THE CODE OF CIVIL PROCEDURE.

[INDIA ACT V, 1908.]

(1st January, 1909.)

[Amendment : 09.10.1956, 18.06.1989, 12.07.2000, 28.08.2008, 03.07.2014, 11.10.2021]

PRELIMINARY.

1. * * * *

Definitions.

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

(1) **"Code"** includes rules;

(2) **"decree"** means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within section 47 or section 144, but shall not include–

(a) any adjudication from which an appeal lies as an appeal from an order, or

(b) any order of dismissal for default.

Explanation. – A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final;

(3) **"decree-holder"** means any person in whose favour a decree has been passed or an order capable of execution has been made;

(4) **"district"** means the local limits of the jurisdiction of a principal Court of original civil jurisdiction (hereinafter called a "District Court"), and includes the local limits of ordinary original civil jurisdiction of a Court of the Self- administered Division or a Court of the Self- administered Zone;

(4 A) "civil Court" means a Court of civil jurisdiction;

(5) **"foreign Court"** means a Court situate beyond the limits of the Union of Myanmar which has no authority in the Union of Myanmar and is not established or continued by the President of the Union;

(6) **"foreign judgment"** means the judgment of a foreign Court;

(7) **"Government Pleader"** includes any officer appointed by the Attorney General of the Union to perform all or any of the functions expressly imposed by this Code on the Government Pleader and also any pleader acting under the directions of the Government Pleader;

(8) **"Judge"** means the presiding officer of a civil Court;

(9) **"Judgment"** means the statement given by the Judge of the grounds of a decree or order;

(10) **"judgment-debtor"** means any person against whom a decree has been passed or an order capable of execution has been made;

(11) **"legal representative"** means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued;

(12) **"mesne profits"** of property means those profits which the person in wrongful possession of such property actually received or might with ordinary diligence have received therefrom, together with interest on such profits, but shall not include profits due to improvements made by the person in wrongful possession;

(13) **"moveable property"** includes growing crops;

(14) **"order"** means the formal expression of any decision of a civil Court which is not a decree;

(15) "Pleader" means any person entitled to appear and plead for another in Court, and includes an advocate of the Supreme Court of the Union;

(16) **"prescribed"** means prescribed by rules;

(17) **"public officer"** means a person falling under any of the following descriptions, namely: –

(a) every Judge;

(b) every gazetted officer and the superior officer of Civil Services;

(c) every commissioned or gazetted officer of Defence Services;

(d) every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order, in the Court, and every person especially authorized by a Court of Justice to perform any of such duties;

(e) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

(f) every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

(g) every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue-process, or to investigate, or to report on, any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government; and

(h) every officer in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty;

(18) **"rule"** means rules and forms contained in the First Schedule or made under section 122;

(19) **"share in a corporation"** shall be deemed to include stock, debenture stock, debentures or bonds; and

(20) **"signed",** save in the case of a judgment or decree, includes stamped.

<Amendment 18.06.1989, 03.07.2014>

Subordination of Courts.

3. For the purposes of this Code, the District Court is subordinate to a High Court of the Region or a High Court of the State, and every civil Court of a grade inferior to that of a District Court is subordinate to a High Court of the Region or a High Court of the State and District Court.

<Amendment 03.07.2014>

Savings.

4. (1) In the absence of any specific provision to the contrary, nothing in this Code shall be deemed to limit or otherwise affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by or under any other law for the time being in force.

(2) In particular, and without prejudice to the generality of the proposition contained in sub-section (1), nothing in this Code shall be deemed to limit or otherwise affect any remedy which a landholder or

landlord may have under any law for the time being in force for the recovery of rent of agricultural land from the produce of such land.

Application of the Code to revenue Courts.

5. (1) Where any revenue Courts are governed by the provisions of this Code in those matters of procedure upon which any special enactment applicable to them is silent, the President of the Union may, by notification in the Gazette, declare that any portions of those provisions which are not expressly made applicable by this Code shall not apply to those Courts, or shall only apply to them with such modifications as the President of the Union may prescribe.

(2) "Revenue Court" in sub-section (1) means a Court having jurisdiction under any local law to entertain suits or other proceedings relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a civil Court having original jurisdiction under this Code to try such suits or proceedings as being suits or proceedings of a civil nature.

Pecuniary jurisdiction.

6. Save in so far as is otherwise expressly provided, nothing herein contained shall operate to give any Court jurisdiction over suits the amount or value of the subject-matter of which exceeds the pecuniary limits (if any) of its ordinary jurisdiction.

7. Repeal

<Amendment 28.08.2008>

8. * * * *

PART I.

SUITS IN GENERAL.

JURISDICTION OF THE COURTS AND Res judicata

Courts to try all civil suits unless barred.

9. The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

Explanation.– A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of question as to religious rites or ceremonies.

Stay of suit.

10. No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, where such suit is pending in the same or any other Court in the Union of Myanmar having jurisdiction to grant the relief claimed, or before [the Supreme Court.]

Explanation.– The pendency of a suit in a foreign Court does not preclude the Courts in the Union of Myanmar from trying a suit founded on the same cause of action.

<Amendment 18.06.1989>

Res judicata.

11. No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation I. – The expression "former suit" shall denote a suit which has been decided prior to the suit in question whether or not it was instituted prior thereto.

Explanation II. – For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

Explanation III. – The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation IV. – Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation V. – Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused.

Explanation VI. – Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.

Bar to further suit.

12. Where a plaintiff is precluded by rules from instituting a further suit in respect of any particular cause of action, he shall not be entitled to institute a suit in respect of such cause of action in any Court to which this Code applies.

When foreign judgment not conclusive.

13. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties, or between parties under whom they or any of them claim, litigating under the same title, except–

(a) where it has not been pronounced by a Court of competent jurisdiction;

(b) where it has not been given on the merits of the case;

(c) where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of the Union of Myanmar in cases in which such law is applicable;

(d) where the proceedings in which the judgment was obtained are opposed to natural justice;

(e) where it has been obtained by fraud;

(f) where it sustains a claim founded on a breach of any law in force in the Union of Myanmar.

<Amendment 18.06.1989>

Presumption as to foreign judgments.

14. The Court shall presume, upon the production of any document purporting to be a certified copy of a foreign judgment, that such judgment was pronounced by a Court of competent jurisdiction, unless the contrary appears on the record; but such presumption may be displaced by proving want of jurisdiction.

PLACE OF SUING

Court in which suits to be instituted.

15. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Suits to be instituted where subject-matter situate.

16. Subject to the pecuniary or other limitations prescribed by any law, suits–

(a) for the recovery of immoveable property with or without rent or profits,

(b) for the partition of immoveable property,

(c) for foreclosure, sale or redemption in the case of a mortgage of or charge upon immoveable property,

(d) for the determination of any other right to or interest in immoveable property,

(e) for compensation for wrong to immoveable property,

(f) for the recovery of moveable property actually under distraint or attachment,

shall be instituted in the Court within the local limits of whose jurisdiction the property is situate:

Provided that a suit to obtain relief respecting, or compensation for wrong to, immoveable property held by or on behalf of the defendant may, where the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation.– In this section "property" means property situate in the Union of Myanmar.

<Amendment 18.06.1989>

Suit for immoveable property situate within jurisdiction of different Courts.

17. Where a suit is to obtain relief respecting, or compensation for wrong to, immoveable property situate within the jurisdiction of different Courts, the suit may be instituted in any Court within the local limits of whose jurisdiction any portion of the property is situate:

Provided that, in respect of the value of the subject-matter of the suit, the entire claim is cognizable by such Court.

Place of institution of suit where local limits of jurisdiction of Courts are uncertain.

18. (1) Where it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more Courts any immoveable property is situate, any one of those Courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction:

Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction.

(2) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the appellate or revisional Court shall not allow the objection unless in its opinion there was, at the time of the institution of the suit, no reasonable ground for uncertainty as to the Court having jurisdiction with respect thereto and there has been a consequent failure of justice.

Suits for compensation for wrongs to person or moveables.

19. Where a suit is for compensation for wrong done to the person or to moveable property, if the wrong was done within the local limits of the jurisdiction of one Court, and the defendant resides, or carries on business, or personally works for gain within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.

Illustrations.

(a) A, residing in Mandalay, beats B in Rangoon. B may sue A either in Rangoon or in Mandalay.

(b) A, residing in Mandalay, publishes in Rangoon statements defamatory of B. B may sue A either in Rangoon or in Mandalay.

Other suits to be instituted where defendants reside or cause of action arises.

20. Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction–

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

Explanation I. – Where a person has a permanent dwelling at one place and also a temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.

Explanation II. – A corporation shall be deemed to carry on business at its sole or principal office in the Union of Myanmar or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Illustrations.

(a) A is a tradesman in Rangoon. B carries on business in Mandalay. B, by his agent in Rangoon, buys goods of A and requests A to deliver them to the Myanmar Railways. A delivers the goods accordingly in Rangoon. A may sue B for the price of the goods either in Rangoon, where the cause of action has arisen, or in Mandalay, where B carries on business.

(b) A reside at Maymyo, B at Rangoon and C at Mandalay. A, B and C being together at Prome, B and C make a joint promissory note payable on demand, and deliver it to A. A may sue B and C at Prome where the cause of action arose. He may also sue them at Rangoon, where B resides, or at Mandalay, where C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot proceed without the leave of the Court.

<Amendment 18.06.1989>

Objections to jurisdiction.

21. No objection as to the place of suing shall be allowed by any appellate or revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been a consequent failure of justice.

Power to Transfer suits which may be Instituted in more than one Court.

22. Where a suit may be instituted in any one of two or more Courts and is instituted in one of such Courts, any defendant, after notice to the other parties, may, at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, apply to have the suit transferred to another Court, and the Court to which such application is made, after considering the objections of the other parties (if any), shall determine in which of the several Courts having jurisdiction the suit shall proceed.

To what Court application lies.

23. (1) Where the several Courts having jurisdiction are subordinate to the same appellate Court, an application under section 22 shall be made to the appellate Court.

(2) Where such Courts are subordinate to different appellate Courts, the application shall be made to a High Court of the Region State.

(3) Where such Courts are different High Courts of the Region or High Courts of the State, the application shall be made to the Supreme Court of the Union.

<Amendment 03.07.2014>

General Power of transfer and withdrawal.

24. (1) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the Supreme Court of the Union or the High Court of the Region or the High Court of the State or the Court of the Self-administered Division or the Court of the Self-administered Zone or the District Court may at any stage –

(a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same, or

(b) withdraw any suit, appeal or other proceeding pending in any Court subordinate to it, and–

(i) try or dispose of the same; or

(ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or

(iii) retransfer the same for trial or disposal to the Court from which it was withdrawn.

(2) Where any suit or proceeding has been transferred or withdrawn under sub-section (1), the Court which thereafter tries such suit may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn.

(3) For the purposes of this section, Court of Additional and Deputy Judges shall be deemed to be subordinate to the Court of the Self-administered Division or the Court of the Self-administered Zone or the District Court.

(4) Repeal

<Amendment 12.07.2000, 28.08.2008, 03.07.2014>

25. * * * *

INSTITUTION OF SUITS.

Institution of suits.

26. Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

SUMMONS AND DISCOVERY.

Summons to defendants.

27. Where a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and may be served in manner prescribed.

28. * * * *

Service of foreign summonses.

29. Summonses issued by any civil or revenue Court situate beyond the limits of the Union of Myanmar may be sent to the Courts in the Union of Myanmar and served as if they had been issued by such Courts: Provided that the Chief Justice of the Union has, by notification in the Gazette, declared the provisions of this section to apply to such Courts.

<Amendment 18.06.1989, 03.07.2014>

Power to order discovery and the like.

30. Subject to such conditions and limitations as may be prescribed, the Court may, at any time, either of its own motion or on the application of any party,–

(a) make such orders as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, the admission of documents and facts, and the discovery, inspection, production, impounding and return of documents or other material objects producible as evidence;

(b) issue summonses to persons whose attendance is required either to give evidence or to produce documents or such other objects as aforesaid;

(c) order any fact to be proved by affidavit.

Summons to witness.

31. The provisions in sections 27 and 29 shall apply to summonses to give evidence or to produce documents or other material objects.

Penalty for default.

32. The Court may compel the attendance of any person to whom a summons has been issued under section 30 and for that purpose may–

(a) issue a warrant for his arrest;

(b) attach and sell his property;

(c) impose a fine upon him not exceeding five thousand kyats;

(d) order him to furnish security for his appearance and in default commit him to the civil prison.

<Amendment 28.08.2008>

JUDGMENT AND DECREE.

Judgment and decree.

33. The Court, after the case has been heard, shall pronounce judgment, and on such judgment a decree shall follow.

INTEREST.

Interest.

34. (1) Where and in so far as a decree is for the payment of money, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for

any period prior to the institution of the suit, with further interest at such rate as the Court deems reasonable on the aggregate sum so adjudged from the date of the decree to the date of payment or to such earlier date as the Court thinks fit.

(2) Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie.

COSTS.

Cost.

35. (1) Subject to such conditions and limitations as may be prescribed, and to the provisions of any law for the time being in force, the costs of and incident to all suits shall be in the discretion of the Court, and the Court shall have full power to determine by whom or out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purposes aforesaid. The fact that the Court has no jurisdiction to try the suit shall be no bar to the exercise of such powers.

(2) Where the Court directs that any costs shall not follow the event, the Court shall state its reasons in writing.

(3) The Court may give interest on costs at any rate not exceeding six per cent. per annum, and such interest shall be added to the costs and shall be recoverable as such.

Compensatory costs in respect of false or vexatious claims or defences.

35A. (1) If in any suit or other proceeding, not being an appeal, any party objects to the claim or defence on the ground that the claim or defence or any part of it is, as against the objector, false or vexatious to the knowledge of the party by whom it has been put forward, and if thereafter, as against the objector, such claim or defence is disallowed abandoned or withdrawn in whole or in part, the Court, if the objection has been taken at the earliest opportunity and if it is satisfied of the justice thereof, may, after recording its reasons for holding such claim or defence to be false or vexatious, make an order for the payment to the objector by the party by whom such claim or defence has been put forward, of costs by way of compensation.

(2) No Court shall make any such order for the payment of an amount exceeding 1,000,000 Kyats or exceeding the limits of its pecuniary jurisdiction, whichever amount is less:

Provided that the Supreme Court of the Union may limit the amount which any Court or class of Courts is empowered to award as costs under this section.

(3) No person against whom an order has been made under this section shall, by reason thereof, be exempted from any criminal liability in respect of any claim or defence made by him.

(4) The amount of any compensation awarded under this section in respect of a false or vexatious claim or defence shall be taken into account in any subsequent suit for damages or compensation in respect of such claim or defence.

<Amendment 12.07.2000, 28.08.2008>

PART II.

EXECUTION.

GENERAL.

Application to orders.

36. The provisions of this Code relating to the execution of decrees shall, so far as they are applicable, be deemed to apply to the execution of orders.

Definition of Court which passed a decree.

37. The expression "Court which passed a decree," or words to that effect, shall, in relation to the execution of decrees, unless there is anything repugnant in the subject or context, be deemed to include, –

(a) where the decree to be executed has been passed in the exercise of appellate jurisdiction, the Court of first instance, and

(b) where the Court of first instance has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed was instituted at the time of making the application for the execution of the decree, would have jurisdiction to try such suit.

COURTS BY WHICH DECREES MAY BE EXECUTED.

Court by which decree may be executed.

38. A decree may be executed either by the Court which passed it, or by the Court to which it is sent for execution.

Transfer of decree.

39. (1) The Court which passed a decree may, on the application of the decree-holder, send it for execution to another Court, –

(a) if the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other Court, or

(b) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court, or

(c) if the decree directs the sale or delivery of immoveable property situate outside the local limits of the jurisdiction of the Court which passed it, or

(d) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

(2) The Court which passed a decree may of its own motion send it for execution to any subordinate Court of competent jurisdiction.

40. * * * *

Result of execution Proceedings to be certified.

41. The Court to which a decree is sent for execution shall certify to the Court which passed it the fact of such execution, or where the former Court fails to execute the same the circumstances attending such failure.

Power of Court in executing transferred decree.

42. The Court executing a decree sent to it shall have the same powers in executing such decree as if it had been passed by itself. All persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree. And its orders in executing such decree shall be subject to the same rules in respect of appeal as if the decree had been passed by itself.

Execution of decrees passed by Courts in places to which this Part does not extend.

43. Any decree passed by a civil Court established in any part of the Union of Myanmar to which the provisions relating to execution do not extend may, if it cannot be executed within the jurisdiction of the Court by which it was passed, be executed in manner herein provided within the jurisdiction of any Court in the Union of Myanmar.

<Amendment 18.06.1989>

44. * * * *

Execution of decree passed by courts in reciprocating territory.

44A. (1) Where a certified copy of a decree of any of the superior Courts of any reciprocating territory has been filed in a District Court, the decree may be executed in the Union of Myanmar as if it had been passed by the District Court.

(2) Together with the certified copy of the decree shall be filed a certificate from such superior Court stating the extent, if any, to which the decree has been satisfied or adjusted and such certificate shall, for the purposes of proceedings under this section, be conclusive proof of the extent of such satisfaction or adjustment.

(3) The provisions of section 47 shall as from the filing of the certified copy of the decree apply to the proceedings of a District Court executing a decree under this section, and the District Court shall refuse execution of such decree, if it is shown to the satisfaction of the Court that the decree falls within any of the exceptions specified in clauses (a) to (f) of section 13.

Explanation . 'Reciprocating territory' means any country or territory, which the President may, from time to time, by notification in the Gazette, declare to be reciprocating territory for the purpose of this section, and 'superior Courts' with reference to any such territory, means such Courts as may be specified in the said notification.

Explanation . 'Decree' with reference to a superior Court, means any decree or judgement of such Court under which a sum of money is payable, not been a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty, but shall in on case include an arbitration award, even if such award is enforceable as a decree or judgement.

<Amendment 09.10.1956, 18.06.1989>

45. * * * *

Precepts.

46. (1) Upon the application of the decree-holder the Court which passed the decree may, whenever it thinks fit, issue a precept to any other Court which would be competent to execute such decree to attach any property belonging to the judgment-debtor and specified in the precept.

(2) The Court to which a precept is sent shall proceed to attach the property in the manner prescribed in regard to the attachment of property in execution of a decree:

Provided that no attachment under a precept shall continue for more than two months unless the period of attachment is extended by an order of the Court which passed the decree or unless before the determination of such attachment the decree has been transferred to the Court by which the attachment has been made and the decree-holder has applied for an order for the sale of such property.

QUESTIONS TO BE DETERMINED BY COURT EXECUTING DECREE.

Questions to be determined by the Court executing decree.

47. (1) All questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit.

(2) The Court may, subject to any objection as to limitation or jurisdiction, treat a proceeding under this section as a suit or a suit as a proceeding and may, if necessary, order payment of any additional court-fees.

(3) Where a question arises as to whether any person is or is not the representative of a party, such question shall, for the purposes of this section, be determined by the Court.

Explanation. – For the purposes of this section, a plaintiff whose suit has been dismissed and a defendant against whom a suit has been dismissed are parties to the suit.

LIMIT OF TIME FOR EXECUTION

Execution barred in certain cases.

48. (1) Where an application to execute a decree not being a decree granting an injunction has been made, no order for the execution of the same decree shall be made upon any fresh application presented after the expiration of twelve years from–

(a) the date of the decree sought to be executed, or,

(b) where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, the date of the default in making the payment or delivery in respect of which the applicant seeks to execute the decree.

(2) Nothing in this section shall be deemed–

(a) to preclude the Court from ordering the execution of a decree upon an application presented after the expiration of the said term of twelve years, where the judgment-debtor has, by fraud or force, prevented the execution of the decree at some time within twelve years immediately before the date of the application; or

(b) to limit or otherwise affect the operation of article 183 of the first Schedule to the Limitation Act.

TRANSFEREES AND LEGAL REPRESENTATIVES.

Transferee.

49. Every transferee of a decree shall hold the same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

Legal representative.

50. (1) Where a judgment-debtor dies before the decree has been fully satisfied, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

(2) Where the decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and, for the purpose of ascertaining such liability, the Court executing the decree may, of its own motion or on the application of the decree-holder, compel such legal representative to produce such accounts at it thinks fit.

PROCEDURE IN EXECUTION.

Powers of Court to enforce execution.

51. Subject to such conditions and limitations as may be prescribed, the Court may, on the application of the decree-holder, order execution of the decree–

(a) by delivery of any property specifically decreed;

(b) by attachment and sale or by sale without attachment of any property;

(c) by arrest and detention in prison;

(d) by appointing a receiver; or

(e) in such other manner as the nature of the relief granted may require:

Provided that where the decree is for the payment of money, execution by detention in prison shall not be ordered unless, after giving the judgment- debtor an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied,

(a) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree, –

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or

(ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed, or removed any part of his property, or committed any other act of bad faith in relation to his property; or

(b) that the judgment-debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same, or

(c) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

Explanation. – In the calculation of the means of the judgment-debtor for the purposes of clause (b), there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the decree.

Enforcement of decree against legal representative.

52. (1) Where a decree is passed against a party as the legal representative of a deceased person, and the decree is for the payment of money out of the property of the deceased, it may be executed by the attachment and sale of any such property.

(2) Where no such property remains in the possession of the judgment- debtor and he fails to satisfy the Court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment-debtor to the extent of the property in respect of which he has failed so to satisfy the Court in the same manner as if the decree had been against him personally.

Liability of ancestral property.

53. For the purposes of section 50 and section 52, property in the hands of a son or other descendant which is liable under Hindu law for the payment of the debt of a deceased ancestor, in respect of which a decree has been passed, shall be deemed to be property of the deceased which has come to the hands of the son or other descendant as his legal representative.

Partition of estate or separation of share.

54. Where the decree is for the partition of an undivided estate assessed to the payment of revenue to the Government or for the separate possession of a share of such an estate, the partition of the estate or the separation of the share shall be made by the Collector or any gazetted subordinate of the Collector deputed by him in this behalf, in accordance with the law (if any) for the time being in force relating to the partition, or the separate possession of shares of such estates.

ARREST AND DETENTION.

Arrest and detention.

55. (1) A judgment-debtor may be arrested in execution of a decree at any hour and on any day, and shall, as soon as practicable, be brought before the Court, and his detention may be in the civil prison of the district in which the Court ordering the detention is situate, or, where such civil prison does not afford

suitable accommodation, in any other place which the Chief Justice of the Union may appoint for the detention of persons ordered by the Courts of such district to be detained:

Provided, firstly, that for the purpose of making an arrest under this section, no dwelling-house shall be entered after sunset and before sunrise:

Provided, secondly, that no outer door of a dwelling-house shall be broken open unless such dwelling-house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto, but when the officer authorized to make the arrest has duly gained access to any dwelling-house, he may break open the door of any room in which he has reason to believe the judgment-debtor is to be found:

Provided, thirdly, that if the room is in the actual occupancy of a woman who is not the judgment-debtor and who according to the customs of the country does not appear in public, the officer authorized to make the arrest shall give notice to her that she is at liberty to withdraw, and, after allowing a reasonable time for her to withdraw and giving her reasonable facility for withdrawing, may enter the room for the purpose of making the arrest:

Provided, fourthly, that where the decree in execution of which a judgment-debtor is arrested is a decree for the payment of money and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer arresting him, such officer shall at once release him.

(2) The President of the Union may, by notification in the Gazette, declare that any person or class of persons whose arrest might be attended with danger or inconvenience to the public shall not be liable to arrest in execution of a decree otherwise than in accordance with such procedure as may be prescribed by the President of the Union in this behalf.

(3) Where a judgment-debtor is arrested in execution of a decree for the payment of money and brought before the Court, the Court shall inform him that he may apply to be declared an insolvent, and that he may be discharged if he has not committed any act of bad faith regarding the subject of the application and if he complies with the provisions of the law of insolvency for the time being in force.

(4) Where a judgment-debtor expresses his intention to apply to be declared an insolvent and furnishes security, to the satisfaction of the Court, that he will within one month so apply, and that he will appear, when called upon, in any proceedings upon the application or upon the decree in execution of which he was arrested, the Court may release him from arrest, and, if he fails so to apply and to

appear, the Court may either direct the security to be realized or commit him to the civil prison in execution of the decree.

<Amendment 03.07.2014>

56. Repeal

<Amendment 12.07.2000>

Subsistence allowance.

57. The President of the Union may fix scales, graduated according to rank, race and nationality, of monthly allowances payable for the subsistence of judgment-debtors.

Detention and release.

58. (1) Every person detained in the civil prison in execution of a decree shall be so detained, –

(a) where the decree is for the payment of a sum of money exceeding one hundred thousand kyats, for a period of six months, and,

(b) in any other case, for a period of six weeks:

Provided that he shall be released from such detention before the expiration of the said period of six months or six weeks, as the case may be, –

(i) on the amount mentioned in the warrant for his detention being paid to the officer in charge of the civil prison, or

(ii) on the decree against him being otherwise fully satisfied, or

(iii) on the request of the person on whose application he has been so detained, or

(iv) on the omission by the person, on whose application he has been so detained, to pay subsistence allowance:

Provided also, that he shall not be released from such detention under clause (ii) or clause (iii) without the order of the Court.

(2) A judgment-debtor released from detention under this section shall not merely by reason of his release be discharged from his debt, but he shall not be liable to be re-arrested under the decree in execution of which he was detained in civil prison.

<Amendment 28.08.2008>

Release on ground of illness.

59. (1) At any time after a warrant for the arrest of a judgment-debtor has been issued the Court may cancel it on the ground of his serious illness.

(2) Where a judgment-debtor has been arrested, the Court may release him if, in its opinion, he is not in a fit state of health to be detained in the civil prison.

(3) Where a judgment-debtor has been committed to the civil prison, he may be released therefrom–

(a) by the President of the Union on the ground of the existence of any infectious or contagious disease, or

(b) by the committing Court, or any Court to which that Court is sub-ordinate, on the ground of his suffering from any serious illness.

(4) A judgment-debtor released under this section may be re-arrested, but the period of his detention in the civil prison shall not in the aggregate exceed that prescribed by section 58.

ATTACHMENT.

Property liable to attachment and sale in execution of decree.

60. (1) The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundis, promissory notes, Government securities, bonds or other securities for money, debts, shares in a corporation and, save as hereinafter mentioned, all other saleable property, moveable or immoveable, belonging to the judgment-debtor, or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf:

Provided that the following particulars shall not be liable to such attachment or sale, namely: –

(a) the necessary wearing-apparel, cooking vessels, beds and bedding of the judgment debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;

(b) tools of artizans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section;

(c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist and occupied by him;

(d) books of account;

(e) a mere right to sue for damages;

(f) any right of personal service;

(g) stipends and gratuities allowed to pensioners of the Government or payable out of any service family pension fund notified in the Gazette by the President of the Union in this behalf, and political pensions;

(h) the wages of labourers and domestic servants, whether payable in money or in kind, and salary, to the extent of the first 30,000 kyats and one-half the remainder of such salary;

(i) the salary of any public officer or of any servant of local authority to the extent of the first 30,000 kyats and one-half the remainder of such salary:

Provided that, where the whole or any part of the portion of such salary liable to attachment has been under attachment, whether continuously or intermittently, for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months and, where such attachment has been made in execution of one and the same decree, shall be finally exempt from attachment in execution of that decree;

(j) the pay and allowances of persons to whom the Defence Services Act, 1959 applies.

(k) all compulsory deposits;

(l) any allowance forming part of the emoluments of any public officer or of any servant of a railway administration or local authority which the President of the Union may by notification in the Gazette declare to be exempt from attachment, and any subsistence grant or allowance made to any such officer or servant while under suspension;

(m) an expectancy of succession by survivorship or other merely contingent or possible right or interest;

(n) a right to future maintenance;

(o) any allowance declared by any enactment in force in the Union of Myanmar to be exempt from liability to attachment or sale in execution of a decree; and,

(p) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which, under any law for the time being applicable to him, is exempt from sale for the recovery of an arrear of such revenue.

Explanation 1. – The particulars mentioned in clauses (g), (h), (i), (j), (l) and (o) are exempt from attachment or sale whether before or after they are actually payable, and in the case of salary other

than salary of a public officer or a servant of a railway administration or local authority the attachable portion thereof is exempt from attachment until it is actually payable.

Explanation 2. – In clauses (h) and (i), "salary" means the total monthly emoluments, excluding any allowance declared exempt from attachment under the provisions of clause (l), derived by a person from his employment whether on duty or on leave.

(2) Nothing in this section shall be deemed–

to exempt houses and other buildings (with the materials and the sites thereof and the lands immediately appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of any such house, building, site or land.

<Amendment 18.06.1989, 28.08.2008, 03.07.2014>

Partial exemption of agricultural produce.

61. The President of the Union may, by general or special order published in the Gazette, declare that such portion of agricultural produce, or of any class of agricultural produce, as may appear to the President of the Union to be necessary for the purpose of providing until the next harvest for the due cultivation of the land and for the support of the judgment-debtor and his family, shall, in the case of all agriculturists or of any class of agriculturists be exempted from liability to attachment or sale in execution of a decree.

Seizure of property in dwelling- house.

62. (1) No person executing any process under this Code directing or authorizing seizure of moveable property shall enter any dwelling-house after sunset and before sunrise.

(2) No outer door of a dwelling-house shall be broken open unless such dwelling-house is in the occupancy of the judgment-debtor and he refuses or in any way prevents access thereto, but when the person executing any such process has duly gained access to any dwelling-house, he may break open the door of any room in which he has reason to believe any such property to be.

(3) Where a room in a dwelling-house is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the person executing the process shall give notice to such woman that she is at liberty to withdraw; and, after allowing reasonable time for her to withdraw and giving her reasonable facility for withdrawing, he may enter such room for the purpose of seizing the property, using at the same time every precaution, consistent with these provisions, to prevent its clandestine removal.

Property attached in execution of decrees of several Courts.

63. (1) Where property not in the custody of any Court is under attachment in execution of decrees of more Courts than one, the Court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the Court of highest grade, or, where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

(2) Nothing in this section shall be deemed to invalidate any proceeding taken by a Court executing one of such decrees.

Private alienation of property after attachment to be void.

64. Where an attachment has been made, any private transfer or delivery of the property attached or of any interest therein, and any payment to the judgment-debtor of any debt, dividend or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment.

Explanation.– For the purposes of this section claims enforceable under an attachment include claims for the rateable distribution of assets.

SALE.

Purchaser's title.

65. Where immoveable property is sold in execution of a decree and such sale has become absolute, the property shall be deemed to have vested in the purchaser from the time when the property is sold and not from the time when the sale becomes absolute.

Suit against purchaser not maintainable on ground of purchase being on behalf of plaintiff.

66. (1) No suit shall be maintained against any person claiming title under a purchase certified by the Court in such manner as may be prescribed on the ground that the purchase was made on behalf of the plaintiff or on behalf of some one through whom the plaintiff claims.

(2) Nothing in this section shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner.

Power for President to make rules as to sales of land in execution of decrees for payment of money.

67. (1) The President of the Union may, by notification in the Gazette, make rules for any local area imposing conditions in respect of the sale of any class of interests in land in execution of decrees for the payment

of money, where such interests are so uncertain or undetermined as, in the opinion of the President of the Union, to make it impossible to fix their value.

(2) When on the date on which this Code came into operation in any local area any special rules as to sale of land in execution of decrees were in force therein, the President of the Union may, by notification in the Gazette, declare such rules to be in force, or may, by a like notification, modify the same.

Every notification issued in the exercise of the powers conferred by this sub-section shall set out the rules so continued or modified.

DELEGATION TO COLLECTOR OF POWER TO EXECUTE DECREES AGAINST IMMOVEABLE PROPERTY.

Power to prescribe rules for transferring to Collector execution of certain decrees.

68. The President of the Union may declare by notification in the Gazette that in any local area the execution of decrees in cases in which a Court has ordered any immoveable property to be sold, or the execution of any particular kind of such decrees, or the execution of decrees ordering the sale of any particular kind of, or interest in, immoveable property, shall be transferred to the Collector.

Provisions of Third Schedule to apply.

69. The provisions set forth in the Third Schedule shall apply to all cases in which the execution of a decree has been transferred under the last preceding section.

Rules of Procedure.

70. (1) The President of the Union may make rules consistent with the aforesaid provisions:–

(a) for the transmission of the decree from the Court to the Collector, and for regulating the procedure of the Collector and his subordinates in executing the same, and for re-transmitting the decree from the Collector to the Court;

(b) conferring upon the Collector or any gazetted subordinate of the Collector all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector;

(c) providing for orders made by the Collector or any gazetted subordinate of the Collector, or orders made on appeal with respect to such orders, being subject to appeal to, and revision by, superior revenue authorities as nearly as may be as the orders made by the Court, or orders made on appeal with respect to such orders, would be subject to appeal to, and revision by, appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Collector.

Jurisdiction of civil Courts barred.

(2) A power conferred by rules made under sub-section (1) upon the Collector or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exercisable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

Collector deemed to be acting judicially.

71. In executing a decree transferred to the Collector under section 68 the Collector and his subordinates shall be deemed to be acting judicially.

Where Court may authorize Collector to stay public sale of land.

72. (1) Where in any local area in which no declaration under section 68 is in force the property attached consists of land or of a share in land, and the Collector represents to the Court that the public sale of the land or share is objectionable and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector to provide for such satisfaction in the manner recommended by him instead of proceeding to a sale of the land or share.

(2) In every such case the provisions of sections 69 to 71 and of any rules made in pursuance thereof shall apply so far as they are applicable.

DISTRIBUTION OF ASSETS.

Proceeds of execution- sale to be rateably distributed among decree- holders.

73. (1) Where assets are held by a Court and more persons than one have, before the receipt of such assets, made application to the Court for the execution of decrees for the payment of money passed against the same judgment-debtor and have not obtained satisfaction thereof, the assets, after deducting the costs of realization, shall be rateably distributed among all such person:

Provided as follows: –

(a) where any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer shall not be entitled to share in any surplus arising from such sale;

(b) where any property liable to be sold in execution of a decree is subject to a mortgage or charge, the Court may, with the consent of the mortgagee or incumbrancer, order that the property be sold free from the mortgage or charge, giving to the mortgagee or incumbrancer the same interest in the proceeds of the sale as he had in the property sold;

(c) where any immoveable property is sold in execution of a decree ordering its sale for the discharge of an incumbrance thereon, the proceeds of sale shall be applied–

first, in defraying the expenses of the sale;

secondly, in discharging the amount due under the decree;

thirdly, in discharging the interest and principal monies due on subsequent incumbrances (if any); and

fourthly, rateably among the holders of decrees for the payment of money against the judgment-debtor, who have, prior to the sale of the property, applied to the Court which passed the decree ordering such sale for execution of such decrees, and have not obtained satisfaction thereof.

(2) Where all or any of the assets liable to be rateably distributed under this section are paid to a person not entitled to receive the same, any person so entitled may sue such person to compel him to refund the assets.

(3) Nothing in this section affects any right of the Government.

RESISTANCE TO EXECUTION.

Resistance to execution.

74. Where the Court is satisfied that the holder of a decree for the possession of immoveable property or the purchaser of immoveable property sold in execution of a decree has been resisted or obstructed in obtaining possession of the property by the judgment-debtor or some person on his behalf and that such resistance or obstruction was without any just cause, the Court may, at the instance of the decree-holder or purchaser, order the judgment-debtor or such other person to be detained in the civil prison for a term which may extend to thirty days and may further direct that the decree-holder or purchaser be put into possession of the property.

PART III.

INCIDENTAL PROCEEDINGS.

COMMISSIONS.

Power of Court to issue commissions.

75. Subject to such conditions and limitations as may be prescribed, the Court may issue a commission–

(a) to examine any person;

(b) to make a local investigation;

(c) to examine or adjust accounts; or

(d) to make a partition.

76. * * * *

Letter of request.

77. In lieu of issuing a commission the Court may issue a letter of request to examine a witness residing at any place not within the Union of Myanmar.

<Amendment 18.06.1989>

Commissions issued by foreign Courts.

78. Subject to such conditions and limitations as may be prescribed, the provisions as to the execution and return of commissions for the examination of witnesses shall apply to commissions issued by or at the instance of–

(a) * * * *

(b) * * * *

(c) Courts of any foreign country.

PART IV.

SUITS IN PARTICULAR CASES.

SUITS BY OR AGAINST THE GOVERNMENT OR PUBLIC OFFICERS IN THEIR OFFICIAL CAPACITY.

Suits by or against the Government.

79. In a suit by or against the Government touching the affairs of the Union the authority to be named as plaintiff or defendant, as the case may be, shall be the Union of Myanmar.

<Amendment 18.06.1989>

Notice.

80. No suit shall be instituted against the Government or against a public officer in respect of any act purporting to be done by such a public officer in his official capacity, until the expiration of two months next after notice in writing has been delivered or left at the office of–

(a) in the case of any suit against the Government, the Secretary to the Union Government or the Collector of the District, and

(b) in the case of a suit against a public officer, the officer against whom the suit is brought,

stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left:

Provided that if at the date of the coming into operation of the Constitution any legal proceedings are pending to which the Government of Myanmar is a party, the Union of Myanmar shall be substituted in those proceedings for the Government of Myanmar.

<Amendment 18.06.1989, 03.07.2014>

Exemption from arrest and personal appearance.

81. In a suit instituted against a public officer in respect of any act purporting to be done by him in his official capacity–

(a) the defendant shall not be liable to arrest nor his property to attachment otherwise than in execution of a decree, and

(b) where the Court is satisfied that the defendant cannot absent himself from his duty without detriment to the public service, it shall exempt him from appearing in person.

Execution of decree.

82. (1) Where the decree is against [* * * *] the Government [* * **] or against a public officer in respect of any such act as aforesaid, a time shall be specified in the decree within which it shall be satisfied; and, if the decree is not satisfied within the time so specified, the Court shall report the case for the orders of the President of the Union.

(2) Execution shall not be issued on any such decree unless it remains unsatisfied for the period of three months computed from the date of such report.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

When aliens may sue.

83. (1) Alien enemies residing in the Union of Myanmar with the permission of the President of the Union, and alien friends, may sue in the Courts of the Union of Myanmar, as if they were [citizens of the Union].

(2) No alien enemy residing in the Union of Myanmar without such permission, or residing in a foreign country, shall sue in any of such Courts.

Explanation.– Every person residing in a foreign country the Government of which is at war with the [Union of Myanmar] , and carrying on business in that country without a licence in that behalf under the hand [* * * *] of the Secretary to the Union Government, shall, for the purpose of sub-section(2), be deemed to be an alien enemy residing in a foreign country.

<Amendment 18.06.1989, 03.07.2014>

When foreign States may sue.

84. (1) A foreign State may sue in any Court of the Union of Myanmar:

Provided that such State has been recognized [* * * *] by the President of the Union:

Provided also, that the object of the suit is to enforce a private right vested in the head of such State or in any officer of such State in his public capacity.

(2) Every Court shall take judicial notice of the fact that a foreign State has or has not been recognized [* * * *] by the President of the Union.

<Amendment 18.06.1989>

Persons specially appointed by Government to prosecute or defend for Chiefs.

85. (1) Persons specially appointed by order of the Government at the request of any [* * * *] Ruling Chief, [* * * *] whether residing within or without the Union of Myanmar, or at the request of any person competent, in the opinion of the Government, to act on behalf of such [* *] Chief, to prosecute or defend any suit on his behalf, shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of such [* *] Chief.

(2) An appointment under this section may be made for the purpose of a specified suit or of several specified suits, or for the purpose of all such suits as it may from time to time be necessary to prosecute or defend on behalf of the [* *] Chief.

(3) A person appointed under this section may authorize or appoint persons to make appearances and applications and do acts in any such suit or suits as if he were himself a party thereto.

<Amendment 18.06.1989>

Suits against Chiefs, ambassadors and envoys.

86. (1) Any such [* *] Chief, and any ambassador or [envoy of a foreign State] may, with the consent of the President of the Union, certified by the signature of the Secretary to the Union Government, but not without such consent, be sued in any competent Court.

(2) Such consent may be given with respect to a specified suit or to several specified suits, or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the Court in which the [* *] Chief, ambassador or envoy may be sued; but it shall not be given unless it appears to the President of the Union that the [* *] Chief, ambassador or envoy–

(a) has instituted a suit in the Court against the person desiring to sue him, or

(b) by himself or another trades within the local limits of the jurisdiction of the Court, or

(c) is in possession of immoveable property situate within those limits and is to be sued with reference to such property or for money charged thereon.

(3) No such [* *] Chief, ambassador or envoy shall be arrested under this Code, and, except with the consent of the President of the Union certified as aforesaid, no decree shall be executed against the property of any such [* *] Chief, ambassador or envoy.

(4) * * * *

(5) A person may, as a tenant of immoveable property, sue, without such consent as is mentioned in this section, a [* *] Chief, ambassador or envoy from whom he holds or claims to hold the property. <Amendment 28.08.2008, 03.07.2014>

87. * * * *

INTERPLEADER.

Where interpleader suit may be instituted.

88. Where two or more persons claim adversely to one another the same debt, sum of money or other property, moveable or immoveable, from another person who claims no interest therein other than for charges or costs, and who is ready to pay or deliver it to the rightful claimant, such other person may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to the person to whom the payment or delivery shall be made and of obtaining indemnity for himself.

Provided that where any suit is pending in which the rights of all parties can properly be decided, no such suit of interpleader shall be instituted.

PART V.

SPECIAL PROCEEDINGS.

ARBITRATION.

89. (1) * * * *

(2) * * * *

MEDIATION

89 A. (1) The Court may make mediation to a dispute in the case which has civil nature pursuant to this section.

(2) The Court may refer the following cases to mediation:

(a) cases which are prescribed to be mediated by any law or by any notification issued by the Supreme Court of the Union; and

(b) cases which are voluntarily referred to mediation by disputant parties.

(3) The proceedings of mediation shall be confidential. Any communication, statement and admission made during mediation process shall not be admissible in any subsequent hearing of the same suit or any other proceedings.

(4) Where the parties to mediation reach an agreement, the parties shall apply the Court to verify the agreement. The Court shall pass an order or a decree, as it thinks fit, in accordance with the relevant provisions of the Code of Civil Procedure.

(5) The Supreme Court of the Union may issue notifications, orders, directives, procedures and manuals relating to mediation under this section as may be necessary.

Explanation- mediation in this section is a dispute resolution process involving a mediator assigned by the Court who facilitates the parties to reach a mutually agreeable solution.

<ပြင်ဆင် 11.10.2021>

SPECIAL CASE.

Power to state case for opinion of Court.

90. Where any persons agree in writing to state a case for the opinion of the Court, then the Court shall try and determine the same in the manner prescribed.

SUITS RELATING TO PUBLIC MATTERS.

Public nuisances.

91. (1) In the case of a public nuisance the Attorney- General, or two or more persons having obtained the consent in writing of the Attorney-General, may institute a suit though no special damage has been caused, for a declaration and injunction or for such other relief as may be appropriate to the circumstances of the case.

(2) Nothing in this section shall be deemed to limit or otherwise affect any right of suit which may exist independently of its provisions.

Public charities.

92. (1) In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the Attorney-General, or two or more persons having an interest in the trust and having obtained the consent in writing of the Attorney-General, may institute a suit, whether contentious or not, in the principal civil Court of original jurisdiction or in any other Court empowered in

that behalf by the President of the Union, within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is situate, to obtain a decree–

(a) removing any trustee;

(b) appointing a new trustee;

(c) vesting any property in a trustee;

(d) directing accounts and inquiries;

(e) declaring what proportion of the trust-property or of the interest therein shall be allocated to any particular object of the trust;

(f) authorizing the whole or any part of the trust-property to be let, sold, mortgaged or exchanged;

(g) settling a scheme; or

(h) granting such further or other relief as the nature of the case may require.

(2) No suit claiming any of the reliefs specified in sub-section (1) shall be instituted in respect of any such trust as is therein referred to except in conformity with the provisions of that sub-section.

93. Repeal

<Amendment 03.07.2014>

PART VI.

SUPPLEMENTAL PROCEEDINGS.

Supplemental proceedings.

94. In order to prevent the ends of justice from being defeated the Court may,

if it is so prescribed, –

(a) issue a warrant to arrest the defendant and bring him before the Court to show cause why he should not give security for his appearance, and if he fails to comply with any order for security commit him to the civil prison;

(b) direct the defendant to furnish security to produce any property belonging to him and to place the same at the disposal of the Court or order the attachment of any property;

(c) grant a temporary injunction and in case of disobedience commit the person guilty thereof to the civil prison and order that his property be attached and sold;

(d) appoint a receiver of any property and enforce the performance of his duties by attaching and selling his property;

(e) make such other interlocutory orders as may appear to the Court to be just and convenient.

Compensation for obtaining arrest, attachment or injunction on insufficient grounds.

95. (1) Where, in any suit in which an arrest or attachment has been effected or a temporary injunction granted under the last preceding section, –

(a) it appears to the Court that such arrest, attachment or injunction was applied for on insufficient grounds, or

(b) the suit of the plaintiff fails and it appears to the Court that there was no reasonable or probable ground for instituting the same, the defendant may apply to the Court, and the Court may, upon such application, award against the plaintiff by its order such amount, not exceeding 500,000 Kyats, as it deems a reasonable compensation to the defendant for the expense or injury caused to him:

Provided that a Court shall not award, under this section, an amount exceeding the limits of its pecuniary jurisdiction.

(2) An order determining any such application shall bar any suit for compensation in respect of such arrest, attachment or injunction.

<Amendment 28.08.2008, 03.07.2014>

PART VII.

APPEALS.

APPEALS FROM ORIGINAL DECREES.

Appeal from Original decree.

96. (1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie from every decree passed by any Court exercising original jurisdiction to the Court authorized to hear appeals from the decisions of such Court.

(2) An appeal may lie from on original decree passed **ex parte.**

(3) No appeal shall lie from a decree passed by the Court with the consent of parties.

Appeal from final decree where no appeal from preliminary decree.

97. Where any party aggrieved by a preliminary decree does not appeal from such decree, he shall be precluded from disputing its correctness in any appeal which may be preferred from the final decree.

Decision where appeal heard by two or more Judges.

98. (1) Where an appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

(2) Where there is no such majority which concurs in a judgment varying or reversing the decree appealed from, such decree shall be confirmed:

Provided that where the Bench hearing the appeal is composed of two Judges and the Judges composing the Bench differ in opinion on a point of law, they may state the point of law upon which they differ and the appeal shall then be heard upon that point only by one or more of the other Judges, and such point shall be decided according to the opinion of the majority (if any) of the Judges who have heard the appeal, including those who first heard it.

(3) * * * *

No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction.

99. No decree shall be reversed or substantially varied, nor shall any case be remanded, in appeal on account of any misjoinder of parties or causes of action or any error, defect or irregularity in any proceedings in the suit, not affecting the merits of the case or the jurisdiction of the Court.

APPEALS FROM APPELLATE DECREES.

Second appeal.

100. (1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie to a High Court from every decree passed in appeal by the any Court Subordinate to the High Court of the Region or the High Court of the State, on any of the following grounds, namely : –

(a) the decision being contrary to law or to some usage having the force of law;

(b) the decision having failed to determine some material issue of law or usage having the force of law;

(c) a substantial error or defect in the procedure provided by this Code or by any other law for the time being in force, which may possibly have produced error or defect in the decision of the case upon the merits;

(d) in the suit where the amount or value of the subject-matter of the original suit exceeds 1,000,000 kyats, any ground which would be a good ground of appeal if the decree had been passed in an original suit whenever the decree of the appellate Court varies or reverses, otherwise than as to costs, the decree of the original Court.

(2) An appeal may lie under this section from an appellate decree passed **ex parte.**

<Amendment 12.07.2000, 03.07.2014>

Second appeal on no other grounds.

101. No second appeal shall lie except on the grounds mentioned in section 100.

No second appeal in certain suits.

102. No second appeal shall lie from the decree passed in appeal where the amount or value of the subject-matter of the original suit does not exceed 1,000,000 kyats.

<Amendment 12.07.2000>

Power of High Court to determine issues of fact.

103. In any second appeal, a High Court of the Region or a High Court of the State may, if the evidence on the record is sufficient, determine any issue of fact necessary for the disposal of the appeal which has not been determined by the lower appellate Court or which has been wrongly determined by such Court by reason of any illegality, omission, error or defect such as is referred to in sub-section (1) of section 100.

<Amendment 03.07.2014>

APPEALS FROM ORDERS.

Orders from which appeal lies.

104. (1) An appeal shall lie from the following orders, and save as otherwise expressly provided in the body of this Code or by any law for the time being in force, from no other orders: –

(a) * * * *

(b) * * * *

(c) * * * *

(d) * * * *

(e) * * * *

(f) * * * *

(ff) an order under section 35A;

(g) an order under section 95;

(h) an order under any of the provisions of this Code imposing a fine or directing the arrest or detention in the civil prison of any person expect where such arrest or detention is in execution of a decree;

(i) any order made under rules from which an appeal is expressly allowed by rules:

Provided that no appeal shall lie against any order specified in clause (ff) save on the ground that no order, or an order for the payment of a less amount, ought to have been made.

(2) No appeal shall lie from any order passed in appeal under this section.

Other orders.

105. (1) Save as otherwise expressly provided, no appeal shall lie from any order made by a Court in the exercise of its original or appellate jurisdiction; but, where a decree is appealed from, any error, defect or irregularity in any order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal.

(2) Notwithstanding anything contained in sub-section (1), where any party aggrieved by an order of remand from which an appeal lies does not appeal therefrom, he shall thereafter be precluded from disputing its correctness.

What Courts to hear appeals.

106. Where an appeal from any order is allowed it shall lie to the Court to which an appeal would lie from the decree in the suit in which such order was made, or where such order is made by the Court of the Self-administered Division or the Court of the Self-administered Zone or the District Court, or the High Court of the Region or the High Court of the State in the exercise of appellate jurisdiction, then to the immediate higher Court.

<Amendment 12.07.2000, 03.07.2014>

GENERAL PROVISIONS RELATING TO APPEALS.

Powers of appellate Court.

107. (1) Subject to such conditions and limitations as may be prescribed, an appellate Court shall have power–

(a) to determine a case finally;

(b) to remand a case;

(c) to frame issues and refer them for trial;

(d) to take additional evidence or to require such evidence to be taken.

(2) Subject as aforesaid, the appellate Court shall have the same powers and shall perform as nearly as may be the same duties as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted therein.

Procedure in appeals from appellate decrees and orders.

108. The provisions of this Part relating to appeals from original decrees shall, so far as may be, apply to appeals–

(a) from appellate decrees, and

(b) from orders made under this Code or under any special or local law in which a different procedure is not provided.

APPEAL TO THE SUPREME COURT.

When appeals lie to Supreme Court.

109. Subject to such rules as may, from time to time, be made by [the Supreme Court] regarding appeals from [other Courts in the Union of Myanmar] and to the provisions hereinafter contained, an appeal shall lie to [the Supreme Court] –

(a) from any decree or final order passed on appeal by a High Court of the Region or a High Court of the State or by any other Court of final appellate jurisdiction;

(b) from any decree or final order passed by a High Court of the Region or a High Court of the State in the exercise of original civil jurisdiction; and

(c) from any decree or order when the case, as hereinafter provided, is certified to be a fit one for appeal to [the Supreme Court.]

<Amendment 18.06.1989, 03.07.2014>

Value of subject- matter.

110. In each of the cases mentioned in clauses (a) and (b) of section 109, the amount or value of the subject-matter of the suit in the Court of first instance must be 10,000,000 kyats or upwards, and the amount or value of the subject-matter in dispute on appeal to [the Supreme Court] must be the same sum or upwards,

or the decree or final order must involve, directly or indirectly, some claim or question to or respecting property of like amount or value,

and where the decree or final order appealed from affirms the decision of the Court immediately below the Court passing such decree or final order, the appeal must involve some substantial question of law.

<Amendment 03.07.2014>

Bar of certain appeals.

111. Notwithstanding anything contained in section 109, no appeal shall lie to [the Supreme Court] –

(a) from the decree or order of one Judge of a High Court of the Region or a High Court of the State or of one Judge of a Division Court, or of two or more Judges of the High Court, or of a Division Court constituted by two or more Judges of a High Court of the Region or a High Court of the State, where

such Judges are equally divided in opinion and do not amount in number to a majority of the whole of the Judges of a High Court of the Region or a High Court of the State at the time being; or

(b) from any decree from which under section 102 no second appeal lies.

<Amendment 03.07.2014>

Savings.

112. Nothing contained in this Code shall be deemed to affect any of the powers vested in the Supreme Court under the Constitution or under any other law, and nothing herein contained shall apply to any matter of criminal or admiralty jurisdiction, or to appeals from orders and decrees of Prize Courts.

PART VIII.

REFERENCE, REVIEW AND REVISION.

Reference to High Court.

113. Subject to such conditions and limitations as may be prescribed, any Court may state a case and refer the same for the opinion of the Supreme Court of the Union, and the High Court may make such order thereon as it thinks fit.

<Amendment 03.07.2014>

Review.

114. Subject as aforesaid, any person considering himself aggrieved –

(a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed by this Code, or

(c) Repeal

may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.

<Amendment 03.07.2014>

Revision.

115. The Supreme Court of the Union, or the High Court of the Region or the High Court of the State, or the Court of the Self-administered Division or the Court of the Self-administered Zone, or the District Court may call for the record of any case which has been decided by any Court subordinate to the Supreme Court of the Union, or the High Court of the Region or the High Court of the State, or the Court of the Self-

administered Division or the Court of the Self-administered Zone, or the District Court and in which no appeal lies thereto, and if such subordinate Court appears–

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the Supreme Court of the Union, or the High Court of the Region or the High Court of the State, or the Court of the Self-administered Division or the Court of the Self-administered Zone, or the District Court may make such order in the case as it thinks fit.

<Amendment 12.07.2000, 28.08.2008, 03.07.2014>

PART IX.

SPECIAL PROVISIONS RELATING TO A HIGH COURT OF THE REGION OR A HIGH COURT OF TH STATE.

<Amendment 03.07.2014>

116. * * * *

Application of Code to a High Court of the Region or a High Court of the State.

117. Save as provided in this Part or in Part X or in rules, the provisions of this Code shall apply to a High Court of the Region or a High Court of the State.

<Amendment 03.07.2014>

Execution of decree before ascertainment of costs.

118. Where a High Court of the Region or a High Court of the State considers it necessary that a decree passed in the exercise of its original civil jurisdiction should be executed before the amount of the costs incurred in the suit can be ascertained by taxation, the Court may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs;

and, as to so much thereof as relates to the costs, that the decree may be executed as soon as the amount of the costs shall be ascertained by taxation.

<Amendment 03.07.2014>

Unauthorized persons not to address Court.

119. Nothing in this Code shall be deemed to authorize any person on behalf of another to address the Court in the exercise of its original civil jurisdiction, or to examine witnesses, except where the Court shall have authorized him so to do, or to interfere with the power of the Supreme Court of the Union to make rules concerning advocates.

<Amendment 03.07.2014>

Provisions not applicable to High Court in original civil jurisdiction.

120. The following provisions shall not apply to a High Court of the Region or a High Court of the State in the exercise of its original civil jurisdiction, namely, sections 16, 17 and 20.

<Amendment 03.07.2014>

PART X.

RULES.

Effect of rules in First Schedule.

121. The rules in the First Schedule shall have effect as if enacted in the body of this Code until annulled or altered in accordance with the provisions of this Part.

Power of High Court to make rules.

122. The Supreme Court of the Union may from time to time, after previous publication, make rules regulating its procedure and the procedure of the civil Courts subordinate to its superintendence, and may by such rules annul, alter or add to all or any of the rules in the First Schedule.

<Amendment 03.07.2014>

Constitution of Rule Committee.

123. (1) A committee, to be called the Rule Committee, shall be constituted at Nay Pyi Taw and shall consist of the following persons, namely–

(a) three Judges of the Supreme Court of the Union,

(b) two Judges of the High Court of the Region or the High Court of the State, and

(c) two advocates who have practised as advocates for at least 10 years.

(d) Repeal

(2) * * * *

(3) The members of the Committee shall be appointed by the Chief Justice of the Union who shall also nominate one of their number to be President:

Provided that, if the Chief Justice of the Union elects to be himself a member of the Committee, the number of other Judges of the Supreme Court of the Union appointed to be members shall be two, and the Chief Justice of the Union shall be the President of the Committee.

(4) Each member of the Committee shall hold office for such period as may be prescribed by the Chief Justice of the Union in this behalf; and whenever any member retires, resigns, dies or ceases to reside

in the Union of Myanmar, or becomes incapable of acting as a member of the Committee, the said Chief Justice may appoint another person to be a member in his stead.

(5) There shall be a Secretary to the Committee, who shall be appointed by the Chief Justice of the Union and shall receive such remuneration as may be provided in this behalf by the President of the Union. <Amendment 18.06.1989, 03.07.2014>

Committee to report to High Court.

124. The Rule Committee shall make a report to the Supreme Court of the Union on any proposal to annul, alter or add to the rules in the First Schedule or to make new rules, and before making any rules under section 122 the Supreme Court of the Union shall take such report into consideration. <Amendment 03.07.2014>

125. * * * *

Rules to be subject to approval.

126. After issuing the rules made under the foregoing provisions, the Supreme Court of the Union shall distribute and submit such rules to the respective representatives of the Pyithu Hluttaw and Amyotha Hluttaw at the nearest regular session to enable to be discussed whether such rules are in conformity with the provisions of relevant Law or not, and to be resolved in accordance with the provisions contained in section 137 and 157 of the Constitution of the Republic of the Union of Myanmar and carry out in accordance with the resolution adopted by the Pyidaungsu Hluttaw. <Amendment 03.07.2014>

Publication of rules.

127. Rules so made and approved shall be published in the Gazette, and shall from the date of publication or from such other date as may be specified have the same force and effect as if they had been contained in the First Schedule.

Matters for which rules may provide.

128. (1) Such rules shall be not inconsistent with the provisions in the body of this Code, but, subject thereto, may provide for any matters relating to the procedure of civil Courts.

(2) In particular, and without prejudice to the generality of the powers conferred by sub-section (1), such rules may provide for all or any of the following matters, namely:–

(a) the service of summonses, notices and other processes by post or in any other manner either generally or in any specified areas, and the proof of such service;

(b) the maintenance and custody, while under attachment, of live-stock and other moveable property, the fees payable for such maintenance and custody, the sale of such live-stock and property, and the proceeds of such sale;

(c) procedure in suits by way of counterclaim, and the valuation of such suits for the purposes of jurisdiction;

(d) procedure in garnishee and charging orders either in addition to, or in substitution for, the attachment and sale of debts;

(e) procedure where the defendant claims to be entitled to contribution or indemnity over against any person whether a party to the suit or not;

(f) summary procedure–

(i) in suits in which the plaintiff seeks only to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising–

on a contract express or implied; or

on an enactment where the sum sought to be recovered is a fixed sum or money or in the nature of a debt other than a penalty; or

on a guarantee, where the claim against the principal is in respect of a debt or a liquidated demand only; or

on a trust; or

(ii) in suits for the recovery of immoveable property, with or without a claim for rent or mesne profits, by a landlord against a tenant whose term has expired or has been duly determined by notice to quit, or has become liable to forfeiture for non-payment of rent, or against persons claiming under such tenant;

(g) procedure by way of originating summons;

(h) consolidation of suits, appeals and other proceedings;

(i) delegation to any Registrar of Master or other official of the Court of any judicial, **quasi**-judicial and non-judicial duties; and

(j) all forms, registers, books, entries and accounts which may be necessary or desirable for the transaction of the business of civil Courts.

Power of High Court to make rules as to its original civil procedure.

129. Notwithstanding anything in this Code, the Supreme Court of the Union may make such rules [* * * * *] to regulate its own procedure in the exercise of its original civil jurisdiction as it shall think fit.

<Amendment 03.07.2014>

130. * * * *

Publication of rules.

131. Rules made in accordance with section 129 shall be published in the Gazette, and shall from the date of publication or from such other date as may be specified have the force of law.

PART XI.

MISCELLANEOUS.

Exemption of certain women from personal appearance.

132. (1) Women who, according to the customs and manners of the country, ought not to be compelled to appear in public shall be exempt from personal appearance in Court.

(2) Nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process in any case in which the arrest of women is not prohibited by this Code.

Exemption of other persons.

133. (1) The President of the Union may, by notification in the Gazette, exempt from personal appearance in Court any person whose rank, in the opinion of the President of the Union, entitles him to the privilege of exemption.

(2) The names and residences of the persons so exempted shall, from time to time, be forwarded to the Supreme Court of the Union by the President of the Union and a list of such persons shall be kept in such Court, and a list of such persons as reside within the local limits of the jurisdiction of each Court subordinate to the Supreme Court of the Union shall be kept in such subordinate Court.

(3) Where any person so exempted claims the privilege of such exemption, and it is consequently necessary to examine him by commission, he shall pay the costs of that commission, unless the party requiring his evidence pays such costs.

<Amendment 03.07.2014>

Arrest other than in execution of decree.

134. The provisions of sections 55, 57 and 59 shall apply, so far as may be, to all persons arrested under this Code.

Exemption from arrest under civil process.

135. (1) No Judge, Magistrate or other judicial officer shall be liable to arrest under civil process while going to, presiding in, or returning from, his Court.

(2) Where any matter is pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their pleaders and recognized agents, and their witnesses acting in obedience to a summons, shall be exempt from arrest under civil process other than process issued by such tribunal for contempt of Court while going to or attending such tribunal for the purpose of such matter, and while returning from such tribunal.

(3) Nothing in sub-section (2) shall enable a judgment-debtor to claim exemption from arrest under an order for immediate execution or where such judgment-debtor attends to show cause why he should not be committed to prison in execution of a decree.

Exemption of members of legislative bodies from arrest and detention under civil process.

135A. (1) No person shall be liable to arrest or detention in prison under civil process–

(a) if he is a member of either Chamber of the Union Parliament, during the continuance of any meeting of such Chamber;

(b) if he is a member of any committee of such Chamber, during the continuance of any meeting of such committee;

(c) if he is a member of either Chamber of the Union Parliament, during the continuance of a joint sitting of the Chambers, or of a meeting of a conference or joint committee of the Chambers of which he is a member;

and during the fourteen days before and after such meeting or sitting.

(2) A person released from detention under sub-section (1) shall, subject to the provisions of the said sub-section, be liable to re-arrest and to the further detention to which he would have been liable if he had not been released under the provisions of sub-section (1).

Procedure where person to be arrested or property to be attached is outside district.

136. (1) Where an application is made that any person shall be arrested or that any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or such property is situate outside the local limits of the jurisdiction of the Court to which the application is made, the Court may, in its discretion, issue a warrant of arrest or make an order of attachment, and send to the Court of the Self-administered Division or the Court of the Self-administered Zone, or the District Court within the local limits of whose jurisdiction such person or property resides or

is situate a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

(2) The Court of the Self-administered Division or the Court of the Self-administered Zone, or the District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers, or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment.

(3) The Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he shows cause to the satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him.

(4) Where a person to be arrested or moveable property to be attached under this section is within the local limits of the ordinary original civil jurisdiction of the High Court, the copy of the warrant of arrest or of the order of attachment, and the probable amount of the costs of the arrest or attachment, shall be sent to the [the Court of the Self-administered Division or the Court of the Self-administered Zone, or the District Court,] and that Court, on receipt of the copy and amount shall proceed according to the procedure provided in the fore going provisions of sub-sections (2) and (3) of the Self-administered Division or the Court of the Self-administered Zone, or the District Court.

<Amendment 03.07.2014>

Language of subordinate Courts.

137. (1) The Language of the Supreme Court of the Union and any Court subordinate to the Supreme Court of the Union shall be Myanmar language.

(2) The application to and proceeding in such Courts shall be written in Myanmar language.

<Amendment 03.07.2014>

138. * * * *

Oath on affidavit by whom to be administered.

139. In the case of any affidavit under this Code–

(a) any Court of Magistrate, or

(b) any officer or other person whom the Supreme Court of the Union, the High Court of the Region or the High Court of the State may appoint in this behalf, or

(c) any officer appointed by any other Court which the President of the Union has generally or specially empowered in this behalf,

may administer the oath to the deponent.

<Amendment 03.07.2014>

Assessors in causes of salvage, etc.

140. (1) In any Admiralty or Vice-Admiralty cause of salvage, towage or collision, the Court, whether it be exercising its original or its appellate jurisdiction, may, if it thinks fit, and shall upon request of either party to such cause, summon to its assistance, in such manner as it may direct or as may be prescribed, two competent assessors; and such assessors shall attend and assist accordingly.

(2) Every such assessor shall receive such fees for his attendance, to be paid by such of the parties as the Court may direct or as may be prescribed.

Miscellaneous proceedings.

141. The procedure provided in this Code in regard to suits shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction.

Orders and notices to be in writing.

142. All orders and notices served on or given to any person under the provisions of this Code shall be in writing.

Postage.

143. Postage, where chargeable on a notice, summons or letter issued under this Code and forwarded by post, and the fee for registering the same, shall be paid within a time to be fixed before the communication is made:

Provided that the President of the Union may remit such postage, or fee, or both, or may prescribe a scale of court-fees to be levied in lieu thereof.

Application for restitution.

144. (1) Where and in so far as a decree is varied or reversed, the Court of first instance shall, on the application of any party entitled to any benefit by way of restitution or otherwise, cause such restitution to be made as will, so far as may be, place the parties in the position which they would have occupied but for such decree or such part thereof as has been varied or reversed; and, for this purpose, the Court may make any orders, including orders for the refund of costs and for the payment of interest, damages, compensation and mesne profits, which are properly consequential on such variation or reversal.

(2) No suit shall be instituted for the purpose of obtaining any restitution or other relief which could be obtained by application under sub-section (1).

Enforcement of liability of surely.

145. Where any person has become liable as surety–

(a) for the performance of any decree or any part thereof, or

(b) for the restitution of any property taken in execution of a decree, or

(c) for the payment of any money, or for the fulfilment of any condition imposed on any person, under an order of the Court in any suit or in any proceeding consequent thereon,

the decree or order may be executed against him, to the extent to which he has rendered himself personally liable, in the manner herein provided for the execution of decrees, and such person shall, for the purposes of appeal, be deemed a party within the meaning of section 47:

Provided that such notice as the Court in each case thinks sufficient has been given to the surety.

Proceedings by or against representatives.

146. Save as otherwise provided by this Code or by any law for the time being in force, where any proceeding may be taken or application made by or against any person, then the proceeding may be taken or the application may be made by or against any person claiming under him.

Consent or agreement by persons under disability.

147. In all suits to which any person under disability is a party, any consent or agreement as to any proceeding shall, if given or made with the express leave of the Court by the next friend or guardian for the suit, have the same force and effect as if such person were under no disability and had given such consent or made such agreement.

Enlargement of time.

148. Where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Code, the Court may, in its discretion, from time to time, enlarge such period, even though the period originally fixed or granted may have expired.

Power to make up deficiency of court-fees.

149. Where the whole or any part of any fee prescribed for any document by the law for the time being in force relating to court-fees has not been paid, the Court may, in its discretion, at any stage, allow the person by whom such fee is payable to pay the whole or part, as the case may be, of such court-fee; and

upon such payment the document, in respect of which such fee is payable, shall have the same force and effect as if such fee had been paid in the first instance.

Transfer of business.

150. Save as otherwise provided, where the business of any Court is transferred to any other Court, the Court to which the business is so transferred shall have the same powers and shall perform the same duties as those respectively conferred and imposed by or under this Code upon the Court from which the business was so transferred.

Saving of inherent powers of Court.

151. Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

Amendment of judgments, decrees or orders.

152. Clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties.

General power to amend.

153. The Court may at any time, and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any proceeding in a suit ; and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on such proceeding.

----- Footnote -----

[ပင်ရင်း- The Burma Code Volume (XII) မှ ကူးယူတင်ပြသည်။]

----- Attachment -----

[ATTACH LIST 1] 01 THE FIRST SCHEDULE. ORDER I. Parties to Suits.

[ATTACH LIST 2] 02 No. 14. REGISTER OF CIVIL SUITS. (O. 4, r.2.)

[ATTACH LIST 3] 03 THE THIRD SCHEDULE. EXECUTION OF DECREES BY COLLECTORS.