

THE  
UPPER BURMA LAND REVENUE  
MANUAL,

CONTAINING

THE UPPER BURMA LAND AND REVENUE REGULATION, 1889,  
THE LAND IMPROVEMENT LOANS ACT, 1883,  
THE AGRICULTURISTS' LOANS ACT, 1884,

AND THE

RULES, NOTIFICATIONS, AND ORDERS THEREUNDER, IN FORCE IN  
UPPER BURMA

CORRECTED UP TO THE 6TH AUGUST 1900



RANGOON :

PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRINTING, BURMA

1900.

[This list is published in supersession of the list circulated with the  
Burma Gazette dated 1st December 1900.]

THE UPPER BURMA LAND REVENUE MANUAL.—(Edition 1900).

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*N.B.*—This index should be pasted on the butts provided for the purpose at the beginning of the Manual.

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\* List No. XIX was dated the 1st August 1903.

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1900.

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XIII (1). *Page (i)*.—Under "Statement of Repeals and Amendments" insert "Amended by Regulation V of 1901."



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THE UPPER BURMA LAND AND REVENUE REGULATION III  
OF 1889.

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REGULATION No. III OF 1889.

THE UPPER BURMA LAND AND REVENUE  
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REGULATION No. III OF 1889

THE UPPER BURMA LAND AND REVENUE  
REGULATION, 1889.

*A Regulation to declare and amend the Law relating to rights in land and the Assessment and Collection of revenue in Upper Burma.*

WHEREAS it is expedient to declare and amend the law relating to rights in land and the assessment and collection of revenue in Upper Burma; It is hereby enacted as follows.

CHAPTER I.

PRELIMINARY.

I. (1) This Regulation may be called the Upper Burma Land and Revenue Regulation, 1889;

Title, extent, and commencement.

(2) it extends to the whole of Upper Burma \* \* \* †, and

(3) it shall‡ come into force on such day as the Local Government, by notification in the *Burma Gazette*, appoints in this behalf.

2. (1) The Upper Burma Revenue Regulation, VII of 1887, is hereby repealed.

Repeal and pending proceedings.

(2) But all rules made under that Regulation and in force thereunder immediately before the commencement of this Regulation shall be deemed, so far as may be, to have been made under this Regulation and to be in force thereunder.

(3) All proceedings relating to matters dealt with by this Regulation and pending at the commencement of this Regulation before officers by whom they would be cognizable under this Regulation shall be deemed, so far as may be, to have been commenced under this Regulation.

Definitions.

3. § In this Regulation, unless there is anything repugnant in the subject or context,—

(1) the expression "minerals" includes amber;

† The words "except the Sh in States" were repealed by the Burma Laws Act (XIII of 1898, the fifth Schedule)

‡ The Regulation came into force on the 13th July 1889, under Revenue Department Notification No. 92, dated the 13th July 1889, page 29

§ Substituted by Regulation III of 1898.

(2)\* "town" means any area declared by the Local Government, by notification in the local official Gazette, to be a town for the purposes of this Regulation, or constituted a municipality or town for the purposes of the Upper Burma Municipal Regulation, 1887, or the Upper Burma Towns Regulation, 1891, or of any other enactment for the time being in force; and

V of 1887.  
VI of 1891.

(3) "village" includes a village as defined for the purposes of the Upper Burma Village Regulation, 1887, and any group of villages to which a headman may have been appointed under that Regulation.

XIV of 1887.

## CHAPTER II.

### REVENUE OFFICERS.

#### *Classes, Local Jurisdiction, and Powers*

Classes, local jurisdiction, and powers of Revenue Officers

4. (1) There shall be the following classes of Revenue Officers, namely:—

- (a) the Financial Commissioner;
- (b) the Commissioner;
- (c) the Collector;
- (d) the Assistant Collector of the first class, and
- (e) the Assistant Collector of the second class.

(2) The Deputy Commissioner of a district shall be the Collector thereof.

(3) The Local Government may appoint † any Assistant Commissioner, Extra Assistant Commissioner, Subdivisional Officer, Township Officer, Myoók<sup>[1]</sup> Superintendent of Land Records,<sup>[2]</sup> or Akunwun to be an Assistant Collector of the first or of the second class, as it thinks fit.

(4) Appointments under sub-section (3) shall be by notification in the *Burma Gazette* and may be of a person specially by name or by virtue of his office or of more persons than one by any description sufficient for their identification.

(5) Subject to the provisions of this Regulation, the jurisdiction of Commissioners and of Collectors and Assistant Collectors extends to the divisions and districts respectively in which they are for the time being employed.

\* See notifications at pages 30 and 31.

† See Revenue Department Notifications No. 371, dated the 26th October 1892, and No. 289, dated the 8th July 1896, pages 31 and 32.

[1]—[2] Added by Regulation II of 1895.

XIII (2). *Page 3.*—(1) In section 6, sub-section (1), after the words “such officers shall” insert the words “subject to the control of the Local Government.”

(2) In sub-section (2) of the said section after the word “Subject” insert the words “as aforesaid to the control of the Local Government and”

(Amended by Regulation No. V of 1901).

**5.** Except where the class of the Revenue Officer by whom any function is to be discharged is specified in this Regulation, the Local Government, by notification \* in the *Burma Gazette*, or by the rules which it is empowered by this Regulation to make, or the Financial Commissioner by the rules which he is so empowered to make, may determine the functions to be discharged under this Regulation and the rules thereunder by any class of Revenue Officers.

Powers of Revenue Officers.

*Administrative Control.*

**6.** (1) The general superintendence and control over all other Revenue Officers shall be vested in, and all such officers shall be subordinate to, the Financial Commissioner.

(2) Subject to the general superintendence and control of the Financial Commissioner a Commissioner shall control all other Revenue Officers in his division.

(3) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue Officers in his district.

**7** (1) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, among the Revenue Officers under his control any business cognizable by any of those officers.

(2) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue Officer under his control, and either dispose of it himself or by written order refer it for disposal to any other Revenue Officer under his control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own jurisdiction.

*Appeal, Review, and Revision.*

**8.** An appeal shall lie from an original or appellate order of a Revenue Officer as follows, namely :—

- (a) to the Collector when the order is made by an Assistant Collector of either class ;
- (b) to the Commissioner, when the order is made by a Collector ;

\* See Financial Commissioner's Notification No 8, dated the 8th July 1889, and Revenue Department Notification No. 384, dated the 6th October 1894, pages 32 and 33.



(c) to the Financial Commissioner when the order is made by a Commissioner—

Provided that—

- (i) when an original order is confirmed on first appeal a further appeal shall not lie ;
- (ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any, to him shall be final.

9. The period of limitation for an appeal under the last foregoing section shall run from the date of the making of the order appealed from, and shall be as follows, that is to say :—

Limitation for appeals.

- (a) when the appeal lies to the Collector,—30 days ;
- (b) when the appeal lies to the Commissioner,—60 days ;
- (c) when the appeal lies to the Financial Commissioner,—90 days.

10. (1) A Revenue Officer may, either of his own motion or on application of any party interested, review, and on so reviewing modify, reverse, or confirm any order made by himself or by any of his predecessors in office :

Review.  
Provided as follows :—

- (a) When a Commissioner or Collector thinks it necessary to review any order which he has not himself made, and when a Revenue Officer of a class below that of Collector proposes to review any order, whether made by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue Officer to whose control he is immediately subject.
- (b) An application for review of an order shall not be entertained unless it is made within 90 days from the making of the order, or unless the applicant satisfies the Revenue Officer that he had sufficient cause for not making the application within that period.
- (c) An order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order.
- (d) An order against which an appeal has been preferred shall not be reviewed.

(2) For the purposes of this section the Collector shall be deemed to be the successor in office of any Revenue Officer of a

XIX. (2) *Page 5.*—In section 12, sub-section (1), *for* the words “in cases in which a procedure is not prescribed by this Regulation” *substitute* the words “and may by such rules confer upon any Revenue-officer any power exercised by a Civil Court in the trial of suits.”

lower class who has left the district or has ceased to exercise powers as a Revenue Officer, and to whom there is no successor in office.

(3) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

Power to call for  
and revise proceed-  
ings of Revenue  
Officers.

II. (1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue Officer subordinate to him.

(2) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue Officer under his control.

(3) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(4) The Financial Commissioner may in any case called for by himself under sub-section (1), or reported to him under sub-section (3) make such order as he thinks fit:

Provided that he shall not under this section make an order reversing or modifying any proceeding or order of a subordinate Revenue Officer and affecting any question of right between private persons without giving those persons an opportunity of being heard.

#### *Procedure.*

12. (1) The Local Government may make rules\* consistent with this Regulation for regulating the procedure of Revenue Officers under this Regulation in cases in which a procedure is not prescribed by this Regulation.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejection from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue Officer all or any of the powers in regard to contempts, resistance and the like which any Civil Court in British India other than a superior Court of Record may exercise in the execution of a decree whereby it has adjudged ejection from, or delivery or possession of, such property.

(3) Subject to the rules under this section, a Revenue Officer may refer any case which he is empowered to dispose of under this Regulation to another Revenue Officer for investigation and report, and may decide the case upon the report.

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\* See Rules 3 to 11A of the General Rules, pages 40—42.

Persons by whom appearances and applications may be made before and to Revenue Officers.

13. (1) Appearances before a Revenue Officer and applications to and acts to be done before him under this Regulation and the rules thereunder may be made or done—

(a) by the parties themselves ; or,

(b) with the permission of the Revenue Officer, by their recognized agents or a legal practitioner :

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the Revenue Officer.

(2) For the purposes of sub-section (1) the recognized agents of parties by whom appearances, applications, and acts may be made or done are servants, partners, relations or friends whom the Revenue Officer may admit as fit persons to represent parties, and especially persons holding powers-of-attorney from absent parties, persons carrying on business on behalf of bankers and traders, managers of lands, nearest male relations of women, and persons authorized by virtue of their office to represent the Government.

(3) No legal practitioner shall practise before any Revenue Officer unless he holds a certificate from the Financial Commissioner authorizing him to do so.

(4) Such a certificate shall be current for such time, and chargeable with such stamp-duty, and authorize practice before such Revenue Officers as the Financial Commissioner\* prescribes, and may at any time for any cause appearing to the Financial Commissioner to be sufficient be cancelled by him.

(5) A Revenue Officer, in determining the costs of any proceeding before him under this Regulation, shall not allow to be included therein the remuneration of any recognized agent or legal practitioner.

Power of Revenue Officer to summon persons.

14. (1) A Revenue Officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue Officer.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person, or, if the summons so allows, by his recognized agent or legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents

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\* See rules for the grant of certificates to legal practitioners, page 158.

XIII (3). *Page 7.*—In section 15, sub-section (4), for the words and figures "Part III of the Indian Post Office Act, 1866," substitute the words and figures "Chapter VI of the Indian Post Office Act, 1898."

(Amended by Regulation No. V of 1901).

XIII (4). *Page 7.*—Substitute "VI of 1898" for "XIV of 1866" in the margin, and delete the foot-note on this page from "see to been."

and other things relating to any such matter as the Revenue Officer may require.

**15.** (1) A summons issued by a Revenue Officer shall, if practicable, be served (a) personally on the person to whom it is addressed, or failing him, on (b) his recognized agent, or (c) an adult male member of his family usually residing with him, or (d) the headman of the village in which he resides.

Mode of service of summons. (2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue Officer is employed and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place on or near the land.

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue Officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue Officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(4) A summons may, if the Revenue Officer so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a prepaid letter addressed to the person at his usual or last known place of residence, and registered under Part XIV of 1866, III of the Indian Post Office Act, 1866.\*

(5) When a summons is so forwarded in a prepaid letter and it is proved that the letter was properly addressed and duly posted and registered, the Revenue Officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

**16.** A notice or order issued by a Revenue Officer for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of service of notice or order.

**17.** When a proclamation is issued by a Revenue Officer, it shall be made by such method as the Revenue Officer may decide to be the customary method, and, if the proclamation relates to land, it shall be

Mode of making proclamation.

\* See now the Indian Post Office Act, 1898 (VI of 1898), by which Act XIV of 1866 was repealed, and which has been declared to be in force in Upper Burma by the Burma Laws Act, 1898 (XIII of 1898), first Schedule.

XIII (5). Page 9.—(1) In section 22, sub-section (1), for the words "*Thathameda-tax*" substitute the words "Subject to the provisions of this Regulation, the *thathameda-tax*."

(2) In sub-section (2) of the said section after the word "circumstances" insert the words "and the rates of land-revenue payable."

(Amended by Regulation No. V of 1901).

Commissioner, Collector, or Assistant Collector, as the case may be, having exclusive jurisdiction within those limits with respect to those classes of cases.

(3) If any of the powers of a Collector under this Regulation and the rules thereunder are conferred on an Assistant Collector, they shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

### CHAPTER III.

#### PROVISIONS WITH RESPECT TO CERTAIN SOURCES OF REVENUE.

##### *Thathameda tax.*

22. (1) *Thathameda* tax shall be leviable at such average rate per household or family, and shall be assessed by such persons and subject to such rules\* as the Local Government directs.

(2) The average rate at which *thathameda* tax is to be levied may vary from district to district and from place to place within a district as the Local Government, having regard to local circumstances, may deem expedient.

(3) In the case of any town or village, or, if the Financial Commissioner so directs, of any part of a town or village, all the inhabitants of the town, village, or part, as the case may be, shall be jointly and severally liable for the whole of the *thathameda* tax leviable therein.

##### *State land.*

23 "State land" in the following sections of this Regulation means land belonging to or at the disposal of the Government, and includes—

- (a) land hitherto termed royal land ;
- (b) land held on condition of rendering public service or as an appanage to or emolument of a public office ;
- (c) islands and alluvial formations in rivers ;
- (d) waste land and land included within reserved or village forests ; and
- (e) land which has been under cultivation, but has been abandoned and to the ownership of which no claim is preferred within two years from the commencement of this Regulation.

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\*See Rules 12 to 20, pages 43-45.



24. (1) Any land which before the commencement of this Regulation has been or thereafter may be declared\* Cognizance of claims to State land. by the Collector to be State land shall be deemed to be such land until the contrary is proved.

(2) A claim to the ownership or possession of any land with respect to which such a declaration has been or may be so made, or to hold such land rent-free or at a favourable rent or rate of rent, or to establish any lien upon, or other interest in, such land or the rents, profits, or produce thereof, shall be cognizable by the† Collector only, and the order which the Collector may make on the claim shall, subject to the provisions of Chapter II with respect to appeal, review, and revision, be final.

<sup>[a]</sup> (3) The period of limitation for a claim under the last preceding sub-section shall be one year from the date of the declaration made by the Collector.<sup>[a]</sup>

25. Subject to the provisions of this Regulation and the rules‡ thereunder and to the terms of any order made on Incidents of the tenure of State land. any such claim as is mentioned in sub-section (2) of the last foregoing section, the following are among the incidents of the tenure of State land, namely.—

(a) an occupier of State land can have no heritable or transferable § right of use or occupancy therein nor can any rights adverse to the Government exist in such land unless they have been created or continued by a grant made by or on behalf of the British Government,

(b) the rent payable in respect of State land is such as may have been agreed upon between the occupier and an officer of the Government authorized by rules|| to be made by the Local Government in this behalf to enter into such an agreement with the occupier on behalf of the Government, or, in the absence of such an agreement, such sum as such an officer, with the approval of the Collector, may determine to be a fair and equitable rent¶ for the use and occupation of the land,

(c) an occupier of State land may not, except for default in the payment of rent due from him to the Government,

[a-1] Added by Regulation II of 1895

For the procedure to be followed, see Financial Commissioner's Circular No 3 of 1894, pages 233—234.

† See Financial Commissioner's Circulars Nos 7 and 22 of 1894, pages 234—236.

‡ See Rules 23—36, pages 46—48

§ See Financial Commissioner's Circular No 30 of 1893, page 231.

|| See Rule 25 of the General Rules, page 46

¶ For notifications sanctioning rates of assessment on State lands, see pages 159—163.

XIII (6). *Page 10.*—(1) In section 24, sub-section (2), for the words “rent-free or at a favourable rent or rate of rent” substitute the words “free of land-revenue or at a favourable rate of land-revenue.”

(2) To the said section add the following sub-section:—

“(4) A declaration made by the Collector under sub-section (1) may be withdrawn by him at any time before the passing of an order on any claim preferred under sub-section (2) to the ownership or possession of the land to which the declaration relates; and a declaration so withdrawn shall be deemed not to have been made and no presumption of the nature specified in sub-section (1) shall be deemed to have arisen.”

(Amended and added by Regulation No. V of 1901).

XIII (7). *Pages 10 and 11.*—In section 25 delete clause (b) and for the word “rent,” in clauses (c) and (d), substitute the words “land-revenue.”

(Amended by Regulation No. V of 1902).

XIII (8). *Page 10.*—Delete the last two foot-notes on this page.

be ejected from such land without such notice as may be prescribed by rules\* to be made by the Local Government in this behalf, or, failing such notice, such compensation as, subject to any such rules, the Collector may, having regard to all the circumstances of the case, deem just ;

- (d) a person occupying State land without the permission of the Collector, or of some other officer authorized by rules to be made by the Local Government in this behalf, or occupying such land with such permission and making default in the payment of the rent due from him to the Government in respect thereof, may at any time be ejected from the land by order of the Collector.

26.† (1) The Financial Commissioner may make rules—

Grant and temporary occupation of waste land, and allotment of such land for grazing-ground.

- (a) for the disposal ‡ by way of grant or otherwise of any State land which is waste ;
- (b) for regulating § the temporary occupation of such land ; and
- (c) for the allotment || from such land of grazing-grounds to the inhabitants of any village in the neighbourhood thereof whom he considers to stand in need of such allotment, and the regulation and control of the use of such grazing-grounds by persons permitted to graze their cattle thereon.

(2) Rules under clause (a) of sub-section (1), with respect to State land which is waste, may provide for the following among other matters, namely,—

- (i) 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 ;
- (ii) the mode in which grants and other dispositions of the land may be made ;
- (iii) the total or partial exemption, either absolutely or subject to conditions, of the land from rent for a term of years or for any life or lives, or during the maintenance of any institution ; and
- (iv) 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

\* See Rules 30 to 36 of the General Rules, pages 47—48.

† Section 26 has been applied to the Shan States with modifications by Political Department Notification No 3, dated the 28th January 1897. For rules, see page 163.

‡ See Rules 37 to 67 of the General Rules, pages 48—59.

§ See Rules 68 to 74 of the General Rules, pages 59—60.

|| See Rules 75 to 79 of the General Rules, pages 60—61.

grant or disposition, as if it were an arrear of revenue due in respect of the land from the person taking under the grant or disposition, his legal representatives or assigns,

but such rules shall not take effect until they have been approved by the Governor-General in Council.

(3) A rule under sub-section (1) may authorize the ejectment, by order of any Revenue Officer, of any person occupying or using land in contravention of any rule under that sub-section.

(4) No person shall acquire, by length of possession or otherwise, any interest in land disposed of, occupied, or allotted in pursuance of rules under clause (a), clause (b), or clause (c) of sub-section (1) beyond such interest as is conferred by the rules.

*Lands other than State land.*

27. (1) All lands other than State land, to whatever purpose they may be applied and wherever they may be situate, shall, subject to the other provisions of this section and where *thathameda* tax is payable by holders of such lands, to such adjustment of or exemption from that tax as may be authorized by rules\* to be made by the Local Government in this behalf with the previous sanction of the Governor-General in Council, be liable to the payment of land revenue to the Government.

(2) The assessment of such lands to land revenue shall be made † by a Revenue Officer—

- (a) according to such method of assessment,
- (b) on consideration of such sources of income,
- (c) with effect from such date, and,
- (d) for such period,

as may be approved by the Local Government with the previous sanction of the Governor-General in Council.

(3) When the method of assessment to be adopted and the sources of income to be considered have been determined, the Revenue Officer making the assessment shall, under the direction of the Financial Commissioner, fix the rates‡ of assessment.

(4) In the case of land which was subject to the payment of land revenue immediately before the commencement of this Regulation, the land revenue payable in respect thereof shall, until the land is assessed under this section, be levied in such manner and at such rates as has and have heretofore been customary.

\* See Rules 80 and 81 of the General Rules, pages 61-62.

† The instructions to Settlement Officers in Upper Burma are issued under this sub-section.

‡ For Notifications fixing the rates of assessments on non-State land in Minbu Kyaukse, and Meiktila districts see pages 165-6

(b) land exempted from liability to the payment of land-revenue by the express terms of any grant made or continued by or on behalf of the British Government."

(Substituted by Regulation No. V of 1901).

XIII (9). *Pages 12 and 13.*—For section 27 substitute the following:—

Liability to payment of land-revenue. “ 27. (1) All lands, to whatever purpose they may be applied and wherever they may be situated, shall, subject to the other provisions of this section, be liable to the payment of land-revenue to the Government.

(2) The land-revenue payable under sub-section (1) shall be at such rates in kind or money and for such period as the Revenue Officer appointed in this behalf may, in accordance with rules to be made by the Local Government with the previous sanction of the Governor-General in Council, fix. The rates so fixed may be on classes of soil or on classes of crop throughout any district or part of a district.

(3) The Local Government, with the previous sanction of the Governor-General in Council, may direct that in any district or part of a district an abatement from the rates fixed under sub-section (2) shall be made before they are applied to the assessment of land other than State land, and in every such direction shall specify the amount of such abatement. When in any district or part of a district such an abatement has been granted, the abatements shall not be withdrawn nor decreased in any future revision of the assessment except with the previous sanction of the Governor-General in Council.

(4) All land, which was subject to the payment of land-revenue immediately before the commencement of this Regulation, shall, whether it has or has not been declared under section 24, sub-section (1), to be State land, continue to be so subject, and the land-revenue payable in respect thereof shall, until the land is assessed under the provisions of this Regulation and the rules thereunder, be levied in such manner and at such rates as have heretofore been customary.

(5) No refund of land-revenue shall be claimable in the event of any land assessed under sub-section (4) being afterwards declared to be other than State land.

(6) Nothing in sub-section (1) with respect to the liability of State land to the payment of land-revenue shall be deemed to apply to any of the following classes of land, namely,—

- (a) land belonging, at the commencement of this Regulation, to the site and curtilage of any monastery, pagoda or other sacred building, or of any school, and continuing to be used for the purpose of such monastery, pagoda, building or school;

XIII (10). *Page 12.*—Delete all the foot-notes on this page.

XIII (11). Page 13.—After section 28 add the following:—

“28A. (1) Notwithstanding anything contained in this Regulation, no enhancement made in any rate of land-revenue, tax or fee shall take effect until the commencement of the year of assessment next following that in the course of which the enhancement is made.

Enhancement when to take effect.

(2) The Local Government may, by notification in the *Burma Gazette*, fix the year which shall be deemed to be the year of assessment in respect of such rate, tax or fee.”

(Added by Regulation No. V of 1901).

(5) Nothing in sub-section (1) with respect to the liability of lands other than State land to the payment of land revenue shall be construed to apply to any of the following classes of land, namely,—

- (a) land belonging at the commencement of this Regulation to the site and curtilage of any monastery, pagoda, or other sacred building, or of any school, and continuing to be used for the purpose of such monastery, pagoda, building, or school;
- (b) land appropriated to the dwelling-places of any town or village; and
- (c) land exempted from liability to the payment of land revenue by the express terms of any grant made or continued by or on behalf of the British Government.

28. When any local area is being assessed to land revenue under the last foregoing section, the Local Government may by notification in the *Burma Gazette* declare, with respect to the whole or any part of the area, that all the holders of all the lands assessed in each village therein shall be jointly and severally responsible for the land revenue assessed on all the lands in the village.

Joint liability for land revenue.

#### *Land Records.*

29. (1) As soon after the commencement of this Regulation as circumstances permit the Financial Commissioner shall cause a record-of-rights to be prepared for each village,<sup>[a]</sup> and for such towns as he may from time to time, by notification\* in the local official Gazette, direct<sup>[a]</sup> and, when such a record has been prepared, the Collector shall maintain it by causing a corrected edition thereof to be prepared at such intervals as the Financial Commissioner may prescribe.

(2) For the purpose of facilitating the preparation of the periodical edition of the record-of-rights, a register, to be called the register of mutations, shall be kept in which any event affecting any of the matters recorded in the record-of-rights or in the last periodical edition thereof shall be recorded as soon as may be after it happens.

(3) The Financial Commissioner shall from time to time make rules†—

- (a) as to the documents (including maps) to be comprised in the record-of-rights, and their contents and form;

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[a—d] Added by Regulation III of 1898.

\* See Notifications at page 35.

† See Rules 82 to 91 of the General Rules, pages 62-63.



- (b) as to the documents (including maps) to be comprised in the periodical edition of the record-of-rights, and their contents and form ;
- (c) as to the contents and form of the register of mutations, and the verification of matters to be recorded therein ;
- (d) as to the obligation of persons interested in land to give information of any event which may affect any of the matters recorded in the record-of-rights or in the last periodical edition thereof ;
- (e) as to the consequences which shall ensue on failure to discharge such obligation ;
- (f) as to the fee, if any, to be paid in respect of any entry in a register of mutations and the person by whom such fee is to be payable ; and
- (g) generally, for the guidance of Revenue Officers and headmen in carrying out the purposes of this section.

(4) Any person whose rights or liabilities are required by any rule under sub-section (3) to be recorded under this section shall be bound to furnish, on the requisition of any Revenue Officer or headman engaged in compiling the record, all information necessary for the correct compilation thereof.

**30.** (1) If, in the course of any proceeding for the purpose of carrying out the provisions of the last foregoing section and the rules thereunder, a dispute arises as to any matter of which an entry is to be made in a record or register, a Revenue Officer, of his own motion or on the application of any party interested, may, after such enquiry as he thinks fit, determine the entry to be made as to that matter.

(2) If in any such dispute the Revenue Officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain by summary enquiry who is the person best entitled to the property, and shall by order direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register.

(3) A direction of a Revenue Officer under sub-section (2) shall be subject to any decree or order which may be subsequently passed by any competent authority.

Determination of disputes arising out of preparation and maintenance of record-of-rights.

*Minerals and Earth-oil.*

31. (1) Save as otherwise expressly provided by the terms of any grant made or continued by or on behalf of the British Government, the right to all precious stones, mines, minerals, coal, and earth-oil shall be deemed to belong to the Government, and the Government shall have all powers necessary for the proper enjoyment of its right thereto.

(2) Whenever in the exercise of any such right of the Government the rights of any person are infringed by the occupation or disturbance of the surface of any land, the Government shall pay, or cause to be paid, to that person compensation for the infringement.

(3) \* The compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1894.

(4) † The Local Government may make rules for the levy and collection of royalties or fees in respect of minerals mined, quarried or collected in land wherein the right to minerals is deemed to belong to the Government.

*Fisheries.*

32. (1) In this and the following sections of this Regulation—

Fisheries

- (a) "fishery" means any collection of water, running or still, which is itself of permanent nature or is connected with some waters of a permanent nature, and in which fish or turtle may be found ;
- (b) "to fish" includes to catch turtle or collect their eggs ; and
- (c) "fixed engine" means any fixed implement for catching or for facilitating the catching of fish, and includes a net secured by anchors or otherwise temporarily fixed to the soil.

(2) Every fishery shall be deemed to belong to the Government ; and no right to fish in any fishery shall be deemed to have been acquired by the public or by any person, either before or after the commencement of this Regulation, except under this section or the rules thereunder.

(3) Subject to such rules‡ and to such conditions and restrictions as the Financial Commissioner with the previous sanction

\* As amended by Regulation III of 1898

† Added by Regulation III of 1898. Rules will issue shortly.

‡ See Rules 92 to 141 of the General Rules, pages 64—74.

of the Local Government may prescribe in this behalf the Collector of any district may dispose of the right to fish in any fishery situate within his district, or specially placed under his charge by the Financial Commissioner, either by granting to any person a lease of the exclusive right to fish in such fishery or by granting to any number of persons licenses to use nets, traps, or other implements for fishing therein.

(4) All such leases and licenses granted before, and in force at the commencement of this Regulation shall be deemed to have been granted under sub-section (3).

(5) Except where a lease has been granted of the exclusive right to fish in a fishery, any person may without a license fish in the fishery by angling therein with a rod and line only.

(6) The Local Government may declare, with respect to any fishery, that it shall cease to be a fishery for the purposes of this section, and may at any time cancel any such declaration.\*

(7) The Financial Commissioner may make rules† for all or any of the following purposes, namely :—

- (a) for the survey and demarcation of the limits of fisheries ;
- (b) for determining in which of the modes mentioned in sub-section (3) the right to fish in any fishery is to be disposed of ;
- (c) for regulating the conditions on which, and the procedure by which, fisheries may be opened to the public or leases may be granted of the exclusive right to fish in fisheries ;
- (d) for fixing the rates at which, and the conditions on which, licenses to use nets, traps, or other implements for fishing in fisheries may be granted ;
- (e) for settling the conditions on which permission to erect, place, maintain or use obstructions and fixed engines in fisheries or waters connected therewith may be granted ;
- (f) for making and maintaining free gaps in weirs ; and
- (g) generally, for carrying out the purposes of this section.

(8) If any person fishes in any fishery without having a right to fish therein, he shall be punished, for a first offence, with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees, or with both, and, for a subsequent offence, with imprisonment for a term which may extend to six

\* For declaration issued under this sub-section see Revenue Department Notification No 343, dated the 6th August 1896, page 164

† See Rules 92 to 141 of the General Rules, pages 64—74.

months, or with fine which may extend to five hundred rupees, or with both.

*Salt.*

33. (1) In this section the word "saltpetre" and the expression "manufacture of salt" have the same meanings, respectively, as in the Indian Salt Act, 1882, and in this and the following sections of this Regulation the word "salt" includes saltpetre. XII of 1882.

(2) The Financial Commissioner may make rules\*—

- (a) for granting licenses for the manufacture of salt; and
- (b) for compounding with the holder of such a license for the payment by him of an annual sum assessed upon the plant employed by him, in lieu of the duty which would be payable by him on the salt manufactured with the aid of such plant.

(3) If any person, without such a license<sup>[a]</sup> or in contravention of the terms of such a license<sup>[a]</sup> for the time being in force,—

- (a) engages in the manufacture of salt,
- (b) owns works for the manufacture of salt; or
- (c) stores salt exceeding such quantity as the Financial Commissioner, by notification† in the *Burma Gazette*, prescribes in this behalf,

he shall be punished with fine which may extend to Rs. 200, and with a further fine which may extend to Rs. 20 for every day after a first conviction under this sub-section during which he continues such manufacture or storage; and

(4) All salt in respect of which a conviction under the last foregoing sub-section has taken place, and all materials and implements used for the purpose of the manufacture of such salt, shall be liable to confiscation by order of the convicting Magistrate.

*Irrigation Works.*

34. (1) A water-rate shall be payable in respect of all lands irrigated from channels, tanks, and other irrigation works controlled and wholly or partially maintained by the State.

(2) The Financial Commissioner may make rules ‡ for determining the amount of the water-rate to be paid in any district, tract, or place, and, in the absence of such rules, water-rate shall continue to be levied in such manner as has heretofore been customary.

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\* See Rules 142 to 144 of the General Rules, pages 74—76.

† No notification has been published under this clause

‡ See Rules at pages 164—166.

[a—c] Added by Regulation No. 4 of 1900.

(3) The Local Government, whenever it appears to be necessary in the public interests, may, upon such terms, if any, as to compensation as it deems just, assume the control and undertake in whole or in part the maintenance of any irrigation work, and shall thereupon be entitled to levy a water-rate on all land irrigated from the work.

**35** (1) Tolls shall be payable in respect of all boats and other vessels navigating irrigation channels which are controlled and wholly or partially maintained by the State.

Tolls for navigation in irrigation channels.

(2) The Financial Commissioner may make rules\* for determining the rates at which such tolls are to be payable in any district, tract or place, and for regulating the navigation of such channels.

(3) In the absence of rules determining under sub-section (2) the rates at which tolls are to be payable, tolls shall continue to be levied in such manner as has heretofore been customary.

**36.** (1) With respect to every irrigation work in each district, whether the work has hitherto been maintained by the Government or not, the Collector may † ascertain and record, in such form and in such detail as the Financial Commissioner may direct,—

Record respecting irrigation works.

- (a) the nature of the work and of all embankments, channels, weirs, and other works subsidiary thereto ;
- (b) the lands irrigable from the work ;
- (c) the water-rate, if any, chargeable on the lands irrigable from the work ;
- (d) the customs relating to the raising of funds for the maintenance and repair of the work and the liabilities of villages or persons jointly or severally to contribute to those funds ;
- (e) the obligations resting on villages or persons jointly or severally to labour or provide labourers or render any service in connection with the maintenance or repair of the work ; and
- (f) the privileges or exemptions enjoyed by the villages or persons on whom the liabilities and obligations referred to in clauses (d) and (e) rest.

(2) The Financial Commissioner may make rules ‡ for the enforcement of all or any of the customs, liabilities, and obligations so recorded.

\* See Rules 145 and 146 of the General Rules, pages 76—77.

† The words "may ascertain" were substituted for the words "shall ascertain" by Act XIII of 1898.

‡ See Rules, pages 167 to 184.

XIII (12). *Page 19.*—In section 37, sub-section (1), clause (b), delete the words “rent and”

(Amended by Regulation No. V of 1901).

(3) The Collector may at any time, by a proceeding in writing under his hand, correct the record made under this section.

#### CHAPTER IV.

#### COLLECTION OF REVENUE.

37. In the following sections of this Regulation:—

- (1) "revenue" includes—
- Definitions of "revenue" and "moveable property." (a) *thathameda* tax,  
(b) rent and land revenue payable in respect of State and other lands ;  
(c) revenue payable on account of precious stones, mines, minerals, coal, earth-oil, fisheries, salt and ferries ;  
(d) water-rate in respect of irrigation from channels, tanks or other irrigation works controlled and wholly or partially maintained by the State and tolls in respect of navigation in irrigation channels so controlled and maintained ;  
(e) excise in respect of spirit, fermented liquor, intoxicating drugs and opium ; and  
(f) every other sum payable to the Government in accordance with law, contract or local usage ; and  
(2) "moveable property" includes standing timber, growing crops and grass, and fixed engines in fisheries or waters connected therewith.

38 (1) The Financial Commissioner may make rules\* determining the number and amount of the instalments by which, the person to whom, and the time place and manner at and in which any revenue is to be paid.

Time and mode of payment of revenue.

(2) Until rules are made under sub-section (1) revenue shall be paid by the instalments, to the persons, at the times and places, and in the manner by which, to whom, and at and in which, it was payable immediately before the commencement of this Regulation.

(3) Any revenue not paid as required by rules under sub-section (1) or by sub-section (2) is an arrear, and the person from whom it is primarily due, as well as the surety, if any, for the payment thereof by that person, is a defaulter.

39. The revenue for the time being payable in respect of any land shall be the first charge upon the rents, profits, and produce of the land, and, except with the written consent of the Collector, such rents profits or produce shall not be liable to be taken in execution of

Security for payment of revenue.

\* See Rules 147 to 155-A of the General Rules, pages 77-79.

a decree or order of any Court until the revenue chargeable thereon, and any arrear of revenue due in respect of the land, have been paid.

**40.** Subject to the other provisions of this chapter, a statement of account certified by a Collector or Assistant Collector shall be conclusive proof of the existence of an arrear, of its amount, and of the person who is the defaulter.

Certificate as to arrear, and effect thereof.

Process for recovery of arrear

**41.** (1) An arrear may be recovered by any one or more of the following processes, namely,—

- (a) by service on the defaulter of a notice requiring him to pay the arrear at the time and place and to a person specified in the notice,
- (b) by attachment and sale of any moveable property belonging to the defaulter, except, if he is an agriculturist, his implements of husbandry and seed-grain and the cattle actually employed by him in agriculture, and, if he is an artisan, his tools;
- (c) by the arrest of the defaulter and his imprisonment in the civil jail for a period not exceeding one month;
- (d) by attachment and sale of any immoveable property belonging to the defaulter

(2) The process described in sub-section (1) may be used either separately or simultaneously.

**42.** (1) When any immoveable property is sold under this chapter for the recovery of an arrear due in respect thereof, the following consequences shall ensue unless a Revenue Officer empowered in this behalf has otherwise directed, namely,—

Effect of sale on incumbrances

- (a) all leases, liens, and other incumbrances on the property shall be extinguished, and
- (b) all grants or contracts previously made by any person other than the purchaser in respect of the property shall become void as against the purchaser

(2) When any immoveable property is brought to sale under this chapter for the recovery of any other sum than an arrear due in respect thereof, the interests of the defaulter alone therein, as those interests existed immediately before the attachment of the property, shall be sold.

**43.** (1) When proceedings are taken under this chapter for the recovery of an arrear, the person against whom they are taken may, if he denies that the arrear or any part thereof is due, pay the same under

Remedy to person denying that arrear is due.

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protest made at the time of payment and signed by him or his agent, and institute a suit in any Civil Court having jurisdiction, as regards the value of the suit, at the headquarters of the district in which the arrear is alleged to have accrued, for the recovery of the amount\* which he denies to be due.

(2) In a suit instituted under sub-section (1) the plaintiff may, notwithstanding anything in section 40, give evidence with respect to his liability for the payment of the alleged arrear.

Rules for the purposes of this chapter.

44. (1) The Financial Commissioner may make rules\* consistent with this Regulation —

- (a) for determining the officers or classes of officers by whom any of the processes described in section 41 may be enforced ;
- (b) for regulating the procedure to be followed in enforcing any of those processes ,
- (c) prescribing fees for the service or execution of any of those processes ;
- (d) for determining the commission, if any, to be allowed to persons appointed in accordance with any rule under section 38, sub-section (1), to receive payment of any revenue, and, where the commission is to be paid to more persons than one, the manner in which it is to be divided among them ; and
- (e) generally, for the guidance of all persons in matters connected with the enforcement of this chapter.

(2) Any fee leviable in pursuance of any rule under clause (c) of sub-section (1) shall be recoverable as part of the arrear in respect of which the process was issued.

45. (1) When a sale of any property under this chapter for the recovery of an arrear has become absolute, the proceeds thereof shall be applied, in the first place, to the payment of the arrear, and, in the second place, to the payment of any other arrear, or of any sum recoverable as an arrear under this chapter, which may be due to the Government from the defaulter.

(2) Any balance of the proceeds of the sale which may remain after satisfaction of the claims of the Government under sub-section (1) shall, subject to the directions of any Court with respect to the application thereof, be paid to the defaulter.

\* See Rules 156 to 191 of the General Rules, pages 79—87.

**46.** Except on behalf of the Government, no Revenue Officer or person employed in a revenue office shall purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly, or in shares with others, any property which any Revenue Officer in the district in which he is employed has ordered to be sold for the recovery of an arrear of revenue.

**47.** Where, under any enactment for the time being in force, any sum is recoverable as an arrear of revenue or as an arrear of land revenue, it shall be recoverable as an arrear under this chapter.

**48.** All revenue collected before the commencement of this Regulation shall be deemed to have been collected in accordance with law.

## CHAPTER V.

### SUPPLEMENTAL PROVISIONS.

**49.** The Local Government may, with the previous sanction of the Governor-General in Council, make rules with respect to the establishments to be maintained for the service and execution of processes issued by Revenue Officers and Civil and Criminal Courts, and may declare rules so made to be in supersession of any rules made under the Court-fees Act, 1870, or other enactment for the time being in force.

<sup>(a)</sup> **49A.** So far as may be necessary for the purposes of any assessment of land either contemplated or in progress, any Revenue Officer generally or specially empowered by the Financial Commissioner in that behalf—

- (a) may enter upon, demarcate, survey, and make plans of any land; and
- (b) so far as may be necessary for the purpose of estimating the capabilities of the soil, may cause any ripe crop thereon to be cut and threshed, or otherwise properly harvested, and the grain or other produce to be measured and weighed;

Provided that not more than half an acre of the crop belonging to any one person shall be so cut upon any one occasion without the consent of the owner thereof, and that without the consent of the

occupier thereof no farm or other holding shall be entered upon under this section oftener than once in five years :

Provided also that in the exercise of this power no injury shall be caused to any other crop or land. <sup>[a]</sup>

50. The Financial Commissioner may, in addition to the other rules which may be made by him under this Regulation, make rules \* consistent with this Regulation and any other enactment for the time being in force—

General power of Financial Commissioner to make rules.

- (a) prescribing the fees to be charged for the service and execution of processes issued by Revenue Officers otherwise than for the recovery of arrears of revenue and the mode in which those fees are to be collected ;
- (b) regulating the travelling and other expenses of witnesses ;
- (c) regulating other costs in proceedings before Revenue Officers and providing for the realization of costs in such proceedings as if they were arrears of revenue ;
- (d) regulating the procedure in cases where persons are entitled to inspect records of Revenue Officers or records or papers in the custody of headmen or other village officers, or to obtain copies of the same, and prescribing the fees payable for searches and copies ;
- (e) prescribing forms for such books, entries, statistics, and accounts as the Financial Commissioner thinks necessary to be kept, made, or compiled in revenue offices, or submitted to any authority ;
- (f) declaring what shall be the language of any of those officers and determining in what cases persons practising in those offices shall be permitted to address the presiding officers thereof in English ; and
- (g) generally, for carrying out the purposes of this Regulation.

51. (1) The power to make any rules under this Regulation is subject to the control of the Governor-General in Council and to the condition of the rules being made after previous publication.

(2) Rules made by the Financial Commissioner under this Regulation shall not take effect until they have been sanctioned by the Local Government.

[a—] Added by Regulation III of 1894.

\* See Rules 182 to 252 of the General Rules, pages 84—99.

(3) Any power conferred by this Regulation on the Financial Commissioner to make rules, and the power of the Local Government to sanction them, may be exercised at any time after the passing of this Regulation, but a rule so made shall not take effect until this Regulation has come into force.

(4) The authority making any rule under this Regulation may attach to the breach thereof, in addition to any other consequences which may ensue from such breach, such punishment, not exceeding imprisonment for one month, or fine extending to two hundred rupees, or both, as may seem to such authority, having regard to the object of the rule, to be appropriate.

Powers exercisable by Financial Commissioner from time to time. 52. All powers conferred by this Regulation on the Financial Commissioner may be exercised from time to time as occasion requires.

53. Except as otherwise provided by this Regulation—

Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue Officers. (1) A Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue Officer is empowered by or under this Regulation to dispose of, or take cognizance of the manner in which the Local Government or any Revenue Officer exercises any powers vested in it or him by or under this Regulation; and in particular—

(2) a Civil Court shall not exercise jurisdiction over any of the following matters, which shall be cognizable exclusively by Revenue Officers,\* namely,—

- (i) any question as to the limits of any State land;
- †(ii) any claim to the ownership or possession of any State land, or to hold such land rent-free or at a favourable rent or rate of rent, or to establish any lien upon, or other interest in, such land, or the rents, profits, or produce thereof;
- (iii) any claim to compel the performance of any duties imposed by or under this Regulation or any other enactment for the time being in force on any Revenue Officer as such;
- (iv) ‡
- (v) the preparation of a record-of-rights or periodical edition of such a record;
- (vi) the correction of any entry in a record-of-rights or periodical edition of such a record or in a register of mutations;

\* For classes of Revenue Officers by whom these cases are cognizable, see Financial Commissioner's Notification No. 8, dated the 8th July 1889, at page 32.

† For further orders, see Financial Commissioner's Circular No. 8 of 1899, page 240.

‡ Cancelled by Regulation IV of 1896.