

Dépôt
Annexe

CENTRAL
BANKING
LEGISLATION



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CENTRAL BANKING LEGISLATION

A collection of
Central Bank, Monetary and Banking Laws



Statutes and related materials
selected and annotated by

HANS AUFRICHT

Preface by Per Jacobsson

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INTERNATIONAL MONETARY FUND

WASHINGTON D.C.

BURMA

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Publication of Acts and Ordinances

Every Act and Ordinance shall be promulgated by the President of the Union of Burma in the official *Gazette* and shall enter into force on the date of such promulgation unless another intention is expressly indicated. During the years 1948-1952, laws were published in Burmese (and some in English) in the *Burmese Gazette*. Since 1952, all Acts and Ordinances are published exclusively in Burmese in the *Burma Gazette*.

The Union Bank of Burma Act, 1952¹

WHEREAS it is expedient to dissolve the Burma Currency Board and to transfer its powers and duties, with certain modifications, to the Union Bank of Burma; to confer on the said Bank other powers and duties appropriate to a central bank with a view to strengthening the monetary and banking system of the Union of Burma and stimulating the sound growth of indigenous banking; and to provide for other purposes;

IT IS HEREBY ENACTED as follows:

CHAPTER I.—PRELIMINARY

1.—(1) This Act may be called the Union Bank of Burma Act, 1952. Short title and commencement.
(2) It shall come into force on such date as the President of the Union may by notification prescribe.

2.—(1) The Currency and Coinage Act, 1946, is hereby repealed; provided that sections 3, 4, 5, 6, 7, 8, 9, 30, 31, 33, 34 and 37 shall remain in force until such date as the President of the Union may by notification determine.

(2) The Union Bank of Burma Act, 1947, is hereby repealed.

(3) The Burma Companies Act shall be amended in accordance with the provisions of the Schedule of this Act.

CHAPTER II.—ESTABLISHMENT, CAPITAL AND MANAGEMENT

3. Notwithstanding the repeal effected by section 2, the Union Bank established under the Union Bank of Burma Act, 1947, shall be preserved and continue in existence under and subject to the provisions of this Act, so that the corporate identity of the Bank shall not be affected; and shall continue to be a body corporate with perpetual succession and a common seal, and shall continue to have power to sue or be sued in its corporate name.

4. It shall be the duty of the Bank to exercise the powers granted to it under this Act in such a manner as will best contribute to—

- (a) monetary stability in the Union of Burma;
- (b) stability of the currency in relation to foreign currencies; and
- (c) development of the productive resources of the country and a rising level of real income.

5. The Head Office of the Bank shall be in Rangoon and it may establish branches or agencies in other places, whether inside or outside the Union of Burma. Head office, branches and agencies.

6.—(1) The authorized capital of the Bank shall be four crores of *kyats* (rupees) of which one crore shall have been paid up by the Union Government. Capital.

¹Act No. 9 of 1952.

(2) The balance may be issued and subscribed at any time by the Union Government to such extent and in such manner as may be determined by the President of the Union.

Increase of capital.

Management.

Composition of Board and term of office of members.

7. The capital of the Bank may be increased to such extent and in such manner as may be determined by the President of the Union.

8. The powers, duties and functions of the Bank shall be vested in a Board of Directors (hereinafter referred to as "the Board") and the Board shall be responsible for the formulation of policies affecting the management, operations and administration of the Bank.

9.—(1) The Board shall consist of the following Directors, namely—
 (a) six Directors to be nominated by the President of the Union; and
 (b) the person holding office for the time being as Secretary to the Union Government in the ministry in administrative charge of finance.

(2) Each Director nominated under clause (a) of sub-section (1) shall hold office for a period of six years:

Provided that, of the six Directors first nominated thereunder, two shall retire at the end of two years, two at the end of four years and the last two at the end of six years, the Directors so to retire being determined by lot.

(3) A retiring Director shall be eligible for renomination.

(4) The Director mentioned in clause (b) of sub-section (1) shall, in anticipation of absence from any meeting or meetings of the Board, designate an officer in the ministry in administrative charge of finance holding a position no lower than Deputy Secretary, to act as his alternate at such meeting or meetings.

(5) A Chairman and Deputy Chairman shall be designated bi-annually by the President of the Union from amongst the six Directors nominated under clause (a) of sub-section (1) above and may be redesignated for successive years.

(6) Notwithstanding anything contained in sub-section (5), a whole-time Chairman may be appointed by the President of the Union for such period or periods as he may determine. On such appointment, the Chairman shall devote his whole time to the affairs of the Bank, shall receive from the Bank such salary and allowances and be subject to such terms and conditions of service as may be determined by the Board with the approval of the President of the Union. Save as otherwise provided in regulations made by the Board, such whole-time Chairman shall have full powers to transact all the business of the Bank which may be transacted by the Board.

Disqualification for appointment as Director

10. No person may be nominated as a Director under clause (a) of sub-section (1) of section 9 who—

(a) is a salaried official of the Union Government or of the Government of a constituent unit or of a local authority; or

(b) is a director, officer or employee of any banking institution (other than the Bank or a bank which is a society registered under the Burma Co-operative Societies Act); or

(c) is, or at any time has been, adjudicated an insolvent, or has suspended payment or has compounded with his creditors; or

(d) is not a citizen of the Union of Burma:

Provided that the President of the Union may exempt from the provisions of the above clauses any person for special reasons to be stated in writing.

11. The President of the Union shall declare, by notification in the *Official Gazette*, a nominated Director to have vacated his office—
 Vacation of office by Director.

(a) if he becomes subject to any disqualification mentioned in section 10; or

(b) if he becomes permanently incapable of performing his duties; or

(c) if without leave from the Board he absents himself from meetings of the Board for three consecutive months; or

(d) if he resigns his office by a note in writing to the President of the Union.

12. The President of the Union shall remove from office any nominated Director who, in the opinion of the President, is unsuited to continue to serve as a Director.
 Removal from office of Director.

13. Any casual vacancy in the Board created by the death of a nominated Director or resulting from the provisions of sections 11 and 12, shall be filled by the nomination of a new member by the President of the Union, to complete the unexpired period of the term of the Director concerned.
 Vacancies.

14.—(1) Meetings of the Board shall be convened by the General Manager at least once each month.
 Meetings of the Board.

(2) The Chairman, or the Deputy Chairman in the absence of the Chairman, or any two Directors may require the General Manager to convene a meeting of the Board at any time.

(3) Four Directors shall constitute a quorum.

(4) The Chairman, or the Deputy Chairman in the absence of the Chairman or in the absence of both, one of the Directors elected by the members present, shall preside at the meetings of the Board and, in the event of an equality of votes, shall have a second or casting vote.

15.—(1) The Board shall appoint a General Manager for the Bank, a Deputy General Manager and such other officers and servants as may be required for the efficient performance of its duties.
 Officers of the Bank.

(2) The General Manager shall be the chief executive officer of the Bank and shall, as such, have the administrative direction, supervision and control of the affairs of the Bank.

(3) Officers and servants of the Bank shall hold office for such period or periods, receive such salaries and allowances and be subject to such other terms and conditions of service as may be determined by the Board.

CHAPTER III.—THE ISSUE AND MANAGEMENT OF CURRENCY

Definitions.

16. In this Act, unless the contrary intention appears—

- (a) "Bank Notes" means notes issued by the Bank under the provisions of this Act;
- (b) "Burma Currency Board" means the board constituted under the Currency and Coinage Act, 1946;
- (c) "Burma Notes" means Burma notes of denominations of Rs. 100 or less issued under the India and Burma (Burma Monetary Arrangements) Order, 1937, British Military Administration notes issued under the Currency Proclamation No. 6, 1945, and notes issued under the Currency Notes Act, 1946;
- (d) "Currency Board Notes" means notes issued by the Burma Currency Board under the provisions of the Currency and Coinage Act, 1946;
- (e) "Coin" means any coin other than "India coin" issued by the Bank under the provisions of this Act and by the Burma Currency Board under the provisions of the Currency and Coinage Act, 1946;
- (f) "India Coin" means coin which is for the time being legal tender in India (other than India one rupee notes):

Provided that the President of the Union may exclude from this definition any type or issue of India coin.

Standard unit of monetary value.

17.—(1) The standard unit of monetary value in the Union of Burma shall be the "KYAT", hitherto known as the Burma rupee.

(2) The "KYAT" shall be divided into one hundred units each of which shall be called a PYA.

The use of the Kyat.

18. Every contract, sale, payment, bill, note, instrument and security for money and every transaction, dealing, matter and thing whatsoever relating to money or involving the payment of money or the liability to pay money, shall in the absence of any expressed agreement to the contrary, be deemed to be made, executed, entered into, done and had in the Union of Burma according to the standard monetary unit of the Union of Burma.

Right to issue currency.

19.—(1) The Bank shall have the sole right to issue bank notes and coin in the Union of Burma.

(2) On and from the date on which this Act comes into force the Burma Currency Board shall not issue any notes or coin.

Issue of currency

20. The Bank may cause to be made and issued bank notes and coin, subject to the provisions of this Act and may, for such period or periods as shall be fixed by the President of the Union by notification, on the recommendation of the Bank, issue notes of the Burma Currency Board supplied to it by the Union Government.

21.—(1) Subject to the provisions of sub-section (2), every Currency Board note and bank note shall be legal tender throughout the Union of Burma, in payment or on account for the amount expressed therein.

(2) On the recommendation of the Bank the President of the Union may, by notification, declare that, with effect from such date as may be specified in the notification, any series of Currency Board notes or bank notes of any denomination shall cease to be legal tender save at an office or agency of the Bank.

22. Bank notes shall be of the denominational value of one *kyat*, five *kyats*, ten *kyats* and one hundred *kyats*, and of such other denominations as may be determined by the President of the Union on the recommendation of the Bank.

23. The design, form and material of bank notes shall be such as may be approved by the President of the Union after consideration of recommendations thereon made by the Bank.

24. The Bank shall not re-issue Currency Board notes or bank notes which are mutilated, defaced or excessively soiled.

25. Notwithstanding anything contained in any enactment or rule of law to the contrary, no person shall of right be entitled to recover from the Bank or from the Union Government the value of any lost, stolen, mutilated or imperfect Currency Board note or bank note:

Provided that the Bank may, at its discretion, refund as of grace the value of any such Currency Board note or bank note.

26. The Bank shall not be liable for the payment of any stamp duty or like dues in respect of bank notes issued by it.

27.—(1) No person in the Union of Burma other than the Bank shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand of any such person:

Provided that cheques or drafts, including hundis, payable to bearer on demand may be drawn on a person's account with a banker, shroff or agent.

(2) Any person contravening the provisions of sub-section (1) shall be punishable with fine which may extend to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed:

Provided that no prosecution under this sub-section shall be instituted except on complaint made by the Bank.

28.—(1) Coin shall be of the following denominations: one *kyat*, half-*kyat* or fifty *pya* piece, quarter *kyat* or twenty-five *pya* piece, ten *pya* piece, five *pya* piece, one *pya* piece and such other denominations as may be determined by the President of the Union on the recommendation of the Bank.

Legal tender character of notes.

Denominations of notes.

Form of notes.

Re-issue of notes.

Recovery of notes lost, stolen, mutilated or imperfect.

Exemption from stamp duty on notes.

Unauthorized issue of demand bills and notes.

Denominations and characteristics of coin.

Legal tender character of coin.

(2) The design, composition and other characteristics of coin issued under this Act shall be such as may be approved by the President of the Union after consideration of recommendations thereon made by the Bank.

29.—(1) Coin issued under this Act and under the Currency and Coinage Act, 1946, shall be legal tender throughout the Union of Burma for the payment of any sum not exceeding one *kyat*:

Provided that one *kyat* coins shall be legal tender for the payment of any sum exceeding one *kyat*.

(2) Two anna, one anna and half anna coins made and/or issued under the provisions of the Currency and Coinage Act, 1946, shall continue to be issued by the Bank until ten *pyas*, five *pyas* and one *pya* pieces are available for issue, and such two anna, one anna and half anna coins shall be legal tender for payment of any sum not exceeding one *kyat*:

Provided that, on the recommendation of the Bank, the President of the Union may, by notification, declare that, with effect from such date as may be specified in the notification, such two anna, one anna and half anna coins shall cease to be legal tender save at an office or agency of the Bank.

(3) India coin shall continue to be legal tender throughout the Union of Burma to such extent and for such period or periods as the President of the Union may, after consultation with the Bank, by notification determine, and the Bank may for such period or periods issue or re-issue India coin. Thereafter, subject to the provisions of section 30, such India coin shall continue to be exchanged for coin or bank notes only at such rate or rates, at such place or places and for such further period or periods as may be determined by notification by the President of the Union.

Exchange of coin.

30.—(1) Coin of the denominations of two annas, one anna and half anna shall be exchanged into *pyas* at an office or agency of the Bank only upon presentation of the equivalent of four annas or any multiple thereof.

(2) India coin of the denominations of two annas, one anna, half anna and pice shall be exchanged into *pyas* only for so long as such coin continues to be legal tender throughout the Union of Burma, and only on the terms applied to coin in sub-section (1). Thereafter such India coin shall be exchanged into *pyas* only on such terms as may be determined by notification by the President of the Union.

Liability for currency.

31.—(1) Currency Board note, bank notes and coin for the time being in circulation and any demonetized Burma notes ordered to be exchanged by the President of the Union, hereinafter referred to as "currency in circulation", shall be liabilities of the Bank.

(2) Any Currency Board note or bank note which has not been presented for payment within 40 years from the 1st January following the date of its issue, and any demonetized Burma Note which has ceased to be exchangeable by the Bank, may be deemed, for the purpose of this section, to be not in circulation.

Transfer of assets and liabilities of Currency Board.

(3) The Bank's holdings of Currency Board notes, bank notes and coin shall not be considered as part of its currency issue and, accordingly, shall not be taken into account in determining the assets or liabilities of the Bank.

32. On the date on which this Act comes into force, the Bank shall take over all the liabilities of the Burma Currency Board (including the liability for Currency Board notes and coin for the time being in circulation and any demonetized Burma notes ordered to be exchanged by the President of the Union) and the Burma Currency Board shall transfer to the Bank all its assets wherever situated.

33.—(1) Upon surrender to the Bank by any person of Currency Board notes, bank notes or coin currently in circulation, the Bank shall issue to such person in exchange, on demand and without charge, bank notes or coin in such denominations as may be required by that person:

Provided that if the Bank is temporarily unable to deliver bank notes or coin of any required denomination, the Bank may deliver notes or coin of the next higher or next lower available denomination.

(2) Subject to the provisions of sub-section (3) of section 29 the Bank may, in exchange for India coin, issue bank notes or coin of equivalent face value or at such rates as the President of the Union shall specify by notification and may, in exchange for Currency Board notes, bank notes or coin, issue India coin of equivalent face value or at such rates as aforesaid.

34. The President of the Union shall, by notification, prescribe:—

(a) the circumstances in which coin issued under or circulating by virtue of this Act shall be deemed to have been illegally defaced for the purposes of this Act, and the procedure to be adopted in regard thereto, and

(b) the rules and procedures applicable to the handling of defaced or counterfeit coins.

Coin: defaced, counterfeit and illegally dealt with.

CHAPTER IV.—INTERNATIONAL RESERVE

35.—(1) The Bank shall maintain among its assets an International Reserve consisting of:

(a) gold; or

(b) assets in foreign currencies in the form of—

(i) deposits in Central Banks, Treasuries and Commercial Banks abroad; or

(ii) securities of foreign governments; or

(iii) documents and instruments of types customarily used for the international transfer of funds:

Composition of International Reserve.

Provided that gold belonging to the Bank which is in any other bank or any mint or treasury or in transit may be reckoned as part of such assets.

Suspension of assets requirements.

(2) The value of the International Reserve maintained by the Bank shall be an amount not less than 25 per cent of the Bank's liability on account of deposits and currency in circulation.

36. Notwithstanding anything contained in the foregoing section, the Bank may, with the prior approval of the President of the Union, hold as assets gold and/or approved assets in foreign currencies of less amount than that required by sub-section (2) of section 35, for a specified period:

Provided that any exercise of such authority shall require the approval of the Parliament within fifteen days or, if the Parliament is not in session, within fifteen days after the first meeting of a new session of Parliament.

Valuation of International Reserve assets.

37. For purposes of calculating the minimum ratio required by section 35 (2), the assets comprising the International Reserve shall be valued as follows:—

- (a) Gold at the legal parity to the *kyat* determined as prescribed in section 42 (1).
- (b) Deposits held abroad, and credit instruments denominated in foreign currencies, at book value, converted to *kyats* at legal parities determined under section 42 (1).
- (c) Securities at the market rate for the time being obtaining, converted to *kyats* at legal parities determined under section 42 (1):

Provided that whenever action is taken under section 42 (2), the rates last certified shall be deemed to be legal parities for purposes of this section.

Deposits.

38.—(1) The Bank shall accept monies on deposit from, and collect monies for and on account of banks in the Union of Burma that are notified by the Bank in the official *Gazette* as scheduled banks.

(2) The Bank may accept monies on deposit from, and collect monies for and on account of non-scheduled banks in the Union of Burma subject, however, to such conditions as it may prescribe.

(3) The Bank may keep balances or make agency agreements with banks in the Union of Burma and with commercial and central banks in other countries.

Credit operations authorized.

39.—(1) The Bank may conduct the following credit operations with scheduled banks in the Union of Burma as defined in section 38 (1):—

- (a) Sell, purchase and rediscount securities of or guaranteed by the Union Government, including treasury bills.
- (b) Discount, rediscount, buy and sell bills of exchange and treasury bills drawn in or on any place in any foreign country and maturing within 92 days from the date of their acquisition by the Bank.
- (c) Discount, rediscount, buy and sell bills, acceptances, promissory notes and other credit instruments payable in Burma with maturities

of not more than 180 days from the date of their acquisition by the Bank and drawn, issued or made for the purpose of financing—

- (i) the importation, exportation, purchase or sale of readily saleable goods and products, or their transportation within the Union of Burma; or
- (ii) the storage of non-perishable goods and products which are duly insured and deposited under conditions assuring their preservation, in authorized bonded warehouses or in other places approved by the Bank; or
- (iii) the holding or trading in securities of the Union Government or such other authorities as may be specified in this behalf by the Bank.
- (d) Discount, rediscount, buy and sell bills, acceptances, promissory notes and other credit instruments payable in the Union of Burma with maturities of not more than 270 days from the date of their acquisition by the Bank and drawn, issued or made for the purpose of financing the production, manufacture or processing of agricultural, animal, mineral or industrial products.
- (e) Grant loans or advances, repayable on demand or on the expiry of fixed periods not exceeding 180 days, against the following types of collateral:—
 - (i) gold or documents of title to the same;
 - (ii) negotiable securities issued or guaranteed by the Union Government, including treasury bills, and stocks, funds and securities (other than immovable property) in which a trustee is authorized to invest trust money by any law for the time being in force in the Union of Burma;
 - (iii) such credit instruments as are eligible for purchase, discount or rediscount by the Bank under clause (c) or clause (d); or
 - (iv) promissory notes of any scheduled bank or registered Co-operative Society operating in the Union of Burma, supported by documents of title to goods, such documents having been transferred, assigned, or pledged to any such bank or Society, as security for a cash credit or overdraft granted for the purpose of financing commercial or trade transactions or seasonal agricultural operations or the marketing of crops.

(2) All credit instruments purchased, rediscounted, discounted or accepted as collateral under this section shall bear such endorsement or assignment as is relevant, of the bank from which received.

40.—(1) In periods of emergency which directly threaten monetary and banking stability, the Bank may, by concurrent vote of at least five Directors of the Board and notwithstanding any limitation contained in section 39, make loans or advances to any bank in the Union of Burma repayable on demand, secured by such assets as the Bank may consider sufficient.

Emergency loans and advances.

(2) While any loan or advance under sub-section (1) is outstanding, the recipient bank may increase the total of its loans, advances, overdrafts or investments only with the permission of the Bank.

(3) Where a bank to which a loan or advance has been made under the provisions of sub-section (1) is wound up, any sums due to the Bank in respect of such loan or advance shall be a first charge on the assets of that bank, subject only to the claims, if any, of any other bank to specific security held by it as collateral to any prior loan or advance.

Interest and discount rates.

41. The Bank shall determine and publish from time to time the rates of discount and interest to be charged on its credit operations.

Parities of foreign currencies with respect to the *kyat*.

42.—(1) The Bank shall, with the approval of the President of the Union, determine and certify the legal parities with respect to the *kyat* of gold and of foreign currencies ordinarily required for the international transactions of the Union of Burma. Parities so determined and certified shall be recognized as the legal parities for all purposes and shall be notified in the official *Gazette*. The Bank may in addition determine and certify the parity of any foreign currency not included in the published list of parities.

(2) The Bank may at any time desist from certifying or notifying the parity of any foreign currency if the exchange rates for that currency in international markets are unstable or widely divergent.

(3) Legal parities shall be determined with due regard for the obligation of the Union Government to the International Monetary Fund.

Foreign exchange transactions.

43. The Bank may sell to and buy from any foreign exchange dealer, foreign exchange on such conditions as it prescribes.

Explanation.—During such time as any foreign exchange control law is in force, the term "foreign exchange dealer" as used in this section means one authorized to deal in foreign exchange by or under the said law.

Exchange rates.

44. The rates at which the Bank will buy and sell spot exchange shall not differ by more than one-half of one per cent from the legal parities established under section 42, unless in any given case a greater divergence from parity exists in foreign markets.

For other types of foreign exchange transactions, the margins between the legal parities and the rates established by the Bank may not exceed the corresponding margins for spot exchange transactions by more than the additional cost, expenses or risks involved in each type of transaction.

Explanation.—As used in this and the following section, the term "spot exchange" means telegraphic transfers only.

Exchange rate applicable to foreign exchange dealers.

45.—(1) The Bank shall determine the minimum rate at which dealers in foreign exchange may buy spot exchange and the maximum rate at which they may sell spot exchange. The rates determined shall not differ from the legal parities established under section 42 by more than one per cent, unless in any given case a greater divergence from parity exists in foreign markets.

(2) The rates to be used by dealers in foreign exchange for other types of exchange transactions shall be based on the spot exchange rates determined in accordance with sub-section (1) and shall not differ from such rates by margins greater than those considered reasonable by the Bank.

(3) The rates established in accordance with the provisions of this section shall not apply to exchange transactions with the Bank. Such transactions shall be at rates established in accordance with the provisions of section 44.

46.—(1) The Bank may require all dealers in foreign exchange to report to it at stated intervals the volume and composition of their purchases and sales of gold and foreign exchange, and to furnish such additional information as it may require with reference to their accounts in foreign currencies.

(2) The Bank may fix, or prescribe the manner of determining the maximum amount of the working balances which dealers in foreign exchange may hold in any or all foreign currencies.

47.—(1) Every bank operating in the Union of Burma shall maintain, Reserve requirements. against its deposit liabilities, a reserve with the Bank:

Provided that, in places where no office of the Bank is located, a portion or all of such reserve may be maintained in the form of a cash deposit with a Government Treasury, and

Provided further that any bank that has not been notified in the official *Gazette* as a scheduled bank may maintain a portion or all of such reserve in the form of a cash deposit with one or more scheduled banks.

(2) The Bank shall prescribe, and may from time to time modify the minimum reserve ratios applicable to each class of *kyat* deposits; provided that the ratios so prescribed shall be, for demand liabilities, not less than 8 per cent or more than 40 per cent and for time liabilities, not less than 3 per cent or more than 15 per cent.

(3) The Bank shall endeavor to give the banks reasonable notice of the date on which any increase of a reserve ratio is to become effective.

(4) The reserves required to be held by any bank shall take the form of cash deposit:

Provided that the Bank may in its discretion permit the maintenance with it of any part of the required reserves in the form of assets other than cash deposits.

(5) Reserve requirements shall apply to all banks uniformly and without discrimination.

48.—(1) The reserve position of each bank shall be computed weekly at the close of business on Friday, or if Friday is a public holiday under the Negotiable Instruments Act, at the close of business on the preceding working day. Computation shall be on the basis of the average of daily reserves actually held by that bank as against the average of daily deposit liabilities.

Computation of reserves.

Reserve deficiencies.

Clearance transactions.

Returns to be furnished by banks.

Powers of credit regulation.

Licensing of banks.

(2) In computing reserve requirements, a bank's principal office in the Union of Burma and all its branches in the Union of Burma shall be considered as a single unit.

49. Whenever the reserve position of any bank, computed in the manner specified in section 48 is below the minimum, the Bank may impose on the deficient bank a fine in the amount of one-tenth of one per centum per day on the amount of the deficiency, or may take such other action as may be prescribed by regulation.

50. The Bank shall provide facilities for, and shall prescribe regulations governing, clearance transactions among banks in the Union of Burma.

51.—(1) Every bank in the Union of Burma shall furnish to the Bank at such intervals and in such manner as may be prescribed, such data as the Bank may require for the proper discharge of its functions and responsibilities.

(2) The Bank may cause to be published, in consolidated form and at such intervals as it elects, all or portions of the data furnished under sub-section (1):

Provided that no data shall be published in such detail as to disclose the affairs of any person.

52. When, in the opinion of the President of the Union, it is desirable in the national interest to exercise any or all of the powers conferred by this section, the Bank may:—

- (a) fix maximum rates of interest or payments which banks may charge for different types of loans, advances or other credit operations, and which such banks may pay on various classes of deposits;
- (b) define maximum maturities for loans and advances by banks and the types and amounts of collateral to be required against such loans and advances;
- (c) place limits on the rate of increase of loans, advances and investments of banks, either in the aggregate or in any specified class or classes of such assets, within specified future periods of time;
- (d) establish minimum cash margins for the opening of letters of credit by banks;
- (e) establish the minimum percentage of its total liabilities in the Union of Burma that each bank or class of banks shall keep as assets in the Union of Burma and as assets payable abroad representing financing of imports into the Union of Burma:

Provided that any action taken by the Bank under this section shall be applicable to all banks uniformly and without discrimination, and

Provided further that no action taken under this section shall have retrospective effect.

53.—(1) No company or individual shall commence or carry on banking business in the Union of Burma unless it holds a licence granted by the Bank for that purpose:

Provided that banks which are in existence on the date of the commencement of this Act shall be granted a licence forthwith.

(2) No bank shall open a new place of business or alter the location of an existing place of business without obtaining the prior permission of the Bank in writing.

(3) The Bank shall prescribe the conditions under which licences may be held or granted for the purposes of this section.

(4) Before granting any licence or permission the bank shall satisfy itself that the granting of the licence or permission will be in the public interest.

54.—(1) The Bank may periodically or at its discretion cause an inspection to be made by one or more of its officers of any bank and its books and accounts and supply to such bank a copy of its report on such an inspection.

(2) The officer or officers authorized to inspect a bank shall have power—

- (a) to examine on oath any director, officer, or employee of any bank and to administer an oath accordingly;
- (b) to require any such director, officer, or employee to furnish such information as the Bank may consider necessary for the purpose of enabling the true condition of the affairs of the institution to be ascertained; or
- (c) to require any such director, officer, or employee to produce for inspection any books, records, or other documents in his possession containing or likely to contain any such information.

55. If the Bank is satisfied, after an inspection in accordance with the provisions of section 54, that a bank is no longer fulfilling the conditions under which its licence was granted, the Bank is authorized to withdraw such licence.

Provided that the bank whose licence is withdrawn may appeal from the decision of the Bank to the President of the Union, whose decision thereon shall be final.

CHAPTER VI.—RELATIONS WITH GOVERNMENT

56. The Bank shall act as the fiscal agent and banker for the Government of the Union of Burma, the Governments of the constituent units and for such other authorities as may be prescribed. It may represent the Government of the Union of Burma in any dealings, negotiations or transactions with the International Monetary Fund, the International Bank for Reconstruction and Development and with other foreign or international financial institutions or agencies.

Fiscal agent and banker for Government.

57. It shall be the duty of the Bank to advise Government from time to time on the monetary implications of fiscal developments and of contemplated operations by Government involving external or internal

Obligation of Bank as adviser to Government.

Obligation of Bank to transact Government business.

Right to transact Government business in Burma.

Business Bank may transact for Government.

Advances to Government.

borrowing. In the event of unfavourable developments affecting the international reserve, it shall be the duty of the Bank to suggest remedial measures to be taken by Government.

58. The Bank shall be the official depository of Government and, as such, shall undertake to accept monies on deposit from, and collect monies for or on account of, the Government of the Union of Burma and the Governments of the constituent units.

59.—(1) The Bank shall have the right to hold all the cash balances of the Government of the Union of Burma and the Governments of the constituent units, on such conditions as may be agreed upon, and to transact for such accounts the kinds of business authorized in section 60:

Provided that nothing in this section shall prevent the Government of the Union of Burma or the Governments of the constituent units from carrying on transactions at places where the Bank has no branches or agencies in such manner as they may determine.

(2) In the event of any failure to reach agreement on the conditions referred to in this section, the President of the Union shall decide what the conditions shall be.

60. In its capacity as fiscal agent and banker for Government, the Bank may perform the following functions:

- (a) The purchase and sale of gold, silver and foreign exchange;
- (b) The purchase, sale, transfer and custody of bills of exchange, securities or shares in any company;
- (c) The collection of the proceeds, whether principal, interest or dividends, of any securities or shares;
- (d) The remittance of funds at the risk of the principal by bills of exchange or telegraphic transfers payable either in the Union of Burma or elsewhere;
- (e) The management of the public debt;
- (f) The issue of securities of the Government of the Union of Burma;
- (g) The administration of such foreign exchange control law as may be in force from time to time;
- (h) The functions of the Bank under the International Monetary Fund and Bank Act, 1951; and
- (i) Such other functions as may be mutually agreed upon by the Bank and Government.

61. The Bank may make advances to the Government of the Union of Burma to finance expenditures authorized in its annual appropriations:

Provided that each such advance shall be repaid not later than six months from the date of making the advance, and the total amount of such advances outstanding at any time shall not exceed 15 per cent of the estimated revenues of the Government of the Union of Burma for the financial year in which the advances are made.

62. The Bank may purchase, sell or hold securities of, or guaranteed by, the Government of the Union of Burma, including treasury bills, of any maturity.

Explanation.—The authority granted to the Bank by this section to purchase and sell Government securities includes direct purchase from or sale to the Government of the Union of Burma.

63. Securities of the Union Government allocated to the Reserve Fund at the establishment of the Bank shall continue to be held in the said Fund until released from time to time in accordance with the provisions of section 69 (a).

64.—(1) The Bank shall, within two months from the date on which the annual accounts of the Bank are closed, transmit to the President of the Union a copy of the annual accounts signed by the Chairman and the General Manager of the Bank, and certified by the Auditors, together with a report by the Board on the working of the Bank throughout the year, and such accounts and reports shall be published in the official *Gazette*.

(2) The Bank shall also prepare and transmit to the President of the Union such other periodical statements of its accounts and transactions and in such form as the President of the Union may prescribe.

CHAPTER VII.—GENERAL

65. The Bank may, with the approval of the President of the Union, borrow money for the purpose of the business of the Bank, and may give security for monies so borrowed:

Provided that the amount of such borrowing shall at no time exceed the amount of the paid up Capital and the Reserve Fund of the Bank.

66. The Bank may purchase, sell or hold shares or securities of a financial or banking institution incorporated under an Act of Parliament.

67. The Bank is authorized to conduct the following operations:

- (a) Purchase, sell, hold or otherwise deal in gold in any form;
- (b) Open accounts, in its discretion, in the names of companies, firms or persons consistent with the Bank's activities as a central bank and members of its staff;
- (c) Issue demand drafts, telegraphic transfers and other kinds of remittances made payable at its own offices or agencies and purchase telegraphic transfers;
- (d) Have custody of monies, securities and other articles of value and collect the proceeds of any such securities, whether principal, interest or dividends;
- (e) Sell and realize the value of all property, whether movable or immovable, which may in any way come into its possession in satisfaction or part satisfaction of any of its claims;

Purchase and sale of Government securities.

Reserve Fund.

Authority to borrow money.

Purchase of corporate shares.

Additional powers.

(f) Generally undertake such operations as may be incidental to or consequential upon the exercise of its powers and the discharge of its duties under this Act.

68. Save as otherwise provided in this Act, the Bank shall not—

- (a) engage in trade or otherwise have a direct interest in any commercial, industrial or other undertaking except such interest as it may in any way acquire in the course of the satisfaction of any of its claims: Provided that any such interest shall be disposed of as soon as feasible;
- (b) purchase the shares of any other bank or of any company or grant loans upon the security of any such shares;
- (c) advance money on mortgage of or otherwise on the security of immovable property or documents of title relating thereto, or become the owner of immovable property except so far as is necessary for its own business premises and residences for its officers and servants;
- (d) make loans or advances except as permitted under sections 39, 40 and 61.

Allocation of profits.

69. After making provision for bad and doubtful debts, depreciation in assets, contributions to staff, superannuation or provident funds and such other contingencies as are usually provided for by bankers, the balance, if a loss, shall be charged against the Reserve Fund, and, if a profit, shall be distributed as follows:—

- (a) 75 per cent to the Reserve Fund, with the release and return to the Union Government of a like amount of its securities referred to in section 63 for so long as any such securities remain to be returned;
- (b) 25 per cent to the Union Government.

Revaluation profits and losses.

70.—(1) The profits arising from any change in the valuation of the Bank's assets in gold or foreign currencies as a result of alterations of the par value of the *kyat*, or of changes in the parities or exchange rates of foreign currencies with respect to the *kyat*, shall be carried to a special account entitled "Revaluation Reserve Account" and shall not be included in the computation of the annual profits and losses of the Bank.

(2) Any losses arising from a change in valuation as described in sub-section (1) shall be set off against any credit balance in the Revaluation Reserve Account, and, if such balance is insufficient or non-existent, shall be offset by transfer to the Bank by the Union Government of an equivalent amount of its own non-negotiable, non-interest-bearing securities:

Provided that these securities shall be held by the Bank only for so long as there exists no credit balance in the Revaluation Reserve Account and whenever credit balances appear in the account they shall be used first to reduce the Bank's holdings of these securities.

(3) When a credit balance is first shown in the Revaluation Reserve Account at the end of a year, one-fifth of such balance shall be transferred to the account of the Union Government and transfers of the same

amount shall be made at the end of each of the succeeding four years or until the credit balance is exhausted:

Provided that if any increase is shown in the credit balance of the Revaluation Reserve Account during such a period of annual payments a new schedule of such payments based on the increased balance may be instituted.

(4) Any credit balance transferred to the account of the Union Government in accordance with the provisions of sub-section (3) shall be used immediately to retire and cancel securities of, or guaranteed by, the Union Government.

(5) The Revaluation Reserve Account shall be neither credited nor debited for any purpose other than those specifically mentioned in this section.

71.—(1) The Auditors of the Bank shall be appointed by the President of the Union, but no Director, Officer or servant of the Bank shall be eligible for appointment as an Auditor during his continuance of office as such Director, Officer or servant.

(2) Without prejudice to anything contained in sub-section (1), the President of the Union may, at any time, direct the Auditor-General of the Union of Burma or such other person as he thinks fit to examine and report on the accounts of the Bank.

(3) The powers and duties of Auditors shall be prescribed by the President of the Union in consultation with the Auditor-General of the Union of Burma.

72. Notwithstanding anything contained in the Union of Burma Income Tax Act or any other enactment for the time being in force relating to income-tax, super-tax or any such tax, the Bank shall not be liable to pay income-tax, super-tax or any such tax on its income, profits or gains.

Exemption of the Bank from income-tax.

73. Every officer or servant of the Bank shall be deemed to be a public servant within the meaning of section 28 of the Penal Code.

Public servant status.

74. The President of the Union may make rules to carry out objects of this Act.

Rules.

75. The Bank may make such regulations consistent with this Act and the rules made thereunder as are necessary or convenient in order to give effect to the provisions of this Act.

Regulations.

76.—(1) Any person who contravenes or fails to comply with the provisions of sections 45, 46, 51, 52 or 53, or with any rule, regulation, order, direction or requirement made or given with respect to any provision of this Act shall be punishable with imprisonment for a term which may extend to six months or with fine not exceeding one thousand rupees or with both:

"Penalties."

Provided that no prosecution under this section shall be instituted except on complaint made by the Bank.

(2) Any person who attempts to commit any offence punishable under sub-section (1) shall be liable to the punishment provided for the offender.

(3) Where the person convicted of an offence under sub-section (1) or (2) is a body corporate, every person who at the time of the commission of the offence was a director or an officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge; or that he exercised all due diligence to avoid the commission of such offence.

SCHEDULE

Section 2(3).

AMENDMENTS TO THE BURMA COMPANIES ACT

Section 2.—For clause (17) of section 2 the following clause shall be substituted, namely:—

"(17) 'Scheduled Bank' means a bank which has been notified under section 38 of the Union Bank of Burma Act, 1952, as a scheduled bank."

Section 162.—After clause (v) of section 162 the following shall be added as clause (va), namely:—

"(va) if its licence is withdrawn in accordance with the provisions of section 55 of the Union Bank of Burma Act, 1952."

Section 277K.—(a) In sub-section (3) of section 277K for the words "Government securities or in securities mentioned or referred to in section 20 of the Trusts Act," the words "securities issued or guaranteed by the Union Government" shall be substituted;

(b) After the words "scheduled bank" the words "or in the Union Bank of Burma" shall be added; and

(c) After sub-section (3) the following shall be added as sub-section (4), namely:—

"(4) Nothing in this section shall apply to a scheduled bank."

Section 277L.—For section 277L the following shall be substituted, namely:—

"277L. If default is made in complying with the requirements of section 277G, section 277H, section 277J, section 277K or section 277M, every director or other officer of the company who is knowingly and wilfully a party to the default shall be liable to a fine not exceeding five hundred rupees for every day during which the default continues."

"Penalties."

The International Monetary Fund and Bank Act, 1951¹

An Act to enable the Union of Burma to become a member of the International Monetary Fund (hereinafter referred to as "the International Fund") and of the International Bank for Reconstruction and Development (hereinafter referred to as "the International Bank").

WHEREAS the International Fund and the International Bank were established in pursuance of Agreements drawn up at the United Nations Monetary and Financial Conference held at Bretton Woods at New Hampshire in the United States of America in July 1944;

AND WHEREAS copies of the text of the Articles of the said Agreements have been laid before the Parliament:

AND WHEREAS the International Fund and the International Bank have prescribed the terms and conditions set out in the First Schedule and the Second Schedule to this Act as the terms and conditions upon which the Union of Burma may be admitted to membership of the International Fund and the International Bank respectively;

AND WHEREAS, for the purpose of complying with the terms and conditions aforesaid, it is necessary to make provisions as hereinafter set out:

NOW, THEREFORE, it is hereby enacted as follows:—

1. This Act may be called the International Monetary Fund and Bank Act, 1951.

2. The President of the Union may authorize—

(a) the signing, on behalf of the Government of the Union of Burma, of the Agreement of the International Fund (hereinafter referred to as "the Fund Agreement") and the Agreement of the International Bank (hereinafter referred to as "the Bank Agreement") respectively; and

(b) the deposit with the Government of the United States of America of instruments of acceptance of the Articles of the Fund Agreement and of the Articles of the Bank Agreement, stating that the Government of the Union of Burma has accepted, in accordance with its law the respective Articles and the terms and conditions prescribed thereunder as the terms upon which the Government of the Union of Burma shall be admitted to membership of the International Fund and the International Bank.

3. The Union Bank of Burma shall be the depository of the Burma currency holdings of the International Fund and the International Bank.

Authorization of
signature of
Articles of
Agreement of
the Fund and
Bank
respectively.

Union Bank to be
depository for
Fund and Bank.

¹Act No. 37 of 1951 as amended by the International Monetary Fund and Bank (Amendment) Act, 1959, No. 14 of 1959.

Subscription to
International
Fund.

4.—(1) There shall be paid out of the revenues of the Union of Burma such part of the subscription of the Union of Burma specified in the terms and conditions set out in the First Schedule to this Act as may, in accordance with these terms and conditions and the provisions of sections 3 and 5 of Article III of the Fund Agreement, be payable in gold or in Burma currency.

(1-a) There shall also be paid out of the revenues of the Union of Burma such further sums as may be payable in gold and Burma currency to the International Monetary Fund on account of the increase in the quota of the Union of Burma in the International Monetary Fund in terms of the Fund Resolutions set out in the Fourth Schedule to this Act.²

(2) The Government of the Union of Burma may create and issue to the International Fund, in such form as it thinks fit, any such non-interest-bearing and non-negotiable notes or other obligations as the Fund may, under section 5 of Article III of the Fund Agreement determine to accept in place of any part of the subscription of the Union of Burma which would, but for such acceptance, be payable in Burma currency.

5.—(1) There shall be paid out of the revenues of the Union of Burma—
 (a) all sums payable to the International Fund under section 8(b) of Article IV of the Fund Agreement (which relates to changes in the par or the foreign exchange value of currencies of members);
 (b) all sums required for implementing the guarantee required in section 3 of Article XIII of the Fund Agreement, that is to say, the guarantee under the said Article of the assets of the Fund against loss resulting from failure or default of the depository designated by the Government of the Union of Burma;
 (c) all sums required for the redemption of any notes or obligations created and issued to the International Fund; and
 (d) any compensation required to be paid to the International Fund or any member thereof under Schedule D of the Fund Agreement (which relates to the withdrawal of members from the International Fund) or under Schedule E thereof (which relates to the liquidation of the International Fund).

(2) The Government of the Union of Burma may create and issue to the International Fund, in such form as it thinks fit, any such non-interest-bearing and non-negotiable notes or other obligations as the International Fund may, under section 5 of Article III of the Fund Agreement, determine to accept in place of any Burma currency payable to the International Fund under clause (a) or clause (b) or clause (c) of sub-section (1).

6.—(1) There shall be paid out of the revenues of the Union of Burma such part of the subscription of the Union of Burma specified in paragraph 2 of the terms and conditions set out in the Second Schedule to this

Other payments
to the Interna-
tional Fund.

Other payments
to the Interna-
tional Bank.

Issue of Govern-
ment notes or
obligations to
Union Bank.

Charges and
receipts.

Act as may, in accordance with these terms and conditions and the provisions of Article II of the Bank Agreement be payable in gold or United States dollars or in Burma currency.

(1-a) There shall also be paid out of the revenues of the Union of Burma such further sums as may be payable in gold, United States dollars and Burma currency to the International Bank on account of the increase in the subscription of the Union of Burma to the International Bank in terms of the Bank Resolutions set out in the Fifth Schedule to this Act.*

(2) The Government of the Union of Burma may create and issue to the International Bank in such form as it thinks fit, any such non-interest-bearing and non-negotiable notes or other obligations as the International Bank may, under section 12 of Article V of the Bank Agreement, determine to accept in place of any part of the subscription of the Union of Burma which would, but for such acceptance, be payable in Burma currency.

7. There shall be paid out of the revenues of the Union of Burma—

(a) all sums payable to the International Bank under section 9 of Article II of the Bank Agreement (which relates to changes in the par or foreign exchange value of currencies of members); and
 (b) all sums required for the redemption of any notes or obligations created and issued to the International Bank under this Act.

8.—(1) For the purpose of providing any sums to be paid out of the revenues of the Union of Burma under sub-section (1) of section 4, or under clause (a) or clause (b) or clause (c) of sub-section (1) of section 5, or under sub-section (1) of section 6 or section 7, the Government of the Union of Burma may raise loans by the creation and issue to the Union Bank of Burma, in such form as it thinks fit, of non-interest-bearing and non-negotiable notes or obligations.

(2) Notwithstanding anything in the Union Bank of Burma Act (No. LX of 1947), the Union Bank of Burma is hereby authorized to accept and hold any notes or obligations created and issued in accordance with the provisions of sub-section (1).

(3) There shall be paid out of the revenues of the Union of Burma all sums required for the redemption of any notes or obligations created and issued to the Union Bank of Burma under sub-section (1).

9.—(1) The Union Bank of Burma is hereby authorized to make payments of all sums required for the purpose of paying any charges payable to the International Fund under section 8 of Article V of the Fund Agreement.

(2) All sums received by or on behalf of the Government of the Union of Burma from the International Fund or from the International Bank, other than sums received by reason of operations of the Union Bank of

* Under this provision the original subscription to the capital of the Bank, US\$15 million, was increased to US\$40 million, effective December 4, 1959.

² Under this provision the original quota in the Fund, US\$15 million, was increased to US\$30 million, effective October 29, 1960.

Subscription to
International
Bank.

Burma under Article V or Article VII or Article VIII of the Fund Agreement, shall be paid into the revenues of the Union of Burma; and the sums so received, in so far as they represent capital, shall, unless otherwise provided in that behalf in any written law, be applied from time to time as the Government of the Union of Burma may direct for the redemption of notes or other obligations issued to the Union Bank of Burma under this Act.

Certain provisions of Agreements to have force of law.

10. Notwithstanding anything to the contrary contained in any other law, the provisions of the Fund Agreement and the Bank Agreement set out in the third Schedule to this Act shall have the force of law in the Union of Burma:

Provided that nothing in section 9 of Article IX of the Fund Agreement or in section 9 of Article VII of the Bank Agreement shall be construed as—

- (a) entitling the International Fund or the International Bank to import into the Union of Burma goods free of Customs duty without any restriction on the subsequent sale therein, or
- (b) conferring on the International Fund or the International Bank any exemption from duties or taxes which form part of the price of goods sold or which are in fact no more than charges for service rendered.

Power to call for information.

11.—(1) Where, under section 5 of Article VIII of the Fund Agreement, the International Fund requires the Government of the Union of Burma to furnish it with any information, the Government of the Union of Burma, or if generally or specially authorized by the Government of the Union of Burma, in this behalf, the Union Bank of Burma may by order in writing require any person to furnish such officer or other person as may be specified in the order, such detailed information as the Government of the Union of Burma or the Union Bank of Burma, as the case may be, may determine to be essential for the purpose of complying with the request of the International Fund; and any person so required shall be bound to furnish such information.

(2) Every officer or person to whom any information is required to be furnished under this Section shall be deemed to be a public servant within the meaning of section 21 of the Penal Code.

(3) No information obtained under this Section shall be furnished to the International Fund in such detail as to disclose the affairs of any person, and the provisions of section 54 of the Burma Income-Tax Act shall apply in relation to information obtained under this Section as they apply to the particulars referred to in that Section.

(4) A determination of the Government of the Union of Burma or the Union Bank of Burma under sub-section (1) as to the extent of detail in which information is to be furnished shall be final, and in any prosecution under section 176 or section 177 of the Penal Code in respect of any information required to be furnished under this section, it shall not be a

defence to assert that information was required to be furnished in greater detail than was essential for the purpose of complying with the request of the International Fund.

(5) No prosecution for any offence in respect of any information required to be furnished under this section shall be instituted except with the previous sanction of the Government of the Union of Burma.

SCHEDULES

[The First Schedule sets forth the terms and conditions prescribed by resolution of the Board of Governors of the International Monetary Fund for admission of the Government of the Union of Burma to membership in the Fund (see s. 4(1)). The Second Schedule sets forth the terms and conditions prescribed by resolution of the Board of Governors of the International Bank for Reconstruction and Development for admission of the Government of the Union of Burma to membership in the Bank (see s. 6(1)). The Third Schedule sets forth the provisions of the Fund and Bank Agreements which shall have the force of law in the Union of Burma (see s. 10). The Fourth Schedule contains the First and Second Resolutions of the Board of Governors of the Fund on Enlargement of Fund Resources Through Increases in Quotas (see s. 4(1-a)). The Fifth Schedule contains two Resolutions of the Board of Governors of the International Bank relating to an increase in the authorized capital of the Bank (see s. 6(1-a)).]

Bibliographical Note

PUBLICATIONS OF THE UNION BANK OF BURMA

Annual Report, 1952— (supersedes Annual Reports issued by the Union Bank of Burma under the authority of the Union Bank of Burma Act, 1947).

Bulletin (quarterly, January 1952—).

Regulations for Banks (revised July 17, 1958).

PUBLICATIONS RELATING TO BANKING AND CENTRAL BANKING

Hooper, S.G., *Commercial Banking in Burma* (Rangoon, [1956]).

Maung Maung Hla, "Central Banking in Burma," in S.G. Davies, ed., *Central Banking in South and East Asia* (Hong Kong, 1960), pp. 1-8.

Tun Wai, *Burma's Currency and Credit* (Bombay, 1953).