

THE FOREIGN EXCHANGE REGULATION ACT

[BURMA ACT XLIV. 1947.] (1st August 1947.)

It is hereby enacted as follows : -

1. 1(i) This Act extends to the whole of the Union of Burma and applies also to servants

of the Government and to all citizens of the Union wherever they may be.

(ii) It shall come into force on the first day of August, 1947.

2 (iii) * * * *

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

(a) "Burma currency " means currency which is legal tender in the Union of Burma ;

(b) "foreign currency " means any currency other than currency which is legal tender

in the Union of Burma ;

(c) "foreign exchange " includes all documents evidencing or creating any right to

deposits, credits or balances in any foreign country or to payment in foreign currency, whether such documents are in the form of currency notes, bank

notes, postal orders, money orders, cheques, drafts, traveller's cheques, letters of

credit, bills of exchange, promissory notes or otherwise ;

(d) "Controller" means the Controller of Foreign Exchange appointed under this Act;

(e) "authorized dealer" means a person for the time being authorized under section 4

to deal in foreign exchange ;

(f) "security" means shares, stocks, bonds, debentures, debenture stock and Government

securities other than currency notes, deposit receipts in respect of deposit of

securities, and units or sub-units under a unit trust scheme, but does not include

bills of exchange or promissory notes other than Government promissory notes;

(g) "unit trust scheme " means any arrangements made for the purpose, or having the

effect, of providing for persons having funds available for investment, facilities

for the participation by them, as beneficiaries under a trust, in profits or income

arising from the acquisition, holding, management or disposal of any property whatsoever ;

(h) "unit" means, in relation to a unit trust scheme, a right or interest (whether described as a unit, as a sub-unit or otherwise) which may be acquired under the scheme ;

(i) "foreign security" means any security issued in any country other than the Union of Burma, and any security the principal of or interest on which is payable in any foreign currency or elsewhere than in the Union of Burma ;

1

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

2 Deleted by Act XL, 1952.

(j) owner " in relation to any security, includes any person who has power to transfer the security, or who has the custody thereof, or who receives, whether on his own behalf or on behalf of any other person, dividends or interest thereon, and who

has any other interest therein, and in a case where any security is held on any trust or dividends or interest thereon are paid into a trust fund, also includes any trustee or any person entitled to enforce the performance of the trust or to revoke or vary, with or without the consent of any other person, the trust or any terms thereof, or to control the investment of the trust moneys ;

(k) "transfer" includes, in relation to any security, transfer by way of loan or security;

(l) "gold" includes gold in the form of coin, whether legal tender or not, or in the form of bullion or ingot, whether refined or not ;

(m) "silver" means silver bullion or ingot, silver sheets and plates which have undergone no process of manufacture subsequent to rolling and uncurrent silver coin ;

(n) "prescribed" means prescribed by rules made under this Act.

13. The President of the Union may by notification entrust the general administration of

this Act to any agency he deems fit and may appoint a Controller. The President of the Union

may also authorize the agency entrusted with the general administration of this Act to appoint

such officers to assist the Controller as it may deem necessary and to invest

any such officer

with all or any of the powers of the Controller.

4. (1) The Controller may, on application made to him in this behalf, authorize any person to deal in foreign exchange as respects all foreign currencies or specified foreign currencies only, and as respects all descriptions of transactions in foreign currencies or specified transactions only.

(2) An authorization may be given for a specified period or within specified amounts, and may in any case be revoked for reasons appearing to the Controller to be sufficient.

(3) An authorized dealer shall in all his dealings in foreign exchange comply with such directions or instructions as the Controller may think fit to give, and, except with the previous permission of the Controller, an authorized dealer shall not engage in any transaction involving any foreign exchange which is not in conformity with the terms of his authorization under this section.

(4) An authorized dealer shall, before undertaking any transaction in foreign exchange on behalf of any person, require that person to make such declarations and to give such information as will reasonably satisfy him that the transaction will not involve, and is not designed for the purpose of, any contravention or evasion of the provisions of this Act or of any rules, directions or orders made thereunder, and where the said person refuses to comply with any such requirement or makes only unsatisfactory compliance therewith, the authorized dealer shall refuse to undertake the transaction and shall, if he has reason to believe that any such contravention or evasion as aforesaid is contemplated by the person, report the matter to the Controller.

5. (1) Except with the previous permission of the Controller, no person other than an authorized dealer shall in the Union of Burma, and no person resident in the Union of Burma other than an authorized dealer shall Outside the Union of Burma, buy or

borrow from, or sell

1

1 Substituted by Act XL, 1952 and subsequently by Act LXIV, 1954.

or lend to, or exchange with, any person not being an authorized dealer, any foreign exchange.

1(2) No person shall have dealings in foreign exchange at rates of exchange other than

the rates for the time being authorized by the Bank.

(3) Where any foreign exchange is acquired by any person other than an authorized

dealer for any particular purpose, or where any person has been permitted conditionally to

acquire foreign exchange, the said person shall not use the foreign exchange so acquired

otherwise than for that purpose or, as the case may be, fail to comply with any condition to

which the permission granted to him is subject, and where any foreign exchange so acquired

cannot be so used or, as the case may be, the conditions cannot be complied with, the said

person shall without delay sell or offer to sell the foreign exchange to an authorized dealer.

(4) Nothing in this section shall be deemed to prevent a person from buying from any

post office, in accordance with any law or rules made thereunder for the time being in force,

any foreign exchange in the form of postal orders or money orders.

6. (1) Save as may be provided in and in accordance with any general or special

exemption from the provisions of this sub-section which may be granted conditionally or

unconditionally by the Controller, no person in, or resident in, the Union of Burma shall -

(i) make any payment to or for the credit of any person resident outside the Union of

Burma ;

(ii) draw, issue or negotiate any bill of exchange or promissory note .or - acknowledge any deb , that a right (whether actual or contingent) to receive a

payment is created or transferred in favour of any person resident outside the Union of Burma ;

(iii) make any payment to or for 1 credit of any person by order or on behalf of any

person resident outside the Union of Burma ;

(iv) place any sum to the credit of any person resident outside the Union of Burma ;

(v) make any payment to or for the credit of any person as consideration for or in association with -

(a) the receipt by any person of a payment or the acquisition by any person of property outside the Union of Burma ;

(b) the creation or transfer in favour of any person of a right (whether actual or contingent) to receive a payment or acquire property outside the Union of Burma ;

(vi) draw, issue or negotiate any bill of exchange or promissory note, transfer any security or acknowledge any debt so that a right (whether actual or contingent) to receive a payment is created or transferred in favour of any person as consideration for or in association with any matter referred to in clause (v).

1 Substituted by Act XL, 1952.

(2) Nothing in sub-section (1) shall render unlawful.-

(a) the making of any payment already authorized, either with foreign exchange obtained from an authorized dealer under section 5 or with foreign exchange retained by a person in pursuance of an authorization granted by the Controller ;

(b) the making of any payment with foreign exchange received outside the Union of Burma by way of salary or payment for services not arising from business in, or anything done while in, the Union of Burma.

(3) Nothing in this section shall restrict the doing by any person of anything within

the scope of any authorization or exemption granted under this Act.

(4) For the purposes of this section, " security " also includes coupons or warrants representing dividends or interest and life or endowment insurance policies.

7. (1) Where an exemption from the provisions of section 6 is granted by the Controller

in respect of payment of any sum to any person resident outside the Union of Burma and the

exemption is made subject to the condition that the payment is to be made to a blocked

account -

(a) the payment shall be made to a blocked account in the name of that person in

such manner as the Controller may by general or special order direct ; and

(b) the crediting of that sum to that account shall, to the extent of the sum credited, be a good discharge to the person making the payment.

(2) No sum standing at the credit of a blocked account shall be dealt with except in accordance with any general or special permission which may be granted conditionally or unconditionally by the Controller.

(3) In this section " blocked account " means an account opened as a blocked account at any office or branch in the Union of Burma of a Bank authorized in this behalf by the Controller, or an account blocked, whether before or after the commencement of this Act, by order of the Controller.

8. (1) Where in the opinion of the President of the Union it is necessary or expedient to regulate payments due to persons resident in any territory, the President of the Union may, by notification, direct that such payments or any class of such payments shall be made only into an account (hereinafter referred to as a special account) maintained for the purpose by the Controller or an authorized dealer specially authorized by the Controller in this behalf.

(2) The credit of a sum to a special account shall, to the extent of the sum credited, be a good discharge to the person making the payment : provided that where the liability of the person making the payment is a liability to make the payment in foreign currency, the extent of the discharge shall be ascertained by converting the amount paid into that currency [at the legal parity for the time being determined by the Bank]. 1

1

1 Substituted by Act XL, 1952.

(3) The sum standing to the credit of any special account shall from time to time be applied

(a) where any agreement is entered into between the President of the Union and the Government of the territory to which the aforesaid notification relates for the regulation of payments between persons resident in the Union of Burma and in that territory, in such manner as the Controller, having regard to the provisions of such agreement, may direct, or

(b) where no such agreement is entered into, for the purpose of paying, in whole or in part, and in such order of preference and at such times as the President of the Union may direct, debts due from the persons resident in the said territory to persons resident in the Union of Burma or in such other territories as the President of the Union may by order specify in this behalf.

9. (1) The President of the Union may, by notification, order that, subject to such exemptions, if any, as may be contained in the notification, no person shall, except with the general or special permission of the Controller and on payment of the fee, if any, prescribed, bring or send into the Union of Burma any gold or silver or any currency notes or bank notes or coin whether Burma or foreign.

(2) No person shall, except with the general or special permission of the Controller or the written permission of a person authorized in this behalf by the Controller, take or send out of the Union of Burma any gold, jewellery or precious stones, or Burma currency notes, bank notes or coin or foreign exchange other than foreign exchange obtained from an authorized dealer.

(3) The restrictions imposed by sub-sections (1) and (2) shall be deemed to have been imposed under section 19 of the Sea Customs Act, without prejudice to the provisions of section 24 of this Act, and all the provisions of that Act shall have effect accordingly.

10. The President of the Union may, by notification, order every person in, or resident in, the Union of Burma

(a) who owns such foreign exchange as may be specified in the notification, to offer it, or cause it to be offered for sale to the Controller on behalf of the

President of the Union or to such person as the Controller may authorize for the purpose, at such price as the President of the Union may fix, being a price which is in the opinion of the President of the Union not less than the market rate of the foreign exchange when it is offered for sale;

(b) who is entitled to assign, or procure the assignment of, any right to receive such foreign exchange as may be specified in the notification, to transfer that right to the Controller on behalf of the President of the Union on payment of such sum as consideration therefor as the President of the Union may fix:

Provided that the President of the Union may by the said notification or another order exempt any persons or class of persons from the operation of such order :

Provided further that nothing in this section shall apply to any foreign exchange acquired by a person from an authorized dealer and retained by him with the permission of the Controller for any purpose.

11. (1) Except with the general or special permission of the Controller, no person who has a right (whether present or future and Whether vested or contingent) to receive any foreign exchange, or to receive from a person resident outside the Union of Burma a payment in Burma currency shall do, or refrain from doing, any act with intent to secure -

(a) that the receipt by him of the whole or part of that foreign exchange or, as the case may be, of that payment in Burma currency, is delayed ; or

(b) that the foreign exchange or payment ceases, in whole or in part, to be receivable by him.

(2) Where a person has failed to comply with the requirements of sub-section (1) in relation to any foreign exchange or payment in Burma currency the Controller

may give to him such directions as appear to be expedient for the purpose of securing or expediting the receipt of the foreign exchange or payment in question, and, without

prejudice to the generality of the preceding provisions of this sub-section, may direct

that there shall 'be assigned to him, or to such person as may be specified in the

directions, the right to receive the foreign exchange or payment in question or enforce

any security for the receipt thereof.

12. The President of the Union may, by notification, impose such conditions as he

thinks necessary or expedient on the use or disposal of or dealings in gold and silver

imported into the Union of Burma.

13. (1) The President of the Union may, by notification, [prohibit the taking or

sending out of the Union of Burma by land, sea or air (hereinafter in 'this section

referred to as Export)]¹ of any goods or class of goods from the Union of Burma

directly or indirectly to a destination in any such territory as may be specified in the notification unless a declaration supported by such evidence as may be prescribed or so specified, is furnished to the prescribed authority that the amount representing a return for the goods which is in all the circumstances satisfactory in the national interest has been, or will within the prescribed period be, paid in the prescribed manner.

(2) Where any export of goods has been made to which a notification under subsection

(1) applies, no person entitled to sell, or to procure the sale of the said goods shall, except with the permission of the Controller, do or refrain from doing any act with intent to secure that -

(a) the sale of the goods is delayed to an extent which is unreasonable having regard to the ordinary course of trade ; or

(b) payment for the goods is made otherwise than in the prescribed manner or does not represent the full amount payable by the foreign buyer in respect of the goods, subject to such deductions, if any, as may be allowed by the Controller, or is delayed to such an extent as aforesaid :

Provided that no proceedings in respect of any contravention of this subsection shall

be instituted unless the prescribed period has expired and payment for the goods representing the full amount as aforesaid has not been made in the prescribed manner.

1

1 Substituted by Act XL, 1952.

(3) Where in relation to any such goods the said period has expired and the goods

have not been sold and payment therefor has not been made as aforesaid, the Controller may

give to any person entitled to sell the goods or to procure the sale thereof, such directions as

appear to him to be expedient for the purpose of securing the sale of the goods and payment

therefor as aforesaid, and without prejudice to the generality of the foregoing provision. may

direct that the goods shall be assigned to the President of the Union or to a person specified in

the directions.

(4) Where any goods are assigned in accordance with sub-section (3), the

President of the Union shall pay to the person assigning them such sum in consideration of the net sum recovered by or on behalf of the President of the Union in respect of the goods as may be determined by the President of the Union.

5) Where in relation to any such goods the value as stated in the invoice is less than the amount which in the opinion of the Controller represents the full export value of the goods, the Controller may issue an order requiring the person holding the shipping documents to retain possession thereof until such time as the exporter of the goods has made arrangements for the Controller or a person authorized by the Controller to receive on behalf of the exporter payment in the prescribed manner of an amount which represents in the opinion of the Controller the full export value of the goods.

6) For the purpose of ensuring compliance with the provisions of this section and any orders or directions made thereunder, the Controller may require any person making any export of goods to which a notification under sub-section (1) applies, to exhibit contracts with his foreign buyer or other evidence to show that the full amount payable by the said buyer in respect of the goods has been, or will within the prescribed period be, paid in the prescribed manner.

14. (1) No person shall, except with the general or special permission the Controller, -

- (a) take or send any security to any place outside the Union of Burma ;
- (b) transfer any security, or create or transfer any interest in a security, to or in favour of a person resident outside the Union of Burma ;
- (c) transfer any security from a register in the Union of Burma to a register outside the Union of Burma or do any act which is calculated to secure, or forms part of a series of acts which together are calculated to secure, the substitution for any security which is either in, or registered in, the Union of Burma, of any security which is either outside or registered outside the Union of Burma ;
- (d) issue, whether in the Union of Burma or elsewhere, any security which is registered or to be registered in the Union of Burma, to a person resident

outside the Union of Burma.

(2) Where the holder of a security is a nominee, neither he nor any person through whose agency the exercise of all or any of the holder's rights in respect of the security are controlled shall, except with the general or special permission of the Controller, do any act whereby he recognizes or gives effect to the substitution of another person as the person from whom he directly receives instructions, unless both the persons previously instructing him and the person substituted for that person were, immediately before the substitution, resident in the Union of Burma.

(3) The Controller may, for the purpose of securing that the provisions of this section are not evaded, require that the person transferring any security and the person to whom such security is transferred shall subscribe to a declaration that the transferee is not resident outside the Union of Burma.

(4) Notwithstanding anything contained in any other law, no person shall, except with the permission of the Controller, -

(a) enter any transfer of securities in any register or book in which securities are registered or inscribed if he has any ground for suspecting that the transfer involves any contravention of the provisions of this section, or

(b) enter in any such register or book, in respect of any security whether in connection with the issue or transfer of the security or otherwise, an address outside the Union of Burma except by way of substitution for any such address in the same country or for the purpose of any transaction for which permission has been granted under this section with knowledge that it involves the entry of the said address.

(5) For the purposes of this section, -

(a) "holder", in relation to a bearer security, means the person having physical custody of the security: provided that, where a bearer security is deposited with any person in a locked or sealed receptacle from which the person with whom it is deposited is not entitled to remove it without the authority of some other person, that other person shall be deemed to be the holder of the security;

(b) "nominee" means a holder of any security (including a bearer security) or any coupon representing dividends or interest who, as respects the exercise of any rights in respect of the security or coupon, is not entitled to exercise those rights except in accordance with instructions given by some other person, and a person holding a security or coupon as a nominee shall be deemed to act as nominee for the person who is entitled to give instructions either directly or through the agency of one or more persons, as to the exercise by the holder of the security or coupon of any rights in respect thereof and is not, in so doing,

himself under a duty to comply with instructions given by some other person ;

(c) "security" also includes coupons or warrants representing dividends or interest,

and life or endowment insurance policies.

15. (1) The President of the Union may, by notification, order every person by whom or

on whose behalf a security or document of title to a security specified in the order is held in

the Union of Burma to cause the said security or document of title to be kept in the custody of

an authorized depository named in the order :

Provided that the Controller may by order in writing permit any such security or

document of title to be withdrawn from the custody of the authorized depository subject to

such conditions as may be specified in the order.

(2) No authorized depository may part with any security covered by an order under

sub-section (1) without the general or special permission of the Controller except to, or to the

order of, another authorized depository.

(3) Except with the general or special permission of the Controller, no authorized

depository shall--

(a) accept or part with any security covered by an order under sub-section (1) whereby the security is transferred into the name of a person resident outside the Union of Burma, or

(b) do any act whereby he recognizes or gives effect to the substitution of another person as the person from whom he directly receives

instructions relating to such security unless the person previously so instructing him and the person substituted for that person were

immediately before the substitution resident in the Union of Burma.

(4) Except with the general or special permission of the Controller, no person shall buy, sell or transfer any security, or document of title to a security,

covered by

an order under sub-section (1) unless such security or document of title has been

deposited in accordance with the order.

(5) Except with the general or special permission of the Controller, no capital moneys, interest or dividends in respect of any security covered by an order under sub-section (1) shall be paid in the Union of Burma except to or to the order of the authorized depository having the custody of the security.

(6) For the purposes of this section

(a) "authorized depository" means a person notified by the President of the Union to be entitled to accept the custody of securities and documents of title to securities, and

(b) "security shall include coupons.

16. The President of the Union may, by notification, order that except with the general or special permission of the Controller, no person shall in the Union of Burma issue any bearer security or coupon or so alter any document that it becomes a bearer security or coupon.

17. (1) Subject to any exemptions that may be contained in the notification, the President of the Union may, if he is of the opinion that it is expedient so to do for the purpose of strengthening the foreign exchange position of the Government of the Union of Burma, by notification,--

(a) order the transfer to himself of any foreign securities specified in the notification at a price which, in the opinion of the President of the Union, is not less than the market value of the securities on the date of the notification, or

(b) direct the owner of any foreign securities specified in the notification to sell or procure the sale of the securities and thereafter to offer or cause to be offered the net foreign exchange proceeds of the sale to the Controller on behalf of the President of the Union or to such person as the Controller may authorize for the purpose, at such price as the President of the Union may fix, being a price which is in the opinion of the President of the Union not less than the market rate of the foreign exchange when it is offered for sale.

(2) On the issue of a notification under clause (a) of sub-section (1),--

(a) the securities to which the notification relates shall forthwith vest in

the

President of the Union free from any mortgage, pledge or charge, and the President of the Union may deal with them in such manner as he thinks fit ;

(b) the owner of any of the securities to which the notification relates and any

person who is responsible for keeping any registers or books in which any of those securities are registered or inscribed, or who is otherwise concerned with the registration or inscription of any of those securities, shall do all such

things as are necessary or as the President of the Union or the Controller on behalf of the President of the Union may order to be done, for the purpose of securing that -

(i) the securities and any documents of title relating thereto are delivered to

the President of the Union and, in the case of registered or inscribed securities, that the securities are registered or inscribed in the name of the President of the Union or of anyone nominated by the President of the Union, and

(ii) any dividends or interest on those securities becoming payable on or after the date of the issue of the notification are paid to the President of the Union or his nominee as aforesaid and where, in the case of any security payable to bearer which is delivered in pursuance of the said notification, any coupons representing any such dividends or interest are not delivered with the security, such reduction in the price payable therefor shall be made as the President of the Union thinks fit :

Provided that, where the price specified in the notification in relation to any security

is ex-dividend or ex-interest, this sub-clause shall not apply to that dividend or interest or to any coupon representing it.

(3) A certificate signed by any person authorized in this behalf by the President of the

Union that any specified securities are securities transferred to the President of the Union

under this section shall be treated by all persons concerned as conclusive evidence that the securities have been so transferred.

18. (1) Except with the general or special permission of the Controller, no person resident

in the Union of Burma shall settle any property, otherwise than by will, upon any trust under

which a person who, at the time of settlement, is resident outside the Union of Burma,

elsewhere than in territories notified in this behalf by the Controller, will have an interest in

the property, or exercise, otherwise than by will, any power for payment in favour of a person who at the time of the exercise of the power is resident outside the Union of Burma elsewhere than in such notified territories.

(2) A settlement or power as aforesaid shall not be invalid except in so far as it confers any right or benefit on any person who at the time of the settlement or the exercise of the power is resident outside the Union of Burma, elsewhere than in territories notified by the Controller.

(3) For the purposes of this section,—

(a) "settle", in relation to any property, includes any disposition, covenant, appointment, agreement or arrangement, whereby the property becomes subject to a trust or (in the case of a resettlement) to a different trust and for the purposes of this section, a person shall be deemed to have an interest in property subject to a trust if he has any beneficial interest therein, whether present or future, vested or contingent, or falls within a limited class of persons in whose favour a discretion or power in respect of the property is exercisable under the trust ;

(b) "will" includes any testamentary disposition.

19. (1) Except with the general or special permission of the Controller, no person

resident in the Union of Burma shall do any act whereby a company, which is controlled

(whether directly or indirectly) by persons resident in the Union of Burma * * * 1

ceases to be so controlled.

(2) Except with the general or special permission of the Controller, no person resident in the Union of Burma shall lend any money either to any company

(other than a banking company) which is controlled (whether directly or indirectly) by persons

resident outside the Union of Burma elsewhere than in the * * * 1 territories notified in

this behalf by the Controller, or to any such person.

1

1 Deleted by Act XL, 1952.

20. (1) The President of the Union may, by notification, direct owners, subject to

such exemptions, if any, as may be specified in the notification, of such foreign

exchange or foreign securities as may be so specified to make a return thereof to the

Controller within such period, and giving such particulars, as may be so specified.

(2) The President of the Union may, by order in writing, require any person, within such time and in such manner as may be specified in the order, to furnish him or any person specified in the order with any information, book or other document in his possession, being information, book or document which the President of the Union considers it necessary or expedient to obtain and examine for the purposes of this Act.

(3) If on a representation in writing made by a person authorized in this behalf by the President of the Union or the Controller, a District Magistrate, Subdivisional Magistrate, or Magistrate of the first class has reason to believe that a contravention of any of the provisions of this Act has been, or is being or is about to be committed in any place, he

may, by warrant, authorize any police officer not below the rank of sub-inspector [or any officer of the Bureau of Special Investigation not below the rank of Senior Investigator]1

(a) to enter and search any place in the manner specified in the warrant, and (b) seize any books or other documents found in or on such place which should have been produced in compliance with a requisition issued under sub-section (2) or which the police officer [or the officer of the Bureau of Special Investigation]1 has reason to believe to contain the information required to be furnished under that sub-section ; and the provisions of the Code of Criminal Procedure shall, so far as they may be applicable, apply to any such search or seizure as they apply to any search or seizure made under the authority of a warrant issued under section 98 of that Code ;

(c) any books or other documents seized under this sub-section shall be disposed

of in such manner as the President of the Union may direct ;

(d) in this sub-section, " place " includes a house, building, tent, vehicle, vessel or aircraft.

(4) The provisions of sub-sections (1) and (2) of section 54 of the Income-Tax Act shall apply in relation to information obtained under sub-section (2) of this section as they

apply to the particulars referred to in that section, and for the purposes of application

(a) the proviso to the said sub-section (2) shall be construed as if in clause (a)

thereof was included reference to a prosecution for an offence under section 24 of this Act, and

(b) persons to whom any information is required to be furnished under an order made under sub-section (2) of this section shall be deemed to be public servants within the meaning of that section.

20A. Where any document is furnished by any person under sub-section (2) of section 20, or

has been seized under sub-section (3) of that section from the custody or control of any person,

and such document is tendered by the prosecution in evidence against him, the Court shall,

unless the contrary is proved by any such person, presume

(a) the truth of the contents of such document ;

(b) that the signature and every other part of such document which purports to be

in the handwriting of any particular person or which the Court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document stamped,

executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

21. (1) For the purposes of this Act and of any rules, directions or orders made thereunder-

(a) until the Controller by general or special order otherwise directs, any person

who has at any time after the commencement of this Act been resident in the Union of Burma shall be treated as still being resident in the Union of Burma and if such direction is given in relation to any such person the Controller may, by the same or a subsequent direction, declare the territory in which he shall be treated as being resident ;

(b) in the case of any person to whom clause (a) does not apply the Controller may, by general or special order, declare the territory in which he shall be treated as being resident :

(c) in the case of any person resident in the Union of Burma who leaves the Union of Burma, the Controller may give a direction to any bank that until the direction is revoked, any sum from time to time standing to the credit of that person and any security held on his behalf at any office or branch of that bank

in the Union of Burma specified in the direction, shall not be dealt with

except

with the permission of the Controller ;

(d) any transactions with a branch of any business, whether carried on by a body

corporate or otherwise, shall be treated in all respects as if the branch were a

body corporate resident where the branch is situated ;

(e) the making of any book entry or other statement recording a debit against a

branch of any business in favour of the head office or any other branch of that

business shall be treated as the acknowledgment of a debt whereby a right is created in favour of a person resident where the head office or other branch

is

situated.

(2) Nothing in this Act relating to the payment of any price or sum by the President of

the Union shall be construed as requiring the President of the Union to pay that price or sum

otherwise than in Burma currency or otherwise than in the Union of Burma.

(3) The Controller may give such directions in regard to the making of payments and

the doing of other acts by bankers, authorized dealers, travel agents or stock brokers and

other persons who are authorized by the Controller to do anything in pursuance of this Act in

the course of their business, as appear to him to be necessary or expedient for the purpose of

securing compliance with the provisions of this Act and any rules, orders or directions made

thereunder.

22. (1) No person shall enter into any contract or agreement which would directly or

indirectly evade or avoid in any way the operation of any provision of this Act or of any rule,

direction or order made thereunder.

(2) Any provision of, or having effect under, this Act that a thing shall not be done

without the permission of the President of the Union or the Controller shall not render invalid

any agreement by any person to do that thing, if it is a term of the agreement that, that thing

shall not be done unless permission is granted by the President of the Union or the Controller,

as the case may be ; and it shall be an implied term of every contract

governed by the law of any part of the Union of Burma that anything agreed to be done by any term of that contract which is prohibited to be done by or under any of the provisions of this Act, except with the permission of the President of the Union or the Controller, shall not be done unless such permission is granted.

(3) Neither the provisions of this Act nor any term (whether expressed or implied) contained in any contract that anything for which the permission of the President of the Union or the Controller is required by the said provisions shall not be done without that permission shall prevent legal proceedings being brought in the Union of Burma to recover any sum which, apart from the said provisions and any such term, would be due, whether as a debt, damages or otherwise, but -

(a) the said provisions shall apply to sums required to be paid by any judgment or

order of any Court as they apply in relation to other sums ; and

(b) no steps shall be taken for the purpose of enforcing any judgment or order for

the payment of any sum to which the said provisions apply except as respects so much thereof as the President of the Union or the Controller, as the case may be, may permit to be paid ; and

(c) for the purpose of considering whether or not to grant such permission, the

President of the Union or the Controller, as the case may be, may require the person entitled to the benefit of the judgment or order to produce such documents and to give such information as may be specified in the requirements.

(4) Notwithstanding anything in the Negotiable Instruments Act, neither the provisions

of this Act or of any rule, direction or order made thereunder, nor any condition, whether

express or to be implied having regard to those provisions, that any payment shall not be

made without permission under this Act, shall be deemed to prevent any instrument being a

bill of exchange or promissory note.

23. No person shall, when complying with any order or direction under section 20 or

when making any application or declaration to any authority or person for any

purpose under
this Act, give any information or make any statement which he knows or has
reasonable
cause to believe to be false, or not true, in any material particular.

1 Inserted by Act VI, 1954,

2 Inserted by Act XL, 1952.

24. 1(1) Whoever contravenes any of the provisions of this Act or any rule,
direction or
order made thereunder shall be punishable with imprisonment for a term which
may extend to
three years, and shall also be liable to fine : provided that if any person
contravenes any
provision of sub-section (2) of section 9, he shall be punished with
imprisonment for a term
which shall not be less than six months and shall also be liable to fine ; and
any Court trying
any such contravention may, if it thinks fit and in addition to any sentence
which it may
impose for such contravention, direct that any currency, security, gold or
silver, or goods or
other property in respect of which the contravention has taken place shall be
confiscated.

2 (2) If the person committing an offence punishable under this section is a
company
or other body corporate, every Director, Manager, Secretary or other officer
thereof shall,
unless he proves that the offence was committed without his knowledge or that
he exercised
all due diligence to prevent its commission, be deemed to be guilty of such an
offence.

3 24A. whoever attempts to contravene any of the provisions of this Act or of
any rule,
direction or order made thereunder shall be deemed to have contravened that
provision, rule,
direction or order, as the case may be.

4 25. (1) Where any person is prosecuted for contravening any provision of
this Act or of
any rule, direction or order made thereunder which prohibits him from doing an
act without
permission, the burden of proving that he had the requisite permission shall
be on him.

3(2) Where any person is prosecuted for contravening any provision of sub-
section (3)

of section 5, the burden of proving that the foreign exchange acquired by such person has been used for the purpose for which permission to acquire it was granted shall be on him.

26. No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act or any rule, direction or order made thereunder.

27. (1) The President of the Union may, by notification, make rules for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may (a) prescribe forms and circumstances of their use for the purposes of this Act ;

(b) prescribe the procedure to be followed by authorized dealers and by persons applying for permission to do any thing for the doing of which permission is necessary under this Act ;

(c) provide for any matter which is to be or may be prescribed under this Act.

1 28. * * * *

1

1 Substituted by Act X, 1953.

2 Original sub-section (2) was deleted and sub-section (3) renumbered as sub-section

(2) *ibid.*

3 Inserted by Act XL, 1952.

4 Section 25 was renumbered as sub-section (1) thereof and sub-section (2) inserted

ibid.

5 For such rules see Burma Gazette, 1949, Part I, p. 948 and Burma Gazette, 1953, Part I, p

1381.

