

local limits of his jurisdiction earns his livelihood, wholly or in part, by unlawful gaming or by promoting or assisting in the promotion of unlawful gaming, he may deal with such person as nearly as may be as if the information received about him were of the description mentioned in section 110 of the Code of Criminal Procedure, and for the purposes of any proceeding under this section the fact that a person earns his livelihood as aforesaid may be proved by evidence of general repute or otherwise.

1“ THE SPECIAL JUDGES ACT, 1946. *

[BURMA ACT IX, 1946.] (17th April, 1946)

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

* * * * *

It hereby enacted as follows :—

Short title
and duration

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

(2) It shall remain in force until the President of the Union, by notification, declares it to be no longer in force, and such notification may declare it to be no longer in force throughout the whole of the Union of Burma or throughout any local area or local areas specified in the notification.

Interpreta-
tion.

2. In this Act—

(a) “ Code ” means the Code of Criminal Procedure ;

(b) “ High Court ” means the [High Court]¹ ;

(c) the expression “ Special Judge ” includes “ Special Judges ” in areas where more than one Special Judge is appointed to exercise powers under this Act.

Appointm^{ent}
of Special
Judges.

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

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

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

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

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

* Published in Judicial Department Notification No. 203, dated 17th April 1946 (*Burma Gazette*, 1946, Part I, page 270).

¹ Substituted for the words “ High Court of Judicature at Rangoon ” by the Union of Burma (Adaptation of Laws) Order, 1948.

¹ ပြည်သူ့တရားသူကြီးအဖွဲ့ ဥပဒေပုဒ်မ ၈၃ ၏ ရုပ်သိမ်းသည်။

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

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

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

Provided that a Special Judge may refuse to summon any witness if satisfied that the evidence of such witness will not be material, and shall not be bound to adjourn a trial for any purpose whatsoever, unless such adjournment is, in his opinion, necessary in the interests of justice.

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

- (i) in sub-section (1) of section 337, *after* the words “any Magistrate of the first class” the words “or a Special Judge” shall be *inserted*;
- (ii) in sub-section (1A) of section 337, *after* the word “Magistrate”, occurring in two places, the words “or Special Judge” shall be *inserted*;
- (iii) in sub-section (2) of section 337, *after* the word “Magistrate” the words “or Special Judge” shall be *inserted*;
- (iv) to sub-section (2A) of section 337, the following proviso shall be *added*, namely:—
“Provided that the Magistrate may, if he thinks fit, send the accused for trial before a Special Judge”;
- (v) in clause (b) of sub-section (1) of section 339A, *after* the word “Magistrate” the words “or a Special Judge” shall be *inserted*;
- (vi) in sub-section (2) of section 339A, *after* the words “the Magistrate” the words “or the Special Judge” shall be *inserted*.

¹(3) * * * *

²(4) A Special Judge shall have the powers of a Court of Session under Sections 503, 505, 507 and 508 of the Code of Criminal Procedure.

³5A. A Special Judges shall have power, where there is more than one accused, to dispense with at any time the attendance of another accused before him on the ground of ill health or otherwise. Power to dispense with the attendance of accused where there is more than one accused.

¹ Deleted by Act XLIV, 1957.

² Inserted by Act LXXVII, 1947.

³ Inserted by Act XLIV, 1957.

Conviction on evidence partly recorded by one Special Judge and partly by another.

***5B.** Whenever a Special Judge, having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction thereunder, and is succeeded by another Special Judge who has and who exercises such jurisdiction, the Special Judge so succeeding shall act on the evidence so recorded by his predecessor or partly recorded by his predecessor and partly recorded by himself."

Confirmation, Appeal and Revision.

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

¹(2) * * * *

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

(2A) Any person convicted on a trial held by a Special Judge, [* * *]¹ may appeal to the Court of Session:

Provided as follows:—

(a) The provisions of sections 412 and 413 of the Code shall apply to such appeals as if the person had been convicted by a District Magistrate or other Magistrate of the first class.

(b) When in any case a Special Judge, [~~who is not a Sessions Judge~~ or an Additional Sessions Judge,] passes any sentence of [* * *]¹ death, the appeal of all or any of the accused convicted at such trial shall lie to the High Court.

¹(c) * * * *

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

***6A (1)** A Sessions Judge may withdraw any case from or recall any case which has been made over to any Special Judge in his Sessions Division, and may try such case himself or transfer it for trial to any other Special Judge in his Sessions Division:

³Provided that where a Special Judge is appointed in any area, any Magistrate before whom a case for inquiry is pending at the time of the appointment of the Special Judge may submit it either to the district Magistrate for orders or to the Special Judge:

³Provided further that where a Special Judge is appointed in any area, the District Magistrate of that area may withdraw or cause to be withdrawn

* Inserted by Act XLIV, 1957.

¹ Deleted by Act III, 1973. * * *

² Inserted by Act LXVII, 1947.

³ Inserted by Act XXIX, 1949.

any case for inquiry pending before any Magistrate subordinate to him and transfer it, or cause it to be transferred, to the Special Judge for trial.

(2) This section shall be deemed to have been in force as from the date on which the Special Judges Act, 1946, came into force.

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

8. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act. * * * * 1 Bar to legal proceedings.

9. * * * * "

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

[BURMA ACT XXVI, 1946] (24th July, 1946)

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

It is hereby enacted as follows :—

1. This Act may be called the Sanction for Prosecution (War-Times Offences) Act, 1946. Short title.

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

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

* Published in Judicial Department Notification No. 358, dated 24th July 1946 (*Burma Gazette*, 1946, Part I, page 424).

¹ Deleted by Act III, 1947.

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