

THE LOWER BURMA TOWN AND VILLAGE LANDS ACT (1899)

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THE SCHEDULE

SCHEDULED TOWNS

THE LOWER BURMA TOWN AND VILLAGE LANDS ACT

Burma Act IV, 1898
9 September 1899

CHAPTER I PRELIMINARY

1. This Act extends to Lower Burma and the Thayetmyo District of Upper Burma.
2. The provisions of this Act shall apply only to land in towns and villages.
3. (1) Nothing in Chapter II shall apply to the following lands, namely:-
 - (a) the soil of any river, canal, tank, drain, embankment, public road or natural water-course;
 - (b) land included in any cantonment;
 - (c) land occupied on the 9th September, 1899, for the purposes of any monastery, pagoda or other sacred building, and continuing to be used for the purposes of such monastery, pagoda or building;
 - (d) land included in any fisheries as defined in the Fisheries Act.
- (2) When the boundaries of any land exempt under this section from the operation of Chapter II need definition, and no other mode of defining them is provided by law, they shall be defined by the Revenue Officer.
- (3) If before they are defined any question arises as to whether any land is included within them, such question shall be decided by the Revenue Officer.
- (4) Nothing in Chapter IV shall apply to land included in any cantonment.

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

- (1) "State land" means all land of which no absolute and revenue free grant has been made, recognised or continued by or on behalf of the [...] Government;
- (2) "land at the disposal of Government" means:
 - (a) land in respect of which no person has acquired a land-holder's right;
 - (b) land in respect of which no person holds any right created by grant or lease made by or on behalf of the [...] Government;

(3) “town” means an area declared by the President of the Union by notification to be a town for the purposes of this Act, or constituted a municipality or town for the purposes of the Municipal Act or of the Towns Act;

(4) “scheduled town” means a town specified in the Schedule;

(5) “village” means an area appropriated to dwelling places not included in the limits of a town;

(6) “Revenue Officer” means any person whom the President of the Union may appoint by name or as holding an office to do anything to be done by a Revenue Officer under this Act, or under any rule made thereunder;

(7) “licence” means a licence in writing to use and occupy State land granted by a Revenue Officer authorized to grant the same;

(8) “possession” means the occupation of land by any person or by his servant, agent, guardian, trustee, mortgagee, tenant or licensee;

(9) “continuous possession” includes occupation of land by another person through whom or in whose right the present occupier has immediately succeeded in occupation, or by the servant, agent, guardian, trustee, mortgagee, tenant or licensee of any such person; and

(10) “landholder’s right” means a permanent heritable and transferable right of use and occupancy in land in the landholder’s possession subject only:

(a) to the payment of all such revenue, taxes, cesses, rates and other impositions as may from time to time be imposed on such land under any law for the time being in force;

(b) to the reservation in favour of Government of all mines and mineral products and of all buried treasure, with all the powers conferred by Chapter VIA.

5. When the boundaries of any town or village need definition for the purposes of this Act, the President of the Union may by notification define the same.

CHAPTER II OF RIGHTS IN LAND

6. Subject to the provisions of section 3, this Chapter shall apply to all lands in all towns and villages.

7. No right of any description as against the Government shall be deemed to have been, or shall hereafter be, acquired by any person over any land in any town or village except the following, namely:-

- (a) rights created by grant or lease made by or on behalf of the Government;
- (b) rights acquired as against the [...] Government under the Limitation Act;
- (c) rights originating and acquired in any of the modes specified in the next following section, or in section 9 or section 10;
- (c) rights legally derived from any right mentioned in clauses (a), (b) and (c) of this section.

8. Except in land in any scheduled town, and in land which the President of the Union may, by notification, specially exempt from the operation of this section, a landholder's right shall be acquired by every person who, otherwise than under a grant or lease made by the [...] Government:

- (a) has had continuous possession of land for twelve years immediately preceding the 9th September, 1899;
- (b) having had continuous possession of any land for less than twelve years immediately preceding the 9th September, 1899, shall have continuous possession thereof for twelve years computed from the date of original entry into possession;
- (c) shall, after the 9th September, 1899, have continuous possession under a licence of any land at the disposal of Government, and pay all land-revenue and other public demands (if any) in respect thereof for twelve years.

9. In the towns of Akyab, Bassein and Prome every person who from the following dates, namely:

- (a) in the case of Akyab, the first day of April, 1852;
- (b) in the case of Bassein, the Hrst day of January, 1876;
- (c) in the case of Prome, the first day of January, 1870; has been in continuous possession of any land otherwise than under a grant or lease of the same from the [...] Government up to the 9th September, 1899, 1 shall be deemed to have acquired a landholder's right in respect of such land.

10. (1) The extension of the limits of any town or village shall not affect the rights which a person in possession of land included within the extended limits may have acquired prior to such extension under any law for the time being in force.

(2) If, under the law applicable to any such land before such extension, the person in possession of the land at the time when the extension was made could by continuous possession for a period of twelve years have acquired, a right thereto equivalent to a

landholder's right under this Act, any such, person or his successor in continuous possession shall, after such period of twelve years' continuous possession computed from the date of original entry into possession, be deemed to have acquired a landholder's right under this Act in respect of such land.

CHAPTER III

GENERAL PROVISIONS IN REGARD TO A LANDHOLDER'S RIGHT

11. A landholder's right in respect of any land shall cease if the landholder abandons of the land for two years continuously:

12. Any person who is in possession of any land, and asserts that he has acquired a landholder's right in respect of the same, may apply to the Revenue Officer declaration of the fact got his having acquired such right.

13. On receipt of any such application. the Revenue Officer given in such manner and for such period as the President of the Union may by rule prescribe, and, if after inquiry he is satisfied has acquired such right, he shall record a declaration to that effect in the said roll and shall furnish the applicant, if he requires it, with a certified copy of such declaration.

14. (1) If, within five years from the date on which a declaration has been recorded under the last foregoing section, the Revenue Officer is satisfied that it is erroneous, he may cancel it:

Provided that no declaration shall be cancelled until notice of the Revenue Officer's proposal to cancel it has been published in such manner and for such period as the President of the Union may by rule prescribe, and until all persons claiming an interest in the land shall have had an opportunity of showing cause against the proposal.

(2) While any such declaration remains on the roll uncanceled, no fresh declaration inconsistent therewith shall be recorded in the roll.

15. (1) Whenever a question arises in any proceeding before a civil Court as to whether any person has acquired a landholder's right in respect of any land, and it appears that a declaration of the fact of such acquisition has been made and recorded by the Revenue Officer not less than five years before the commencement of such proceeding and is still uncanceled, the Court shall decide in accordance with such declaration.

(2) Whenever any such question arises in any such proceeding and it appears that no such declaration has been so made, or that, if made, it was made less than five years before the commencement of such proceeding, or that it has been cancelled, and whenever any question arises as to whether a landholder's right, having been acquired, has been subsequently lost, the Court shall refer such question to the Revenue Officer, and shall give judgment in accordance with his decision thereon:

Provided that, where an appeal from the decision of the Revenue Officer on any question so referred lies to a Revenue Officer of a higher grade, the Court shall, on such conditions as to the furnishing of security or otherwise as it thinks fit, defer its judgment so as to allow time for preferring an appeal, and; in the event of a decision being given in appeal different from that given by the Revenue Officer to whom the question was originally referred, shall give judgment in accordance with the 'decision given in appeal'.

CHAPTER IV DISPOSAL OF LAND

16. Land at the disposal of Government may be disposed of:

- (a) by grant or lease, conferring such interests therein and on such conditions as the President of the Union may by rule prescribe;
- (b) by licence of the Revenue Officer.

17. (1) The President of the Union may make rules for the disposal of land at the disposal of Government;

(2) Such rules may provide amongst other matters, for the following:-

- (a) the amount or kind of interest to be created in such land by grants or leases and the conditions (if any) subject to which such interest may be conferred;
- (b) the model in which, and the Revenue Officers by whom such grants or leases may be given;
- (c) the Revenue Officers by whom, the manner in which, and the conditions subject to which licences to use and occupy land may be given;
- (d) the rates of revenue to be levied or rent to be reserved in respect of land, disposed of by grant or lease or occupied under licence, as the case may be; and
- (e) the cases in which such land may be disposed of revenue-free.

CHAPTER V EVICTION FROM AND UNAUTHORIZED POSSESSION AND USE OF STATE LAND

18. (1) Every person who:

- (a) at the commencement of this Act is in possession of State land in respect whereof he has not then acquired a landholder's rights;

(b) after the commencement of this Act enters into possession of such land under a licence from the Revenue Officer, shall, until he acquires a landholder's right in respect of such land, be liable to be evicted therefrom after three months' notice from the Revenue Officer to quit the same:

Provided that every person so evicted. shall be entitled to receive from Government such compensation as the Revenue Officer may determine for the expense of removing and re-erecting elsewhere the buildings (if any) on the land, and for any loss or injury to any crop, garden produce and productive trees planted or grown by him or by previous occupants of the land;

(2) Nothing in this section shall apply to any person holding State land under a grant or lease made by or on behalf of the [...] Government;

19. Any person who after the 9th September, 1899,

(a) enters into possession of any land at the disposal of Government except under a grant or lease from the Government, or under a licence from the Revenue Officer, or

(b) remains in possession of such land after any such grant, lease or licence has been cancelled, or has expired, or has otherwise become void and possession has been demanded on behalf of Government,

shall be liable:

(i) to be summarily evicted therefrom;

(ii) to pay five times the amount of revenue or rent assessable or payable in respect of the land during the period of his unauthorized occupation; and

(iii) to pay such fine as the Revenue Officer may determine as a further penalty for such unauthorized occupation or possession.

20. When the Revenue Officer is satisfied that any State land of which a grant or lease has been made, or in respect of which a licence has been given, limited to any specific purpose, has been, or is being used without the permission of the Revenue Officer for' any other purpose, the person in possession of the land shall be liable:

(1) to pay such revenue or rent, or enhanced rate of revenue or rent, in respect of the land as the Revenue Officer shall determine from the time when the land was first used for such other purpose;

(2) to pay such line as the Revenue Officer may determine as a further penalty for the unauthorized use of the land;

(3) to have the grant, lease or licence of or for the land cancelled by the Revenue Officer and to be evicted therefrom:

Provided that no final order under this section shall be made until the person in possession of the land has had an opportunity of showing cause against the imposition of any penalty, and that no order shall be enforced until it has been confirmed by the Commissioner of the division.

21. (1) When any person is liable under this Act to be evicted from State land, the Revenue Officer may issue an order requiring him and any other person (if any) occupying the land to quit the same, and to remove there from all property other than Government property within a specified time.

A copy of such order shall be posted up in some conspicuous position on the land or upon a building thereon.

(2) If after the time specified in the order any person remains upon or in occupation of the land, the Revenue Officer may, by warrant under his hand, cause such person to be arrested and may commit him to imprisonment in the civil jail for such period, not exceeding thirty days, as the Revenue Officer may consider necessary for the purpose of preventing resistance or obstruction to his order.

(3) If any property other than Government property remains on the land after the time specified in the order, the Revenue Officer may cause the same to be removed and sold for the purpose of defraying the cost of its removal, custody and sale; and thereupon the surplus proceeds of the sale (if any) shall be paid to the owner of the property.

(4) Nothing shall be deemed to be Government property within the meaning of this section merely by reason of its having been put into or affixed to the soil.

CHAPTER VI ASSESSMENT OF LAND REVENUE

22. All State land shall be liable to be assessed to land-revenue, except:

(a) land which on the [9th September, 1899] belongs to the site of any monastery, pagoda or other sacred building, and which continues to be used for the purpose of such monastery, pagoda or sacred building,

(b) land exempt from assessment under the express terms of any grant or lease made or to be made by or on behalf of the [...] Government, so long as the conditions (if any) subject to which the grant or lease has been or shall be made are fulfilled;

(c) plots of land in villages not exceeding one-fourth of an acre each in extent and occupied by or appertaining to buildings;

(d) plots of land in towns not exceeding one-fourth of an acre each in extent and occupied by or appertaining to buildings which are assessed to one of the taxes specified in section 62,2 sub section (1), division (A), clause (a), clause (b), clause (c) or clause (d) of the Municipal Act, or on which a house cess is levied under section 6 of the District Cesses Act.

23. The Revenue Officer shall assess and levy land-revenue upon all lands liable to payment thereof according to such rates and in such manner as the Financial Commissioner with the previous sanction of the President of the Union, may prescribe.

CHAPTER VIA
REGULATION OF THE EXTRACTION OF MINERALS
AND LEVY OF ROYALTIES THEREON

23A. (1) In the case of any land wherein the right to minerals is reserved to or otherwise belongs to Government, the Government shall have all powers necessary for the proper enjoyment of its right thereto, and may dispose of any such right and powers to any persons in such manner as to it may seem fit.

(2) Whenever the rights of any owner or occupier of any land are infringed by the occupation or disturbance of the surface of the said land, either by the Government in the exercise of the rights and powers referred to in sub-section (1), or by any person to whom the Government may have disposed of such rights and powers in regard to the said land, the Government shall pay or cause to be paid, to such owner or occupier compensation for the infringement.

The compensation shall be determined, as nearly as may be, in accordance with the provisions of the Land Acquisition Act.

(3) The President of the Union may, from time to time, make rules:

(a) for regulating or prohibiting the mining, quarrying or digging for or the excavating or collecting of minerals on land wherein the right to minerals is reserved to or otherwise belongs to Government;

(b) for the disposal by way of lease, licence or otherwise of such right of the Government, and fixing the conditions subject to which it and the mode in which such dispositions may be made;

(c) for the levy and collection of royalties and fees in respect of minerals mined, quarried, excavated or collected on any such land; and

(d) for prohibiting or regulating and controlling the possession, purchase, sale, transport and export of minerals, for the issue of licences in furtherance of such regulation and control, and for the levy and collection of fees in respect of such licences.

CHAPTER VII
RECOVERY OF SUMS DUE TO GOVERNMENT

24. All sums of money now due and payable, or which shall hereafter become due and payable, to Government in respect of any land, whether for land-revenue, rent or otherwise, and all fines imposed by a Revenue Officer under this Act, shall be recoverable as if they were arrears of land-revenue under the Land and Revenue Act.

25. Every sum due to Government in respect of any land shall be a charge upon the land and shall have priority over every other charge thereon created by mortgage, decree, attachment or otherwise.

26. Any sum due to Government in respect of any land shall be due jointly and severally from, and shall be payable by, all persons in possession of the land at the time the sum is demanded and all persons in possession of the land during the period for which the sum is payable.

CHAPTER VIII
RECORD OF POSSESSION

27. This Chapter shall apply only to scheduled towns and to such other towns as the President of the Union may, by notification, direct:

28. There shall be kept by the Revenue Officer, for every town to which this Chapter applies, a roll of town lands, in which shall be entered the names of the persons for the time being in possession of all lands within the town, together with such particulars as the President of the Union may, by rule, prescribe.

29. Whenever any document affecting the title or right to possession of any land in any such town as aforesaid shall be registered under the Registration Act, the officer registering the same shall send to the Revenue Officer a true copy of the entries in the indexes, kept under the said Act, relating to such document.

30. Whenever the title or right to possession of any land in any such town as aforesaid shall be transferred otherwise than by a registered document, the transferor and transferee shall give notice to the Revenue Officer of the change in possession within thirty days from the date on which the transferee enters into possession.

31. Whenever any person acquires possession of land in any such town as aforesaid otherwise than by transfer or assignment from the person previously in possession of such land, he shall, within thirty days from the date on which he enters into possession, give notice to the Revenue Officer of the change in possession and of the right under which he claims possession.

32. The Revenue Officer may, in any case before altering the roll of town lands, make a summary inquiry into the circumstances of any alleged transfer, devolution of title, or acquisition of possession of any land, and may refuse to enter the name of any person on the roll as being in possession of any land until he shall have been declared by the decree of a competent civil Court to be entitled to possession thereof.

33. Whoever, being bound by section 30 or section 31 to give notice to the Revenue Officer of a change in possession, shall fail to give such notice within the time prescribed therefore, shall be liable to such fine, not exceeding one hundred rupees, as the Revenue Officer may impose.

34. The Revenue Officer may- at any time hold a summary inquiry in Order to ascertain who is in fact in possession of any land, and may enter in the roll of town lands the name of the person whom he finds to be in possession.

35. An entry in the roll of town lands of the name of any person as being in possession of any land shall be presumptive evidence that such person was, or is, in possession of the land, as the case may be.

36. (1) The person whose name is for the time being entered in the roll of town lands as being in possession of any land shall be liable to pay all revenue, taxes, rent and other Government demands in respect of such land, whether he is in fact in possession of such land or not;

(2) Nothing in this section, shall be taken to exempt from liability any other person who under this Act or under any other enactment for the time being in force may be liable to pay any such revenue, taxes, rent or other demand.

37. Nothing in this Chapter shall apply to land held from the Government on a lease from month to month or under a tenancy determinable at will.

CHAPTER IX MISCELLANEOUS

38. (1) A Revenue Officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue Officer. Such summons shall be issued and served in accordance with the provisions of the Code of Civil Procedure regarding the service of summonses.

(2) Every person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or legal practitioner.

(3) In addition to the powers conferred by this section, the President of the Union may invest any Revenue Officer with any power exercised by a civil Court in the trial of suits for the purpose of all or any particular classes of cases coming before such Revenue Officer.

38A. Every person attending in obedience to a summons issued by a Revenue Officer, and every applicant or other person appearing before a Revenue Officer, shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue Officer may require.

39. An appeal shall lie from the orders and decisions of Revenue Officers in respect of matters dealt with under this Act in such cases, to such officers and subject to such limitations as to time and such other conditions, as the President of the Union may, by rule, determine.

40. Notwithstanding that no appeal may lie to him, the Financial Commissioner may call for and revise the proceedings of any Revenue Officer in any case dealt with under this Act, and may pass such orders hereon, consistent with the provisions of this Act, as he may think fit.

141. No civil Court shall have jurisdiction to determine any matter which under this Act, is to be determined by the Revenue Officer.

42. The Financial Commissioner may, subject to the control of the President of the Union, make rules prescribing the forms of all rolls, registers notices and other documents to be used under this Act.

43. In addition to the rules concerning matters in respect of which the President of the Union is by section 17 expressly empowered to make rules the President of the Union may make rules to prescribe:

(a) the manner in which, and the period for which, notice of receipt of an application under section 12 shall be given by the Revenue Officer under section 13;

(b) the manner in which, and the period for which, notice of the Revenue Officer's proposal to cancel a declaration under section 14 shall be published;

(c) the particulars to be entered in the roll of town lands to be kept under section 28;

(d) the cases in which, the officers to whom, and the limitations and conditions subject to which, appeals shall lie from orders and decisions of Revenue Officers;

(e) the person or persons by whom, and the manner in which, anything required by this Act to be done and not therein specially provided for shall be done ; and

(i) generally, to carry out the provisions and objects of this Act.

43A. The President of the Union may, in making any rule under this Act, attach to the breach of it, in addition to any other consequences that may ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment, or two hundred rupees fine or both.

44. The power to make rules conferred on the President of the Union by section 17, section 28, and section 43, clauses (c), (d), (e) and (f). shall be subject to the condition on the rules being made after previous publication and the rules so made shall not take effect until after they have been published in the Gazette.

45. No civil suit shall lie against any Revenue Officer in respect of anything done or purporting to have been done by him in good faith under the provisions of this Act.