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THE EXPULSION OF OFFENDERS ACT.

[BURMA ACT I; 1926.] (16th January, 1926.)

Preamble. Whereas it is expedient to make provisions to enable the Government to expel from the Union of Burma persons who are convicted of certain offences or ordered to furnish security for good behaviour * * * * and are not citizens of the Union ; It is hereby enacted as follows :—

1. (1) * * * *

Extent. (2) It extends to the whole of the Union of Burma.

Definitions. 2. In this Act, unless there is anything repugnant in the context,—

Non-Burman. (A) "Non-Burman" means any person who is not a citizen of the Union.

Offender. (B) "Offender" means any person against whom any sentence or order of the nature hereunder mentioned has been passed by any Court or Magistrate other than a Magistrate of the second or third class, which sentence or order has not been set aside on appeal or revision, that is to say,—

- (i) sentence on conviction of any offence shewn in the First Schedule ; or
- (ii) sentence on conviction of any offence shewn in the Second Schedule after a previous conviction—

(a) where the subsequent conviction is under the Penal Code, of any offence shewn in the Second Schedule and contained in the same Chapter of the said Code, or

(b) where the subsequent conviction is under any law other than the said Code, of any offence punishable under the same law with imprisonment for three years or upwards, or

(c) of any offence shewn in the First Schedule in respect of which no order was passed under this Act ; or

- (iii) order under section 118 read with section 110 of the Code of Criminal Procedure, or under any other law which authorizes a Magistrate to deal with a person as if the information received against him were of the description mentioned in section 110 of the said Code.

For the purposes of sub-clause (ii) a previous conviction for abetment, criminal conspiracy or attempt to commit any offence mentioned in the Schedules shall be deemed to be a previous conviction of the offence in respect of which such abetment, criminal conspiracy or attempt was committed.

Expulsion of offender. 3. Any non-Burman as defined in clause (A) of the preceding section who is an offender as defined in clause (B) of the said section shall be liable to be expelled from the Union of Burma under the provisions of this Act.

Offender to be called upon to shew cause : appeal to High Court. 4. (1) When an offender becomes liable to be expelled from the Union of Burma under the preceding section, the District Magistrate of the district in which the Court passing a sentence or an order against such an offender is situate may call upon him to shew cause why he should not be expelled.

District Magistrate to make recommendation. (2) If the said offender desires to produce evidence to shew that he is not liable to be expelled under the said section or that for any other reason he should not be so expelled, the District Magistrate shall record such evidence and the evidence of any other witnesses whom he may deem it desirable to examine in the manner prescribed in Chapter XXV of the Code of Criminal Procedure for the

¹ Substituted by the Union of Burma (Adaptation of Laws) Order, 1948.

taking and recording of evidence in the trial of warrant cases, or may direct any Magistrate of the first class to record such evidence.

(3) If after the offender has been called upon to shew cause and after evidence, if any, has been recorded, the District Magistrate is of opinion that the said offender is liable to be expelled from the Union of Burma under the provisions of section 3, and that it is desirable that he should be so expelled, he shall make a recommendation in writing for the offender's expulsion, stating his reasons therefor, and give the offender a copy of such recommendation.

(4) The offender may, within fifteen days of the receipt of the copy of the order, require the District Magistrate to refer for the determination of the High Court the question whether the offender is or is not a non-Burman or is or is not an offender within the meaning of the Act, and on receipt of such requisition the District Magistrate shall forward the proceedings together with the requisition to the High Court, which shall deal with the reference as far as possible in the manner provided by the Code of Criminal Procedure for the disposal of an appeal.

(5) If no such requisition is made or if the High Court upholds the District Magistrate's recommendation, the District Magistrate may forward the case to the President of the Union.

5. (1) No offender shall be called upon to shew cause against expulsion after the expiry of three months from the date of the sentence or order in virtue of which he is liable to be expelled.

Time within which offender to be called upon to shew cause and recommendation to be made to the President.

(2) No recommendation for the expulsion of an offender shall be forwarded to the President of the Union after the expiry of one month from the date of the receipt by the District Magistrate of the High Court's order on the reference made under sub-section (4) of section 4, or, where no such reference has been made, after the expiry of one month from the date on which a copy of the recommendation was given to the offender under sub-section (3) of section 4.

6. On receipt of the District Magistrate's recommendation the President of the Union may, at his discretion, issue an order of expulsion directing the offender to remove himself from the Union of Burma in accordance with rules made under section 9 :

Power of President to order removal.

Provided that no such order shall be issued after the expiry of six months from the date of the receipt of the District Magistrate's recommendation.

7. Every such order of expulsion shall take effect from such date as the President of the Union may direct and shall remain in force until it is revoked by the President of the Union.

Date and duration of expulsion

8. If any person against whom any such order of expulsion has been issued fails to comply with the order in any respect, or having left the Union of Burma re-enters the Union of Burma without the permission in writing of the President of the Union while the order is in force, he shall be liable to imprisonment for a term which may extend to two years or to fine or to both and shall, in addition to such penalty, be liable to be removed from the Union of Burma in pursuance of the order.

Punishment for breach of order.

9. The President of the Union may make rules¹ :—

(a) prescribing the authority or authorities who shall determine the port or place from which the vessel or other means by which, the time at which, and the manner in which any person subject to an order of expulsion under this Act shall remove himself from the Union of Burma : Provided that such person shall be allowed to go to any

Power to make rules.

¹ For rules under this section, see *Burma Gazette*, 1926, Part I, p. 1018.

port outside the Union of Burma which he may select if he pays the costs of the journey thither;

- (b) prescribing the officers by whom and the manner in which any such person shall be placed on board any vessel by which he is to remove himself ;
- (c) prescribing the escort to the frontier of any person who is directed by any such order to remove himself by land ;
- (d) prescribing the payment by any person of the costs of removing any person under this Act, and for the recovery of such costs as a fine under the provisions of the Code of Criminal Procedure ; and
- (e) generally for carrying into effect the purposes of this Act.

Penalty for failure by carrier.

10. Any person who is a carrier, or the agent of a carrier, and who is duly required in pursuance of an order of expulsion under this Act to carry any person to any place on the usual route of carriage and for the ordinary prepaid charges, and fails to comply with such requisition without reasonable cause, shall, on conviction by a Magistrate of the first class, be punishable with fine which may extend to five hundred rupees.

THE FIRST SCHEDULE.

[See section 2, clause (B) (i) and (ii) (c).]

(1) Any offence punishable under any of the following sections of the Penal Code, *viz.*, sections 131, 132, 232, 234, 302, 304, 307, 308, 311, 328, 329, 366A, 366B, 372, 373, 395, 396, 397, 398, 399, 400, 401, 402, 412, 413, 436, 449, 450, 459, 460, 489A, 489D ;

(2) Any offence punishable under any other law with death, transportation or imprisonment for seven years or upwards ;

(3) Abetment of any of the aforesaid offences, where such abetment is punishable under Chapter V of the Penal Code ;

(4) Criminal conspiracy to commit any of the aforesaid offences, where such criminal conspiracy is punishable under section 120B of the Penal Code ; and

(5) Attempt to commit any of the aforesaid offences, where such attempt is punishable under section 511 of the Penal Code.

THE SECOND SCHEDULE.

[See section 2, clause (B) (ii).]

(1) Any offence punishable under any of the following sections of the Penal Code, *viz.*, sections 153A, 215, 216, 216A, 231, 233, 235, 237, 238, 239, 240, 325, 326, 327, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 404, 411, 419, 420, 451 (if the offence is in order to the commission of theft), 454 (if the offence is in order to the commission of theft), 457 (if the offence is in order to the commission of theft), 458, 489B, 489C ;

(2) Any offence punishable under any other law with imprisonment for three years and upwards ;

(3) Abetment of any of the aforesaid offences, where such abetment is punishable under Chapter V of the Penal Code ;

(4) Criminal conspiracy to commit any of the aforesaid offences, where such criminal conspiracy is punishable under section 120B of the Penal Code ; and

(5) Attempt to commit any of the aforesaid offences, where such attempt is punishable under section 511 of the Penal Code.