

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[Repealed by the Law for the Repeal of Laws (1992)]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