

THE BURMA COURTS' ACT AMENDMENT ACT.

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ACT No. I OF 1873.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor General on the 7th January
1873).

An Act to amend the Burma Courts' Act, 1872.

- Preamble. **W**HEREAS it is expedient to amend the Burma Courts' Act, 1872; It is hereby enacted as follows:—
- Short title. **1.** This Act may be called "The Burma Courts' Act Amendment Act":
- Local extent. It extends only to the territories under the administration of the Chief Commissioner of British Burma:
- Commencement. Sections eleven, twelve and thirteen shall come into force at the expiration of two months after the passing of this Act. The rest of this Act shall come into force at once.
- Code of Civil Procedure applied to Burma. **2.** Save as otherwise provided by the Burma Courts' Act, 1872, and by this Act, the Code of Civil Procedure shall be, and shall, on and from the fifth day of April 1872, be deemed to have been, in force throughout British Burma.
- Power to distribute business. **3.** Notwithstanding anything contained in the Code of Civil Procedure, section six, every Deputy Commissioner may direct suits to be instituted in the Courts subordinate to him, according to such rules as to the description of the suits and the amount or value of their subject-matter as he shall from time to time, with the sanction of the Judicial Commissioner, prescribe in this behalf,
and may also, with the like sanction, direct the business of the said Courts to be distributed among them in such way as he thinks fit:
provided that no Court shall try any suit where the amount or value of the subject-matter exceeds its proper jurisdiction.

4. Notwithstanding

4. Notwithstanding anything contained in the Code of Civil Procedure, sections twenty-six and one hundred and seventy-two, plaints may be written and evidence may be taken down in such language or languages as the Chief Commissioner shall from time to time direct in this behalf.

Language of
plaints and
record of
evidence.

5. Notwithstanding anything contained in the said Burma Courts' Act, 1872, and subject to any express provision to the contrary contained in any other Act for the time being in force, an appeal shall lie from the decrees and orders of the Courts of original jurisdiction in British Burma to the Courts empowered by the said Act, section eight and section sixty-nine, respectively, to hear appeals from decrees and orders.

Appeals to
lie from
Courts of
original
jurisdiction.

All such appeals presented between the fifth day of April 1872 and the passing of this Act, shall be deemed to have been presented under this section.

6. In the interval between the presentation of an appeal, under section sixty-nine of the said Burma Courts' Act, 1872, and the hearing thereof by the Special Court, the appeal and all applications relating thereto shall be dealt with by the Judicial Commissioner as if it were an appeal presented in his own Court.

Appeals to
Special Court.

7. For the purposes of the Court Fees' Act, 1870, the said Special Court shall be deemed to be a High Court in the exercise of its jurisdiction as a Court of Appeal or as a Court of Reference, as the case may be.

Special Court
to be deemed
a High Court
under Acts
VII of 1870
and IX of
1871.

For the purposes of the Indian Limitation Act, 1871, appeals and applications to the said Special Court shall be deemed to be, respectively, appeals and applications to a High Court under the Code of Civil Procedure or under the Code of Criminal Procedure, as the case may be.

8. When the civil appellate jurisdiction of any Commissioner has, under section twenty-nine of the Burma Courts' Act, 1872, been transferred to the Judicial Commissioner,

Application
of Acts VII
of 1870 and
IX of 1871
to certain
petitions to
Judicial Com-
missioner.

(a.) all petitions and other documents presented to the Judicial Commissioner in the exercise of the jurisdiction

jurisdiction so transferred shall, for the purposes of the Court Fees' Act, 1870, be deemed to have been presented to the Commissioner :

(b.) and all appeals and applications presented to the Judicial Commissioner in the exercise of the jurisdiction so transferred shall, for the purposes of the Indian Limitation Act, 1871, be deemed to have been presented to him in the exercise of his ordinary jurisdiction.

Power to call for record.

9. In any case in which a Court of first appeal has, in the opinion of the Judicial Commissioner, wrongly refused to submit a statement under section thirty-five of the Burma Courts' Act, 1872,

the Judicial Commissioner may call for the record of the case,

and may, on receipt of such record, proceed to try the case as if it were an appeal instituted in his own Court.

And in any case in which a Court of first appeal has submitted such a statement, but, in the opinion of the Judicial Commissioner, the statement is unduly limited, or justice cannot be done without re-hearing the case,

the Judicial Commissioner may proceed to try the case as if it were an appeal instituted in his own Court.

The Judicial Commissioner shall send the Court of first appeal a copy of his judgment in any case tried under this section, and the said Court shall dispose of the case in conformity with such judgment.

Amendment of Act VII of 1872, section 35.

10. To section thirty-five of the said Act, the following words shall be added : "and a certified copy of such reasons shall, on application to the Court, be furnished to any party to the suit."

Licensing of advocates.

11. No person shall be permitted to appear, plead or act as the advocate of any suitor, or of any appellant, complainant or accused person, in the Court of the Judicial Commissioner, or in any Court, whether civil or criminal, subordinate thereto, unless such person is licensed thereto by the Judicial Commissioner, either generally or specially.

The

The Judicial Commissioner may from time to time make rules for the qualification, admission and enrolment of proper persons to appear, plead or act as aforesaid ;

Rules for their qualification and admission.

and for the suspension or dismissal of any such persons who are guilty of fraudulent or grossly improper conduct.

All such rules shall be published in the local official Gazette.

Any person appearing, pleading or acting in contravention of any such rule, shall be liable, by order of the Court, to a fine not exceeding five hundred rupees.

12. Notwithstanding anything contained in section eleven or in any rule made thereunder,

Saving of agents of Government, suitors, co-suitors, and advocates of High Courts.

any person may appear, plead or act as the agent for the Crown or for the Secretary of State for India in Council,

and any suitor may appear, plead or act on behalf of himself or a co-suitor ;

and any person who for the time being is an advocate, vakil or attorney-at-law of any High Court may appear, plead or act as the advocate of any suitor in the Court of the Judicial Commissioner or any Court subordinate thereto.

And nothing contained in section eleven or in any rule made thereunder shall be deemed to affect the second clause of section 186 of the Code of Criminal Procedure.

13. The fees to be received by any advocate, for business done in the Court of the Judicial Commissioner or in any Court subordinate thereto, shall at all times be subject to the control and taxation of the presiding Judge ; and no such fees shall be recoverable unless they have been allowed on taxation by the said Judge, or such officer as he appoints in this behalf.

Fees liable to taxation.

The

The Judicial Commissioner may from time to time make rules regulating the control and taxation of costs in such subordinate Courts.

Saving of
certain trials
at Maulmain,
Rangoon and
Akyab.

14. No trial had by the Commissioner or Deputy Commissioner at Courts of Session in the towns of Maulmain, Rangoon and Akyab, shall be deemed to have been invalid merely on the ground that such trial was not by jury.