

THE PUBLIC PROPERTY PROTECTION ACT (1947)

Burma Act LXXXIII, 1947

24 December 1947

It is hereby enacted as follows:

1. This Act shall remain in force until such date as the President of the Union may by notification declare it to be no longer in force.

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

(i) "Public property" means any store or equipment or any other property whatsoever belonging to, or consigned to, or intended for the use of the army, naval or air forces serving in the Union of Burma or belonging to, or consigned to, or intended for the use of, the Government of the Union of Burma or any local authority constituted under any; and

(ii) "prejudicial act" means the following acts:

(a) any act directly or indirectly connected with, or relating to, any unlawful activity having for its object the smuggling of any property in and out of the Union of Burma in contravention of import and export orders and rules duly made by the Government under the Control of Imports and Exports (Temporary) Act, 1947; or

(b) any act which directly or indirectly abets or incites or facilitates the commission of any offence in respect of any Public property or the contravention of any rule or order made under this Act, the Control of Imports and Exports (Temporary) Act, 1947, the Public Utilities Protection Act, 1947, the [Foreign Exchange Regulation Act, 1947] the Essential Supplies and Services Act, 1947; or

(c) out of willful negligence, mismanagement or default on the part of a person who has, or has had, the custody, charge or control of any Public property, resulting directly or indirectly in loss, deterioration or destruction of any such Public property;

(d) and dealing by any person directly or indirectly in any Public property which gives rise to a suspicion that the person concerned has obtained such Public property either by commission of theft, misappropriation, mischief, breach of trust or by any wrongful means.

3. If any person finds any Public property which he has cause to believe to have been lost or abandoned and that, prior to the loss or abandonment, was in the possession of a person who was serving with an armed force or under the Government, the person so finding such property:

(a) shall report the nature and situation thereof, or if such property is a document, cause it to be delivered to some member of the army, naval or air forces serving in the Union of Burma, on duty in the neighborhood, or to the Officer-in-Charge of a police station in the neighborhood; or if such property is found outside the Union of Burma, shall take such steps as are practicable to secure that the nature and situation thereof are reported, or, if

such property is a document, that it is delivered as soon as may be, to some person in the service of the Government; and

(b) shall not, save as aforesaid, remove or tamper with such property, except with the permission of the President of the Union.

4. The President of the Union may by order direct that the obligation and restriction imposed by section 3 shall not apply to any Public property of such description as may be specified therein or as may be specified by such authority as the President of the Union may appoint in this behalf.

5. If any person contravenes any of the provisions of section 3, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

6. (1) Notwithstanding anything contained in any other law for the time being in force, if any person is in authorized possession of any Public property, or commits theft, misappropriation or mischief in respect of any Public property, he shall be punishable with imprisonment for a term which may extend to seven years, or with whipping, or with both imprisonment in whipping, and shall also be liable to fine.

(2) In any prosecution under sub-section (1) the burden of proving that the possession is authorized shall lie on the person in whose possession any such Public property is found.

7. (1) Any police officer not below the rank of a sub-inspector or any other officer of Government empowered in this behalf by general or special order by the President of the Union may, with the prior approval of such authority as may be prescribed by the President of the Union, arrest without warrant any person whom he suspects of having committed or of committing any of the offences mentioned in sub-section (1) of section 6 in respect of any Public property.

(2) Any officer authorized in this behalf by general or special order by the President of the Union may arrest without warrant any person whom he suspects of having committed or of committing any prejudicial act;

(2A) Any officer authorized in this behalf by general or special order by the President of the Union, may, if he is satisfied with respect to any particular person that circumstances exist which render it necessary to arrest him with a view to preventing him from committing any offence mentioned in section 6 (1) or an offence of criminal breach of trust in respect of any Public property, or any prejudicial act, do so without warrant;

(3) Any officer who makes an arrest in pursuance of sub-section (1) or sub-section (2) [or sub-section (2A) or who makes an arrest for an offence of criminal breach of trust in respect of any Public property] 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 six months.

(4) If any person arrested under sub-section (1) or sub-section (2) is prepared to furnish security, the officer who has arrested him may, subject to such general or special instructions as may from time to time be issued by the President of the Union or any person authorized by the President of the Union in this behalf, release him on his executing a bond, with or without sureties, undertaking that he will conform to such conditions or directions as the President of the Union may from time to time make.

(5) On receipt of any report made under sub-section (3), the President of the Union may, by order, direct, subject to the second proviso to sub-section (3), that a person arrested under this section be detained for such period as he may deem necessary for the purpose of making an investigation.

(6) When security has been taken in pursuance of the provisions of sub-section (4), the bond shall be deemed to be a bond taken under the Code of Criminal Procedure 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 Code of Criminal Procedure shall apply accordingly.

(7) The order of detention under sub-section (5) shall not be deemed to authorize the continued detention of the person in respect of whom it had been made after he is sent up for trial before any competent Court; but the Court before which the trial or enquiry is held, shall not release the accused on bail unless it is established that the accused, if released on bail, is not likely to suborn any witness cause of the disappearance of any evidence or secret or destroy any document which may be used as evidence against him.

8. (1) Notwithstanding anything contained in any other law for the time being in force, where any person is arrested or detained under section 7, the Inspector-General of Police, on the Commissioner of Police, Rangoon or any other office of the Government empowered by the President of the Union in this behalf may, if he thinks fit so to do:

(a) inspect or cause, in writing, to be inspected, by an officer not below the rank of District Superintendent of Police whose name is specified therein, any book belonging to, or under the control of, a bank; or

(b) direct the manager or agent of the bank to supply a certified copy of any entry in the book of the bank or give any information in the possession of the bank, relating to the account of such person or to any other person dependent on him, or relating to any property kept in the safe custody of the bank in the name of such person or of any other person dependent on him; or

(c) prohibit the manager or agent of the bank from making any payment from the amount standing to the credit of such person or of any other person dependent on him or from

delivering any property kept in the safe custody of the bank in the name of such Person or any other person dependent on him without an order in writing of the officer making the prohibition.

(2) The expressions “bank” and “certified copy” shall have the same meanings as are assigned to them under the Bankers’ Books Evidence Act.

(3) If the manager or agent of a bank, as the case may be, fails or refuses to allow inspection of any book belonging to, or under the control of, the bank, or to comply with any direction or prohibition issued under sub section (1), he shall be liable to punishment with imprisonment of a term which may extend to three years, or with fine, or with both.

9. Any person who attempts to contravene, or abets, or attempts to abet, or does any act preparatory to, a contravention of any of the provisions of this Act, shall be deemed to have contravened that provision.

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 Government for any damage caused or likely to be caused by anything done or intended to be done in pursuance of this Act.

11. The State Property Protection Act, 1947, Burma Act No. XLIII of 1947, is hereby repealed; but notwithstanding such repeal anything purported to be done or any action purported to be taken in exercise of any power conferred by or under the said Act shall be deemed to have been done or taken in exercise of the powers under this Act.