

THE PUBLIC ORDER (PRESERVATION) ACT

[BURMA ACT XVI, 1947] (3rd April, 1947)

WHEREAS it is expedient to make provisions for preserving peace and order in certain areas;

* * * *

It is hereby enacted as follows : —

1. (1) This Act may be called the Public Order (Preservation) Act, 1947.

(2) It shall come into force at once, and shall remain in force until such date as the President of the Union may by notification declare it to be no longer in force.

(3) It shall extend to such areas³ as the President of the Union may, from time to time, by notification, specify, and the President of the Union may, in such notification, exclude the operation of any provisions of this Act from such areas.

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

(i) "The Code" means the Code of Criminal Procedure

(ii) "Prejudicial act" means the following acts —

(a) any act directly or indirectly connected with any unlawful activity having for its object the smuggling of opium or dangerous drugs contrary to any law for the time being in force; or

(b) any act which directly or indirectly abets or facilitates the commission of any offence in respect of firearms or ammunition contrary to the Arms Act for the time being in force ; or

(c) any act which directly or indirectly abets or facilitates the smuggling of mineral ores or concentrates contrary to any law for the time being in force; or

Foot Note: 3. For a list of areas to which this Act is extended, See Home Department Notification No. 1419, dated 19th December 1947 (*Burma Gazette*, 1947, Part I, p. 850), and same Department Notification. No. 2, dated 6th January 1949 (*Burma Gazette*, 1949, Part I, p. 43).

4. Substituted by Act IV, 1953.

(d) any act which directly or indirectly abets or facilitates the commission of any offence in respect of foreign exchange contrary to the Foreign Exchange Regulation Act, 1947 or

(e) any act which directly or indirectly abets or facilitates the smuggling of rice, rice products, paddy, timber, mineral oil, metals, metal scraps or precious stones contrary to any law for the time being in force.

3. Notwithstanding anything contained in the Code or in any other law for the time being in force in any area to which this Act extends —

(a) any member of the Armed Forces serving in the Union of Burma who is authorized, by name or designation, by the President of the Union in this behalf may exercise the powers conferred upon police officers by the provisions of Chapter V of the Code as amended;

(b) the operation of the provisions of sub-section (3) of section 46 of the Code shall be suspended;

(c) section 61 of the Code shall have effect as if the expression "seventy-two hours" had been substituted for the expression "twenty-four" appearing therein;

¹(d) sub-section (1) of section 260 of the Code shall have effect as if the following provisos had been added thereto, namely: —

"Provided that the President of the Union may, by notification, empower any Magistrate to try in a summary way any offence triable by a Magistrate of the first class, and that nothing contained in sub-section (2) of section 262 of the said Code shall apply to any case tried by virtue of such notification:

Provided further that, in any case tried by virtue of such notification the Magistrate shall record a memorandum of the substance of the evidence of each witness examined, may refuse to summon any witness if he is satisfied that the evidence of such witness will not be material and shall not be bound to adjourn a trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice."

²3A. (1) Where an accused, in a trial before any criminal Court, has by his voluntary act rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing dispense with the attendance of the accused and proceed with the trial in his absence.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1) such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) shall not affect the right of the accused of being represented by a pleader at any stage of the trial, or being present in person if he has become capable of appearing or appears in Court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code, no finding, sentence or order passed in any trial shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any accused whose attendance has been dispensed with under sub-section (1).

Foot Note: 1. Substituted by Act LXII, 1948.

2. Inserted *ibid*.

4. (1) Notwithstanding anything contained in any law for the time being in force, the Deputy Commissioner and any officer who is authorized, by name or designation, by the President of the Union in this behalf may take hostages from or may impose fines in money or goods, or may confiscate or destroy the property or any part of the property of, the inhabitants of any village-tract, or may destroy by burning or by any other means any village or any part thereof, if after enquiry he finds that any substantial number of the inhabitants of such village-tract or village have —

(a) taken part in or conspired to create a disturbance of the public tranquility or attempted to create or abetted the creation of such disturbance or collected men, arms or ammunition or otherwise prepared to create a disturbance of the public tranquility;

(b) taken part in or abetted the commission of or conspired to commit robbery or dacoity with arms.

(2) The Deputy Commissioner or such officer, as the case may be, may order the whole or any part of the fine imposed under sub-section (1) to be given as compensation to any person to whom damage or injury has been caused directly or indirectly by the act or acts in respect of which the fine is imposed.

5. (1) Any police officer not below the rank of a sub-inspector or army other officer of Government empowered in this behalf, by general or special order by the President of the Union, may [issue an order of arrest or]¹ arrest without warrant any person whom he * * * ² suspects of having acted, of acting, or of being about to act, —

(a) in any manner calculated to disturb, or to assist a disturbance of the public tranquility;

(b) in a manner prejudicial —

(i) to the safety of any place or area or of any industry, machinery or building in any such place or area;

(ii) to the output or effective control of any such industry or machinery.

(2) Any officer who makes an arrest in pursuance of sub-section (1) 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 two months.

(3) If any person arrested under clause (b) of sub-section (1) is prepared to security, the officer who has arrested him may, instead of committing him to custody, release him on his executing a bond with or without sureties undertaking that he will not, pending the receipt of the orders of the President of the Union, enter, reside or remain in the areas in respect of which he became liable to arrest.

(4) On receipt of any report made under the provisions of sub-section (2) the President of the Union may, in addition to making such orders subject to the second proviso to sub-section (2) as may appear to be necessary for the temporary custody of any person arrested under this section, make, in exercise of any powers conferred upon the President of the Union by any law for the time being in force, such final order as to his detention, release, residence or any other matter concerning him as may appear to the President of the Union in the circumstances of the case to be reasonable or necessary.

Foot Note: 1. Inserted by Act XXXVI, 1949.

2. The word "reasonably" was deleted by Act LXII, 1948.

(5) When security has been taken in pursuance of the provisions of sub-section (3), the bond shall be deemed to be a bond taken under the Code by the District Magistrate having jurisdiction in the area in respect of which the said security has been taken and the provisions of section 514 of the said Code shall apply accordingly.

15A. (1) If the President of the Union is satisfied with respect to any particular person that with a view to preventing him from acting in any manner prejudicial to the public safety and the maintenance of public order [or from committing any prejudicial act]² it is necessary so to do, the President of the Union may make an order —

(a) directing such person to remove himself from the Union of Burma in such manner, by such time and by such route as may be specified in the order, and prohibiting his return to the Union of Burma;

(b) directing that he be detained;

(c) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or person as may be specified therein, he shall not be in any such area or

place in the Union of Burma as may be specified in the order;

- (d) requiring him to reside or remain in such place or within such area in the Union of Burma as may be specified in the order, and if he is not already there to proceed to that place or area within such time as may be specified in the order;
- (e) requiring him to notify his movements in such manner, at such times and to such authority or persons as may be specified in the order;
- (f) imposing upon him such restrictions as may be specified in the order in respect of his employment or business, in respect of his association or communication with other persons, in respect of his control over minor children of whom he is parent or guardian, and in respect of his activities in relation to the dissemination of news or propagation of opinions;
- (g) prohibiting or restricting the possession or use by him of any such article or articles as may be specified in the order;
- (h) otherwise regulating his conduct in any such particular as may be specified in the order;

Provided that no order under clause (a) of this sub-section shall be made in respect of any [citizen of the Union]³.

(2) An order made under sub-section (1) may require the person in respect of whom it is made to enter into a bond, within or without sureties, for the due performance of, or as an alternative to the enforcement of, such restrictions or conditions made in the order as may be specified in the order.

(3) If any person is in any area or place in contravention of an order made at under the provisions of this section or fails to leave any area or place in accordance with the requirement of such an order, then, without prejudice to the provisions of sub-section (5), he may be removed from such area or place by any police officer or by any person acting on behalf of Government.

(4) So long as there is in force in respect of any person such an order as aforesaid directing that he be detained, he shall be liable to be detained in such place, and under such conditions as to maintenance, discipline and the punishment of officers and breaches of discipline, as the President of the Union may from time to time determine.

Foot Note: 1. Inserted by Act XXVIII, 1947.

2. Inserted by Act IV, 1953.

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

(5) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both, and if such person has entered into a bond in pursuance of the provisions of sub-section (2), his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court why such penalty should not be paid.

(6) If the President of the Union has reason to believe that a person in respect of whom he has made an order under sub-section (1) directing that the person be detained has absconded or is concealing himself so that such order cannot be executed the President of the Union may make a report in writing of the facts to a District Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure shall apply in respect of the said person and his property as if the other directing that he be detained were a warrant issued by the Magistrate.

¹5B. (1) The President of the Union may, by order, direct that any person in respect of whom an order has been made under the provisions of section 5A, shall —

- (a) allow himself to be photographed;
- (b) allow his finger and thumb impressions to be taken;
- (c) furnish specimens of his handwriting and signature; and
- (d) attend at such time and place before such authority or person as may be specified in the order for all or any of the purposes mentioned in this section.

(2) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

6. (1) The President of the Union may, by order, direct that, subject to any specified exemption, no person present within any specified area shall, between, such hours as may be specified, be out of doors except under the authority of a written permit granted by a specified authority or person.

(2) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) No Court shall take cognizance of an alleged offence under this section except on a report in writing of the facts constituting such offence made by a public servant.

²6A. (1) The President of the Union may, by general or special order, prohibit or restrict in any area any such exercise, movement, evolution or drill of a military nature as may be specified in the order.

(2) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

²6B. (1) If the President of the Union is satisfied that —

- (a) the wearing in public of any dress or article of apparel resembling any uniform or part of a uniform required to be worn by a member

Foot Note: 1. Inserted by Act XXVIII, 1947

2. Inserted by Act LXXIX, 1947

of [the Burma]¹ Forces or by a member of any official Police Force or of any force constituted under any law for the time being in force,

- (b) the wearing or display in public of any distinctive dress or article of apparel or any emblem,

would be likely to prejudice the public safety or the maintenance of public order, the President of the Union may, by general or special order, prohibit or restrict the wearing or display in public of any such dress, article of apparel or emblem.

(2) For the purposes of this section, a dress, an article of apparel or an emblem shall be deemed to be worn or displayed in public if it is worn or displayed so as to be visible to a person in any place to which the public have access.

(3) If any person contravenes any order made under this section he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

7. The President of the Union may by order direct that any power which is conferred upon him by

[sections 5, 5A, 5B, 6, 6A and 6B]² shall, subject to such conditions as may be specified therein, be exercised by such officer or authority as he may specify.

8. Any authority or person acting in pursuance of this Act shall interfere within interfere with ordinary avocations of life and the enjoyment of property as little as may be consonant with the purpose of ensuring the public order and safety.

9. (1) No order made in exercise of any power conferred by or under this Act shall be called into question in any Court.

(2) Where an order purports to have been made and signed by any officer or authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Evidence Act, presume that such order was made by that officer or authority until the contrary be proved.

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 [Union of Burma]¹ for any damage caused or likely to be caused by anything done or intended to be done in pursuance of this Act.

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

2. Amended by Acts XXVIII, 1947, LXXIX, 1947 and LXII, 1948.