

**GOVERNMENT OF BURMA.**

**AGRICULTURE AND RURAL ECONOMY DEPARTMENT.**

**THE LANDS DISPUTES (SUMMARY JURISDICTION) ACT, 1945.**

**[BURMA ACT NO. XXII OF 1945.]**

**Simla, the 11th October 1945.**

**[ Amendment: 01.05.1946, 12.07.1946 ]**

The following Act is published for general information:-

WHEREAS it is necessary to provide for the summary disposal of disputes relating to land;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935 (26 Geo. 5, c.3.) in the Legislature or in either Chamber thereof;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted by the Governor of Burma as follows:-

**CHAPTER I.**

**PRELIMINARY.**

1. Short title, commencement and operation.- (1) This Act may be called the Lands Disputes (Summary Jurisdiction) Act, 1945.
  - (2) It shall come into force on such date as the Governor may, by notification, appoint and different dates may be appointed for different parts of British Burma.
  - (3) It shall remain in force for a period of five years unless it is sooner declared, by notification of the Governor, to be no longer in force.
  - (4) The Governor may, by notification, suspend the operation of this Act in any specified part of British Burma to which it has been applied, and may, by a subsequent notification, bring it again into operation in that part.
2. Definitions. - In this Act,-
  - (1) "agricultural land" means land which is occupied or is ordinarily utilized for agricultural purposes or for purposes subservient to agriculture and includes the sites of buildings and other structures on such land;
  - (2) "agriculturist" means a person who is engaged or has habitually been engaged in the cultivation of land with his own hands as his principal means of subsistence;
  - (3) "Commissioner" means a Land Commissioner appointed under section 3 of this Act;
  - (4) "land" includes buildings, markets, fisheries, crops or other produce of land, and things attached to the earth or permanently fastened to anything attached to the earth ; and
  - (5) "prescribed" means prescribed by rules made under this Act.

3. Appointment of Land Commissioners.- (1) The Governor may, by notification, appoint any person to be a Land Commissioner under this Act.

(2) Every person so appointed shall be a public servant within the meaning of the Penal Code, and shall exercise and perform, within such local limits as may be prescribed by the notification appointing him, the powers conferred and the duties imposed on the Commissioner by this Act or the rules made hereunder:

Provided that the Governor may, in respect of any local area, direct that such powers and duties shall be exercised and performed by two or more Commissioners acting jointly as a Board.

## **CHAPTER II.**

### **PROCEEDINGS OF LAND COMMISSIONER.**

4. Power to enter on land.- On the publication of the notification appointing him, the Commissioner may enter upon any land within the local limits of his jurisdiction, and make all enquiries and do all other things necessary for determining the right to possession and demarcating the boundaries of the said land in accordance with the provisions of this act.

5. Publication of general notice calling for applications from persons dispossessed of land.- (1) As soon as conveniently may be after the publication of the notification appointing him, the Commissioner shall cause to be published throughout the local limits of his jurisdiction a general notice addressed to all persons who have, after such date as may be prescribed under this sub-section and prior to the date prescribed under sub-section (2), either relinquished possession or been dispossessed, otherwise than in due course of law, of any land falling within the local limits of his jurisdiction, calling upon such persons to appear before him, either personally or by duly authorized agent, and state, either orally or in writing, the description, area, situation, boundaries and such other particulars as may be necessary of the land of which they have relinquished possession or been dispossessed, the nature of their claims to the land, the date of relinquishment or dispossession, the circumstances under which they relinquished possession or were dispossessed and the name, address and occupation of the person presently in possession (hereinafter called "the respondent").

(2) When any person who alleges that he so relinquished possession or was dispossessed during the prescribed period (hereinafter called "the applicant") appears before the Commissioner he or his duly authorized agent shall, whether the application is made orally or in writing, be examined on oath or affirmation by the Commissioner touching all matters relevant to the question as to who was in possession of the land during the period immediately preceding such date as may be prescribed.

6. Power to fix a time and place for hearing.- (1) The Commissioner, after examining the applicant, shall either dismiss the application if it is unfounded or fix a time and place for the hearing of the application, and the applicant shall be directed to appear, either personally or by duly authorized agent, before the Commissioner with his witnesses (if any) at the said time and place.

(2) If the applicant or his agent fails to appear at the said time and place, and there is no sufficient cause for his non-appearance, the Commissioner may dismiss the application.

7. Notice to respondent.- (1) When the Commissioner does not dismiss the application, he shall cause a special notice to be served on the respondent and on any other person who appears from the statement of the applicant to be interested in the matter, requiring him or them to attend, either personally or by duly authorized agent or agents, together with his or their witnesses (if any), at the time and place fixed for hearing the application, for the purpose of determining the right to possession of the said land and (if necessary) the boundaries thereof.
- (2) If the respondent or any such person, after having been served with notice, does not attend at such time and place, the application may be heard and determined in his absence.
8. Procedure at the enquiry.- (1) On the date fixed, or on any subsequent date to which the matter may be adjourned, the Commissioner shall, without reference to the claim of any of such parties to a right to present possession of the land, peruse the statements, if any, put in, examine the parties, receive all such evidence as may be produced by them respectively, and consider the effect of such evidence, take such further evidence, if any, as he thinks necessary or expedient, and shall in a summary manner decide whether any and which of the parties was last in lawful possession of the land during the period immediately preceding the date prescribed under sub-section (2) of section 5, and if the boundaries of the land are also in dispute, determine the boundaries thereof in a similar manner.
- (2) If the applicant fails to satisfy the Commissioner that he was in lawful possession of the land during the said period the application shall be dismissed.
- (3) If the applicant satisfies the Commissioner that he was last in lawful possession of the land during the said period, the Commissioner shall pass an order directing the eviction of the person in possession thereof and restoring the land to the applicant.
9. Eviction of person in wrongful possession.- The eviction under section 8 shall be made in the following manner, namely:-
- By serving a notice on the person in occupation or his agent requiring him within such time as the Commissioner may deem reasonable after receipt of the said notice to vacate the land, and, if such notice is not obeyed, by removing or deputing an officer to remove any person who may refuse to vacate the same, and if the officer removing any such person shall be resisted or obstructed by any person, the Commissioner, if satisfied that the resistance or obstruction was without any just or reasonable cause and that such resistance or obstruction continues, may issue a warrant for the arrest of such person and on his appearance commit him to custody for such period not exceeding thirty days as may be necessary to prevent the continuance of such resistance or obstruction:
- Provided that no person so committed under this section shall be liable to be prosecuted under section 183, 186 or 188 of the Penal Code in respect of the same facts; but nothing herein contained shall affect the provisions of section 18 of this Act.
- <Amendment 01.05.1946>
10. Costs of enquiry.- The costs of any enquiry or proceeding held before the Commissioner under this Act shall ordinarily be payable by the parties concerned and the Commissioner may pass such orders as he thinks fit for the payment of such costs, and in the event of such costs not being paid on demand, may recover the amount thereof in the same manner as if it were an arrear of land-revenue, and pay the sum so recovered to the person entitled to receive it.

11. Demarcation of boundaries.- (1) If the boundaries of the land are also in dispute, the Commissioner, after determining the boundaries thereof, shall cause the boundaries to be marked out, and may either himself order the erection of such boundary marks as he may deem necessary or cause them to be erected at the expense of the person in possession of the land or of the person who is restored to possession thereof.
- (2) Subject to the provisions of sub-section (1), all expenses incurred by the Commissioner in erecting boundary marks for any land may be apportioned among the parties in such proportion as the Commissioner may think fit.
- (3) The provisions of sections 24, 25, 26 and 31 of the Boundaries Act shall be applicable to all boundary marks erected under this Act, as if the Commissioner were a Boundary Officer appointed under the former Act.
12. Power to summon and enforce attendance of witnesses and to compel production of documents.- For the purpose of any enquiry under this Act, the 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 provided in the case of a civil Court by the Code of Civil Procedure.

### **CHAPTER III.**

#### **SPECIAL PROVISIONS RELATING TO AGRICULTURAL LAND.**

13. Application of Act to agricultural land.- (1) Notwithstanding anything contained in this Act or in any other law for the time being in force, during such period as may be prescribed an agriculturist, who undertakes to pay the land revenue and other Government dues payable in respect of the land, and further undertakes to pay the amount (if any) which he is required to undertake to pay under section 14, shall not be evicted from any agricultural land of which he is in actual occupation and which he is actually cultivating or preparing to cultivate, provided that no person shall be deemed to be in occupation of land for the purpose of this sub-section who has entered on any agricultural land which at the time of his entry was actually occupied by any other agriculturist who was actually cultivating or preparing to cultivate the said land unless he shall first have obtained the permission of the said agriculturist to make such entry.
- (2) If an order for the eviction of a person in occupation of agricultural land is made, and such person has, before the date of the order of eviction, sown or planted crops thereon, he shall be permitted to remain in occupation of the land for such period as may be necessary for the purpose of tending and gathering in the crops, unless the person to whom possession of the land is given tenders to the Commissioner for payment to the person in occupation the value of the labour and capital expended by the latter in preparing such land and sowing, planting and tending such crops, and the order of eviction shall state the amount which is so payable and fix the time within which it shall be paid.
- [<Amendment 12.07.1946>](#)
14. Payment for use and occupation by person in occupation of agricultural land. -(1) Where the person in actual occupation of any agricultural land is not lawfully entitled to the possession thereof, such person shall, in addition to the land-revenue and other Government dues payable in respect of

the land, and for so long as he remains in occupation thereof, pay to the Government, for the benefit of the person lawfully entitled to possession, such amount, not exceeding twice the land-revenue payable, as the Commissioner may decide.

(2) The Commissioner, after such enquiry as he may deem necessary, shall by order direct what amount shall be payable under sub-section (1) and for whose benefit it shall be paid, and on such order the amount shall be recovered from the occupant in addition to and in the same manner as the land revenue due in respect of the land:

Provided that no proceedings shall be taken against the land for the recovery of the land-revenue or such amount.

(3) Any sum recovered under sub-sections (1) and (2), less the costs, if any, of recovery, shall, on application to the Commissioner by the person for whose benefit it was recovered, be paid to such person, and shall be received by him in full satisfaction of all claims which he may have against the person in occupation of the land in respect of the use or occupation thereof.

(4) No suit or other legal proceeding arising out of the use or occupation of the land shall be brought in any Court against an occupant of agricultural land who has paid in full the amount assessed by the Commissioner under sub-section (2).

#### **CHAPTER IV.**

##### **GENERAL.**

15. Finality of decision of Commissioner.- The decision of the Commissioner under sub-section (1) of section 8 as to the lawful possession of any land or as to the boundaries thereof shall be final and shall be conclusive evidence thereof, unless and until it is reversed or modified by decree of a competent civil Court in a suit based upon title to such land:

Provided that the Commissioner may, under such circumstances and in accordance with such conditions and within such time as may be prescribed, review his order on the discovery of new or important matter or evidence.

16. Bar to jurisdiction of civil Court.- Except as otherwise provided in this Act, no civil Court shall have jurisdiction in any matter which the Commissioner is empowered by or under this Act to determine, or shall take cognizance of the manner in which the Commissioner exercise any power vested in him by or under this Act.

17. Bar to Jurisdiction of Commissioner.- Nothing contained in this Act shall authorize the Commissioner to decide any dispute relating to the right possession of land when such right is alleged to have accrued after the date prescribed under sub-section (2) of section 5 for the place where the land is situated.

18. Penalty for wrongful obstruction, disobedience of order or interference with possession.- (1) Whoever-

(a) in any manner wilfully obstructs the Commissioner in the performance of his duties, or

(b) refuses to vacate any land when required by the Commissioner so to do, or

(c) wrongfully enters or attempts to enter upon any land of which another person has been put into possession by the Commissioner,

shall be punishable with rigorous imprisonment for a term which may extend to three years, and shall also be liable to fine.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, offences under this section shall be cognizable and non-bailable.

19. Penalty for removing or damaging boundary marks.- Whoever removes, destroys or damages any boundary mark erected or caused to be erected by the Commissioner shall be punishable with imprisonment for term which may extend to six months, or with fine, or with both.

20. Power to make rules.- (1) The Governor may make rules-

- (a) prescribing the procedure to be adopted and the records to be maintained by the Commissioner in the conduct of enquiries and the enforcement of orders:
- (b) for the publication, issue and service of notices, whether general or special to be published, issued or served under this Act:
- (c) for the rendering of aid by the police and other public authorities to the Commissioner in the conduct of enquiries and the enforcement of orders:
- (d) prescribing the duties to be performed by village headmen, rural policemen and villagers in connection with the proceedings of the Commissioner;
- (e) prescribing the date (which may be different for different parts of British Burma) for the purpose of the general notice under sub-section (1) of section 5;
- (f) prescribing the date (which may be different for different parts of British Burma) with respect to which possession is to be determined under sub-section (2) of section 5 and section 8;
- (g) prescribing for the purpose of sub-section (1) of section 13, the period (which may be different for different crops and for different parts of British Burma) during which an agriculturist in actual occupation shall not be , evicted from agricultural land;
- (h) prescribing the circumstances under which and the conditions subject to which and the time within which the Commissioner may review his orders; and
- (i) generally for carrying out the objects of this Act.

(2) All such rules shall be published in the Gazette, and on such publication shall have effect as if enacted in this Act.

21. Bar to suits and proceedings.- No suit, prosecution or other proceeding shall lie against-

- (i) any officer or authority vested with powers under this Act for anything in good faith done or intended to be done thereunder; or
- (ii) any person for any injury or damage caused to any person or any property in consequence of any act in good faith done or intended to be done under this Act; or
- (iii) the Government as respects the recovery or non-recovery, payment or non-payment, of any amount recoverable or payable under the provisions of section 14.

22. Saving clause.- Nothing contained in this Act and nothing done under or in accordance with this Act shall be deemed-

- (a) save as provided by section 13 and sub-section (4) of section 14 to preclude any person from instituting a suit or other proceeding in any competent Court under any law for the time being in force for possession of or for a declaration of a right to any land to which such person may deem himself to be presently entitled; or
- (b) to affect the rights of the Crown in any land.

In the name of His Majesty I assent to this Act.

R. H. DORMAN- SMITH,  
Governor of Burma.

Simla, the 8th October 1945

By order,  
D. B. PETCH,  
Secretary.