

PART I—GENERAL.
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THE BURMA GENERAL CLAUSES ACT.

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THE BURMA GENERAL CLAUSES ACT.

[BURMA ACT I, 1898.] (26th February, 1898.)

PRELIMINARY.

- Application of Act. 1. The provisions of this Act relating to Acts, except as otherwise expressly provided, shall extend to all Acts, Regulations and Ordinances forming part of the law of the Union of Burma, whenever and by whatever authority they were passed or made [* * * *].¹

GENERAL DEFINITIONS.

- Definitions. 2. In all Acts, unless there is anything repugnant in the subject or context,—
- "Abet," (1) "abet", with its grammatical variations and cognate expressions, shall have the same meaning as in the Penal Code :
- "Act." (2) "act", used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done extend also to illegal omissions :
- "Affidavit." (3) "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing :
- "Attorney-General." (3-A) "Attorney-General" shall include the acting Attorney-General :
- "Barrister." (4) "barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland :
- (5) * * * *
- (6) * * * *
- "Burma." (7) "Burma" includes all territories which were immediately before the commencement of the Government of Burma Act, 1935, comprised in India, being territories lying to the east of Bengal, the State of Manipur and Assam and any tribal territories connected with Assam.
- (8) * * * *
- "Chapter." (9) "chapter" shall mean a chapter of the Act in which the word occurs :
- "Chief Justice of the Union." (10) "Chief Justice of the Union" shall include the acting Chief Justice of the Union :
- (11) * * * *
- "Collector." (12) "Collector" shall mean the chief officer in charge of the revenue administration of a district :
- (13) * * * *

¹ The words "other than Acts of Parliament, and the General Clauses Act, 1897, shall cease to form part of the law of Burma" were omitted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Clauses (5), (6) and (13) were deleted and clause (7) was substituted by the same Order.

³ Inserted by Act XI, 1950.

⁴ Inserted by Act LV, 1953.

- (14) "commencement", used with reference to an Act, shall mean the day on which the Act comes into force: "Commencement."
- (15) "Commissioner" shall mean the chief officer in charge of the revenue administration of a division: "Commissioner."
- (16) "Consular officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul, and any person for the time being authorized to perform the duties of consul-general, consul, vice-consul, or consular agent: "Consular officer."
- (17) "Deputy Commissioner" shall mean the chief officer in charge of the general administration of a district: "Deputy Commissioner."
- (18) "District Court" shall mean a principal civil Court of original jurisdiction, but shall not include the High Court: "District Court."
- (19) "District Judge" shall mean the Judge of a District Court: "District Judge."
- (20) "document" shall include any matter written, expressed, or described upon any substance by means of letters, figures, or marks, or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter: "Document"
- (21) "enactment" shall include all Acts, Regulations and Ordinances forming part of the law of the Union of Burma, whenever and by whatever authority they were passed or made, and shall also include any provision contained in any such enactment as aforesaid: "Enactment."
- (22) "father", in the case of any one whose personal law permits adoption, shall include an adoptive father: "Father."
- (23) "financial year" shall mean the year commencing on the first day of October¹: "Financial year."
- (24) "Gazette" shall mean the official Gazette for the Union of Burma: "Gazette."
- (25) a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not: "Good faith"
- (26) "Government" or "the Government" shall mean the person authorized by or under the Constitution of the Union of Burma to exercise the executive authority of Burma: "Government."
- (27) * * * * *
- (28) * * * * *
- (29) "immoveable property" shall include land, benefits to arise out of land and things attached to the earth, or permanently fastened to anything attached to the earth: "Immoveable property."
- (30) "imprisonment" shall mean imprisonment of either description as defined in the Penal Code: "Imprisonment."
- (31) * * * * *
- (32) * * * * *
- (33) * * * * *
- (34) "local authority" shall mean a municipal committee, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund: "Local Authority."
- (35) * * * * *
- (36) "magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure: "Magistrate."
- (37) "master", used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship: "Master (of a ship)."

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

² Deleted by the same Order.

- " Month." (38) " month " shall mean a month reckoned according to the British calendar :
- " Moveable property." (39) " moveable property " shall mean property of every description, except immoveable property :
- " Notifica- tion." (40) " notification " shall mean a notification in the Gazette :
- " Oath." (41) " oath " shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing :
- " Offence. " (42) " offence " shall mean any act or omission made punishable by any law for the time being in force :
- " Office of profit." (42-A) " office of profit " shall not be deemed to include an office which is a part-time office remunerated by travelling allowance or daily allowance only or both :
- " Part." (43) " part " shall mean a part of the Act in which the word occurs :
- " Person." (44) " person " shall include any company or association or body of individuals, whether incorporated or not :
- (45) * * * * *
- (46) * * * * *
- (47) * * * * *
- " Public nuisance." (48) " public nuisance " shall mean a public nuisance as defined in the Penal Code :
- " Rangoon Town." (49) " Rangoon Town " or " Rangoon " shall mean the Rangoon Town District as for the time being defined for purposes of revenue and general administration :
- " Regis- tered. " (50) " registered ", used with reference to a document, shall mean registered under the law for the time being in force in the Union of Burma for the registration of documents :
- (51) * * * * *
- " Rule." (52) " rule " shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment :
- " Schedule." (53) " schedule " shall mean a schedule to the Act in which the word occurs :
- (54) * * * * *
- " Section." (55) " section " shall mean a section of the Act in which the word occurs :
- (56) * * * * *
- " Ship." (57) " ship " shall include every description of vessel used in navigation not exclusively propelled by oars :
- " Sign." (58) " sign ", with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include " mark ", with its grammatical variations and cognate expressions :
- " Son." (59) " son ", in the case of any one whose personal law permits adoption, shall include an adopted son :
- " Sub- section." (60) " sub-section " shall mean a sub-section of the section in which the word occurs :
- " Swear." (61) " swear ", with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing :

¹ Inserted by Act XLIV, 1951.

² Deleted by the Union of Burma (Adaptation of Laws) Order, 1948.

- ¹(61-A) "the Union of Burma" shall comprise the whole of Burma including— "Union of Burma."
- (i) all the territories that were governed by His Britannic Majesty through the Governor of Burma before the coming into operation of the Constitution, and
 - (ii) the Karenni States :
- (61-B) "unit" means— "Unit,"
- (i) any State forming a constituent unit of the Union of Burma :
 - (ii) all the territories of the Union of Burma not forming part of any State :
- (62) "vessel" shall include any ship or boat or any other description of vessel used in navigation : "Vessel."
- (63) "will" shall include a codicil and every writing making a voluntary posthumous disposition of property : "Will."
- (64) expressions referring to "writing" shall be construed as including references to printing, lithography, photography, and other modes of representing or reproducing words in a visible form : and "Writing."
- (65) "year" shall mean a year reckoned according to the British calendar. "Year."

²3. Subject to the provisions of the Constitution, every Act, unless the contrary is expressed therein, shall extend to the whole of the Union of Burma and shall apply to all persons in the territory to which it extends : Extent of Acts.

Provided that this section shall not of itself operate to extend any existing law to any area in which it is not already in force.

³4. (1) Every Act shall be promulgated by the President of the Union by publication under his direction in the Gazette. Every Act shall come into operation on the date of such promulgation unless the contrary intention is expressed. Coming into operation of enactments.

(2) Unless the contrary is expressed, an Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

5. Where any Act repeals any enactment, then unless a different intention appears, the repeal shall not— Effect of repeal.

- (a) revive anything not in force or existing at the time at which the repeal takes effect ; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder ; or
- (c) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed ; or
- (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed ; or
- (e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid ;

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed as if the repealing Act had not been passed¹.

¹ Inserted by the Union of Burma (Adaptation of Laws) Order, 1948

² Substituted by the same Order.

Effect of
repeal of
amending
enactment.

5-A. Where any Act, Regulation or Ordinance repeals any enactment by which the text of any other enactment was amended by the express omission, insertion or substitution of any matter then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal.

Revival of
repealed
enactments.

6. In any Act it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

Construction
of references
to repealed
enactments.

7. Where any Act repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

Commence-
ment and
termination
of time.

8. In any Act it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from", and for the purpose of including the last in a series of days or any other period of time, to use the word "to".

Computation
of time.

9. Where by any Act any act or proceeding is directed or allowed to be done, or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open :

Provided that nothing in this section shall apply to any act or proceeding to which the Limitation Act applies.

Measure-
ment of
distances.

10. In the measurement of any distance for the purpose of any Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Duty to be
taken *pro*
rata in en-
actments.

11. Where, by any enactment, any duty of customs or excise or in the nature thereof is leviable on any given quantity by weight, measure, or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity.

Gender and
number.

12. In all Acts, unless there is anything repugnant in the subject or context,—

- (1) words importing the masculine gender shall be taken to include females ; and
- (2) words in the singular shall include the plural, and *vice versa*.

POWERS AND FUNCTIONARIES.

Powers
conferred on
President to
be exercisa-
ble by
Government
in his name.
Powers con-
ferred to be
exercisable
from time to
time.

13. Where, by an Act of the Parliament or any existing law as defined in section 222 of the Constitution, any power is conferred, or any duty imposed, on the President of the Union, then that power shall be exercisable, or that duty shall be performable, in his name by the Government.

14. Where, by any Act, any power is conferred or any duty imposed then that power may be exercised and that duty shall be performed from time to time as occasion requires.

¹ Inserted by Act II, 1945.

² Inserted by Act XI, 1950.

14-A. References in any Act to the making of appointments by the President of the Union to any civil service of or civil post under the Government shall be construed as references to the making of those appointments by the President of the Union or by some person directed by him to make appointments of that class.

Power to make appointments.

15. Where, by any Act, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment may be made either by name or by virtue of office and either temporarily or permanently.

Power to appoint to include power to appoint *ex-officio*.

16. Where, by any Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.

Power to appoint to include power to suspend or dismiss.

17. In any Act it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

Substitution of functionaries.

18. In any Act it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

Successors.

19. In any Act it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

Official chiefs and subordinates.

PROVISIONS AS TO ORDERS, RULES, ETC., MADE UNDER ENACTMENTS.

20. Where by any Act a power to issue any notification, order, scheme, rule, form or bye-law is conferred, the expressions used in the notification, order, scheme, rule, form or bye-law shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

Construction of orders, etc., issued under enactments.

21. Where by any Act a power to issue notifications, orders, rules, or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules, or bye-laws so issued.

Power to make to include power to add to, amend, vary or rescind orders, rules, or bye-laws.

22. Where, by any Act which is not to come into force immediately on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, then that power may be exercised at any time after the passing of the Act, but rules, bye-laws, or orders so made or issued shall not take effect till the commencement of the Act.

Making of rules or bye-laws and issuing of orders between passing and commencement of enactment.

Provisions applicable to making of rules or bye-laws after previous publication.

23. Where by any Act a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely—

- (1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby ;
- (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the President of the Union prescribes ;
- (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration ;
- (4) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval, or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified ;
- (5) the publication in the Gazette of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

Continuation of orders, etc., issued under enactments repealed and re-enacted.

24. Where any enactment is repealed and re-enacted by an enactment, with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, form or bye-law made or issued under the repealed enactment shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, form or bye-law made or issued under the provisions so re-enacted.

MISCELLANEOUS.

Recovery of fines.

25. Sections 63 to 70 of the Penal Code and the provisions of the Code of Criminal Procedure in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Act, rule, or bye-law, unless the Act, rule, or bye-law contains an express provision to the contrary.

Provision as to offences punishable under two or more enactments.

26. Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

Meaning of service by post.

27. Where any Act authorizes or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying, and posting by registered post a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Citation of enactments.

28. (1) In any Act, and in any rule, bye law, instrument, or document made under, or with reference to, any Act, any enactment may be cited by reference to the title conferred thereon ¹[by the Burma Laws (Adaptation) Act, 1940] or by the

¹ Substituted by Act II, 1-45.

Legislative authority and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) A description or citation of a portion of any enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

THE BURMA LAWS ACT.

[INDIA ACT XIII, 1898.] (4th 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 those 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.

Division of Upper Burma into divisions, districts, subdivisions, 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.

Construction of enactments in force in Upper Burma.

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 Muhammadans and
- (c) the Hindu law in cases where the parties are Hindus,

Law to be administered in certain cases.

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.

Transfers of territory between Upper and Lower Burma.

(2)

¹ Deleted by Act II, 1945.