

THE NAVAL ARMAMENT ACT.

[INDIA ACT VII, 1923.] (10th November, 1923.)

WHEREAS it is expedient to give effect in the Union of Burma to the Treaty for the Limitation of Naval Armament and for the Exchange of Information concerning Naval Construction signed in London on behalf of His Britannic Majesty on the twenty-fifth day of March, 1936 ; It is hereby enacted as follows :—

1. * * * *

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

- (a) "competent Court" means the High Court or such other Court having unlimited original civil jurisdiction as the President of the Union may declare to be a competent Court for the purposes of this Act ;
- (b) "ship" means any boat, vessel, battery or craft, whether wholly or partly constructed, which is intended to float or is capable of floating on water, and includes all equipment belonging to any ship ; and
- (c) "the Treaty" means the Treaty for the Limitation of Naval Armament and for the Exchange of Information concerning Naval Construction signed in London on behalf of His Britannic Majesty on the twenty-fifth day of March, 1936.

3. No person shall, except under and in accordance with the conditions of a licence granted under this Act,— Restriction on building or equipping vessels of war.

- (a) build any vessel of war, or alter, arm or equip any ship so as to adapt her for use as a vessel of war ; or
- (b) despatch or deliver, or allow to be despatched or delivered, from any place in the Union of Burma any ship which has been, either wholly or partly, built, altered, armed or equipped as a vessel of war in any part of His Britannic Majesty's Dominions or in a State in India or Pakistan otherwise than under and in accordance with any law for the time being in force in that part or State.

4. (1) A licence under this Act for any of the purposes specified in section 3 may be granted by the President of the Union, and shall not be refused unless it appears to the President of the Union that such refusal is necessary for the purpose of securing the observance of the obligations imposed by the Treaty ; and, where a licence is granted subject to conditions, the conditions shall be such only as the President of the Union may think necessary for the purpose aforesaid. Licences.

(2) An application for a licence under this section shall be in such form and shall be accompanied by such designs and particulars as the President of the Union may, by general or special order, require.

5. (1) If any person contravenes any of the provisions of section 3, he 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. Offences against the Act.

(2) Where an offence punishable under sub-section (1) has been committed by a company or corporation, every director and manager of such company or corporation shall be punishable thereunder unless he proves that the act constituting the offence took place without his knowledge and consent.

(3) Nothing contained in section 517 or section 518 or section 520 of the Code of Criminal Procedure shall be deemed to authorize the destruction or confiscation under the order of any criminal Court of any ship which is liable to forfeiture under this Act or of any part of such ship.

Liability of ships to forfeiture.

6. Any ship which has been, either wholly or partly, built, altered, armed, or equipped as a vessel of war in the Union of Burma in contravention of section 3, or in any part of His Britannic Majesty's Dominions or in India or Pakistan in contravention of any like provision of law in force in that part or India or Pakistan, shall, if found in the Union of Burma, be liable to forfeiture under this Act,

Seizure, detention and search of ships.

7. (1) Where a ship is liable to forfeiture under this Act,—

- (a) any Magistrate of the first class, or
- (b) any commissioned officer on full pay in the military, naval or air service of the Government, or
- (c) any officer of customs or police-officer not below such rank as may be designated in this behalf by the President of the Union,

may seize such ship and detain it, and, if the ship is found at sea within the territorial waters of the Union of Burma, may bring it to any convenient port in the Union of Burma.

(2) Any officer taking any action under sub-section (1) shall forthwith report the same through his official superiors to the President of the Union.

(3) The President of the Union shall, within thirty days of the seizure, either cause the ship to be released or make or cause to be made, in the manner hereinafter provided, an application for the forfeiture thereof, and may make such orders for the temporary disposal of the ship as he thinks suitable.

Procedure in forfeiture of ships.

8. (1) An application for the forfeiture of a ship under this Act may be made by or under authority from the President of the Union to any competent Court within the local limits of whose jurisdiction the ship is for the time being.

(2) On receipt of any such application, the Court shall cause notice thereof and of the date fixed for the hearing of the application to be served upon all persons appearing to it to have an interest in the ship, and may give such directions for the temporary disposal of the ship as it thinks fit.

(3) For the purpose of disposing of an application under this section, the Court shall have the same powers and follow, as nearly as may be, the same procedure as it respectively has and follows for the purpose of the trial of suits under the Code of Civil Procedure and any order made by the Court under this section shall be deemed to be a decree, and the provisions of the said Code in regard to the execution of decrees shall, as far as they are applicable, apply accordingly.

(4) Where the Court is satisfied that the ship is liable to forfeiture under this Act, it shall pass an order forfeiting the ship to the Government :

Provided that, where any person having an interest in the ship proves to the satisfaction of the Court that he has not abetted, or connived at, or by his negligence facilitated in any way, a contravention of section 3 in respect of the ship, and such ship has not been built as a vessel of war, it may pass such other order as it thinks fit in respect of the ship or, if it be sold, of the sale proceeds thereof :

Provided further that in no case shall any ship which has been altered, armed or equipped as a vessel of war be released until it has been restored, to the satisfaction of the President of the Union, to such condition as not to render it liable to forfeiture under this Act.

(5) The President of the Union or any person aggrieved by any order of a Court, other than the High Court, under this section may, within three months of the date of such order, appeal to the High Court.

9. Where a ship has been forfeited to the Government under section 8, it may be disposed of in such manner as the President of the Union directs :

Disposal of
forfeit.

Provided that, where the ship is sold under this section, due regard shall be had to the obligations imposed by the Treaty.

10. If in any trial, appeal or other proceeding under the foregoing provisions of this Act, any question arises as to whether a ship is a vessel of war or whether any alteration, arming or equipping of a ship is such as to adapt it for use as a vessel of war, the question shall be referred to and determined by the President of the Union, whose decision shall be final and shall not be questioned in any Court.

Special
proof of
relevant
facts.

11. (1) Where a ship which has been seized or detained under section 7 or section 8 and has not been released by competent authority under this Act proceeds to sea, the master of the ship shall be punishable with fine which may extend to one thousand rupees, and the owner and any person who sends the ship to sea shall be likewise so punishable unless such owner or person proves that the offence was committed without his knowledge and consent.

Penalties
for proceed-
ing to sea
after seizure.

(2) Where any ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any officer empowered by this Act to seize and detain the ship, the owner and master shall further each be liable, on the order of the Court trying an offence punishable under sub-section (1), to pay all the expenses of and incidental to such officer being taken to sea, and shall further be punishable with fine which may extend to one hundred rupees for every day until such officer returns or until such time as would enable him after leaving the ship to return to the port from which he was taken.

(3) Any expenses ordered to be paid under sub-section (2) may be recovered in the manner provided in the Code of Criminal Procedure for the recovery of a fine.

12. (1) Any person empowered by this Act to seize and detain any ship may, at any reasonable time by day or night, enter any dockyard, shipyard or other place and make inquiries respecting any ship which he has reason to believe is liable to forfeiture under this Act, and may search such ship with a view to ascertaining whether the provisions of this Act have been or are being duly observed in respect thereof, and every person in charge of or employed in such place shall on request be bound to give the person so empowered all reasonable facilities for such entry and search and for making such inquiries.

Power to
enter dock-
yards, etc.

(2) The provisions of sections 101, 102 and 103 of the Code of Criminal Procedure shall apply in the case of all searches made under this section.

13. No Court inferior to that of a Magistrate of the first class shall proceed to the trial of any offence punishable under this Act, and no Court shall proceed to the trial of any such offence except on complaint made by, or under authority from, the President of the Union.

Courts by
which and
conditions
subject to
which of-
fences may
be tried.

14. No prosecution, suit or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

Indemnity.