

THE BURMA LAND AND REVENUE ACT, 1876.

CONTENTS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTION.

1. Short title.
Local extent.
Commencement.
2. Repeal.
3. Interpretation-clause.

PART II.

OF RIGHTS OVER LAND.

4. Lands excluded from the operation of Part II.
 - (a) Reserved forests.
 - (b) Fisheries.
 - (c) Public roads, &c.
 - (d) Towns.
 - (e) Dwelling-places.
 - (f) Cantonments.
 - (g) Civil stations.
 - (h) Lands of religious and educational institutions.Power to exclude other land.
5. Power to define boundaries of excluded lands.
6. Rights which may be acquired over land.
7. Status of landholder how acquired.
8. Landholders' rights defined.
9. Landholders out of possession when Act comes into force.
Landholders relinquishing possession within three years
from Act coming into force.
Forfeiture of their status by neglect to assert it.
10. Applications by them for possession how dealt with.
Suits by them on application being rejected.
Forfeiture of their status by neglect to institute such
suits.
11. Landholders

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SECTION.

11. Landholders relinquishing possession after three years from Act coming into force.
12. Right of landholder to make over land temporarily to revenue officer,
13. and to recover possession within twelve years.
14. Applications to recover possession by persons claiming as succeeding to the rights of the petitioner.
15. Declaration and record of original acquisition of landholder's status.
16. Cancellation of such declarations and records. Fresh declarations.
17. Questions as to original acquisition or as to the loss of landholder's status how to be dealt with by Civil Courts.
18. Power to make rules for the disposal of available lands.
19. Temporary occupation of available land.
20. Allotment of grazing grounds.
21. Allotments to Toungya cutters.
22. Bar to acquisition of rights over lands disposed of or allotted under sections 18, 20 and 21.

PART III.

OF REVENUE AND TAXES.

A.—Of Land-revenue.

23. Land liable to land-revenue assessment.
24. Mode and amount of assessment.
25. Rates may be altered.
26. Right to a settlement.
27. Nature of settlement.
28. Rights conferred by settlement.
29. Term of settlement.
30. Continuance of expired settlement until new settlement is made.

B.—Of the five per cent. cess.

31. A five per cent. cess to be levied.
32. How to be applied.

C.—Of the Toungya tax.

33. Toungya tax.

D.—Of the Capitation-tax and the Land-rate in lieu thereof.

34. Capitation-tax.
35. Land-rate in lieu of capitation-tax.

36. Exemption

SECTION.

36. Exemption from capitation-tax and land-rate.

E.—Of personal Liability for certain Revenue and Taxes.

37. Personal liability for land-revenue, five per cent. cess, and land-rate in lieu of capitation-tax.
 38. Personal liability for tax on families.

F.—Of the Manufacture of Salt, and of Licenses to prepare and collect Cutch, Beeswax, &c.

39. Power to make rules for—
 licensing salt-manufacture;
 imposing salt-duty;
 composition with licensees.
 Penalty for manufacturing or storing salt without a license.
 40. Power to make rules regarding collection and preparation of cutch, beeswax, &c.

G.—Miscellaneous.

41. Year of assessment.
 42. When increase of rates takes effect.

PART IV.

OF ARREARS AND THE MODE OF RECOVERING THEM.

43. Revenue, &c., when due, where and to whom payable.
 44. "Arrear" and "defaulter" defined.
 45. Proceedings against defaulters for recovery of arrear.
 46. Proceedings against the land.
 47. Where there is a permanent heritable and transferable right in such land.
 48. Title conferred by purchase at sale under section 47.
 49. Proceedings against the land where no permanent heritable and transferable right exists.
 50. Effect of proclamation published under section 49.
 51. Costs of proceedings for recovery of arrears.
 52. Proceedings against defaulting revenue officers.
 53. Proceedings against, sureties of defaulters and revenue officers.

PART V.

MISCELLANEOUS.

54. Erection and repair of boundary-marks.
 55. Appeals.

56. Bar

SECTION.

56. Bar to jurisdiction of Civil Courts.
57. Additional powers which may be conferred on revenue officers.
58. Additional powers to make rules.
59. Penalty for breach of rules.
60. Publication of rules.
Force of rules.
61. Consolidation and republication of rules.

SCHEDULE.—Towns in which land-rate in lieu of capitation-tax is levied.

1876.]

ACT No. II OF 1876.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 18th
January 1876).

An Act to declare the law relating to interests in land and to regulate the assessment and collection of land-revenue, capitation-tax and other taxes in British Burma.

WHEREAS it is expedient to declare the law relating to the acquisition by private persons of rights in land in the province of British Burma; Preamb e.

And whereas it is expedient also to consolidate and amend the law relating to the assessment and collection of land-revenue, capitation-tax, and certain other taxes in the said province; It is hereby enacted as follows:—

PART I.—PRELIMINARY.

1. This Act may be called “The Burma Land and Revenue Act, 1876:” Short title.

It extends to all the territories now under the administration of the Chief Commissioner of British Burma except the Hill District of Arakan, and except such other places as the said Chief Commissioner may from time to time, by notification in the *British Burma Gazette*, and with the previous sanction of the Governor General in Council, exempt from its operation; Local extent.

And it shall come into force on such date as the Chief Commissioner, with the previous sanction of the Governor General in Council, may direct by notification in the said Gazette. Commence-
ment.

2. On

Repeal.

2. On and from the date on which this Act comes into force, Act XXXV of 1852 (*for the abolition of the Poll-tax within the towns of Akyab and Kyauk Phyoo, in the province of Arracan, and for levying a tax on lands covered by dwelling-houses within those towns*), and all regulations and rules (if any) relating to any of the matters provided for by this Act, and then having the force of law, shall be repealed.

Interpretation-clause.

3. In this Act, unless there is something repugnant in the subject or context—

“Possession.”

(a.) Land is said to be in the possession of a person under this Act

(1) when it is occupied by him, or by his servant, agent, tenant or mortgagee, or by some other person holding under him ;

(2) when he, his servant, agent, tenant, mortgagee or other person holding under him, has paid the revenue which fell due in respect of such land during the last preceding year of assessment as fixed under section forty-one ;

(3) if such land, left fallow in the ordinary course of husbandry, was, when last cultivated, cultivated by him, his servant, tenant, agent or mortgagee, or by some other person holding under him :

Provided that no person shall be deemed to be in possession merely on the grounds mentioned in the second or third clause of this definition, of any land which is occupied by a person not holding under him, or of any land which he has relinquished by a notice in writing presented to a revenue officer at such time of the year as the Chief Commissioner may by rule from time to time appoint in this behalf :

“Revenue officer.”

(b.) “Revenue officer” means any person whom the Chief Commissioner may appoint, by name or as holding an office, to do—

(1) anything required by this Act to be done by a revenue officer ;

(2) anything

(2) anything to be done by a Government officer under this Act or under any rule made under this Act, and for the doing of which no agency is specially provided by this Act :

(c.) "Notification" means a notification published in the *British Burma Gazette*. "Notification."

PART II.--OF RIGHTS OVER LAND.

4. Nothing contained in this Part shall apply to the following :—

(a.) Land included in any forest constituted 'a reserved forest' under the law for the time being in force :

Lands excluded from the operation of Part II.

Reserved forests.

(b.) Land included in any fishery demarcated under the Burma Fisheries Act, 1875 :

Fisheries.

(c.) The soil of any public road, canal, drain or embankment :

Public roads, &c.

(d.) Land included within the limits of any town :

Towns.

(e.) Land appropriated to the dwelling-places of any town or village :

Dwelling-places.

(f.) Land included in any military cantonment :

Cantonments.

(g.) Land included in any civil station :

Civil stations.

(h.) Land belonging when this Act comes into force to the site of any monastery, pagoda or other sacred building, or of any school, and continuing to be used for the purposes of such monastery, pagoda, building or school.

Lands of religious and educational institutions.

The Chief Commissioner may from time to time by notification exclude any other land from the operation of this Part.

Power to exclude other land.

5. When the boundaries of any lands exempt or excluded under section four from the operation of this Part need definition for the purposes of that section, and no other mode of defining them is provided by law, the Chief Commissioner shall cause them to be defined by the revenue officer.

Power to define boundaries of excluded lands.

If,

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, whose decision, subject to appeal and review as hereinafter provided, shall be final.

Rights which may be acquired over land.

6. No right of any description shall be deemed to have been or shall be acquired by any person over any land to which this Part applies, except the following :—

(a) rights created by any grant or lease made by or on behalf of the British Government ;

(b) rights acquired under sections twenty-seven and twenty-eight of the Indian Limitation Act, 1871 ;

(c) rights created or originating in any of the modes hereinafter in that behalf specified ;

(d) rights legally derived from any right mentioned in clauses (a), (b) and (c) of this section.

Status of landholder how acquired.

7. Except as provided in section twenty-two, any person having been in possession of any culturable land for twelve years continuously, and having during that period regularly paid the revenue due thereon, or held the same under an express exemption from revenue, shall be deemed to have, upon the expiration of that period, acquired the status of a landholder in respect of such land :

Provided that such status shall not be deemed to have been acquired by any possession which terminated more than twelve years prior to the date on which this Act comes into force.

Explanation 1.—When land in the possession of one person comes immediately into the possession of another, by transfer or succession, the possession is deemed to be continuous, and the latter may, in reckoning his length of possession, add the possession of the former to his own.

Explanation 2.—When any revenue has been paid in respect of any land by any person holding such land under the person in possession thereof, such revenue shall, for the purposes of this section, be deemed

deemed to have been paid by the person so in possession.

8. A landholder shall have a permanent heritable and transferable right of use and occupancy in his land subject only—

Landholders' rights defined.

(a) to the payment of all such revenue, taxes, cesses and rates as may from time to time be imposed in respect of 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 full liberty to work and search for the same, paying to the landholder only compensation for surface damage as estimated by the revenue officer.

9. *First Clause.*—Any person having acquired the status of a landholder in respect of any land before the date of this Act coming into force, and having been out of possession of such land on the said date, may, within three years from the said date or within twelve years from the date on which he was last in possession, whichever first expires, proceed to recover possession of the said land in the manner hereinafter provided, that is to say

Landholders out of possession when Act comes into force.

(a) if no other person is in possession of the same, he may resume possession thereof ;

(b) if any other person is in possession of the same, he may apply to the revenue officer to be reinstated in possession thereof.

Second Clause.—Any person having the status of a landholder in respect of any land and being in possession of such land on the date on which this Act comes into force, and (except as provided in section twelve) voluntarily relinquishing possession of such land within the three years next following such date, may, at any time before the expiry of the said period of three years, proceed to recover possession of the same in manner provided in the first clause of this section.

Landholders relinquishing possession within three years from Act coming into force.

Third Clause.—All persons entitled to resume possession of lands or to apply to the revenue officer under

Forfeiture of their status by neglect to assert it.

under the first or second clause of this section and neglecting to resume possession or apply in manner aforesaid within the periods limited by the said clauses respectively, shall forfeit their status as landholders in respect of such lands.

Applications by them for possession how dealt with.

10. On receiving any application under section nine, it shall be in the discretion of the revenue officer, after such enquiry as he thinks fit to make, either to reject such application or to put the applicant in possession of the land comprised in his application.

Suits by them on application being rejected.

Any applicant whose application is rejected under this section may, within two months from the date of such rejection, institute a suit in the Civil Court to recover possession of the land comprised in his application.

Forfeiture of their status by neglect to institute such suits.

Any such applicant who neglects to institute such a suit within the said period of two months, shall forfeit his status of landholder in respect of such land.

Landholders relinquishing possession after three years from Act coming into force.

11. Any landholder who, except as provided in section twelve, voluntarily relinquishes the possession of any land after the expiry of three years from the date on which this Act comes into force, shall at once forfeit his status of landholder in respect of such land.

Right of landholder to make over land temporarily to revenue officer,

12. Whenever any person in possession of land, and claiming the status of a landholder in respect thereof, desires temporarily to relinquish the possession of the same, he may present a petition to the revenue officer, requesting him to take over such land.

The revenue officer on receipt of such petition, if it appears to him on such enquiry as he thinks fit to make that the petitioner is entitled to such status, shall cause a notice to be published in such manner as the Chief Commissioner may by rule prescribe, declaring that he has taken over the land, and the land shall thereupon be at his disposal to be let on lease or otherwise dealt with, subject to the rights of

any

any third parties over the land and to the right of the petitioner next hereinafter reserved.

13. The petitioner may, at any time within twelve years from the date on which the land has been taken over by the revenue officer, apply to the revenue officer to reinstate him in possession of the same.

and to re-
cover posses-
sion within
twelve years.

On receiving such application, the revenue officer shall, in such manner as may be provided by rules made under this Act and in force for the time being, give notice of the application to any person who may be in occupation under him, and shall in due time proceed to eject him, and shall put the applicant in possession of the land :

Provided that no person shall be ejected under this section from any land which, before receiving notice from the revenue officer of the said application, such person or his predecessor in interest has in any way prepared for cultivation, until the person sought to be ejected has gathered in his crop :

Provided also that no person shall be so ejected from any land which he or his predecessor in interest has planted, drained, embanked or otherwise permanently improved, until he has been paid by the applicant the value of such improvements at the date of ejection, such value to be determined, in case the parties differ, by order of the revenue officer.

14. If any person applies for possession of land under section thirteen, alleging that he is the successor in interest of the petitioner from whom such land was taken over by the revenue officer, the revenue officer may, in his discretion, reject such application, or proceed thereon under section thirteen as if it were an application by the said petitioner, and the person from whom such land has been taken, or any other person, may sue to establish his title to such land.

Applications to recover possession by persons claiming as succeeding to the rights of the petitioner.

15. Any person being in possession of any land and asserting that he himself, or any other person through whom he claims, acquired the status of a landholder

Declaration and record of original acquisition of landholder's status.

landholder in respect of such land in the manner provided by section seven, may apply to the revenue officer to record, in a register to be provided for this purpose, a declaration of such status having been so acquired. And the revenue officer, if it appears to him after a notice of such application has been published for such period and in such manner as the Chief Commissioner may by rule prescribe, and after such enquiry as the revenue officer may think fit to make, that such status was so acquired, shall record a declaration to that effect, and furnish the applicant with a certificate of the same having been recorded.

Cancellation of such declarations and records.

16. If within five years from the date on which a declaration has been recorded under section fifteen, the revenue officer is satisfied that it is erroneous, he may cancel it:

Provided that no such declaration shall be so cancelled until a notice of the intention to cancel it has been published for such period and in such manner as the Chief Commissioner may from time to time by rule direct.

Fresh declarations.

While any such declaration remains on the register uncanceled, no fresh declaration inconsistent therewith shall be recorded in such register.

Questions as to original acquisition or as to the loss of landholder's status how to be dealt with by Civil Courts.

17. Whenever a question arises in any proceeding before any Civil Court as to whether any person acquired the status of a landholder in respect of any land in the manner provided by section seven, and it appears that a declaration of the fact of such status having been acquired by him has been made under section fifteen not less than five years before the commencement of such proceeding and is still uncanceled, the Court shall decide in accordance therewith.

Whenever any such question arises in any such proceeding and it appears that no such declaration has been so made, or if made that it has been cancelled,

and

and whenever any question arises whether the status of a landholder, 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 any party desires to appeal from the decision of the revenue officer on any question so referred, to a revenue officer of higher grade empowered to hear such appeal by the rules for the time being in force, the Court shall, on such conditions as to the furnishing of security or otherwise as it thinks fit, defer its judgment so as to admit of such appeal being preferred, 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 pronounced in appeal.

18. The Chief Commissioner may from time to time make rules for the disposal by way of grant or otherwise of any land over which no person has a right of either of the classes specified in clauses (a) and (c) of section six.

Power to
make rules
for the dis-
posal of avail-
able lands.

Such rules may provide among other matters for the following :—

(a) the amount or kind of interest to be created in such land, and the conditions (if any) subject to which such interest may be conferred ;

(b) the mode in which grants and other dispositions of the land may be made ;

(c) the total or partial exemption, either absolutely or subject to conditions, of the land from revenue for a term of years or for any life or lives, or during the maintenance of any institution ;

(d) the realization of any money payable in consideration of the grant or other disposition, or of any penalty payable on breach of a condition annexed to such grant or disposition, as if it were an arrear of revenue due in respect of the land by the person

taking

taking under the grant or disposition, his legal representatives or assigns.

Temporary occupation of available land.

19. The Chief Commissioner may also from time to time make rules to regulate the temporary occupation of such land as last aforesaid, and may empower any revenue officer to eject any person occupying, or continuing to occupy, such land in contravention of such rules.

Allotment of grazing grounds.

20. The Chief Commissioner shall from time to time as occasion requires make rules for the allotment from the land referred to in section eighteen of grazing grounds to the inhabitants of any village in the neighbourhood whom he considers to stand in need of such allotment, and for regulating and controlling the enjoyment of such grazing grounds by persons permitted to resort thereto.

Allotments to Toungya cutters.

21. The Chief Commissioner shall also make rules from time to time and for different places as occasion requires—

for the allotment from the land referred to in section eighteen for the use of tribes or families practising Toungya cultivation, of areas suitable for such cultivation of sufficient extent and situated in localities reasonably convenient for the purposes of the persons to whom they are allotted,

and for regulating and controlling the enjoyment of lands so allotted by persons permitted to resort to the same.

Bar to acquisition of rights over lands disposed of or allotted under sections 18, 20 and 21.

22. No person shall acquire, by length of possession or otherwise, any right over lands disposed of or allotted under section eighteen, section twenty or section twenty-one, beyond that which is given by the rules made under the said sections respectively.

PART III.--OF REVENUE AND TAXES.

A.--Of Land-revenue.

Land liable to land-revenue assessment.

23. All culturable land and all land which is culturable when this Act comes into force, but which subsequently

subsequently becomes unculturable in consequence of the erection of buildings or otherwise by the act of man, and all land assessed to land-revenue when this Act comes into force,

shall be liable to be assessed to land-revenue in manner hereinafter mentioned.

But nothing in this section shall apply to—

(a) land which, when this Act comes into force, belongs to the site of any monastery, pagoda or other sacred building, or of any school, and which continues to be used for the purposes of such monastery, pagoda, building or school ;

(b) land exempt from assessment under the express terms of any grant made by or on behalf of the British Government ;

(c) land in respect of which a Toungya tax is imposed under section thirty-three ;

(d) land appropriated to the dwelling-places of any town or village and exempted from the operation of the former part of this section by order of the Chief Commissioner, which order the Chief Commissioner is hereby empowered to make from time to time.

24. The assessment referred to in section twenty-three shall be either—

Mode and amount of assessment.

(a) by annual rates per acre or other superficial measure of the land, or

(b) by annual rates on trees growing on the land.

The Chief Commissioner may from time to time make rules for fixing such rates and determining under what circumstances each description of rate is to be imposed.

Subject to such rules, the nature and amount of such assessment shall be in the discretion of the revenue officer :

Provided that no assessment shall be made in derogation of the terms of any grant made by or on behalf of the British Government.

25. Subject

Rates may
be altered.

25. Subject to the rules made under section twenty-four and for the time being in force, and except as provided in that section and in sections twenty-eight and forty-two, the rates payable in respect of any land may be altered from time to time as the Chief Commissioner may direct.

Right to a
settlement.

26. Any person in possession of any culturable land which is liable to be assessed to land-revenue, may apply to the revenue officer to make a settlement with him of such land.

If such person appears to have a permanent heritable and transferable right of use and occupancy in the land, the revenue officer shall offer him a settlement of the nature hereinafter described.

If such person does not appear to have such a right, it shall be in the discretion of the revenue officer to offer or refuse such settlement.

Nature of
settlement.

27. The settlement offered to the applicant may be either—

(a)—a settlement of a single annual sum payable in respect of the whole land, or

(b)—a settlement of certain annual rates per acre or other superficial measure of land.

In either case the settlement may provide that, for any additional land situate within certain local limits which the applicant may cultivate (not being land acquired by him by transfer or succession), he shall not be required to pay during the continuance of such settlement any revenue whatever or any revenue in excess of rates fixed thereby for such additional land.

The Chief Commissioner shall by rules determine the cases in which each of the said descriptions of settlement shall be offered, and the general principles on which the amount or rate of the revenue payable thereunder shall be fixed.

Subject to such rules, the nature and stipulations of the settlement to be offered in each case shall be in the discretion of the revenue officer.

28. When

28. When a settlement of any land offered under sections twenty-six and twenty-seven has been accepted, neither the person on whose application such settlement has been made, nor any person succeeding him in possession of the land by transfer or succession, nor any person holding under him or under a person so succeeding him, shall, during the term of such settlement, be held liable to pay any revenue in respect of such land beyond that fixed by the settlement.

Rights conferred by settlement.

But no person shall be deemed to have acquired any right to or over any land, as against any other person claiming rights to or over the same land, merely on the ground that a settlement of such land has been made on his application, or on the application of some person through whom he claims.

29. The settlement shall be made for such term as the Chief Commissioner may from time to time by rule direct.

Term of settlement.

The settlement of any land shall terminate at the close of any year of assessment prescribed under section forty-one, if the person in possession of such land, and entitled under section twenty-eight to the benefit of such settlement, not less than three months before the close of such year presents to the revenue officer a notice in writing declaring that he desires to rescind the settlement, and at the same time pays to him all revenue payable in respect of the said land to the close of such year.

If any such person omits to give the notice and make the payment required by this section, he shall continue liable for the revenue payable from time to time under the settlement, although he may have relinquished possession of the land.

30. If the term for which a settlement of any land has been made elapses before a new settlement thereof is made, any person who was entitled to the benefit of the expired settlement at the time of its expiration and continues in possession of such land, and any person holding under him or claiming through him without an interruption of possession, shall

Continuance of expired settlement until new settlement is made.

shall be entitled to the benefit, and be bound by the stipulations, of the expired settlement until a new settlement of such land is made:

Provided that the said stipulations shall cease to be in force at the close of any year of assessment as aforesaid, if the person in possession, not less than three months before the close of such year, presents to the revenue officer a notice in writing requiring that they should so cease.

B.—Of the five per cent. cess.

A five per cent. cess to be levied.

31. On all lands assessed to land-revenue there shall be levied, in addition to the land-revenue assessed thereon, an annual cess of five per cent. on the amount of such revenue.

Nothing in this section applies to lands included in towns to which the British Burma Municipal Act, 1874, shall have been extended.

How to be applied.

32. The cess so levied in each district shall form a fund to be called the "Five per cent. Cess Fund," and shall be appropriated in that district, in such proportions as the Chief Commissioner may from time to time by notification direct, to all or any of the following local objects, namely,—

the construction and maintenance of district roads;

the promotion of education;

the maintenance of a local postal service;

the maintenance of a village police.

C.—Of the Toungya tax.

Toungya tax.

33. The Chief Commissioner may direct that, in lieu of the revenue assessable on any land under Toungya cultivation, there shall be collected an annual tax, either on each male person who has completed his age of eighteen years, or on each family of persons, taking part in the cultivation of such land at any time during the year of assessment as fixed under section forty-one.

The

The rates of such tax may be fixed from time to time by the Chief Commissioner, but shall not exceed the following, that is to say,—

on each male cultivator, two rupees ;

on each family of cultivators, two rupees.

D.—Of the Capitation-tax and the Land-rate in lieu thereof.

34. A capitation-tax shall be payable by all males between the ages of eighteen and sixty years, at such rates as the Chief Commissioner may from time to time by notification direct : Capitation-tax.

Provided that such rates shall not exceed the following, that is to say,—

on married men, five rupees a year ;

on men who have no wives, two rupees eight annas a year :

Provided also that this tax shall not be payable—

(a) by the residents of any of the towns mentioned in the schedule hereto annexed ;

(b) by the residents of any other town on which the Chief Commissioner may impose a land-rate under section thirty-five.

35. In the towns mentioned in the schedule hereto annexed, and in such other towns as the Chief Commissioner may from time to time by notification direct, there shall be levied, instead of the capitation-tax, an annual rate upon land, to be fixed from time to time by the Chief Commissioner by notification, but not to exceed the following, that is to say,— Land rate in lieu of capitation-tax.

on land covered with buildings, one pie and a half per square foot ;

on land not covered with buildings, three rupees per acre.

The boundaries of the towns in which such rate is leviabie shall be fixed from time to time, for the purposes of this section, by the Chief Commissioner by notification, and may be so fixed as to include any suburbs of such towns.

Explanation.—

Explanation.—The rate leviable on any land under this section shall be in addition to any land-revenue payable thereon.

Exemption from capitation-tax and land-rate.

36. The Chief Commissioner may, by notification,—

(a) exempt any person or class of persons, or the residents of any particular locality, from the payment of capitation-tax ;

(b) exempt any lands, or any class of lands, throughout the province or in any part thereof, from land-rate in lieu of capitation-tax ;

(c) revoke any such exemption.

E.—Of personal Liability for certain Revenue and Taxes.

Personal liability for land-revenue, five per cent. cess, and land-rate in lieu of capitation-tax.

37. The amount payable on account of revenue, five per cent. cess, or land-rate in lieu of capitation-tax on any land for any year of assessment shall be due jointly and severally from all persons who have been in possession of such land at any time during such year, and all persons who have held under them as tenants, mortgagees or conditional vendees.

Personal liability for tax on families.

38. When a tax per family of cultivators of any land is imposed, the amount due for any year of assessment from each family shall be due jointly and severally from all males of such family who at any time during such year, being then above the age of eighteen years, took any part in the cultivation of such land.

F.—Of the Manufacture of Salt, and of Licenses to prepare and collect Cutch, Beeswax, &c.

Power to make rules for—

licensing salt-manufacture ;
imposing salt-duty ;

39. The Chief Commissioner may from time to time make rules—

(a) for granting licenses to manufacture salt ;

(b) for imposing on all salt manufactured a duty at a rate not exceeding the rate of customs-duty for the time being payable on salt imported by sea ;

composition with licensees.

(c) for compounding with any holder of a license for the payment by him of an annual sum assessed

upon

upon the plant employed by him, in lieu of the duty which would be payable by him under clause (b) on the salt produced with the aid of such plant.

Any person who, without a license for the time being in force,—

(d) engages in the manufacture of salt;

(e) owns works for the manufacture of salt; or

(f) stores salt exceeding such quantity as the Chief Commissioner may from time to time by notification fix in this behalf;

shall be liable on conviction before a Magistrate to a fine not exceeding fifty rupees, and to a further fine of ten rupees for every day after a first conviction under this section in which he continues such manufacture or storage:

And all salt in respect of which a conviction under this section has taken place, and all materials and implements used for the purpose of manufacturing such salt, shall be liable to confiscation by order of the convicting Magistrate.

40. The Chief Commissioner may from time to time make rules—

(a) for granting licenses to prepare or collect, or farms of the right of preparing or collecting, catch, beeswax, honey, lac, cardamoms and other forest-produce or edible birds' nests, upon land over which no person has a right of either of the classes specified in clauses (a) and (c) of section six:

(b) for fixing the amount of fees to be charged in respect of such licenses or farms.

G.—Miscellaneous.

41. The year of assessment of any revenue, cess, rate, tax or fee leviable under this Part shall commence on such day of the calendar year as the Chief Commissioner may from time to time by rule prescribe.

42. Notwithstanding anything contained in this Part, no enhancement made in any such revenue,

rate,

21

Penalty for manufacturing or storing salt without a license.

Power to make rules regarding collection and preparation of catch, beeswax, &c.

Year of assessment.

When increase of rates takes effect.

rate, tax or fee shall take effect until the commencement of the year of assessment following that in the course of which it is made.

PART IV.—OF ARREARS AND THE MODE OF RECOVERING THEM.

Revenue, &c., when due, where and to whom payable.

43. Every sum payable under this Act on account of any revenue, tax, cess, rate, fee, duty or composition, shall fall due on such date, and shall be payable at such place and to such person, as the Chief Commissioner may from time to time by rule direct.

“ Arrear ” and “ defaulter ” defined.

44. When any such sum has fallen due, and a written notice of demand for it has been served on any one of the persons liable for it or published in such manner as the Chief Commissioner may from time to time by rule direct, and ten days have elapsed from the service or publication of such notice without such sum having been paid, such sum shall be deemed to be an arrear; and every person liable for it shall be deemed to be a defaulter.

Proceedings against defaulters for recovery of arrear.

45. An arrear may be realized as if it were the amount of a decree for money passed against the defaulter in favour of any revenue officer whom the Chief Commissioner may from time to time appoint in this behalf by name or as holding any office.

Proceedings with a view to the realization of such arrears may be instituted by such officer before any other revenue officer whom the Chief Commissioner may from time to time appoint by name or as holding any office, and except in so far as the Chief Commissioner may otherwise by rule direct, such other officer may exercise all the powers conferred on, and shall conform to all rules of procedure prescribed for, a Court executing a decree by the Code of Civil Procedure :

Provided that—

except when execution is applied for against a defaulter who has absconded or who is reasonably believed to be about to abscond,

the

the officer before whom proceedings are instituted under this section shall, before issuing any process of execution against a defaulter, cause a notice to be served on him in the manner prescribed for the service of summons on defendants in civil suits, requiring him either to pay the amount of the arrear or to appear on a day fixed in the notice and show cause why such amount should not be realized from him.

If on the day so fixed such amount has not been paid and the defaulter does not appear, or appearing fails to show cause as aforesaid, the said officer may order the process to issue forthwith.

46. Instead of, or in addition to, the proceedings which may be instituted under section forty-five, a revenue officer empowered in this behalf by the Chief Commissioner may, when the arrear is one of land-revenue, five per cent. cess, or land-rate in lieu of capitation-tax, proceed against the land on which such arrear has accrued as next hereinafter provided.

Proceedings
against the
land.

47. If such officer finds on enquiry that there exists any permanent heritable and transferable right of use and occupancy in the land, he may sell by public auction such right in the whole of the land, or in such portion thereof as he may deem sufficient, for the realization of the arrear.

Where there
is a perma-
nent heritable
and transfer-
able right in
such land.

The proceeds of such sale shall be applied in the first place in liquidation of the arrear, and in the event of there being any surplus remaining, the revenue officer shall, if he is satisfied as to the right of any person claiming such surplus, pay the amount thereof to such person, and if he is not so satisfied, shall hold the amount in deposit for the person who may ultimately succeed in due course of law in establishing his title thereto.

48. The purchaser at a sale held under section forty-seven shall be deemed to have acquired the right offered for sale, free from all encumbrances created over it and from all subordinate interests derived from it, except such as may be expressly reserved by the revenue officer at the time of sale.

Title confer-
red by pur-
chase at sale
under sec-
tion 47.

49. If

Proceedings against the land where no permanent heritable and transferable right exists.

49. If the revenue officer proceeding against the land finds on enquiry that no permanent heritable and transferable right of use and occupancy exists therein, he may, by proclamation published on the land in such manner as the Chief Commissioner from time to time by rule directs, declare that he has taken possession of such land on behalf of the Government, and may summarily eject any person found in occupation thereof.

Effect of proclamation published under section 49.

50. When a proclamation is published under section forty-nine in respect of any land over which any private rights of any description exist, such land shall be deemed to have been, from the date of such proclamation, vested in the Government free from all such rights as have not been expressly reserved by the terms of such proclamation.

Costs of proceedings for recovery of arrears.

51. All costs of any proceeding under this Act for the recovery of an arrear may be recovered as if they formed part of such arrear.

Proceedings against defaulting revenue officers.

52. If a revenue officer has reason to believe that a revenue officer subordinate to him who has collected any sum due under this Act has absconded or is about to abscond without accounting for such sum, he may issue a warrant for the apprehension of such subordinate officer and proceed against him or cause proceedings to be instituted against him as if he were a defaulter in the amount so collected.

Proceedings against sureties of defaulters and revenue officers.

53. Any person who has become liable for any amount as surety for a defaulter or revenue officer may be proceeded against as if he himself were a defaulter in such amount.

PART V.—MISCELLANEOUS.

Erection and repair of boundary-marks.

54. A revenue officer may, by a notice in writing duly served in accordance with rules to be made under this Act, require any person liable for the revenue of any land, or entitled to hold such land free of revenue, to erect boundary-marks sufficient for defining the limits of such land, or to repair any such boundary-marks

boundary-marks already existing; and if such person fails to comply with his requisition within a period to be specified in the notice, may cause the work to be done, and recover the cost thereof as if it were an arrear of revenue due in respect of the land.

55. Appeals shall lie from orders and decisions given under any provision of this Act, in such cases, to such officers, and subject to such limitations as to time, and such other conditions, as the Chief Commissioner may from time to time by rule determine : Appeals.

Provided that decisions by an officer of a grade lower than that of a Commissioner of a Division in or on the following matters, claims and questions shall not be final (namely) :

(a) matters disposed of by revenue officers under section five, section ten and sections twelve to seventeen inclusive, except orders as to the value of improvements;

(b) claims to occupy or resort to lands under sections nineteen, twenty and twenty-one, and disputes as to the use or enjoyment of such lands between persons permitted to occupy or resort to the same;

(c) questions as to whether any land or any person is liable to be assessed to any revenue, cess, tax or rate;

(d) questions as to the mode or principle of assessment of any revenue, cess, tax or rate, or as to the amount assessed;

(e) questions as to the right to a settlement of land-revenue, or the nature or term of the settlement to be offered;

(f) questions as to the validity or effect of any settlement, or as to whether the conditions of any settlement are still in force;

(g) questions as to the liability of any person under sections thirty-seven and thirty-eight;

(h) questions as to whether any revenue, cess, tax or rate is in arrear;

(i) questions

(i) questions as to the legality of any process issued under section forty-five ;

(j) questions as to the validity of a sale under section forty-seven, or as to the effect of a proclamation under section forty-nine :

Provided also that in all cases the Chief Commissioner shall have power to call for and review the proceedings, if he thinks fit to do so, and pass such order thereon consistent with the provisions of this Act as he thinks fit.

Bar to jurisdiction of Civil Courts.

56. Except as hereinbefore expressly provided, no Civil Court shall exercise jurisdiction as to any of the following matters (namely) :—

(a) matters, claims and questions mentioned in the first proviso to section fifty-five ;

(b) claims to any office connected with the revenue administration, or to any emolument appertaining to such office, or in respect of any injury caused by exclusion, suspension or removal therefrom ;

(c) claims to have allotments made under section twenty or section twenty-one and objections to the making of such allotments ;

(d) claims to a remission or refund of any revenue, cess, tax, rate, fee, duty or composition payable or paid under this Act ;

(e) questions as to the right to, or amount of, any compensation for improvements awardable under section thirteen.

Additional powers which may be conferred on revenue officers.

57. The Chief Commissioner may, subject to any restrictions from time to time imposed by the Governor General in Council, invest any revenue officer by name or as holding any office with any of the following powers, in addition to the powers directly conferred on revenue officers by this Act, to be exercised by him in any part of British Burma or in any class of cases in any such part :—

(a) power to enter upon any land and to survey, demarcate or make a map of the same ;

(b) power

(b) power to cut and thresh the crop on any land and weigh the grain with a view to estimating the capabilities of the soil;

(c) any power exercised by a Civil Court in the trial of suits;

(d) power to delegate the exercise of any power, or the performance of any duty, to a subordinate revenue officer;

(e) power to review any decision or order given by a revenue officer which is not open to appeal, or from which, if open to appeal, no appeal has been preferred;

(f) power to call for the proceedings of any subordinate revenue officer and review any order or decision given therein which is not open to appeal, or from which, if open to appeal, no appeal has been preferred.

58. In addition to the other matters for which the Chief Commissioner is empowered to make rules by this Act, he may from time to time make rules—

Additional powers to make rules.

(a) for the assessment and collection of all revenue and of every cess, tax, rate, fee, duty and composition leviable under this Act;

(b) to determine the person by whom, and the time, place and manner at or in which, anything to be done under this Act, and for which no express provision is made in these respects, shall be done; and generally to regulate the procedure of revenue officers in all cases;

(c) to provide for the investigation by the higher revenue officers of charges of misconduct preferred against revenue officers of lower grade;

(d) to determine the fees to be charged for the service of process issued under this Act, and the mode in which such fees shall be realised;

(e) to regulate the costs in all proceedings before revenue officers, and to provide for their realisation as if they were arrears of land-revenue;

(f) as to making advances of money to agriculturists for the purchase of seed and cattle, for the construction

construction, maintenance and repair of dwelling-houses and other buildings, and for other such purposes not coming within the scope of the Land Improvement Act, 1871 ;

(g) for the recovery of advances made under clause (f) of this section, from the persons to whom they were made or their legal representatives ; and

(h) generally to carry out the provisions of this Act.

Penalty for breach of rules.

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

Publication of rules.

60. All rules made by the Chief Commissioner under this Act shall, when sanctioned by the Governor General in Council, be published in the *British Burma Gazette*, and shall thereupon have the force of law.

Force of rules.

Consolidation and republication of rules.

61. The Chief Commissioner shall at least once in every three years cause all rules for the time in force under this Act to be arranged in some convenient order, according to their subject-matter, consolidated, and, where necessary, amended.

The rules so arranged, consolidated and amended shall, after being sanctioned by the Governor General in Council, be published in the *British Burma Gazette*, and upon such publication all previous rules under this Act shall cease to be in force.

SCHEDULE.

(See sections 34 and 35).

Towns in which land-rate in lieu of capitation-tax is levied :—

Rangoon.	Prome.
Bassein.	Toungoo.
Thayetmyoo.	Akyab.
Kyouk Phyoo.	