act shall be in writing [...].

(3) Any person affected by any order of the Controller shall be entitled to be furnished with a copy thereof duly certified by the Controller to be a correct copy on payment of such sum as the President of the Union may prescribe. Such copy shall be admissible in evidence in any Court to prove the order of the Controller.

20. For the purpose of [inspection of 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 [6] am and 6 pm;

Provided that ot building used 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 purpose of any enquiry under this Act the Controller may by written order require any person:

(a) To furnish him with particulars in such form, within such time and at such place as may be specified in the order as to the rent at which and the manner in which any premises were let in the year 1934 or subsequently and as to any other matter relevant to the enquiry;

(b) to produce for his inspection such accounts, rent receipts, books or other documentation relevant to the enquiry at such time and at such place [or to deliver them to such person] 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.

(3) Every person required to furnish such information as is referred to in sub-section (1) shall be deemed to be legally bound to do so within the meaning of sections 176 and 177 of the Penal Code.

21A. The Controller may review any order made or deemed to be made by him under this Act and the provisions of Order XLVII of the First Schedule to the Code of Civil Procedure shall, so far as may be, apply to such review.

22. (1) If the decision of the Controller fixing the standard rent for any premises [under section 19] or the order of the Controller made under sub-section (3) of section 14A is questioned, a reference shall lie to the Chief Judge of the City Court of Rangoon should the premises be situated in the City of Rangoon, and to such Judge as may be prescribed by the President of the Union if the premises are situated in any urban area in which the Act is in force;

Provided that if the Chief Judge of the City Civil Court or any Judge so prescribed, as the case may be, to whom reference lies under this sub-section, considers that he should himself deal with a reference made to him, for reasons to be recorded, he may transfer the application to any other Judge exercising jurisdiction in the district in which the premises are situated. The Judge to whom the application is so transferred shall have the powers to deal with the application as if reference lies to him.

(2) A copy of the order of the Controller shall be filed with the petition of reference.

(3) The petition of reference shall bear a Court-fee stamp of eight annas.

(4) Any such reference shall be filed within thirty days from the date of the order passed by the Controller; provided that the time taken in obtaining a copy of the order of the Controller shall be excluded in computing the period in which the reference must be filed.

The decision of the Chief Judge of the City Civil Court of Rangoon or of the Judge of such other Court as aforesaid shall be final.

23. When disposing of reference from the decision of the Controller, the Judge may in his discretion follow as nearly as possible either the procedure laid down for the trial of suits by the City Civil Court of Rangoon or the procedure laid down for the regular trial of suits.

24. (1) Whoever knowingly receives whether directly or indirectly on account of the rent of any premises of which the standard rent has been fixed a sum in excess of the standard rent shall on conviction by a Magistrate be punishable in the case of a first offence with fine which extends to five hundred rupees or in the case of a second or subsequent offence in regard to the same or any other premises of which the standard rent has been fixed with fine which may extend to two thousand rupees.

(2) A person shall be deemed to receive a sum in excess of the standard rent, if he receives any consideration representing a money value in excess of such standard rent.

25. (1) Whoever molests or willfully annoys any tenant or any person in whose favour an order has been made by the Controller under the provision of section 12 with an 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 willfully to annoy if he fails without reasonable cause to keep the premises 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 the custom responsible.

26. Subject to the provisions of this Act the tenant against whom a legal order or decree to vacate and give up the premises to the landlord has been given or made shall not be permitted to occupy or remain in possession of the said premises; and if notwithstanding such order or decree such tenant continues to occupy or remain in possession thereof he shall be deemed to have committed the offence of criminal trespass as defined in sections 441 and 442 of the Penal Code and he shall be punishable with imprisonment provided therefore in addition to a fine not exceeding double the amount of rent due by him to the landlord.

27. (1) Whoever contravenes the provisions of [...] section 10 of this Act shall be punishable with imprisonment which may extend to six months or with a fine which may extend to rupees two thousand or with both.

(2) When a person is convicted of an offence punishable under this section and is sentenced to pay a fine, the Court convicting the person may direct that the whole or any part of the fine shall be paid as compensation to any person for any loss or any part of the fine shall be paid as compensation to any person for any loss caused to him by the offence as provided in section 545 of the Code of Criminal Procedure.

28. Whoever in any case in which an order or decree for the recovery of any premises is prohibited under section 11 or 13 [without the previous written consent] of the Controller or save for the purpose of effecting [urgent repairs or immediate demolition in compliance] with any municipal requisition willfully disturbs any easement annexed to any premises or removes, destroys or renders unserviceable anything provided for permanent use therewith, or discontinues any supply or service comprised in the tenancy of such premises, shall be punishable in the case of a first offence with fine which may extend to five hundred rupees or in the case of second offence or subsequent offence in regard to the same or any other premises with fine which may extend to two thousand rupees.

29. No Court shall take cognizance of any offence under this Act except on complaint made within [nine months] from the date of the commission of the alleged offence with the previous sanction of the Controller;

Provided that the Controller shall on reliable information having been received of a person having committed an offence under [section 10] or section 24 (1) promptly institute an

enquiry and if a prima facie case is elicited, he shall cause the offender to be prosecuted in a Court.

30. The President of the Union may prescribe the amount of court-fee payable in respect of a suit or proceeding for ejection or possession of any premises against a tenant or a person permitted to occupy under section 12 (1) and where such court-fee is prescribed, the court-fee in respect of such suit or proceeding shall, notwithstanding anything contained in the Court Fees Act, be payable in accordance with the amount so prescribed.

30A. (1) No suit, prosecution or other legal proceeding shall lie against the Controller or the Assistant Controller for anything done in good faith in exercise of his powers under this Act or against any person for anything which is in good faith done or intended to be done in pursuance of any order made under this Act.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made or deemed to be made under this Act.

31. (1) The President of the union may, by notification in the Gazette make rules 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 the premises;

(b) regulate the procedure to be followed in the enquiries by the Controller under this Act;

(c) prescribe the date which in the case of any urban area shall be deemed for the purposes of this Act to be the date of resumption of civil government on the conclusion of the hostilities with Japan;

(d) prescribe a Judge to whom in any urban area reference from the decision of the Controller shall lie under section 22;

(e) prescribe a scale of costs and fees and provide for the charging or remitting of costs and fees;

(f) prescribe the procedure relating to the receipt and withdrawal of the deposit of rent under section 14B;

(g) prescribe the number of members of the Advisory Board to be appointed under section 16AA and the quorum and procedure at the meetings of the Board and the fees to be paid to the members thereof.

32. Nothing in this Act shall apply to any premises in respect of which the Government of a Department of the Government or the Rangoon Development Trust of the Rangoon Corporation or any other local body constituted under the Municipal Act or the Rural Self-Government Act is the landlord or to any premises which have or may come into the possession of the as a result of proceedings under the Land Acquisition Act of the Defence of Burma Act or otherwise;

Provided that the exemption given in this section shall not extend to any land or a portion thereof on being subject by a person holding it on lease or other titles from Government or a local body specified in this section.

33. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the third column thereof.

SCHEDULE

(See section 33)

Enactments Repealed.

<i>Number and Year</i>	<i>Short Title</i>	<i>Extent of Repeal</i>
Burma Act No. XXXIV of 1946	The Urban Rent Control Act, 1946,	The Whole
Burma Act No. XIV of 1947	The Urban Rent Control (Amendment) Act, 1947,	The Whole
Burma Act No. XXVI of 1947	The Urban Rent Control (Second Amendment) Act, 1947,	The Whole

THE URBAN RENT CONTROL ACT (APPLICATION) ACT (1952)

[Repealed by the Urban Rent Control Act (1960)]

Shan State Act III, 1952

12 September 1952

1. (i) This Act may be called the Urban Rent Control Act (Application) Act. 1952.

(ii) It shall come into force at once.

2. The Urban Rent Control Act 1948 (Burma Act No. VI of 1948), as amended up to the date of this Act and the rules made thereunder shall be applicable to the Shan State with the following modifications:

(i) The words “Head of the Shan State “ shall be substituted for the word “President” wherever it occurs.

(ii) For sub-section (2) of section 1, the following shall be substituted:

“Subject to the provisions of section 3, this Act shall extend to all urban areas in the Shan State.”

(iii) Sub-section (a) of section 2 shall be omitted.

(iv) The following shall be substituted for sub-section (2) (f)- (i):

“In the cases specified in section 19, the rent fixed by the Controller subject to any order of the judge prescribed under section 22 in respect of such urban area.”

(v) In sub-section (2) (f) (II) (E), they words “per annum” shall be deleted.

(vi) The following shall be substituted for sub-section (2) (h):

“urban area means any area which the Head of the Shan State may, by notification, declare to be an urban area for the purposes of this Act.”

(vii) In sub-section (1) of section 11, for the words “Notwithstanding anything contained in the Transfer of Property Act or the Contract Act or the Rangoon City Civil Court Act”, the following shall be substituted:-

“Notwithstanding anything contained in any other law for the time being in force”.

(viii) In section 15, the words “of the Rangoon City Civil Court of any judge of the District Courts outside Rangoon” shall be deleted.

(ix) In section 16, the words “or allow to be filed any application for distress warrant under section 22 of the Rangoon City Civil Court Act” shall be deleted.

(x) Section 33 shall be omitted.

3. The Head of the Shan State may by notification, make such further modifications and adaptations as may be required for the effective application of the provisions of this Act.

(x) sections 33 shall be omitted.

3. The. Head of the Shan State may by notification, make such further modifications and adaptations as may be required for the effective application of the provisions of this Act.

THE CONSTITUTION OF THE SOCIALIST REPUBLIC OF THE UNION OF BURMA (1974)

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PREAMBLE

We, the people residing in the Socialist Republic of the Union of Burma have throughout history lived in harmony and unity sharing joys and sorrows in weal or woe.

The people of the land have endeavoured with perseverance and undaunted courage, for the attainment of independence, displaying throughout their struggles for national liberation against imperialism an intense patriotism, spirit of mutual help and sacrifice and have aspired to Democracy and Socialism.

After attaining independence, the power and influence of the feudalists, landlords, and capitalists had increased and consolidated due to the defects in the old Constitution and the ill-effects of capitalistic parliamentary democracy. The cause of Socialism came under near eclipse.

In order to overcome this deterioration and to build Socialism, the Revolutionary Council of the Union of Burma assumed responsibility as a historical mission, adopted the Burmese Way to Socialism, and also formed the Burma Socialist Programme Party.

The Burma Socialist Programme Party has drafted the Constitution of the Socialist Republic of the Union of Burma, in accordance with the wishes of the people, after extensive and thorough discussions with them, for the purpose of building a peaceful and prosperous socialist society to which the working people of the national races have long aspired.

We, the working people, firmly resolved that we shall:

- faithfully follow the leadership of the Burma Socialist Programme Party,
- build a socialist economic system by the Burmese Way to Socialism, for the country to be peaceful and prosperous, opposing all pernicious systems characterised by exploitation of man by man, and of one national race by another, with a view to promoting justice and goodwill among the people, and to freeing them from apathy and callousness, ignorance, backwardness and want of opportunity,
- build a socialist democratic social order which will afford an opportunity to the people to shape their own destiny, by the Burmese Way to Socialism,
- live forever in harmony unity and racial equality sharing joys and sorrows through weal and woe in the Socialist Republic of the Union of Burma,
- efficiently perform all duties and fulfill all obligations in the interest of the State and for the cause of Socialism while enjoying the democratic rights and personal rights and freedom bestowed by this Constitution,

- constantly strive to promote international peace and friendly relations among the nations,

do adopt this Constitution of the Socialist Republic of the Union of Burma by a nationwide referendum this 11th day of the waxing of Pyatho of the year 1335 B.E. (the 3rd day of the month of January, 1974 A.D.).

CHAPTER I THE STATE

Article 1

Burma is a sovereign independent Socialist State of the working people. The State shall be known as The Socialist Republic of the Union of Burma.

Article 2

The Socialist Republic of the Union of Burma is a State wherein various national races make their homes together.

Article 3

The territory of the State shall be the land, sea and airspace which constitute its territory on the day this Constitution is adopted.

Article 4

National sovereignty shall reside in the entire State.

CHAPTER II BASIC PRINCIPLES

Article 5

A Socialist society is the goal of the State.

Article 6

The economic system of the State is a Socialist economic system.

Article 7

Socialist democracy is the basis of the State structure.

Article 8

There shall be no exploitation of man by man nor of one national race by another in the State.

Article 9

The State safeguards the interests of the working people whose strength is based on peasants and workers.

Article 10

The State shall cultivate and promote the all-round physical, intellectual and moral development of youth.

Article 11

The State shall adopt a single-party system. The Burma Socialist Programme Party is the sole political party and it shall lead the State.

Article 12

The sovereign powers of the State, legislative, executive and judicial reside in the people, comprising all national races whose strength is based on peasants and workers. The Pyithu Hluttaw, elected by citizens having the right to vote, exercises the sovereign power invested in it by the people and delegates to Organs of State Power in accordance with this Constitution.

Article 13

The Pyithu Hluttaw shall exercise the legislative power solely by itself while it may delegate executive and judicial powers to the Central and Local Organs of State Power formed under this Constitution.

Article 14

The Organs of State Power at different levels shall function in accordance with socialist democratic practices which include mutual reporting, mutually offering, accepting and respecting of advice and wishes, collective leadership, collective decision making, abiding by collective decisions, lower organs carrying out the decisions and directives of the higher organs which in turn respect the views submitted by the lower organs.

Article 15

Every citizen has, in accordance with this Constitution and other relevant laws, the right to:

(a) elect, and to be elected as, people's representatives to the Organs of State Power at different levels;

(b) recall elected people's representatives.

Article 16

Every people's representative, elected to any Organ of State Power, shall report back to the electorate on his work and shall also ascertain the wishes of the people.

Article 17

The working people shall have full participation in local matters, so that such matters may be resolved as far as possible, at the local level. They shall be invested with duties and powers.

Article 18

The State:

(a) is the ultimate owner of all natural resources above and below the ground, above and beneath the waters and in the atmosphere, and also of all the lands;

(b) shall develop, extract, exploit and utilise the natural resources in the interest of the working people of all the national races.

Article 19

The State shall nationalise the means of production within the land. Suitable enterprises shall be owned and operated by co-operatives.

Article 20

The State may, in accordance with law, permit such private enterprises which do not undermine the socialist economic system.

Article 21

(a) The State shall be responsible for constantly developing and promoting unity, mutual assistance, amity and mutual respect among the national races.

(b) The national races shall enjoy the freedom to profess their religion, use and develop their language, literature and culture, follow their cherished traditions and customs, provided that the enjoyment of any such freedom does not offend the laws or the public interest.

Article 22

All citizens shall:

- (a) be equal before the law, regardless of race, religion, status, or sex;
- (b) enjoy equal opportunities;
- (c) enjoy the benefits derived from his labour in proportion to his contribution in manual or mental labour;
- (d) have the right to inherit according to law.

Article 23

No penal law shall have retrospective effect.

Article 24

Punishments shall not be awarded in violation of human dignity.

Article 25

Laws shall be enacted to enforce the freedoms, powers, rights, duties and restrictions prescribed by this Constitution.

Article 26

The State consistently practises an independent foreign policy, aimed at international peace and friendly relations among nations, and upholds the principles of peaceful coexistence of nations.

Article 27

These basic principles constitute the guidelines for interpreting the provisions of this Constitution and of other laws.

CHAPTER III STATE STRUCTURE

Article 28

Local autonomy under central leadership is the system of the State.

Article 29

(a) Local areas of the Socialist Republic of the Union of Burma shall be organised as follows:

- (1) villages are organised as village-tracts;
- (2) wards are organised as towns;
- (3) village-tracts and towns are organised as townships;
- (4) townships are organised as states or divisions;
- (5) states and divisions are organised as the State.

(b) The different levels of administrative areas of the Socialist Republic of the Union of Burma shall be as follows:-

- (1) wards or village-tracts;
- (2) townships;
- (3) states or divisions;
- (4) the State.

Article 30

- (a) Kawthoolei is constituted as Karen State;
- (b) Chin Special Division is constituted as Chin State;
- (c) Tenasserim Division (I) is constituted as Mon State;
- (d) Tenasserim Division (2) is constituted as Tenasserim Division;
- (e) Arakan Division is constituted as Arakan State.

Article 31

The States and Divisions of the Socialist Republic of the Union of Burma are as follows:

- (a) Kachin State
- (b) Kayah State

- (c) Karen State
- (d) Chin State
- (e) Sagaing Division
- (f) Tenasserim Division
- (g) Pegu Division
- (h) Magwe Division
- (i) Mandalay Division
- (j) Mon State
- (k) Arakan State
- (l) Rangoon Division
- (m) Shan State
- (n) Irrawaddy Division.

Article 32

The Socialist Republic of the Union of Burma has a unicameral Pyithu Hluttaw.

Article 33

The Council of State shall be formed for the purpose of directing, supervising and coordinating the works of the Central and Local Organs of State Power and of the Bodies of Public Services in accordance with the laws, rules and resolutions passed by the Pyithu Hluttaw.

Article 34

The following Central Organs of State Power shall be formed to carry out the tasks laid down by the Pyithu Hluttaw:-

- (a) The Council of Ministers;
- (b) The Council of People's Justices;
- (c) The Council of People's Attorneys;

(d) The Council of People's Inspectors.

Article 35

A People's Council shall be formed for each State, Division, Township, Ward and Village-tract.

Article 36

(a) An Executive Committee, a Committee of Judges and an Inspection Committee shall be formed for each State, Division, or Township People's Council.

(b) An Executive Committee and a Committee of Judges shall be formed for each Ward or Village-tract People's Council.

Article 37

Bodies of Public Services, such as bodies of Public Administrative Services, Judicial Services, Law Services and Accounts Services shall be formed where necessary at central and local levels.

Article 38

The Pyithu Hluttaw may, in the interests of the State re-demarcate the territorial limits of the State by a vote of 75 per cent of all the members of the Pyithu Hluttaw.

Article 39

The Pyithu Hluttaw may make laws to:

(a) reconstitute States or Divisions as the need arises, after ascertaining the wishes of the citizens residing in the States or Divisions concerned;

(b) re-demarcate the boundary of any State or Division, as the need arises, after ascertaining the wishes of the citizens residing in the States or Divisions concerned;

(c) change the name of any State or Division, as the need arises, after ascertaining the wishes of citizens residing in the State or Division concerned.

Article 40

The Council of Ministers may constitute or reconstitute villages, village-tracts, wards, towns and townships within a State or Division, as the need arises, in consultation with the People's Councils concerned.

CHAPTER IV
PYITHU HLUTTAW

Article 41

The Pyithu Hluttaw is the highest Organ of state power. It exercises the sovereign powers of the State on behalf of the people.

Article 42

The Pyithu Hluttaw shall be formed with People's representatives elected directly by secret ballot by citizens who have the right to vote under this Constitution and other electoral laws.

Article 43

The regular term of the Pyithu Hluttaw is four years from the date of its first session.

Article 44

The legislative power of the State is vested solely in the Pyithu Hluttaw.

Article 45

The Pyithu Hluttaw may delegate executive and judicial powers of the State to Central and Local Organs of State Power in accordance with this Constitution.

Article 46

The Pyithu Hluttaw shall have the right to enact laws concerning the culture of a national race only with the consent of more than half of all the members of the Pyithu Hluttaw from the State or Division concerned.

Article 47

The Pyithu Hluttaw shall have exclusive power to enact laws relating to State economic plans, annual budget and taxation.

Article 48

The Pyithu Hluttaw shall decide:

- (a) important matters only by a vote of 75 per cent of all of its members;
- (b) ordinary matters by a vote of more than half of all its members;

(c) as to whether any matter is important or ordinary by a vote of more than half of the members present.

Article 49

The Pyithu Hluttaw may decide to declare war and to make peace only by a vote of 75 per cent of all its members. The Council of State shall convene an emergency session of the Pyithu Hluttaw should circumstances call for a decision while the Pyithu Hluttaw is not in session.

Article 50

The Pyithu Hluttaw may decide to hold a referendum where necessary.

Article 51

Regular sessions of the Pyithu Hluttaw shall be convened at least twice a year. The interval between two sessions shall not exceed eight months. The Council of State may summon a special or an emergency session of the Pyithu Hluttaw where necessary.

Article 52

The Council of State shall convene a session of the Pyithu Hluttaw as soon as possible if 34 per cent of all the members of the Pyithu Hluttaw so requisition.

Article 53

(a) A Panel of Chairmen shall be elected to preside at each regular session of the Pyithu Hluttaw.

(b) The members of the Pyithu Hluttaw from each State or Division shall elect a chairman from among themselves to the Panel of Chairmen. The Pyithu Hluttaw shall give its approval to the election of the chairmen.

(c) Members of the Panel of Chairmen shall preside over the sessions of the Pyithu Hluttaw by rotation.

(d) A member of the Pyithu Hluttaw who is also a member of the Council of State or of any Central Organ of State Power shall not be a member of the Panel of Chairmen.

Should a member of the Panel of Chairmen- be elected to the Council of State or to any Central Organ of State Power he shall resign from the Panel.

(e) The Panel of Chairmen shall continue to carry out its duties till a new Panel has been elected at the next regular session of the Pyithu Hluttaw.

(f) The Panel of Chairmen of the Pyithu Hluttaw shall convene a session of the Pyithu Hluttaw if the Council of State fails to comply within 30 days from the date of a requisition made under Article 52.

Article 54

The Pyithu Hluttaw shall:

(a) constitute various Affairs Committees of the Pyithu Hluttaw relating to economic, financial, social, public administrative, legislative, foreign, national races and other affairs, with members elected from among those of the Pyithu Hluttaw;

(b) in accordance with law constitute a National Defence and Security Committee consisting of a suitable number of members of the Council of State and of the Council of Ministers.

Article 55

The Pyithu Hluttaw shall enact a law to enable the Council of People's Inspectors to conduct inspections through committees to be formed by it, to determine whether or not the activities and the work of the following bodies are beneficial to the interests of the people:-

(a) Local Organs of State Power;

(b) Ministries;

(c) Bodies of Public Services; and

(d) such other organisations as may be prescribed by law.

Article 56

The Pyithu Hluttaw may form Commissions and Committees as and when necessary and invest them with duties and powers.

Article 57

The Pyithu Hluttaw shall make laws, rules and procedures for itself and for its Affairs Committees.

Article 58

The Council of State and the Central Organs of State Power shall be responsible to the Pyithu Hluttaw.

Article 59

(a) If need should arise to arrest any member of the Pyithu Hluttaw while it is in session, reliable evidence in support of such need shall be produced before the Panel of Chairmen. No such arrest shall be made without the prior approval of the Panel of Chairmen.

(b) If need should arise to arrest any member of the Pyithu Hluttaw belonging to any organ of the Pyithu Hluttaw, while such organ is in session, reliable evidence in support of such need shall be produced before the Council of State. No such arrest shall be made without the prior approval of the Council of State.

(c) If any member of the Pyithu Hluttaw is arrested while the Pyithu Hluttaw or any organ of the Assembly to which he belongs is not in session the arrest and reliable evidence in support thereof shall be submitted to the Council of State as soon as possible.

Article 60

All deliberations and actions in sessions of the Pyithu Hluttaw or of the Organs of the Pyithu Hluttaw are absolutely privileged. No member shall be liable or punishable therefore, except under the laws, rules and regulations of the Pyithu Hluttaw.

Article 61

When the Pyithu Hluttaw is not in session, the Central Organs of State Power shall reply to written questions submitted by any member of the Pyithu Hluttaw within three weeks from the date of receipt of the question.

Article 62

The Pyithu Hluttaw may be dissolved if 75 per cent of all its members so resolve.

Article 63

The Pyithu Hluttaw may dissolve any People's Council or People's Councils for any of the following reasons:-

- (a) violation of any provision of this Constitution,
- (b) actions undermining national unity,
- (c) endangering the stability of the State,
- (d) contravention of any resolution adopted by the Pyithu Hluttaw,
- (e) inefficient discharge of duties.

CHAPTER V
COUNCIL OF STATE

Article 64

The Pyithu Hluttaw shall form the Council of State with the following persons elected from among its members:-

- (a) one member each elected by the States and Divisions, from among members of the Pyithu Hluttaw of the State or Division concerned,
- (b) members elected by the members of the Pyithu Hluttaw from among themselves, equal in number to the number of representatives elected under Clause (a) of this Article, and
- (c) the Prime Minister.

Article 65

Members of the Council of State elected under Clauses (a) and (b) of Article 64 shall elect from among themselves the Chairman and the Secretary of the Council of State and shall obtain the approval of the Pyithu Hluttaw for such election.

Article 66

The Chairman of the Council of State shall be the President of the Republic.

Article 67

The term of office of the President is the same as that of the Council of State.

Article 68

The President of the Republic represents the State.

Article 69

If the Chairman of the Council of State is temporarily incapable of performing his duties, the Secretary of the Council of State shall perform the duties of the chairman, in addition to his own.

Article 70

The Council of State shall be responsible for giving effect to the provisions of this Constitution.

Article 71

The Council of State is responsible to the Pyithu Hluttaw. It shall report on its activities to the nearest session of the Pyithu Hluttaw.

Article 72

The term of office of the Council of State is the same as that of the Pyithu Hluttaw. The Council of State shall, on the expiry of the Pyithu Hluttaw, continue to perform its duties and functions till a new Council of State has been duly elected and constituted.

Article 73

The Council of State shall:

- (a) convene sessions of the Pyithu Hluttaw in consultation with the Panel of Chairmen of the Pyithu Hluttaw;
- (b) interpret the laws other than this Constitution for the purpose of uniformity;
- (c) promulgate laws enacted and rules made by the Pyithu Hluttaw;
- (d) submit lists of candidates from among the members of the Pyithu Hluttaw to enable the Pyithu Hluttaw to elect the Council of Ministers, the Council of People's Justices, the Council of People's Attorneys and the Council of People's Inspectors. [Members of the Council of State elected under Clauses (a) and (b) of Article 64 shall collectively submit such lists.];
- (e) submit a list of candidates from among the members of the Pyithu Hluttaw to enable the Pyithu Hluttaw to elect Affairs Committees of the Pyithu Hluttaw [Members of the Council of State elected under Clauses (a) and (b) of Article 64 shall collectively submit such lists];
- (f) make decisions concerning the establishment of diplomatic relations with foreign countries, severance of such relations and appointment and recall of diplomatic representatives;
- (g) make decisions concerning the acceptance of credentials of envoys of foreign States or their recall;
- (h) make decisions concerning the entering into, ratification or annulment of international treaties, or the withdrawal from such treaties with the approval of the Pyithu Hluttaw;
- (i) make decisions concerning international agreements;
- (j) appoint or remove Deputy Ministers;

(k) decide on the temporary suspension from duty or attendance of any session of any member of the Pyithu Hluttaw against whom action for high treason may be called for, provided the approval therefore shall be obtained from the nearest session of the Pyithu Hluttaw;

(l) appoint or dismiss heads of Bodies of Public Services;

(m) abrogate the decisions and orders of the Central and local organs of State Power if they are not consistent with the law;

(n) institute, confer or revoke titles, honours and awards;

(o) grant pardons or amnesty;

(p) perform other duties and exercise powers invested under this Constitution and other laws.

Article 74

The Council of State may make, if necessary, ordinances having the force of law, on matters other than those prescribed in Article 47, during the interval between sessions of the Pyithu Hluttaw. Such orders shall be submitted for approval to the nearest session of the Pyithu Hluttaw held within 90 days. If no session of the Pyithu Hluttaw is due within 90 days after the promulgation of such orders, an emergency session of the Pyithu Hluttaw shall be convened and approval obtained. Such orders shall cease to have effect from the date on which they are disapproved by the Pyithu Hluttaw.

Article 75

The Council of State may take suitable military action in the face of aggression against the State and action so taken shall be submitted to an emergency session of the Pyithu Hluttaw. If the situation is such that it is absolutely impossible to convene an emergency session of the Pyithu Hluttaw, the Council of State may continue all necessary military action. Such action shall be submitted for approval to the nearest session of the Pyithu Hluttaw.

Article 76

The Council of State may declare a state of emergency and promulgate martial law in specified areas or in the entire State, if an emergency affecting the defence and security of the State should arise. It may order mobilisation in certain areas or in the entire State. Such measures shall be submitted for approval to the nearest session of the Pyithu Hluttaw.

Article 77

The Council of State may propose to the Pyithu Hluttaw the extension of the term of the Pyithu Hluttaw or of the People's Councils at different levels by six months at a time up to three times, if wars or natural disasters or conditions prejudicial to security render elections impossible though the regular term of the Pyithu Hluttaw or of the People's Councils has expired.

Article 78

If an emergency arises in the entire State, the Council of State shall declare a state of emergency and convene an emergency session of the Pyithu Hluttaw. If a sufficient number of Pyithu Hluttaw members necessary to form a quorum fails to attend, the Council of State may take the following measures:

(a) the Council of State, the Central Organs of State Power, members of the Pyithu Hluttaw belonging to the Organs of the Pyithu Hluttaw and those members who are able to attend the session shall collectively perform the duties and functions of the Pyithu Hluttaw, and

(b) a session of the Pyithu Hluttaw shall be convened as soon as the situation permits and approval obtained on the measures taken on behalf of the Pyithu Hluttaw.

Article 79

The Council of State shall direct, supervise and co-ordinate the work of the Central and Local Organs of State Power and of the Bodies of Public Services in accordance with the laws, rules and resolutions passed by the Pyithu Hluttaw.

Article 80

The Chairman of the Council of State shall sign the laws, rules and resolutions passed by the Pyithu Hluttaw as well as the orders promulgated by the Council of State. These shall be promulgated in the official Gazette.

Article 81

Bodies of Public Services may be constituted only by decision of the Council of State.

CHAPTER VI
COUNCIL OF MINISTERS

Article 82

The Council of Ministers shall be formed as follows:-

- (a) The Pyithu Hluttaw elects members of the Council of Ministers from among those members of the Pyithu Hluttaw whose names are on the list submitted collectively by members of the Council of State elected under Clauses (a) and (b) of Article 64.
- (b) The Council of Ministers elects a Prime Minister from among its members.
- (c) The Council of Ministers elects Deputy Prime Ministers from among the Ministers nominated by the Prime Minister.

Article 83

The Council of Ministers is the highest executive organ of the State.

Article 84

The Council of Ministers is responsible to the Pyithu Hluttaw when the Pyithu Hluttaw is in session and to the Council of State when the Pyithu Hluttaw is not in session.

Article 85

The Council of Ministers:

- (a) shall submit to the Council of State a list of those members of the Pyithu Hluttaw who should be appointed as Deputy Ministers;
- (b) may propose to the Council of State the termination of the service of a Deputy Minister, when necessary.

Article 86

(a) The term of office of the Council of Ministers is the same as that of the Pyithu Hluttaw. On the expiry of the term of the Pyithu Hluttaw, the Council of Ministers shall continue to perform its duties until a new Council of Ministers has been elected.

(b) The term of office of Deputy Ministers is the same as that of the Council of Ministers.
Article 87

The Council of Ministers:

- (a) is responsible for the management of executive, economic, financial, social, cultural and foreign affairs and national defence on behalf of the Pyithu Hluttaw in accordance with the principle of collective leadership;
- (b) implements the socialist economic system through the economic plan of all the national races;
- (c) implements the resolution of the Pyithu Hluttaw and the orders of the Council of State;
- (d) directs and co-ordinates the Ministries, organs of public administration and the executive Committees of the People's Council at different levels;
- (e) maintains the rule of law and upholds law and order;
- (f) perform such other duties as may be laid down by the Pyithu Hluttaw or the Council of State.

Article 88

The Council of Ministers shall draw up, after making necessary adjustments, and submit the following to the Pyithu Hluttaw through the Council of State:-

- (a) long-term, short-term and annual economic plans;
- (b) annual budgets;
- (c) annual reports on the situation of the State;
- (d) reports that may be required from time to time.

Article 89

The Council of Ministers shall be solely responsible for the submission of the following bills to the Pyithu Hluttaw through the Council of State for enactment into law:-

- (a) bills on economic plans;
- (b) bills on budgets;
- (c) bills on taxation.

Article 90

Each Minister is responsible for the successful performance of the duties of those organs of public administration with which he is charged at their different levels.

Article 91

A Minister is responsible to the Council of Ministers. A Deputy Minister is responsible to the Minister concerned.

Article 92

The Council of Ministers may, with the approval of the Council of State, constitute such Bodies of Public Administrative Services at different levels as may be necessary and may appoint the required personnel to such Services, according to law.

Article 93

The Council of Ministers shall prescribe the duties and powers of organs of public administration at all levels.

Article 94

Organs of public administration at different levels shall be responsible to those of the next higher level as well as to the People's Councils concerned and be subject to their supervision and inspection.

CHAPTER VII COUNCIL OF PEOPLE'S JUSTICES

Article 95

(a) The Pyithu Hluttaw elects members of the Council of People's Justices from among those members of the Pyithu Hluttaw whose names are on the list submitted collectively by members of the Council of State elected under Clauses (a) and (b) of Article 64.

(b) Members of the Council of People's Justices shall elect a Chairman from among themselves.

Article 96

(a) The following Judicial Organs shall be constituted in the State the Council of People's Justices;

(2) State Judges' Committee, Divisional Judges' Committee;

(3) Township Judges' Committee;

(4) Ward Judges' Committee, Village-tract Judges' Committee;

(b) The Pyithu Hluttaw shall prescribe, by law, the duties and powers of the Judicial Organs.

Article 97

The term of office of the Council of People's Justices shall be the same as that of the Pyithu Hluttaw. The Council of People's Justices shall, on expiry of the term of the Pyithu Hluttaw, continue to perform its duties and functions till a new Council of People's Justices has been elected.

Article 98

Justice shall be administered collectively by each judicial organ.

Article 99

Military justice for members of the People's Defence Services may be administered according to law by a collective organ or by a single Judge.

Article 100

Administrative tribunals may be formed according to Law.

Article 101

Administration of justice shall be based on the following principles:

(a) to protect and safeguard the Socialist system;

(b) to protect and safeguard the interests of the working people;

(c) to administer justice independently according to law;

(d) to educate the public to understand and abide by the law;

(e) to work within the framework of law as far as possible for the settlement of cases between members of the public;

(f) to dispense justice in open court unless otherwise prohibited by law;

(g) to guarantee in all cases the right of defence and the right of appeal under law;

(h) to aim at reforming moral character in meting out punishment to offenders.

Article 102

The Burmese language shall be used in the administration of justice. Languages of the national races concerned may also be used, when necessary, and arrangements shall then be made to make interpreters available.

Article 103

The Council of People's Justices:

- (a) is the highest judicial organ of the State and;
- (b) shall form the necessary judicial Courts only with its members and administer justice.

Article 104

The Council of People's Justices shall be responsible to the Pyithu Hluttaw and shall report to the Pyithu Hluttaw on the state of the administration of justice. When the Pyithu Hluttaw is not in session, the Council of People's Justices shall be responsible to the Council of State.

Article 105

The Council of People's Justices shall supervise all judicial organs and courts within the State.

Article 106

(a) The State People's Councils, the Divisional People's Councils, the Township People's Councils, the Ward People's Councils and the Village-tract People's Councils shall respectively form the State Judges' Committees, the Divisional Judges' Committees, the Township Judges' Committees, the Ward Judges' Committees and the Village-tract Judges' Committees with persons elected from among the members of the respective People's Councils.

(b) Members of the Judges' Committees elected by the People's Councils at different levels under Clause (a) above shall each elect a Chairman from among their members.

Article 107

(a) The Judges' Committees of the People's Councils at different levels shall form with it members, such Courts as may be necessary.

(b) If the number of members of the Judges' Committees is not sufficient to form Courts under Clause (a) above Courts may be formed with members of the Peoples' Councils concerned under the leadership of a member of the Judges' Committee at the respective level. Other suitable citizens may be included in such Courts only if the number of members of the respective People's Council is not sufficient to form such Courts.

Article 108

The term of office of State Judges' Committees, Divisional Judges' Committees, Township Judges' Committees, Ward Judges' Committees and Village-tract Judges' Committees shall be the same as that of the People's Councils concerned at different levels. On expiry of the term of the People's Councils at different levels, the respective Judges' Committee shall continue to perform its duties and functions until a new Judges' Committee has been elected.

Article 109

The Council of People's Justices may, with the approval of the Council of State, form bodies of judicial services at different levels as may be necessary and appoint the required personnel to such services according to law.

Article 110

The State Judges' Committees, the Divisional Judges' Committees, the Township Judges' Committees, the Ward Judges' Committees and the Village-tract Judges' Committees shall supervise the judicial organs and Courts formed by them and such Judges' Committees shall be responsible to the People's Councils concerned.

CHAPTER VIII COUNCIL OF PEOPLE'S ATTORNEYS

Article 111

(a) The Pyithu Hluttaw elects members of the Council of People's Attorneys from among those members of the Pyithu Hluttaw whose names are on the list submitted collectively by members of the Council of State elected under Clauses (a) and (b) of Article 64. (b) Members of the Council of People's Attorneys shall elect a Chairman from among themselves.

Article 112

The Council of People's Attorneys shall:

- (a) protect and safeguard the Socialist system;
- (b) protect and safeguard the rights and privileges of the working people;

- (c) tender legal advice to the Council of State and to the Council of Ministers;
- (d) report to the Council of State any acts of the Central and Local Organs of State Power and of the Bodies of Public Services which infringe the law;
- (e) undertake any other duties prescribed by law.

Article 113

The term of office of the Council of People's Attorneys is the same as that of the Pyithu Hluttaw. On expiry of the term of the Pyithu Hluttaw, the Council of People's Attorneys shall continue to perform its duties and functions till a new Council of People's Attorneys has been elected.

Article 114

The Council of People's Attorneys shall be responsible to the Pyithu Hluttaw. It shall report to the Pyithu Hluttaw on the progress of its work. It shall be responsible to the Council of State when the Pyithu Hluttaw is not in session.

Article 115

The Council of People's Attorneys may, with the approval of the Council of State, form as necessary, bodies of law services at different levels and shall also appoint the required law officers in accordance with law.

Article 116

The Council of People's Attorneys shall direct and supervise the Central law officers, State and Divisional law officers and Township law officers.

Article 117

The Pyithu Hluttaw shall by law prescribe the duties and powers of the Council of People's Attorneys, the Central, State and Divisional law officers and Township law officers.

CHAPTER IX COUNCIL OF PEOPLE'S INSPECTORS

Article 118

(a) The Pyithu Hluttaw elects members of the Council of People's Inspectors from among those members of the Pyithu Hluttaw whose names are on the list submitted collectively by members of the Council of State elected under Clauses (a) and (b) of Article 64.

(b) Members of the Council of People's Inspectors shall elect a Chairman from among themselves.

Article 119

The Council of People's Inspectors is the highest organ of inspection of public undertakings.

Article 120

The Council of People's Inspectors shall be responsible to the Pyithu Hluttaw. It shall submit reports to the Pyithu Hluttaw on the progress of inspection of public undertakings. It shall be responsible to the Council of State when the Pyithu Hluttaw is not in session.

Article 121

(a) The Council of People's Inspectors shall conduct inspections to determine whether the activities of the Local Organs of State Power, Ministries, Bodies of Public Services and such other organisations as may be prescribed by law prove beneficial to the interests of the public.

(b) The Council of People's Inspectors shall report on its findings and measures taken by it, to the Pyithu Hluttaw through the Council of State.

Article 122

The term of office of the Council of People's Inspectors is the same as that of the Pyithu Hluttaw. On expiry of the term of the Pyithu Hluttaw, the Council of People's Inspectors shall continue to perform its duties and functions till a new Council of People's Inspectors has been elected.

Article 123

(a) The State, Divisional and Township People's Councils shall form State, Divisional and Township Inspectorates with members of State, Divisional and Township People's Councils concerned.

(b) Members of each Local Inspectorate shall elect a Chairman from among themselves.

(c) The Pyithu Hluttaw shall by law prescribe the duties and powers of Local Inspectorates.

Article 124

Each Local Inspectorate shall be responsible to the People's Council concerned.

Article 125

The Local Inspectorates shall perform the following duties:

- (a) reporting to the People's Council concerned on the activities carried out during the interval between the meetings of the People's Council;
- (b) implementing tasks and submitting reports under the guidance of the People's Council concerned and of the organs at higher level.

Article 126

The term of office of the Local Inspectorates is the same as that of the People's Councils at different levels. On expiry of the People's Council, the Local Inspectorate shall continue to perform, its duties and functions until a new Local Inspectorate has been elected.

Article 127

The Council of People's Inspectors may, with the approval of the Council of State, form as necessary, Bodies of Accounts Services at different levels and shall also appoint the required accounts officers in accordance with law.

Article 128

The Central Accounts Office shall be responsible to the Council of People's Inspectors and accounts offices at different levels shall be responsible to the Inspectorates concerned and to the accounts offices at the higher level and shall submit to their supervision and inspection.

CHAPTER X PEOPLE'S COUNCILS

Article 129

The People's Councils at different levels shall be formed in accordance with this Constitution and electoral laws with people's representatives elected directly by secret ballot by citizens having the right to vote in the area concerned.

Article 130

The number of people's representatives constituting the People's Councils at different levels as well as the Organs of the People's Council shall be prescribed by law.

Article 131

The term of office of the People's Councils at different levels shall be the same as the regular term of office of the Pyithu Hluttaw.

Article 132

The People's Councils at different levels are Local Organs of State Power and they shall implement the following tasks within the framework of law:-

- (a) economic and social affairs and public administration;
- (b) administration of justice;
- (c) local security, defence, maintenance of rule of law and order;
- (d) solidarity of the national races and preservation, protection and promotion of their traditional cultures;
- (e) Protection of the rights of the people in the area concerned and organising and urging them to perform their duties efficiently;
- (f) formulation of economic plans and their implementation;
- (g) preparation of annual budgets and their co-ordination;
- (h) construction, settlement and rural and urban development works;
- (i) communications;
- (j) directing, supervising and co-ordinating Local Organs of State Power and Bodies of Public Services relating to them;
- (k) providing leadership to the people and keeping in close contact with them to obtain their active participation in works of public interest;
- (l) preservation, protection and development of natural environment;
- (m) co-ordinating the affairs of Local Bodies of Public Services;
- (n) Performing such other necessary works of public interest as may be prescribed by law.

Article 133

- (a) The People's Councils at different levels shall hold meetings as prescribed by law.
- (b) The Members of the Panel of Chairmen shall be elected from among the members of the People's Councils to preside over the regular meetings of the People's Councils at different levels.

(c) The Members of the Panel of Chairmen shall preside over the meetings by rotation.

(d) A member of a People's Council who is also a member of the Executive Committee, the Judges' Committee or the Inspectorate of such People's Council shall not be a member of the Panel of Chairmen of such Council. Should a member of the Panel of Chairmen be elected to the Executive Committee, the Judges' Committee or the Inspectorate he shall resign from the Panel of Chairmen.

(e) The Panel of Chairmen shall continue to perform its duties till the next regular session of the People's Council is convened and a new Panel of Chairmen has been elected therefore.

(f) The Executive Committee of a People's Council shall convene a meeting of the Council if 34 per cent of all the members of the Council so requisition. If the Executive Committee fails to convene the meeting within 30 days from the date of such a requisition, the Panel of Chairmen shall, as soon as possible, convene the meeting.

Article 134

The State People's Council, Divisional People's Council- and Township People's Council shall form People's Council Affairs Committees with members of the People's Council concerned.

Article 135

An Executive Committee shall be elected from among its members by each of the People's Councils at different levels, to implement the tasks decided upon by the People's Council. The members of the Executive Committee shall elect a chairman and a secretary from among themselves. The chairman and the secretary so elected shall concurrently be the Chairman and the Secretary of the People's Council concerned.

Article 136

The Chairman of each of the People's Councils shall concurrently be the Chairman of the State, Division, Township, Ward or Village-tract concerned.

Article 137

The Executive Committee of each of the People's Councils at different levels shall be responsible to the People's Council concerned.

Article 138

The Executive Committees of the People's Councils at different levels shall perform the following duties:

- (a) convening meetings of the People's Council in consultation with the Panel of Chairmen;
- (b) promulgation and implementation of decisions, orders and directives of the People's Councils;
- (c) implementation of the tasks laid down by the Council of Ministers as well as by the People's Councils concerned;
- (d) maintaining intercommunications between the Executive Committees at different levels and co-ordinating their activities; directing and supervising of the Executive Committee at the lower level by the one at the higher level;
- (e) directing, supervising and co-ordinating the work of Local Bodies of Public Services, co-ordinating the affairs of Public Services;
- (f) submitting to the People's Council concerned, reports on the activities carried out during the interval between meetings of the People's Council;
- (g) the temporary suspension from duty or attendance of any session of any member of the People's Council against whom action for high treason may be called for, provided that approval therefore shall be obtained from the nearest session of the People's Council.

Article 139

The term of office of the Executive Committees of the People's Councils at different levels is the same as that of the People's Councils. On the expiry of the term of the People's Council, the Executive Committee shall continue to perform its duties and functions till a new Executive Committee has been elected.

Article 140

- (a) If need should arise to arrest any member of a People's Council in session, reliable evidence in support of such need shall be produced before the Panel of Chairmen of the People's Council. No arrest shall be made without the prior approval of the Panel of Chairmen of the People's Council concerned.
- (b) If need should arise to arrest any member of an organ People's Council, while such organ is in session, reliable evidence in support of such need shall be produced before the Executive Committee concerned. No arrest shall be made without the prior approval of the Executive Committee.
- (c) If any member of a People's Council is arrested while the People's Council or any of its organs is not in session, reliable evidence in support of such arrest shall be produced before the Executive Committee as soon as possible.

Article 141

All deliberations and actions at the meetings of a People's Council and of any of its organs are absolutely privileged. No member shall be liable or punishable therefore except under the laws, rules and bye-laws of the People's Council.

Article 142

Members of the People's Councils shall maintain contacts with their electorate and shall report back on their activities and keep them informed from time to time on questions of policy.

Article 143

Members of the People's Councils shall seek, and submit, the wishes, opinions and proposals of the people to the People's Council concerned and work for their realisation.

Article 144

The People's Councils may report on local matters of importance and submit advice for the benefit of the public, from the lower to the higher levels of the People's Councils, up to the Council of State.

CHAPTER XI FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Article 145

(a) All persons born of parents both of whom are nationals or the Socialist Republic of the Union of Burma are citizens of the Union.

(b) Persons who are vested with citizenship according to existing laws on the date this Constitution comes into force are also citizens.

Article 146

Citizenship, naturalisation and revocation of citizenship shall be as prescribed by law.

Article 147

All citizens are equal before the law irrespective of race status official position wealth, culture birth religion or sex.

Article 148

Every citizen shall have the right to:

- (a) enjoy the benefits derived from his labour in proportion to his contribution in manual or mental labour and diligence;
- (b) freely undertake any vocation permitted by the State within the framework of the Socialist economy;
- (c) settle and reside in any place within the State according to the law.

Article 149

Every citizen in sickness shall have the right to medical treatment as arranged by the State.

Article 150

Every working citizen has the right to:

- (a) rest and recreation,
- (b) fixed working hours and leave as prescribed by law.

Article 151

- (a) Every working citizen shall enjoy benefits as prescribed by law for injury due to occupational accidents or when disabled or sick or old.
- (b) Heirs to any working citizen shall enjoy benefits as prescribed by law on his death.

Article 152

- (a) Every citizen shall have the right to education.
- (b) Burmese is the common language. Languages of the other national races may also be taught.
- (c) Every citizen shall be given basic education which the State prescribes by law as compulsory.

Article 153

- (a) Every citizen shall have the right to freely conduct scientific research, work with creativity and initiative to develop the arts, literature and other branches of culture.

(b) Every citizen shall have the right to freely use one's language and literature follow one's customs, culture and traditions and profess the religion of his choice The exercise of this right shall not, however, be to the detriment of national solidarity and the socialist social order which are the basic requirements of the entire Union. Any particular action in this respect which might adversely affect the interests of one or several other national races shall be taken only after consulting with and obtaining the consent of those affected.

(c) Notwithstanding the rights enjoyed under Clauses (a) and (b) acts which undermine the unity and solidarity of the national races, national security or the socialist social order are prohibited. Persons who violate this prohibition shall be punished according to law.

Article 154

(a) Women shall enjoy equal political, economic, social and cultural rights as men.

(b) Mothers, children and expectant mothers shall enjoy those rights prescribed by law.

(c) Children born of citizens shall enjoy equal rights.

(d) Women shall enjoy freedoms and rights guaranteed by law as regards marriage, divorce, partition of property, succession and custody of their children.

Article 155

Every citizen shall have the right:

(a) subject to the provisions of this Constitution, to elect and be elected to the Pyithu Hluttaw and the People's Councils at different levels;

(b) to submit in accordance with law a list of candidates for election as people's representatives to the Pyithu Hluttaw and the People's Councils at different levels;

(c) to recall in accordance with law people's representatives elected to the Pyithu Hluttaw and the People's Councils at different levels.

Article 156

(a) Every citizen shall have the right to freedom of thought, and of conscience, and to freely profess any religion.

(b) Notwithstanding the rights and freedoms granted under Clause (a), the State may enact laws in the interests either of the working people or of law and order.

(c) Religion and religious organisations shall not be used for political purposes. Laws shall be enacted to this effect.

Article 157

Every citizen shall have freedom of speech, expression and publication to the extent that the enjoyment of such freedom is not contrary to the interests of the working people and of socialism.

Article 158

Every citizen shall have the right freely to take part in political, social, class and mass organisations permitted by law and to enjoy freedom of association, assembly and procession. The State shall provide necessary assistance to the people to enable them to enjoy fully these rights and freedoms.

Article 159

- (a) Personal freedom and security of every citizen shall be guaranteed.
- (b) No citizen shall be placed in custody for more than 24 hours without the sanction of a competent judicial organ.
- (c) The State shall be responsible for the protection, in accordance with law, of citizens of the Socialist Republic of the Union of Burma who are abroad.

Article 160

The privacy and security of the home, property, correspondence and other communications of citizens shall be protected by law subject to the provisions of this Constitution.

Article 161

Every citizen's income, savings, property and residential buildings lawfully earned and acquired by his diligence and manual and mental contribution, instruments of production permitted to be owned within the framework of the socialist economic system, and other lawful possessions shall be protected by law.

Article 162

The right of every citizen to inheritance shall be recognised by law.

Article 163

- (a) Every citizen shall fully enjoy the rights provided by this Constitution.
- (b) Laws shall be enacted to ensure the most expeditious and effective protection of the rights of citizens and prevent their violation.

Article 164

- (a) Every citizen shall have the right to lodge complaints concerning their grievances to the competent organ of State power.
- (b) The organ of State power shall investigate the complaints expeditiously and take such action as in be necessary.

Article 165

The right to sue for compensation any member of an organ of State power or any of the organs of State power or any public servant or any body of Public Services for abuse of authority entrusted by the people in violation of the rights or interests of any citizen shall be guaranteed and prescribed by law.

Article 166

Every citizen shall be under a duty in the exercise of his rights and freedom to abstain from undermining any of the following:

- (a) the sovereignty and security of the State;
- (b) the essence of the socialist system prescribed by this Constitution;
- (c) the unity and solidarity of the national races;
- (d) public peace and tranquility;
- (e) public morality.

Article 167

- (a) Laws may be enacted imposing necessary restriction on the rights and freedoms of citizens to prevent in infringements of the sovereignty and security of the State the essence of the socialist system prescribed by this Cons the unity and solidarity of the national races public pence and tranquility or public morality.
- (b) Such a preventive law shall provide that the restrictive order shall only be made collectively by a body and that the order shall be regularly reviewed and modified as necessary and that e a aggrieved person shall have the right of appeal to a higher organ.

Article 168

Every citizen shall be under a duty to abide by the provisions of this Constitution as well as the laws work discipline and local rules made for the building of a socialist society and discharge efficiently such duties as may be assigned to him by the State.

Article 169

Every citizen shall be under a duty to protect nationalised property co-operative owned property and public property and strive to the best of his ability for socialist capital accumulation for strengthening the defensive capacity of the State and enhancing the standards of living of the people.

Article 170

Every citizen shall be under a duty to protect and safeguard the independence sovereignty and territorial integrity of the Socialist Republic of the Union of Burma. This is a noble duty.

Article 171

Every citizen shall in accordance with law:

- (a) undergo military training, and
- (b) undertake military service for the defence of the State.

Article 172

Every citizen shall be under a duty to pay taxes and duties as prescribed by law.

CHAPTER XII ELECTORAL SYSTEM

Article 173

The basic aims of the electoral system are as follows:

- (a) to elect people's representatives who will truly represent the working people;
- (b) to secure a broad participation of citizens in the electoral process;
- (c) to elect Organs of the Pyithu Hluttaw and of the People's Councils at different levels that will truly represent the working people.

Article 174

- (a) Citizens shall directly elect people's representatives by secret ballot.
- (b) Every citizen who has attained the age of eighteen years shall have the right to vote.
- (c) All citizens who have the right to vote shall enjoy equal voting rights.

Article 175

Constituencies for the election of people's representatives to the Pyithu Hluttaw and the People's Councils at different levels shall be formed as follows:

- (a) constituency for Ward or Village-tract People's Council;
- (b) constituency for Township People's Council;
- (c) constituency for State or Divisional People's Council;
- (d) constituency for the Pyithu Hluttaw.

Article 176

- (a) Constituencies for the Pyithu Hluttaw shall be delimited on township basis.
- (b) Each township shall elect one representative to the Pyithu Hluttaw.
- (c) Townships with large populations shall, in addition to the right granted under Clause (b), elect representatives in proportion to population as prescribed by electoral law.
- (d) Additional members of the Pyithu Hluttaw shall, by law, be allotted to States or Divisions having less than 10 townships and less than 10 lakhs in population.

Article 177

Persons having the right to vote and possessing the following qualifications are eligible to stand for election as people's representatives to the Pyithu Hluttaw and to the People's Councils at different levels:

- (a) being a citizen born of parents both of whom are also citizens;
- (b) having attained the age of 20 years to stand for election to Ward, Village-tract and Township People's Councils;

(c) having attained the age of 24 years to stand for election to State and Divisional People's Councils;

(d) having attained the age of 28 years to stand for election to the Pyithu Hluttaw.

Article 178

The following persons shall not have the right to vote or to stand for election:

- (a) members of religious orders, and
- (b) persons disqualified by electoral law.

Article 179

The Burma Socialist Programme Party, in consultation with mass and class organisations formed under its leadership and with the electorate of the constituency concerned, and respecting their wishes, shall submit lists of candidates for election as people's representatives to the Pyithu Hluttaw and to the People's Councils at different levels.

Article 180

A candidate for election as a people's representative:

- (a) shall stand for election to the Pyithu Hluttaw to the People's Council at one level only and
- (b) from only one constituency.

Article 181

(a) The elections of people's representatives to the Pyithu Hluttaw and the People's Councils at different levels shall be valid only if more than half of all the persons from the respective constituencies having the right to vote have cast their votes.

(b) A candidate for election as a people's representative shall be duly elected only if he obtains more than half of the votes cast in an election found valid under clause (a) above.

Article 182

(a) The Pyithu Hluttaw shall form an Election Commission six months before the expiry of the terms of the Pyithu Hluttaw and the People's Councils for the purpose of electing a new Pyithu Hluttaw and new People's Councils at different levels.

(b) The Council of State shall submit to the Pyithu Hluttaw, a list of names of citizens who are qualified by law, other than members of the Council of State and of the Council of Ministers, from among whom the Election Commission may be formed.

(c) The Pyithu Hluttaw which decides to dissolve itself under Article 62, shall form, in accordance with Clause (b), an Election Commission for the election of a new Pyithu Hluttaw.

(d) Elections for the Pyithu Hluttaw and the People's Councils at different levels shall be held as prescribed by law, prior to the expiry of the terms of the Pyithu Hluttaw and the respective People's Councils.

(e) Sessions of the new Pyithu Hluttaw and of the new People's Councils at different levels shall be converted with the newly elected people's representatives on the date of expiry of the term of the old Pyithu Hluttaw and the old People's Councils.

Article 183

(a) If the Pyithu Hluttaw or any People's Council is dissolved before the expiry of its term elections shall be held as prescribed by law and sessions of the Pyithu Hluttaw or of the People's Council concerned shall be convened.

(b) If any State, Divisional or Township People's Council is dissolved, the Council of State shall form with suitable citizens, an Executive Committee, a Committee of Judges and a Local Inspectorate and temporarily assign duties to them pending the election of the respective new People's Council.

(c) If a Ward or Village-tract People's Council is dissolved, the Council of State shall form with suitable citizens, an Executive Committee and a Committee of Judges and temporarily assign duties to them pending the election of the respective new People's Council.

Article 184

Expenses incurred in the elections of people's representatives to the Pyithu Hluttaw and to the People's Councils at different levels shall be met out of State funds.

Article 185

(a) If the situation is not yet ripe for the election of any State, Divisional or Township People's Council, the Council of State shall form, with suitable citizens, an Executive Committee, a Committee of Judges and a Local Inspectorate and temporarily assign duties to them for the purpose of performing the functions of the People's Council concerned.

(b) If the situation is not yet ripe for the election of any Ward or Village-tract People's Council, the Council of State shall form with suitable citizens, an Executive Committee and

a Committee of Judges and temporarily assign duties to them for the purpose of performing the functions of the People's Council concerned.

Article 186

The Pyithu Hluttaw shall enact such laws as may be necessary in connection with the election of people's representatives.

CHAPTER XIII RECALL, RESIGNATION AND REPLACEMENT

Article 187

Any organ of State or the people who have elected and assigned duties to a people's representative or an organ wishing to recall such representative or organ for any of the following reasons, shall have the right to do so in accordance with law-

- (a) violation of any provision of the Constitution;
- (b) inefficient discharge of duties or
- (c) misbehaviour.

Article 188

Any people's representative who has been elected, or any representative who has been assigned duties in any organ of the Pyithu Hluttaw or of any People's Council, may submit his resignation to the respective organ in accordance with law.

Article 189

A vacancy arising for any reason in the Pyithu Hluttaw or in any People's Council at any level or in an organ of the Pyithu Hluttaw or the Council concerned shall be filled by election in accordance with law.

CHAPTER XIV STATE FLAG, STATE SEAL, NATIONAL ANTHEM, AND STATE CAPITAL

Article 190

The State Flag shall be as shown below: [...]

[The flag has a red background with a blue rectangle top left containing 14 white stars surrounding a white wheel with 15 outward-pointing cogs, at the centre of which is a yellow rice stalk - unofficial description]

Article 191

State Seal shall be as shown below: [...]

Article 192

The Pyithu Hluttaw shall prescribe the National Anthem until a new National Anthem is prescribed the present National Anthem shall be used.

Article 193

The capital of the Republic is Rangoon.

Article 194

(a) The Preamble of this Constitution Articles I and 4 of Chapter 1, Articles 5, 6, 7, 8, 9, II, 12, 14, 18 and 21 of Chapter II Articles 28, 29 and 32 of Chapter III Articles 41, 44 and 46 of Chapter IV and Article 194 of Chapter XV shall be amended with the prior approval of 75 per cent of all the members of the Pyithu Hluttaw in a nation-wide referendum only with a majority vote of more than half of those who have the right to vote.

(b) Provisions other than those mentioned in Clause (a) shall be amended only with a majority vote of 75 per cent of all the members of the Pyithu Hluttaw.

(c) Members of the Pyithu Hluttaw may submit to the Pyithu Hluttaw motions for amending this Constitution.

(d) If a People's Council wishes to submit a motion for amending this Constitution such a motion shall be submitted stage by stage from the lower to the higher levels and finally to the Pyithu Hluttaw.

CHAPTER XVI GENERAL PROVISIONS

Article 195

This Constitution shall come into force throughout the Union after its adoption in a nation-wide referendum by more than half of all the people who have the right to vote.

Article 196

The Revolutionary Council of the Union of Burma shall, continuing to exercise State sovereignty, carry out during the interval between the coming into force of this Constitution and the day the first session of the Pyithu Hluttaw is convened, all the functions of the Pyithu Hluttaw under the Constitution The work done by the Revolutionary Council to

bring the Constitution into force shall be deemed to have been carried out In accordance with this Constitution.

Article 197

Interpretation of the preamble, articles, clauses, words and expressions contained in this Constitution shall be based only on the Burmese text.

Article 198

Burmese shall be used as the official language for the purpose of uniformity and clarity in communications between the higher and lower level organs of the State and between such organs at the same level. If necessary the language of the national race concerned may be used.

Article 199

All policy guidelines, laws, rules, regulations, notifications proclamations, measures, responsibilities and rights of the Revolutionary Council of the Union of Burma shall devolve on the Socialist Republic of the Union of Burma.

Article 200

(a) In interpreting the expressions contained in this Constitution, reference shall be made to the Interpretation Law promulgated by the Revolutionary Council of the Union of Burma.

(b) Amendments to and further interpretation of expressions contained in the Law mentioned in Clause (a), shall only be made by the Pyithu Hluttaw.

(c) The validity of the acts of the Council of State, or of the Central or Local Organs of State Power under this Constitution shall only be determined by the Pyithu Hluttaw.

Article 201

The Pyithu Hluttaw may publish interpretations of this Constitution from time to time as may be necessary.

Article 202

(a) This Constitution is the basic law of all laws of the State.

(b) Existing laws and rules shall remain in force in so far as they are not contrary to this Constitution until and unless they are repealed or amended by the Pyithu Hluttaw.

(c) Existing regulations, bye-laws, notifications, orders, directives and procedures shall remain in force in so far as they are not contrary to this Constitution until and unless they are repealed or amended by the Council of State.

(d) Existing laws and rules shall be repealed or amended by the Pyithu Hluttaw to bring them into consonance with this Constitution.

(e) Existing regulations, bye-laws, notifications, orders, directives and procedures shall be repealed or amended by the Council of State to bring them into consonance with this Constitution.

(f) Existing laws, rules, regulations, bye-laws, notifications, orders, directives, and procedures shall, pending their repeal or amendment, be interpreted and acted upon by the Central and Local- Organs of State Power in the spirit of this Constitution.

(g) The Bodies of Public Services shall perform their duties in the spirit of this Constitution.

(h) All functioning organs and all public servants and workers serving under the Revolutionary Council of the Union of Burma on the day this Constitution comes into force shall continue in their functions unless otherwise prescribed by the Council of State.

Article 203

(a) The Council of State and the Central Organs of State Power may, subject to this Constitution and to laws, rules and resolutions passed by the Pyithu Hluttaw, promulgate such regulations, bye-laws, orders, directives and procedures as may be necessary.

(b) The Local Organs of State Power may, subject to this Constitution and to laws, rules and resolutions passed by the Pyithu Hluttaw and to regulations, bye-laws, orders, directives and procedures promulgated by the respective Central Organs of State Power, promulgate such orders, directives and procedures for the respective local areas as may be necessary.

Article 204

(a) Members of the Pyithu Hluttaw, the Council of State, the Council of People's Justices, the Council of People's Attorneys and the Council of People's inspectors shall have the right to submit to the Pyithu Hluttaw draft legislation on matters other than those mentioned in Article 89.

(b) The Council of Ministers shall have the right to submit to the Pyithu Hluttaw draft legislation on matters mentioned in Article 89 as well as on other matters.

(c) The People's Councils at different levels may submit draft legislation on matters other than those mentioned in Article 89, stage by stage from the lower to the higher levels of the People's Councils and finally to the Pyithu Hluttaw.

Article 205

The Burma Socialist Programme Party, mass and class organisations formed under its leadership, and the working people may submit suggestions and advice to the organs of State power at different levels, on legal matters, economic planning, the annual budget and other matters.

Article 206

(a) Members of the Council of State, and of the Council of Ministers shall not serve on any other Organ of State Power other than the organ to which they belong, except in cases provided for in Clause (b) of Article 54 and in Clause (c) of Article 64.

(b) Members of the Council of People's Justices, of the Council of People's Attorneys and of the Council of People's Inspectors shall not serve on any Organ of State Power other than the organ to which they belong or on any other Organ of the Pyithu Hluttaw.

(c) Members of the Executive Committee and of the Inspectorates of the People's Councils at the State, Divisional and Township levels shall not serve on any Local Organ of State Power other than the organ to which they belong or on any Affairs Committee.

(d) Members of the Committee of Judges of the People's Councils at different levels shall not serve on any Local Organ of State Power other than the organ to which they belong. They may, however, serve on the Affairs Committees of the People's Council concerned.

Article 207

The number of people's representatives which shall constitute the quorum at meetings of the Pyithu Hluttaw and the People's Councils at different levels shall be 75 per cent of all the people's representatives.

Article 208

The Council of State or an Affairs Committee of the Pyithu Hluttaw may invite any Central Organ of State Power to attend and answer questions, and such organ shall be under a duty to respond.

Article 209

(a) Should the Pyithu Hluttaw or any People's Council at any level be dissolved before the expiry of its regular term, the term of office of the newly elected Pyithu Hluttaw or People's Council shall be for the remaining period of the term of the dissolved Pyithu Hluttaw or People's Council.

(b) Should any People's Council be formed after the formation of the Pyithu Hluttaw, the term of such People's Council shall be the same as the regular term of the Pyithu Hluttaw.

THE CITY OF MANDALAY DEVELOPMENT LAW (1992)

[Repealed by the City of Mandalay Development Law (2002)]

The State Law and Order Restoration Council Law No. 10/92
The 6th Waxing Day of Pyatho, 1354 M.E

29 December 1992

The State Law and Order Restoration Council hereby enacts the following Law:

CHAPTER I TITLE AND DEFINITION

1. This Law shall be called the City of Mandalay Development Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) Committee means the City of Mandalay Development Committee formed under this Law;
 - (b) Head of Office means the Head of the personnel of the City of Mandalay Development Committee Office.

CHAPTER II FORMATION

3. In order to carry out the development works of the City of Mandalay effectively, the Prime Minister:-
 - (a) shall form the Committee comprising a minimum of 5 members and a maximum of 7 members;
 - (b) in forming the Committee shall do so with suitable citizens;
 - (c) shall at the same time determine the Chairman and Secretary of the Committee.
4. The Chairman of the Committee is the Mayor of Mandalay.
5. The Head of Office is the Joint Secretary of the Committee.
6. The Committee shall operate under its own name and a common seal, and shall have perpetual succession with power to sue and be sued in its corporate name.

CHAPTER III
BEING RESPONSIBLE

7. The Committee shall be directly responsible to the Prime Minister.

8. In carrying out city development works, the Committee shall carry out works in which policy matters are involved only after obtaining the approval of the Prime Minister.

CHAPTER IV
FUNCTIONS AND DUTIES OF THE COMMITTEE

9. The Committee shall, in respect of the following functions and duties, lay down the policy, give guidance, supervise or implement:

- (a) preparation of civil projects and establishment of new towns within the limits of the City of Mandalay Municipality;
- (b) construction, repairing and demolition of buildings;
- (c) demolition and re-settlement of squatter houses, squatter buildings and squatter wards;
- (d) construction of roads and bridges and maintenance thereof;
- (e) stipulation of conditions for traffic and parking of vehicles and slow-moving vehicles
- (f) construction of gardens, parks, playgrounds and recreation centres and maintenance thereof;
- (g) carrying out works for lighting of roads
- (h) carrying out works for water supply;
- (i) carrying out works for sanitation;
- (j) carrying out works for public health;
- (k) construction, maintenance and administration of markets;
- (l) stipulation of conditions in respect of roadside stalls;
- (j) carrying out precautionary measures against fire hazards
- (m) carrying out other city development works in the interest of the public.

10. The Committee shall, in addition to the functions and duties contained in section 9 also carry out other functions and duties prescribed by the existing city development law, rules and bye-laws.

11. The Committee may, in carrying out its functions and duties co-ordinate with the relevant departments and obtain the assistance thereof, if necessary.

CHAPTER V POWERS OF THE COMMITTEE

12. The powers of the Committee are as follows:

(a) having the power to carry out city development works with funds owned by the Committee, in accordance with the existing law, rules and bye-laws;

(b) determining, revising, assessing and collecting duties and taxes relating to city development works and the rates thereof, in accordance with the existing laws;

(c) having the power to utilize foreign currency derived from the lease of buildings or lease of lands or by other means, for city development works;

(d) having the power to carry out works contributing to city development by communicating with local and foreign organizations or local and foreign individuals;

(e) having the power to obtain loans and grants from the Government or from foreign organizations, on its own responsibility;

(f) having the power to carry out works by forming bodies work-wise;

(g) arranging improved modern methods and systems in order to carry out city development works more effectively;

(h) exercising powers conferred under the existing city development law, rules and bye-laws;

(i) exercising powers conferred from time to time by the Prime Minister.

CHAPTER VI FINANCE

13. The Committee shall subsist on its own funds. In addition, it shall undertake responsibility for all its financial matters.

14. The Committee shall open a separate bank account for its funds and shall have the power to utilize such funds for city development works. Funds not immediately required for use may be invested in a suitable manner.

15. The Committee shall open a separate bank account for foreign currency accrued to it and shall have the power to utilize such foreign currency for city development works.

16. The Committee shall:

(a) after scrutinizing the annual budget estimate prepared and submitted by the Head of Office submit the same to the Prime Minister and obtain confirmation;

(b) submit and report the progress of the annual finance and auditing work to the Prime Minister within 90 days of the end of the financial year.

CHAPTER VII ORGANIZATIONAL SET-UP

17. The Committee shall prepare and maintain the necessary organizational set-up based on the functions and duties, with the confirmation of the Prime Minister.

18. The Committee may, in preparing the organizational set-up under section 17 also include in the set-up the following personnel contributing to the city development works, after consultation with the relevant departments:

(a) personnel carrying out work relating to precautionary measures against disease and public health;

(b) personnel carrying out the function of precautionary measures against fire hazards;

(c) personnel carrying out the function of security and maintenance of discipline.

19 The Committee, in appointing personnel:-

(a) has the power to appoint within the organizational set-up, in accordance with the existing regulations and bye-laws;

(b) may appoint by transfer, personnel who would be able to carry out effectively city development works, in consultation with the relevant departments.

20. In appointing personnel, the Committee shall not utilize in excess of 30 percent of the annual income accrued.

21. In order that the Head of Office may supervise and control the personnel the Committee shall delegate as may be necessary powers relating to service affairs to the Head of Office.

CHAPTER VIII
MAINTENANCE OF FUND AND AUDITING OF ACCOUNTS

22. In order that the Head of Office may maintain the accounts systematically and to enable auditing thereof, the Committee shall prescribe accounts procedures in consultation with the Auditor General. Accounts shall be maintained in accordance with the accounts procedures so prescribed.

23. The Committee shall cause the accounts maintained by the Head of Office to be audited by a person assigned responsibility by the Auditor General.

CHAPTER IX
MISCELLANEOUS

24. Funds owned by the City of Mandalay Municipality, moveable and immoveable property, works in the process of execution, works which have been completed, assets and liabilities shall devolve respectively on the Committee.

25. The Committee shall apply the existing city development law, rules, bye-laws and orders in so far as they are not contrary to the objective and concepts of this Law.

26. For the purpose of carrying out the provisions of this Law, the Committee may:

(a) issue such rules and procedures as may be necessary, with the approval of the Prime Minister;

(b) issue such bye-laws, orders and directives as may be necessary.

Sd./
Than Shwe
General
Chairman
The State Law and Order Restoration Council

Section 4.

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