

THE LAND NATIONALIZATION ACT (1948)

[Repealed by the Land Nationalisation Act (1953)]

Act LX, 1948

[Exact Date Unknown]

It is hereby enacted as follows:

1. (1) This Act may be called the Land Nationalization Act, 1948.

(2) It shall come into force on such date as the President may, by notification, appoint, and different dates may be appointed for different parts of the Union of Burma.

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

(a) “adult” means a person who has completed his eighteenth year;

(b) “agricultural land” means land which is occupied or is ordinarily utilized, or has been leased, for the purposes of agriculture or horticulture or husbandry or for purposes subservient to agriculture, horticulture or husbandry and includes the sites of buildings, dwelling houses and other structures on such land; but does not include land that is within a town or village and is occupied as the site of a dwelling;

(c) “agriculturist” means a person who works for the year 1948-49, or who habitually worked prior to that year, any agricultural land, as his principle means of subsistence:

(i) with his own hands as a land-holder or as a tenant or as an agricultural labourer,

(ii) in the case of a person disabled by age or physical defect under his personal superintendence, throughout the working periods of the year:

Provided that a woman who works any agricultural land under her personal superintendence, throughout the working periods of the year, as her principal means of subsistence shall be deemed to be an agriculturist;

(d) “lease of agricultural land” means a transfer of a right to enjoy such land, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised or of money, a share of crops, service or any other thing of value to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms;

(e) “agriculturist family” means a group of persons, related by blood or marriage, living together and depending for its maintenance on the earnings of one or more senior members thereof, who shall be an agriculturist or agriculturists;

Explanation: families living together but feeding separately shall be regarded as separate families.

(f) “possession” means the occupation of agricultural land by any person, or by his servant, agent, tenant, or mortgagee or by some other person holding under him:

Provided that, notwithstanding anything contained in any other law for the time being in force, an agricultural land under a use of usufructuary or English mortgage or a mortgage by conditional sale, shall be deemed to be in the possession of the mortgagee:

(g) “tenant” means a person or organisation that occupies land and is liable to pay rent for the said land;

(h) “constitutional improvement” means any work by which the value of the agricultural land has been permanently increased by the cost of or by the labour of the person in possession of the said agricultural land or his predecessor in interest, and includes any building erected on the agricultural land for the dwelling of a cultivator or for any other person subservient to agriculture; drainage works, irrigation channels, tanks, wells, embankments, roads or other permanent improvements; but does not include the clearance of land for purposes of cultivation, the construction of kazins or improvements not of a permanent nature.

3. The State shall, as from the commencement of this Act resume possession of all agricultural lands with the exception of the agricultural lands specified in the Schedule I and to the extent specified in the said schedule and section 4; and notwithstanding anything contained in any other law for the time being in force or in any agreement, contract, deed, grant, lease of licence, all rights whatsoever existing therein before the commencement of this Act other than the rights of the State shall thereupon cease absolutely; and no rights whatsoever other than the rights of the State shall, save as expressly provided in section 9, hereafter accrue on such land.

4. (1) Out of the first three classes of agricultural lands specified in Schedule I, an exemption from the operation of section 3 shall be granted to each agriculturist family which is in possession of any agricultural lands, in respect of one class of such lands to the extent specified therefore in the said Schedule:

Provided that if, after the commencement of this Act, any agricultural land, exempted from the operation of section 3, is reclassified in the records of the Land Records Department or is utilized for cultivation which would have resulted in reclassification, the State shall resume possession of any area in excess of the limits prescribed in this section and the Schedule I.

(2) Any agricultural family which is in possession of agricultural lands coming within the first three classes of the Schedule I shall be entitled to claim exemption from the operation of section 3 in respect of one or more such classes of agricultural lands, provided that if the claim is in respect of more than one class of such agricultural lands, the total limit for such

exemption shall be computed according to the proportion prescribed in respect of each class of such lands in the Schedule I.

(3) The President may, by rules, prescribe the conditions in which a joint or undivided family may, for the purpose of exemption under sub-section (1), be split into separate agriculturist families within the meaning of this Act.

(4) For the purpose of sub-section (1), a parentless minor who is in possession of any agricultural land shall be deemed to be an agriculturist if either or both of his parents was or were an agriculturist or agriculturists.

(5) Any agricultural land in respect of which an exemption has been granted under section 4 shall be inheritable:

Provided that any agricultural land falling to the share of a person by way of inheritance who is not an agriculturist, shall be resumed possession by the State.

(6) (1) No person who is in possession of any agricultural land, exempted from the operation of section 3, shall:

(a) leave any agricultural land fallow without sufficient cause, or

(b) mortgage, sell, or otherwise transfer such land to any other person or fragment or subdivide such land except in accordance with the rules prescribed by the President and subject to section 5, or

(c) rent or lease such land to any other person with or without consideration:

Provided that clause (c) shall not apply to any agricultural land in the possession of a religious institution or a member of the religious order or a minor or a person of unsound mind.

(2) If any person in possession of any agricultural land exempted under section 4, contravenes any provision of sub-section (1) or if the income derived from any agricultural land in the possession of a religious institution or a member of the religious order is not utilized exclusively for religious purposes, the agricultural land in respect of which such contravention is made shall be liable to be resumed possession by the State.

7. (1) Except where agricultural lands are liable to be resumed possession by the State for default or conditions prescribed under any other law for the time being in force, compensation in respect of agricultural land resumed possession by the State under section 3 shall be paid in accordance with the provisions of this section and the Schedule II.

(2) In respect of agricultural lands over which rights have been acquired by a grant or lease and for which a premium was paid to Government at the time of the grant or the lease the

premium so paid shall be payable to the person in possession of the said land, in addition to any compensation payable under the need succeeding sub-section and the Schedule II.

(3) Except in respect of the compensation payable for constructional improvements, the compensation shall be determined in accordance with the provisions prescribed in the Schedule II.

In determining such compensation the following factors shall be taken into consideration:-

- (a) the nature of the tenure of the agricultural land;
- (b) the length of time for which a person has been in possession of the agricultural land;
- (c) the benefits enjoyed by virtue of possession of the agricultural land; and
- (d) the costs incurred and any loss suffered in respect of the agricultural land, except the costs of the constructional improvements incurred on account of the possession of or the premium paid for the grant or the lease of the agricultural land.

(4) Constructional improvements shall be valued on the following formula:-

First cost of construction plus cost of improvements on the original construction minus the value depreciation minus the value of damage.

(5) The land revenue referred to in the Schedule II shall not include the water-rate chargeable in respect of the agricultural land.

(6) The President shall appoint a Commission consisting of ten members to determine the basis of compensation in accordance with sub-section (3) and the manner of payment of the compensation and the premium payable under sub-section (2).

(7) The Commission may sit at such times and in such places as it may deem fit and shall have the powers vested in a Civil Court under the Code of Civil Procedure in respect of the following matters:-

- (a) discovery and inspection;
- (b) enforcing attendance of witnesses;
- (c) compelling the production of documents;
- (d) examining witnesses on oath; and
- (e) reception of evidence taken on affidavit;

and the Commission shall be deemed to be a Civil Court within the meanings of sections 480 and 482 of the Code of Criminal Procedure.

(8) The findings of the Commission shall be final and the compensation and the premium payable under sub-section (2) shall be determined and paid in accordance therewith.

8. The President may, where he is satisfied that undue hardship has been caused to a person by the operation of section 3 or 7, cause to render such relief other than the grant of exemption under section 4, as he may deem fit.

9. (1) The agricultural lands resumed possession by the State under section 3 and all other agricultural lands under the control of the State shall be allotted for purposes of cultivation in accordance with the provisions of sub-section (3).

(2) Pending the distribution of all agricultural lands under this Act, the persons who have been working such agricultural lands immediately before the commencement of this Act shall remain in occupation of the said lands as State tenants:

Provided that the rents for agricultural lands leased before the commencement of this Act shall be payable to the persons who were in possession of such lands immediately before the commencement of this Act.

(3) Subject to the provisions of section 10 (1), all agricultural lands referred to in sub-section (1), except such lands as may be required for grazing grounds and village common lands, shall be distributed to all agricultural families other than those which have been granted exemption under section 4, and such area of agricultural land as can be served by one yoke of cattle shall be allotted to each agriculturalists family at least one of whose members is an able-bodied adult:-

Provided that:

(a) such area of agricultural land as can be served by two yokes of cattle may be allotted to an agricultural family consisting of more than four adults who are capable of working that area;

(b) is the agricultural land in the possession of an agriculturalist family, which has been granted an exemption under section 4, is less than an area which can be served by one yoke of cattle, such acreage of agricultural land may be allotted to such family as will enable it to cultivate an area which can be served by one yoke of cattle;

(c) in an area where the agricultural lands resumed possession by the State under section 3 and all other agricultural lands under control of the State are not sufficient for distribution to all agriculturalist families in that area as provided in this sub-section, the President may, by rules, prescribe to which of the different classes of agriculturalist families priority shall be given for the distribution of such agricultural lands; and

(d) in respect of taungya cultivation the acreage allotted to each agriculturalist family shall be such as is suitable for such cultivation.

10. (1) No agriculturalist family shall be allotted any agricultural land under the provisions of section 9 (3) unless one or more members thereof join or undertake to join a co-operative organisation approved by the State.

(2) The President may, by rules, prescribe the procedure to be followed in forming co-operative organizations.

(3) The State may take such measures as it may deem expedient to promote the formation of collective farms.

11. The grazing grounds and village common lands existing before the commencement of the Act shall continue to be preserved, and a sufficient number of grazing grounds and village common lands shall be provided for each village-tract or group of village-tracts as the case may be.

12. (1) An agriculturist family to which agricultural land has been allotted under section 9 (3) shall have the right to cultivate such land and enjoy all the benefits arising therefrom subject to the rights of the State and to the following conditions:-

(i) that one or more members of such family shall personally cultivate such land;

(ii) that it shall pay all impositions of the State;

(iii) that it shall not cease to be an agriculturist family;

(iv) that such land shall not be left fallow without sufficient cause;

(v) that such land shall not be mortgaged, sold or otherwise transferred to any other person or be fragmented or subdivide; and

(vi) that such land shall not be rented or leased to any other person with or without consideration.

(2) If an agriculturist family, to which agricultural land has been allotted under section 9 (3), fails to observe any of the conditions specified in sub-section (1) or if none of its members joins, or remains to be a member of, a co-operative organization, approved by the State, all the rights under this Act of such family relating to such agricultural lands shall be forfeited to the State.

13. Any agricultural land which is resumed possession by the State under the proviso to section 5 or section 6 (2) or in respect of which the rights of an agriculturist family are forfeited to the State under section 12 (2), shall be distributed as provided in section 9 (3).

14. (1) The President may appoint such land committee or other authorities, either by election or otherwise, and for such areas as he may deem necessary for carrying out the purposes of this Act, and may authorize such Committees or authorities to exercise all or any of the following powers:

(i) to resume possession of agricultural lands on behalf of the State under section 3 or under the proviso to section 6 (2) or to forfeit the rights of the agriculturist families under section 12 (2);

(ii) to grant exemption under section 4;

(iii) to distribute agricultural lands under section 9 (3);

(iv) to establish agricultural co-operative organizations and to exercise such powers and functions of the governing bodies thereof are duly elected;

(v) To take necessary action for ensuring the effective cultivation of all agricultural lands; and

(vi) such other powers as the President may deem necessary for carrying out the purposes of this Act.

(2) The President may also appoint such other bodies or authorities as he may deem necessary to provide for appeals under this Act and for receiving and examining claims for compensation and determining the compensation in accordance with the basis prescribed by the Commission appointed under section 7 (6).

(3) Such Land Committees, Bodies or authorities may be deemed to be Civil Courts within the meaning of section 480 and section 482 of the Code of Criminal Procedure and the President may invest such Land Committee, Bodies or authorities with all or any of the following powers of Civil Courts:-

(a) discovery and inspection,

(b) enforcing attendance of witnesses,

(c) compelling the production of documents,

(d) examining the witness on oath,

(e) such other powers as the President may deem necessary.

(4) Any person or authority, or a member of a Land Committee or other Body, appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.

15. Whoever obstructs:

- (a) any person in carrying out the orders made under this Act or the rules by the President or any Committee body or authority appointed under section 14, or
- (b) any Committee, Body, or authority appointed by the President in the discharge of its or his duties under this Act,

shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one thousand rupees or with both.

16. Whoever contravenes any order or direction issued by any Committee, Body or authority under this Act, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five hundred rupees or with both.

17. If five or more persons organize themselves with the common intention of committing an offence under section 15 or section 16 and if any one of them, in furtherance of their common intention, commits an offence under section 15 or section 16, each of such persons shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.

18. (1) The President may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may:

- (i) prescribe the manner in which the agricultural lands are to be resumed under section 3 of under the proviso to section 5 of under section 6 (2);
- (ii) prescribe the manner in which the agricultural lands to be exempted under section 4 are to be determined;
- (ii) prescribe the conditions referred to in section 6 (1) (b);
- (iv) prescribe the procedure to be followed in rendering relief referred to in section 8;
- (v) prescribe the procedure to be followed in distributing agricultural lands under section 9 (3);
- (vi) provide for election, if any, referred to in section 14 (1);
- (vii) provide for the circumstances in which, and the authorities to which, appeals shall lie in respect of any matter specified in section 3, section 4 or section 9 (3), or any matter connected with any election referred to in section 14 (1);

(viii) provide for the manner and the form in which and the authority to whom claims for compensation under section 7 shall be made; and the manner in which such claims shall be examined.

19. No suit, prosecution or other legal proceedings shall lie against any person or authority for anything in good faith done or intended to be done in pursuance of this Act.

20. Except where there is a dispute as to the title to the agricultural land or as to the apportionment of compensation no Civil Court shall have jurisdiction in any matter under this Act.

SCHEDULE I

1. Agricultural land, classified as Rice or Sugar Cane land in the records of the Land Records Department in the year 1947-48 or where no such record is maintained, ordinarily utilized for cultivation of paddy or sugar cane and in continuous possession of an agriculturist family from 4th January 1948 up to the extent of fifty acres.

2. Agricultural land, classified as Ya land in the in the records of the Land Records Department in the year 1947-48 or where no such record is maintained, ordinarily utilized for cultivation of Ya crops and in continuous possession of an agriculturist family from 4th January 1948 up to the extent of fifty acres.

3. Agricultural land, classified as Kaing land in the in the records of the Land Records Department in the year 1947-48 or where no such record is maintained, ordinarily utilized for cultivation of Kaing crops and in continuous possession of an agriculturist family from 4th January 1948 up to the extent of ten acres.

4. Agricultural land, classified as Dhani land in the in the records of the Land Records Department in the year 1947-48 or where no such record is maintained, ordinarily utilized for cultivation of Dhani to the extent of the whole.

5. Agricultural land, classified as Orchard or Garden lands in the in the records of the Land Records Department in the year 1947-48 or where no such record is maintained, ordinarily utilized for the cultivation of garden crops to the extent of the whole.

6. All agricultural lands classified in the records of the Land Records Department as being cultivated with Rubber in the year 1947-48 or where no such record is maintained, ordinarily utilized for the cultivation of Rubber to the extent of the whole.

7. All agricultural lands belonging to a religious institution or a member of the religious order to the extent of the whole:

(a) if they are either:

- (i) classified as wuttagan lands in the settlement records; or
- (ii) transferred to such institution or member by a registered deed of gift; and
- (iii) if the income derived from such lands is utilized exclusively for religious purposes.

SCHEDULE II

<i>Description of Land</i>	<i>Extent of Compensation</i>
1. Agricultural land defined as State land under the Upper Burma Land and Revenue Regulation, 1889, and situated in areas where the aforesaid Regulation is applicable.	(1) Compensation equal to the land revenue assessable in the year 1947-48 or when the agricultural land has been left fallow in 1947-48 the land revenue assessable when last under cultivation; and (2) Compensation for constructional improvements.
2. Agricultural land not defined as State land under the Upper Burma Land and Revenue Regulation, 1889, and situated in areas where the aforesaid Regulation is applicable.	(1) Compensation not exceeding twelve times the land revenue assessable on the land in the year 1947-48 or where the agricultural land has been left fallow in 1947-48 the land revenue assessable when last under cultivation; and (2) Compensation for constructional improvements.
3. Agricultural land over which rights have been created under sections 7 and 18 of the Land and Revenue Act (India Act II, 1876) and situated in areas where the aforesaid Act is applicable.	(1) Compensation not exceeding twelve times the land revenue assessable on the land in the year 1947-48 or where the agricultural land has been left fallow in 1947-48 the land revenue assessable when last under cultivation; and (2) Compensation for constructional improvements.
4. Agricultural land other than land over which rights under sections 7 and 18 of the Land and Revenue Act (India Act II, 1876) have been created and situated in areas where the aforesaid Act is applicable.	(1) Compensation equal to the land revenue assessable on the land in the year 1947-48 or where the agricultural land has been left fallow in 1947-48 the land revenue assessable when last under cultivation; and (2) Compensation for constructional improvements.