

purposes, shall, before presenting his application, demarcate, with posts or otherwise, the area which he desires to be leased or granted to him, and shall declare in his application that he has made such demarcation.

62.* Applications for a lease of land must be in writing† and contain the following particulars :—

- (a) Name, residence, and designation of applicant
- (b) Township, * * and village in which the land applied for is situated ;
- (c) Area of land applied for ;
- (d) Boundaries of land applied for, and
- (e) Purposes for which the land is required.

63.* (1) When an application is made to an Assistant Collector, he shall cause a correct plan of the land to be made and shall fix a day for the inspection of the land, and inform the applicant and the cultivators in the village of the day so fixed. On that day the Assistant Collector shall go to the land, examine the boundaries and hear any objections‡ by any cultivators who attend, and, after considering any objection which may be made, shall, unless the area of the land is in excess of the area which he is empowered to lease, make or refuse to make the lease of the land applied for. If the lease is made, the Assistant Collector shall

(a) Form XIII, record the details of it in the prescribed register^[a]
page 182. and shall execute and give to the applicant an
(b) Form XIV, instrument of lease of the land in the prescribed
page 183. form.^[b] If the area applied for exceeds that
which the Assistant Collector is by Rule 56 empowered to lease,
he shall refer the applicant to the officer empowered to make the
lease under that rule.

(2) When an application is made to a Collector he shall proceed *mutatis mutandis*, in the way laid down for the guidance of Assistant Collectors in Rule 63 : Provided that in the case of applications for areas of land which an Assistant Collector is empowered to lease, he may refer the applicant to the Assistant Collector.

* Amended by Financial Commissioner's Notn. No. 10, dated the 26th March 1896.

† A form (Revenue U. B. Land 64) has been brought on the Guard-Book for use by applicants. No court-fee is payable on such applications [*Court-fees Act, 1870, section 19 (21)*]. A form of opening proceedings (Revenue U. B. Land 65) has also been printed.

‡ "A written statement filed by any person before a Revenue Officer, containing an objection to the issue of a grant or lease to another person, is analogous to a written statement called for by a Court after the first hearing of a suit, and is exempt from stamp-duty as falling within the spirit of clause (iii) of section 19 of the *Court-fees Act*." *Directions regarding Stamps, 12 (3)*.

(3) A *thugyi* specially empowered to lease land under Rule 56 (2) shall proceed in the manner directed by clause (1) of this rule. He shall forward a copy of every lease issued by him to the Assistant Collector in charge of the township within which the land leased is situate.

(4)* When it is necessary to employ a special agency to make the plan of the land the Assistant Collector shall, in order to cover the cost of survey, require the applicant to deposit, within a period to be specified, a survey fee at such rate per acre of the area applied for as the Collector may by general or special order prescribe, provided that, except with the previous sanction of the Local Government, the rate so ordered shall not exceed eight annas per acre.

(5)† The Collector or Assistant Collector of the 1st class may depute any Subordinate Assistant Collector to visit the land and to hear objections and to report.

64.‡(1) All leases of land made by an Assistant Collector in charge of a township shall be entered in the register of the leases Form XIII, page 182. kept by him and in the register kept by the Assistant Collector in charge of the subdivision and in the register kept by the Collector of the district within which the township is situate. All leases made by an Assistant Collector in charge of a subdivision shall be entered in the registers kept up by each of the Assistant Collectors in charge of the township within which the land is situate and in the register kept up by the Collector. All leases made by the Collector shall be entered in the registers kept up by each of the Assistant Collectors in charge of the subdivisions and townships in which the land is situate.

(2) Leases issued by a *thugyi* specially empowered under Rule 56 (2) shall be entered in the district, subdivisional and township registers.

65.§ The procedure prescribed in Rule 63 shall apply, *mutatis mutandis*, to leases of areas exceeding his independent powers which the Collector may make with the sanction of the Commissioner or Financial Commissioner under Rule 58, clause (1).

* Substituted by Financial Commissioner's Notification No. 78, dated the 4th September 1902. For instructions regarding the levy and disposal of *potta* survey fees see Directions 84-6, pages 129-30.

† Added by Financial Commissioner's Notn. No. 14, dated the 1st March 1900.

‡ Substituted by Financial Commissioner's Notification No. 10, dated the 26th March 1896, as amended by Revenue Department Notification No. 604, dated the 23rd December 1904.

§ Substituted by Financial Commissioner's Notification No. 10, dated the 26th March 1896.

65A.* Applications for grants of land for religious or public purposes shall be made to the Collector who, after issuing notices and calling for objections in the way prescribed in Rule 63 and after hearing and disposing of any objections and satisfying himself that the land is available and required, may proceed † according to Chapter VII.

66. In villages which have been cadastrally surveyed, plans of lands leased shall be plotted on the maps of the villages in which such lands are situated.

67. Any person in legal possession of land leased under these rules shall, if the instrument of lease under which the land is held has been lost or destroyed, be entitled to obtain, on application, a copy of such instrument.

CHAPTER X.

Rules ‡ for the temporary occupation of State Waste § Land situated outside Cantonments and Civil Stations [section 26 (1) (b)].

Ordinary Lands.

68. (1) If any person desires to temporarily occupy, for the purpose of cultivation or otherwise, State land which is waste, § he may make to the Collector an application containing the particulars mentioned in Rule 62.

(2) After such enquiry as may be necessary, the Collector
Form XV, page 184. may grant the application and give the applicant a license to occupy the land, for any time not exceeding three years, at the rate in force for similar land in the neighbourhood.

69. (1) Any person entering upon or occupying any such land without a license may be served by any Revenue Officer with a notice of ejectment.

(2) If such person fails to comply with the requisition made in such notice, he may, in addition to any other penalty to which he

* Added by Financial Commissioner's Notification No. 10, dated the 26th March 1896, as amended by Revenue Department Notification No. 604, dated the 23rd December 1904.

† See Directions 80-3, pages 127-9.

‡ Substituted by Financial Commissioner's Notn. No. 2, dated the 6th February 1899.

§ For definition of "waste" land, see the last sentence of Direction 82, page 128.

may be liable, be punished with imprisonment for one month, or with fine extending to two hundred rupees, or with both.

(3) No person shall acquire by length of possession or otherwise any right over lands occupied under this chapter, except such right as is conveyed to him by the license.

Taungya Lands.

70. Application* may be made to the Collector by any person or tribe or family practising *taungya*-cultivation for the allotment of a tract of land for the purposes of such cultivation.

EXPLANATION.—*Taungya*-cultivation is cultivation of a temporary and shifting nature in a forest or jungle-clearing.

71. On receipt of an application under the last foregoing rule, the Collector shall cause the tract applied for to be demarcated, and shall give notice of the application to the local forest-officer. He shall also issue a proclamation calling upon any persons having any interest in such land and objecting to the proposed allotment to appear and state their objections on a day which shall be not less than sixty days from the date of the issue of the proclamation.

72. If any objections are made by the local forest-officer, the Collector shall report the case to the Commissioner with his opinion, and the Commissioner shall decide whether the allotment is to be made or not, or whether any alteration is to be made therein.

73. If any objections are made by private persons, the Collector shall, on the date specified in the proclamation, enquire into and decide upon them.

74. If the tract to be allotted exceed five square miles in extent, the case must be reported for sanction to the Financial Commissioner. If the tract is situated in a district where the demarcation of reserved forests is not complete, the case must be reported for sanction to the Local Government.† The districts in which the demarcation of reserved forests is complete shall be from time to time‡ notified in the *Burma Gazette* for the purposes of this rule, but such notification shall not bar the formation of further reserved forests if the Local Government† so directs.

* Such applications are exempt from court-fee. [*Court-fees Act, 1870, sec. 19 (xi)*].

† Substituted by Financial Commissioner's Notn. No. 29, dated the 22nd July 1898.

‡ No notification has been published under this rule.

CHAPTER XI.

Rules for allotment of Grazing-grounds [section 26 (1) (c)].

75. (1) The Collector, if he considers that the inhabitants of any village stand in need of an allotment of grazing-ground, may proceed to mark out such land as should, in his opinion, be allotted to them, and cause it to be surveyed and a plan to be made thereof.

(2) The terms **grazing-ground** includes the necessary cattlepaths or approaches to a grazing-ground.

76. A notice, together with a copy of the plan of the land, shall be affixed to the houses of the headmen of the villages in the neighbourhood of which the land is situated, informing such headmen of the Collector's intention to adopt the land as a grazing-ground and fixing a day, not less than fifteen days distant from the date of the notice, on which any of the inhabitants of the neighbouring villages may appear before the Collector and state any objections which they may have to the proposed allotment.

77. The Collector, after hearing any objections which may be raised to such allotment, or, if no objection is raised, then after making any further enquiry which he may consider necessary, shall, if he is of opinion that the whole or any portion of the land should be allotted as a grazing-ground, make an order determining the area to be allotted and the villages for whose benefit the allotment is made, and shall thereupon enter the grazing-ground in the prescribed register, cause a final demarcation of it to be made, and issue a notice of final allotment. After the issue of the notice of final allotment, the land may be used as a grazing-ground by the inhabitants of the villages specified in the Collector's order of allotment and shall not be occupied or disposed of for any other purpose until the Commissioner shall so direct.

78. When any grazing-ground has been finally demarcated under the last foregoing rule, any person who occupies any part of such grazing-ground for any purpose other than grazing, or who, without the special sanction of the Collector, cuts, fells, or removes trees or underwood from such grazing-ground, or who removes grass therefrom during the months of December to May, both inclusive, may be punished with fine extending to fifty rupees, or, in default of payment of fine, with simple imprisonment for a term not exceeding fifteen days.

79. The Collector may direct any Assistant Collector to make the preliminary inquiry, issue notices, and hear objections in regard to the allotment of grazing-grounds.

CHAPTER XII.*

Rules as to the assessment of Land Revenue [Section 27 (2)].

80. (1) The Revenue Officer appointed under the provisions of section 27, sub-section (2), of the Upper Burma Land and Revenue Regulation, 1889, shall cause to be prepared for all lands, village by village, in the prescribed form, a register of occupiers.

(2) The person who paid revenue in respect of any land to Government for the year immediately preceding the appointment of the Revenue Officer under section 27, sub-section (2), of the Upper Burma Land and Revenue Regulation, 1889, shall, in the absence of proof to the contrary, be deemed to be the occupier of such land. If revenue was not so paid, the person actually holding the land on his own account and not on account of any other person shall, in the absence of proof to the contrary, be deemed to be the occupier thereof.

81. The assessment of the land shall be made either on the money value of a share of the produce or by money rates per acre, fixed for a term of years which will be determined for each district separately. The rates shall be levied on land only on which a matured crop has been raised.

CHAPTER XIII.

Rules† for the preparation and maintenance of the record-of-rights [Section 29 (3)].

82. A record-of-rights shall be drawn up for each village.

83. It shall contain—

- (a) a statement or statements showing so far as may be practicable—
 - (i) the name of the occupier of each holding,
 - (ii) the area of each holding,
 - (iii) the amount assessed on each holding,
 - (iv) the period for which the revenue assessed has been fixed, and

* Substituted by Revenue Department Noin. No. 604, dated the 23rd December 1904.

† (a) The rules in this chapter other than Nos. 85-7 do not apply to any district till it comes under settlement.

(b) Detailed directions for the purpose of carrying out Rules 82 and 83 are published in Chapter VI of the "Directions to Settlement Officers in Upper Burma."

(c) Detailed instructions in amplification of Rules 84 to 91 are contained in the "Directions to Settlement Officers concerning supplementary survey in Upper Burma."

[Financial Commissioner's Notification No. 8, dated the 1st February 1900.]

- (v) the names of, and rents payable by, sub-tenants ;
- (b) a map of the village ; and
- (c) such other documents as the Financial Commissioner, with the previous sanction of the Local Government,* may prescribe.

84. (1) The Collector shall cause to be prepared by the thugyi of each village annually, or by such other agency and at such other intervals as the Financial Commissioner may prescribe, a new edition of the record-of-rights amended in accordance with the provisions of this chapter, which shall be called the **annual village record**.

(2) For the purposes of the preparation of the annual village record the Collector shall cause to be kept up by the thugyi of every village, or by such other agency as the Financial Commissioner may appoint, a register of mutations,† a register of sub-tenants, and such other registers‡ as the Financial Commissioner may prescribe.

85. ‡ All changes in the possession of land by transfer or succession, and all mortgages or partitions of land, shall be reported § orally or in writing (in the case of successions by the persons succeeding and in other cases by all the parties to the transaction) to the thugyi of the village, within 60 days of such change, mortgage, or partition.

86. Every occupier who leases any portion of his holding to a sub-tenant, shall report § the name of the sub-tenant, with the area sublet to, and the rent payable by, the sub-tenant to the thugyi of the village.

87. Any person who, without good and sufficient cause, fails to make the report required by Rules 85 and 86, shall be liable, at the discretion of the Collector, to a fine which may extend to Rs. 5, and which may be recovered as if it were an arrear of revenue.

88. ‡ (a) The thugyi shall enter in his register of mutations and of sub-tenants every report made under Rules 85 and 86, and

* Substituted by Financial Commissioner's Notn. No. 29, dated the 22nd July 1898.

† See Directions to Revenue Officers concerning supplementary survey in Upper Burma.

‡ Substituted by Financial Commissioner's Notification No. 69, dated the 30th September 1901.

§ In the case of State land report shall also be made in Forms XXXVI and XXXVII prescribed by Direction 93, page 133.

shall furnish to the parties and to the revenue surveyor on his next visit to the village a copy of the entries. If the report relates to a transfer which has been reduced to writing signed by any of the parties, the thugyi shall inform the parties that the document must be registered in accordance with the law for the time being in force, and shall note on the copy of the entries furnished to the parties the fact that he has given this information.

(b) The thugyi shall also enter in his register of mutations and of sub-tenants any mutations which he has reason to believe to have taken place and of which a report should have, but has not, been made under Rules 85 and 86, and shall give a copy of such entries to the surveyor on his next visit to the village.

(c) A registering officer shall communicate to the revenue surveyor, in such form * as the Financial Commissioner may direct, particulars of any transfer of land in his circle registered under the provisions of the law for the time being in force, other than a transfer which, by perusal of a copy granted under clause (a), he may know to have been already recorded in the thugyi's register; the revenue surveyor shall, on receipt, enter such particulars in his register, and shall on his next visit to the village give a copy of the entries to the thugyi, if the latter has been entrusted with the upkeep of the annual village record.

89. The entries in the annual village record-of-rights of each village shall be tested and verified, so far as may be possible, once a year by the Assistant Collector in charge of the subdivision, and twice a year by the Assistant Collector in charge of the township. The testing shall be made in the month of July and in the month of December in each year. All entries verified or corrected shall be initialled by the testing officer.

90. These periodical testings of the annual village record-of-rights shall be made in the village concerned and in the presence of the thugyi and of all the villagers whose attendance can be procured.

91. Every decision or order of the Collector or of an Assistant Collector affecting any entry in an annual village record-of-rights shall be communicated to the Assistant Collector of the first class, who shall cause the record-of-rights to be amended in accordance therewith by the Assistant Collector of the second class.

CHAPTER XIII.A.*

Rules Regarding Minerals [section 31 (4)].

91A. No person shall mine, quarry, dig for, or collect stone, laterite (whether in blocks, gravel or sand), limestone, sandstone, marble, gypsum, clay, or other minerals (not being minerals or metals to which the special mining rules† sanctioned by the Secretary of State for India in Council or any rules in force under the Upper Burma Forest Regulation apply) on land wherein the right to such minerals belongs to Government except under a license granted under the provisions of this Chapter.

Explanation.

The special mining rules provide for coal, oil, gold, silver, precious stones, iron and for all metals. The forest rules provide for jadestone and amber in unreserved forest areas. In reserved forests the disposal of the minerals provided for by this direction, together with jadestone and amber, is in the hands of the Forest-officers. In disposing of these minerals in reserves the Forest-officer is enjoined not to charge lower rates than are charged outside the reserves.

91B. ‡ The Collector or any Assistant Collector of the first or second class generally or specially authorized by him in that behalf may issue licenses for the extraction from a specified area of any mineral or minerals for which a license is necessary under the provisions of Rule 91A.

91C. Such license shall be in one or other of the forms specified in the following table for such mineral, and shall specify the rent, royalties or fees to be paid by the licensee therefor at the rate shown in the following scale for the extraction of such mineral under such form of license or at such lower rate as the Financial Commissioner may by general or special order prescribe :—

* Published with Revenue Department Notn. No. 500, dated the 19th December 1900.

† See Manual of Rules relating to precious stones and minerals.

‡ For the procedure in making applications, see Direction 109, page 140.

Name of mineral.	Form of license.	Amount payable.
1	2	3
Laterite ...	Form No. XIX-A	Exempt from royalty.
Limestone ...	Form No. XIX-A or Form No. XIX-C	Rupee 1 per 100 cubic feet extracted. Rupees 10 per kiln in advance.
Stone for irrigation works, railway ballast or public works.	Form No. XIX-A	Exempt from royalty.
Sandstone ...	Form No. XIX-A or Form No. XIX-B	Annas 8 per 100 cubic feet extracted. Rupees 5 per annum for each workman employed.
Clay ...	Form No. XIX-A Form No. XIX-B or Form No. XIX-E	Exempt from royalty. Rupees 5 per annum for each workman employed. A rent per acre calculated as follows:— Let P = the highest rate on an acre of paddy-land in the <i>kwin</i> . Let T = the term of years within which the clay will be completely removed from an acre with the number of workmen and the appliances specified by the applicant. Then $P + \frac{P \times 30}{T}$ shall be the rent per acre. <i>N.B.</i> —One man can remove 13,200 cubic feet of clay in one year.
Marble ...	Form No. XIX-A or Form No. XIX-B	Rupees 2 per 100 cubic feet extracted. Rupees 5 per annum for each workman employed.
Gypsum and other minerals in respect of which special rules do not exist.	Form No. XIX-A or Form No. XIX-B.	The royalty or fee payable under either form to be determined by the Commissioner in each instance, subject to the approval of the Financial Commissioner.

Explanations.

(a) For the purpose of determining the license fee in cases where women and children are employed, two women or four children may be taken as equal to one man.

(b) When alternative licenses are shown against a mineral, the Collector may decide in which form the license shall be granted, provided that, when a license is given for clay required for domestic use or for making bricks for works of public utility or religious buildings *within* ten miles of the place of extraction, such license shall be in Form XIX-A.

(c) Royalties or fees, as the case may be, shall not be levied in respect of minerals extracted by Government departments when extracted by the direct agency of the department concerned under its own supervision and without the intervention of contractors or middlemen, for its own use, and not for disposal to the public or other departments. Royalties or fees shall be charged in respect of all minerals except laterite extracted by a Government department for sale. These orders apply both to land held by the department concerned and to other land.

(d) The Collector may grant a license in Form XIX-A free of rent, royalty or fee for the digging and removal of clay from a specified area for making bricks for the construction or repair of works of public utility or religious buildings, distant more than ten miles from the place of extraction.

(e) Except in the case of laterite and of stone required for irrigation works, railway ballast or public roads, and of clay required for any of the purposes specified in the proviso to explanation (b) or in explanation (d), royalty shall be levied on all minerals, when extracted by private persons (including contractors), even though said to be intended for sale to a public department.

91D. Every license granted under the provisions of this chapter shall, in the absence of an express provision therein to the contrary, expire on the 30th June next following the date on which it was granted.

91E. Within the Sagyin stone tract as defined in the notifications of the Government of Burma in the Revenue Department, No. 190, dated the 26th November 1890, and No. 123, dated the 5th April 1897, the quarrying of marble is prohibited except by persons licensed to raise stones under the Upper Burma Ruby Regulation, 1897, and by the workmen entered on the reverse of licenses held by such persons under the said Regulation. The persons excepted as aforesaid may quarry marble within the area covered by the

XIII (1), Page 63.--*Substitute* the following *for* correction slip VIII (7).

"**911.** The mining lessee, licensee or grantee who intends to abandon any bore for mining petroleum shall give to the Collector or Warden of the oil-field (if any) at least fifteen days' prior notice in writing. Every abandoned bore, ~~and~~ every bore in respect of which notice of intention to abandon has been given, shall be plugged with seasoned wood or clay to the satisfaction of the Collector or of such officer as he may appoint in this behalf or of the Warden. The bore shall be plugged after each section of the pipe is removed and the hole thus left shall be plugged before the next section of pipe of larger diameter above is removed. A breach of this rule shall be punishable with imprisonment not exceeding one month or fine which may extend to Rs. 200, or with both."

(Revenue Department Notification No. 27, dated the 23rd March 1909.)

licenses hereinbefore referred to and subject to the conditions of the said licenses as if the same had been granted for the quarrying of marble, but not otherwise.

91F. The rules in this chapter shall not apply to land—

- (a) vested in a Municipal Committee constituted under the provisions of the Upper Burma Municipal Regulation, 1887, or of the Burma Municipal Act, 1898, or of any other enactment for the time being in force except where rights to minerals specified in Rule 91A have by the grant or lease been expressly reserved to Government; or
- (b) held by the Burma Railways Company under its contract with Government.

91G. Whoever mines, quarries, digs for, or collects any mineral in contravention of the provisions of Rule 91A, or before payment of any fee, rent or royalty payable in advance under a license issued under the provisions of this chapter or otherwise in contravention of the terms and limitations of any such license, or removes any mineral other than—

- (a) laterite; or
- (b) stone required for irrigation work, railway ballast or public works; or
- (c) clay required for domestic use or for making bricks for works of public utility or religious buildings within ten miles of the place of extraction; or
- (d) clay required for making bricks for such works or buildings distant more than ten miles from the place of extraction, when the Collector has granted the license under Rule 91C, explanation (d),

mined, quarried, or collected under the provisions of a license in Form XIX-A before payment of the royalty therefor, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

CHAPTER XIV.*

Rules regarding Fisheries [Section 32 (7)]

Clause (a).

Of the survey and demarcation of the limits of fisheries.

92. The limits of every fishery, the exclusive right of fishing in which, or any part of which, has been, or is about to be, disposed

* Substituted by Financial Commissioner's Notification No. 17, dated the 22nd April 1897. See also Directions 110-23, pages 141-9.

of under the provisions of section 32, sub-section (3), of the Upper Burma Land and Revenue Regulation, 1889, shall be surveyed and demarcated as soon as may be by such officer or officers as may be appointed by the Collector in this behalf.

93. The limits of every fishery so demarcated shall be reduced in extent as much as possible so as to allow of the fishery being worked by the actual lessee or lessees. The limits of each fishery and, unless the Collector shall think it unnecessary or inadvisable, the sites, if any, at which fixed obstructions may be erected, placed, maintained, or used by the lessee or lessees, shall be marked by tubes or posts fixed on the adjacent banks.

94. No alteration of the limits aforesaid shall be made except with the sanction of the Commissioner of the Division within which the fishery, or the greater part thereof, is situated and when any such alteration of limits is made, the survey plan and copies thereof hereinafter referred to shall be altered accordingly.

95. (1) A list of all fisheries surveyed and demarcated, and a plan of each, shall be made and deposited in the office of the Collector, and copies of such lists and plans shall be deposited in the offices of the Assistant Collectors in charge of the subdivision and township respectively within which such fishery, or the greater part thereof, is situated.

(2) In each such plan shall be shown every stream, lake, tank or pool, or other collection of water belonging to the fishery and, the authorized sites of all weirs or other fixed obstructions.

Clause (b).

Determination of the mode of disposal of rights to fish.

96. The Commissioner shall from time to time determine in which of the modes mentioned in section 32, sub-section (3), of the Upper Burma Land and Revenue Regulation, 1889, the right to fish in each fishery shall be disposed of.

Clause (c).

Conditions on which and procedure by which fisheries may be opened to the public or leased to individuals.

97. Leases of the exclusive right of fishing in fisheries in which the supply of water is regular may be granted for such term of years not exceeding five as the Collector may in each case deem fit. Leases of such a right in fisheries in which the supply of water is uncertain shall be granted for one year only: provided that the Commissioner may permit the grant of a lease in such a fishery for any number of years not exceeding five. Leases shall ordinarily expire on the 30th June.

98. Fisheries may be disposed of by lease—

- (i) by giving a further term to a former lessee ;
- (ii) by inviting tenders upon such conditions as to the Collector may seem advisable, and granting the lease to any of the persons who may tender ;
- (iii) after public auction in manner hereinafter described ; or,
- (iv) * in the case of tanks dug on Government waste land, by granting a lease to the digger ;

but except where such disposal shall have been by auction, it shall be subject to the confirmation of the Commissioner of the division.

Of the disposal of leases by auction sale.

99.† Leases shall be put up to auction at the headquarters of the township within which is situated the whole, or the greater portion, of the fishery the right of fishing in which is to be disposed of (or at such other place as the Collector may in any special case direct) and upon such dates as may be fixed by the Collector.

100. Auctions shall be held by the Collector of the district or, if he shall so direct, by the Assistant Collector of the first class or (provided that the rent usually obtained for the lease to be sold does not exceed Rs. 500) by the Assistant Collector of the second class ; but no lease shall be granted except by the Collector, to whom the result of the sale shall be reported by the officer holding the sale.

101. Advertisements ‡ in Burmese, specifying the terms upon which the lease will be granted, the fixed obstructions§ (if any) which the lessee will be permitted to erect, place, maintain, or use, with the place or places at which, and time or times during which, the same may be so erected, placed, maintained, or used, shall, if possible, be available for the perusal of intending bidders for two days at least before the day of auction ; and in all cases the officer holding the auction shall before the bidding is commenced, record, and read out to those present a statement specifying the terms aforesaid.

102. Except as is hereinafter otherwise provided || the lease shall be granted to the bidder who offers the highest annual rent. The Collector may fix an upset rent.

103. Except with the sanction of the Collector, no bid at any auction shall be received (or, if received, be deemed valid) from

* See Direction 111, page 142.

† See Direction 113, page 142.

‡ Form A, page 214.

§ See Direction 112, page 142.

|| See Directions 114, page 142, and 120, page 146.

any person who is not qualified in the manner hereinafter provided to bid thereat, and who does not hold a certificate * to that effect signed by some officer appointed by the Collector in that behalf.

104. No person shall be qualified to bid at an auction—

- (i) if any revenue, rent, or other sum is at the date of the auction due from him to Government ; or
- (ii) if he shall have at any time made any default in payment of any moneys due to Government in respect of any right of fishing ; or
- (iii) † unless he is a fisherman or cultivator and has resided for a period of three years preceding the date of the auction in a village within which is situated some part of the fishery, the right of fishing in which is to be disposed of, or within 10 miles of such fishery.

105. Notwithstanding anything in the last preceding rule contained, a member of a firm or partnership of fishermen or cultivators shall be qualified to bid for or on behalf of such firm or partnership : provided that not less than two-thirds of the members of the firm or partnership are qualified to bid under the provisions of the last preceding rule.

106. The Collector may require each bidder to deposit a sum not exceeding Rs. 100 before he is permitted to bid. When a bidder has bought one lease, the officer holding the auction may require him to deposit a further similar sum before he bids for another lease. The deposits of unsuccessful bidders shall be returned to them after the auctions.

107. The Collector or other officer holding the auction may refuse to accept any bid, or may exclude any person from the auction without assigning any reason to such person ; but he shall record his reason for such refusal or exclusion in a memorandum which shall be attached to the proceedings.

108. The Collector or other officer holding the auction shall record ‡ the final offer of each bidder, and sales shall not be considered closed until one hour after the auction, and until all other fishery auctions held at the same place on the same day are concluded. If the highest bidder within that time desires to surrender his purchase, the officer holding the auction may, for reasons to be recorded by him, either accept or refuse the surrender. In the former case the lease shall be offered in turn to the next highest bidder on the terms noted against his name, and so on. The bidder

* In form Revenue Fisheries 10.

† Amended by Revenue Department Notification No. 604, dated the 23rd December 1904.

‡ In Fishery Form B, page 215.

who has surrendered his purchase may be excluded by order of the Collector from all other fishery auctions during the same year.

109. The auction-purchaser shall, within such time as shall be fixed by the Collector, and, if no time is fixed, within one week of the date of the auction, pay as earnest-money a sum equal to 10 per cent. of the rent offered by him, or such other sum as may be fixed by the Collector (provided that the sum so fixed shall not exceed Rs. 500 or be less than Rs. 50), which sum shall be taken as part-payment of the first instalment of rent. The sum deposited under Rule 106 shall be credited as part of the earnest-money. The auction purchaser shall thereupon be entitled to have a lease in the prescribed form granted to him, and shall execute the lease and a bond* for securing the payment of future instalments of the rent, and shall cause the lease and bond to be executed by his sureties, if sureties are required, within thirty days from the date of the auction.

110. There shall be given to the lessee with his lease a copy of the plan of the fishery, the right of fishing in which is leased to him, showing distinctly the limits within which he has a right to fish and the sites of all fixed obstructions which he is permitted to erect. The Collector shall, with respect to each lease, determine by what instalments and upon what dates the rent shall be payable and what sureties or other † security, if any, the lessee shall be called upon to furnish.

111. The Collector shall from time to time ‡ test, or cause to be tested, the value of the security given for future instalments of rent, and, if at any time he finds such security to be insufficient, he may require the lessee to furnish further security within a time to be fixed by the Collector.

112. If the auction-purchaser shall fail—

- (i) to pay the whole of the earnest-money as provided by Rule 109; or
- (ii) to execute and cause to be executed the lease and security bond in manner hereinbefore provided within thirty days from the date of the auction,

the lease may § be resold, and the auction-purchaser shall be liable for any loss during the first year of the term of the lease disposed of, and shall likewise forfeit any sum which he may have paid as earnest-money.

* See Directions 116-9, pages 143-5.

† See Direction 116, page 143.

‡ See Direction 117, page 144.

§ See Direction 119, page 145.

Of the conditions subject to which all leases are held.

113. All the persons executing a lease shall be jointly and severally liable and responsible for the due payment of the rent, thereby reserved, and the performance by themselves, their servants, and agents of all the terms and conditions to which it is subject, and shall be liable to pay such sum as the Collector may direct, not exceeding 4 annas per cent. on the annual rent, for each day or part of a day during which the annual rent or any part thereof is in arrear.

114. Upon the death of a sole lessee, or of the survivor of two or more joint lessees, his heirs or other legal representatives shall not be entitled to succeed to his rights and liabilities under the lease, unless they shall within fifteen days after his death apply to the Collector to be admitted in the place of the deceased, and unless they shall be approved of by the Collector as persons qualified under these rules to bid for the lease at an auction. The applicants may give notice that they desire to relinquish the lease at the expiration of the then current year thereof and may be admitted subject to such notice.

115. (i) If, in the case of any application made under the last preceding rule, the applicants shall not be approved of by the Collector as persons qualified to bid for the lease at an auction, it shall nevertheless be competent to him to admit them in place of the deceased, subject to the condition that the lease shall terminate at the expiration of the then current year thereof.

(ii) If no such application is made, or if, being made, the applicants are not admitted by the Collector in place of the deceased, the remainder of the term of the lease shall be disposed of and the estate of the deceased shall be liable for all loss which may result upon such disposal during the year in which the fishery is resold.

116. A lease shall be in no way transferable, except with the previous sanction of the Collector. The lessee may nevertheless sublet or permit any other person or persons to exercise all or any of the rights which he holds under the lease; but in any such case he shall be responsible for all the acts of such sub-lessee or licensee as if they had been done by himself.

117. Every lessee shall keep and, at the end or sooner determination of his term, deliver up the fishery leased to him (including the posts or other marks indicating the limits of the fishery and the sites of fixed obstructions) in good order and condition, and shall not, without the permission in writing of the Collector, do or permit anything to be done to alter the channels or drains of the fishery

leased to him, or to make new channels or drains, or fill up old ones. He shall also deliver up the expired lease and the plan referred to in Rule 110. Any person doing, or permitting to be done, anything to the drains or channels of a fishery in contravention of the terms of this rule shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to Rs. 200, or with both.

118. A lessee shall have no right in or to the waters of the fishery leased to him except such as are conferred by the terms of the lease. Unless it is expressly permitted by the lease, he shall not erect, place, maintain or use any fixed obstruction,* and shall not bale out or otherwise remove the water. Any lessee who, without such express permission erects, places, maintains or uses any fixed obstruction, or bales out or otherwise removes the water of the fishery leased to him, or permits any other persons to do so, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to Rs. 200, or with both.

119. A lessee may, at the close of any fishing season, provided, that he has paid up the full rent for the whole year in which such season falls, apply to the Collector, not less than one month before the next instalment falls due, for the cancellation of his lease. When any such application has been made, the Collector may, with the sanction of the Commissioner, cancel the lease upon such terms as he considers fit.

120. At the close of any working season the Collector may, with the previous sanction of the Commissioner, cancel any permission to erect, place, maintain, or use any fixed obstruction granted to a lessee and may offer the lessee an abatement of rent. Upon any such permission being cancelled as aforesaid the lessee may surrender his lease.

121. The Collector may cancel any lease granted under these rules—

- (i) if such lease has been obtained by any dishonest, fraudulent, or illegal means;
- (ii) if the lessee fails to pay any sum due under the lease, or to comply with and perform any of the terms and conditions under which it is held;
- (iii) if the lessee fails to execute, or to cause to be executed, a further security bond to the satisfaction of the Collector, whenever required to do so under Rule 111;
- (iv) if the lessee, or any one of several lessees, is guilty of any act or omission punishable by fine or otherwise

* See Direction 112, page 142.

under any law or rule having the force of law relating to fisheries in Upper Burma ; or

- (v) if, when there are more lessees than one, disputes arise among the lessees of such a nature as, in the opinion of the Collector, to be detrimental to the proper working of the fishery,

and may confiscate thereupon the whole or any portion of any instalment of rent which may have been paid in respect of such lease. If a lease is cancelled under clause (i), (ii), or (iii) and resold, the lessee shall also be liable for any loss arising from resale during that and the following year :

Provided always that no lease shall be cancelled under this rule until notice shall have been served upon the lessee (or, if there are more lessees than one, then upon one of them), either personally, or by affixing the same to his house, or (if that cannot be found) upon some public spot adjacent to the fishery, calling upon him, within a reasonable time, to show cause, if any, why such lease should not be cancelled, and until the said lessee shall have had an opportunity of so showing cause :

Provided, also, that, on any failure to pay any sum due under the lease, the Collector may by peremptory written order stop the working of the fishery pending service of the abovenamed notice, such order being issued in the manner prescribed for the said notice.

121A.* Any pecuniary loss to Government consequent on resale under Rule 112, 115 or 121, which is for any reason irrecoverable, may be struck off by the Commissioner subject to the sanction of the Financial Commissioner.

Clause (d).

Rates at which, and conditions on which, licenses to use nets, traps or other implements for fishing may be granted.

122. When the exclusive right of fishing in any fishery has not been leased, any person may fish therein, provided that he may not erect or use any fixed obstruction except as provided in Rules 130 to 139 inclusive, and he may not use any of the implements or engines specified in Schedule A appended, except under a license granted in manner hereinafter provided.

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* Added by the Financial Commissioner's Notn, No. 45, dated the 30th June 1901

123.* The Collector, or any Assistant Collector of the first or second class authorized by him, may issue licenses † to use for fishing in such fisheries any one or more of the implements specified in columns 4, 5, and 6 of Schedule A: Provided that no such license shall entitle any person to

use any net, implement, or engine in such a manner as to hinder the movements of fish, or to interfere with the flow of water, or to impede navigation. Such license shall be in the prescribed form and shall be valid throughout all the districts of Upper Burma.

124. For every such license the licensee shall, at the time of the issue of the license, or at such other time as may be fixed by the Financial Commissioner, pay a fee at the rate set opposite in the second column of Schedule A to the implement which he is licensed to use.

125. The size of mesh or space to be left in the implement which the licensee is licensed to use shall not be less than that set opposite thereto in the 6th column of Schedule A and shall be specified in the license; and any licensee using an implement with a mesh or space smaller than that which is authorized by the term of his license shall, for each such offence, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to Rs. 200, or with both.

126. A separate license shall be granted for the use of each implement, except implements in Classes I and II, any number of which may be included in a single license: provided that the fee be paid on each implement at the rate specified in Schedule A.

127. Every license shall expire on the 30th June next following the date upon which it was granted: provided that licenses may be issued in the months of May and June to take effect from the 1st July next following, and to expire on the 30th June in the following year.

128.† A license shall not be transferable without the sanction of the Township Officer. Any person transferring, or pretending to transfer, his license without such sanction shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to Rs. 200, or with both.

* Amended by the Financial Commissioner's Notn. No. 3, dated the 8th January 1902.

† For procedure in issuing licenses, see Direction 122, page 146.

‡ Substituted by Financial Commissioner's Notn. No. 3, dated the 8th January 1902.

129. The Financial Commissioner may, by notification in the *Burma Gazette*, alter Schedule A by adding the

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name of any new implement to any of the classes in the said schedule contained, or by removing any implement from the schedule, or by removing any implement from the class in which it is placed and placing it in another class or by changing the minimum mesh of an implement, and upon any such notification the said schedule shall be deemed to be amended accordingly.

Clauses (e) and (f).

Conditions on which permission to erect, place, maintain, or use obstructions and fixed engines in fisheries or waters connected therewith may be granted, and rules for making and maintaining free gaps in weirs.

130. Applications for licenses to use or erect fixed obstructions* elsewhere than in leased fisheries may be presented to the Assistant Collector of the first or second class, or the Collector. The Collector or Assistant Collector of the first class may refer any such application to the Assistant Collector of the second class for report. The final order shall be passed by the Collector in every case.

131. (1) Every license to use or erect a fixed obstruction
Form XXIII, page 194. issued by the Collector under these rules shall be in the prescribed form, and no license shall be issued to use any fixed obstructions except those specified in Schedule B appended.

(2) Any person who erects, places, maintains or uses elsewhere than in a leased fishery—

(a) any fixed obstruction not specified in Schedule B, or

(b) any fixed obstruction specified in Schedule B, not having a license for the same issued as above, shall be punished for every such offence with imprisonment for a term which may extend to one month, or with fine which may extend to Rs. 200, or with both.

132. Before any license is issued an accurate plan of the place where the fixed obstruction is to be placed shall be prepared, and the fixed obstruction itself shall be denoted thereon by red ink or paint. If the said place be within or on the edge of a *kwin* which has been cadastrally surveyed, the plan shall be an extract from the *kwin* map, showing sufficient of the surrounding features to make the spot readily identifiable, and the field numbers shall be

* See Direction 121, page 146.

entered on the extract. This plan shall be copied on the reverse of the license before it is signed by the Collector:

Provided that when any such license has been issued with a plan on the reverse thereof aforesaid, a similar license for the following year may, in the discretion of the Collector, be issued in due course without any further survey.

133. Before any license to use a fixed obstruction elsewhere than in a leased fishery is issued, the applicant shall pay a fee at the rate specified in the fourth column of Schedule B appended.

134. The Financial Commissioner may at any time by notification in the *Burma Gazette* alter Schedule B by striking out any fixed obstruction, or by adding any new fixed obstruction, or by altering the rate of fee for any fixed obstruction, and upon any such notification the schedule shall be deemed to be amended accordingly.

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135. Every permission for erecting, placing, maintaining or using a fixed obstruction, whether contained in a lease of a fishery or in a license issued under Rule 131, shall specify the places at which such fixed obstruction may be erected, placed, maintained or used, the period during which it may be so maintained or used, the openings that shall be made for the passage of boats, and the minimum width of the spaces or interstices that shall be maintained for the passage of small fry,

136. Except with the sanction of the Commissioner in each case no permission shall be granted to erect or maintain any bund between the 1st May in any year and the 1st January in the following year, and every person shall be bound, unless he has the special sanction of the Commissioner as aforesaid, wholly to remove before the 7th May in each year any bund which he may have erected, placed, maintained, or used.

137. Every person having permission to erect, place, maintain or use a fixed obstruction in any creek or stream shall make and maintain in such fixed obstruction such suitable openings for the passage of boats as may be entered in the lease or license as the case may be, and shall at all times during the hours of daylight, without delay and without demanding remuneration of any kind, permit boats to pass through such openings. Every person failing to comply with any of the terms of this rule shall, for every such offence, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to Rs. 200, or with both.

138. Every person having permission to erect, place, maintain or use any fixed obstruction shall keep and maintain therein such

spaces or interstices for the passage of the small fry or fish as may be prescribed in his lease or license, as the case may be. Any such person as aforesaid failing to keep such spaces or interstices as aforesaid shall, for every such offence, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to Rs. 200, or with both.

139. Except with the sanction of the Commissioner in each case no permission shall be granted to erect, maintain or use any fixed obstruction across any stream between the 1st May and the 1st September in any year.

Clause (g).

General.

140. (1) Any person who interferes with, or makes any demand in consideration of, the lawful use of the water of any fishery for purposes unconnected with the taking of fish, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(2) Any person who puts, or knowingly permits to be put, or causes or knowingly permits to flow, into any fishery any solid or liquid matter to such an extent as to poison or kill, or to cause the water to poison or kill fish, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to Rs. 200, or with both.

(3) The use of nets in the *kwins* or inundated plains between the 1st day of June and the 31st day of October in any year is prohibited, and any person so using one shall be liable to be punished with imprisonment for a term which may extend to one month, or with fine which may extend to Rs. 200 or with both.

(4) Any person who, except with the previous written sanction of the Collector, places bushes or branches in a creek or river for the purpose of catching fish shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to Rs. 200, or with both.

141. With the sanction of the Financial Commissioner, the Commissioner may remit any sum or sums of money payable in respect of any such right to fish as aforesaid—

- (a) if the fishery has been materially altered or damaged ;
- (b) if the causes of such material alteration or damage are such as could not have been foreseen by, and were beyond the control of, the lessee ;

- (c) if from the operation of these causes payment of the full revenue from the fishery is impossible; and
 (d) if the lessee has intimated the material alteration of or damage to his fishery in sufficient time to permit verification of such alteration or damage.

*N.B.**—Where the reveque has been collected prior to remission, the procedure laid down in Rules 239A, 239B, and 239C should, *mutatis mutandis*, be followed in making refunds.

CHAPTER XV.

Rules with respect to Salt Revenue [Section 33 (2)].

142. (1) † Every application for a license to manufacture salt shall be presented through the headman of the village to the Assistant Collector of the first or second class, who shall pass orders either granting or refusing the license.

Form XXIII C, page 195. (2) † The license shall be in the form attached.

(3) † The revenue due on account of each license to manufacture salt shall be payable either wholly in advance or half in advance and the balance in one or more instalments, on such date or dates as the Collector may fix, subject to the sanction of the Commissioner.

(4) † A license granted under these rules shall remain in force from the date of issue until the 31st December, on which date the license shall expire.

143. The application shall state the number and size of the pots, cauldrons, or other implements which the applicant intends to use during the year.

144. § In lieu of the duty payable by licensees on the salt manufactured by them, the undermentioned annual sums shall be assessed upon the pots, cauldrons, or other plant employed in such manufacture, namely:—

District.	Rates.	Rs.
Katha	Per bowl-shaped iron cauldron, not exceeding 7 gallons capacity	20
Sagaing ... { Yegya { Sadaung	Per bowl-shaped iron cauldron, not exceeding 7 gallons capacity	5
	Per bowl-shaped iron cauldron, not exceeding 7 gallons capacity	10

* Added by Financial Commissioner's Notification No. 72, dated the 17th October 1901.

† Substituted, with effect from the 1st January 1897, by Financial Commissioner's Notification No. 46, dated the 28th December 1895, as amended by Financial Commissioner's Notification No. 3, dated the 17th January 1896.

‡ Substituted by Financial Commissioner's Notification No. 23, dated the 7th March 1902.

§ Substituted, with effect from the 1st January 1897, by Financial Commissioner's Notification No. 46, dated the 28th December 1895.

District.	Rates.	Rs. A.
* Lower Chindwin—for each separate filter-bed (<i>sabaing</i> or <i>swe-baing</i>).	In the Pyawbwe and Paingdaunggyi villages	5 0
	In other villages	10 0
Pakòkku	Per earthen pot or bowl-shaped iron cauldron, not exceeding $2\frac{1}{2}$ gallons capacity ...	5 0
Minbu	Per each pot or bowl-shaped iron cauldron between $2\frac{1}{2}$ gallons and $3\frac{1}{2}$ gallons capacity ...	7 8
	Per bowl-shaped iron cauldron between 6 and 8 gallons capacity	10 0
Meiktila	Per earthen pot or bowl-shaped iron cauldron, not exceeding $2\frac{1}{2}$ gallons capacity ...	5 0
Yamèthin	Per bowl-shaped iron cauldron, not exceeding 7 gallons capacity	10 0
Magwe	Per set of four earthen pots, each not exceeding $2\frac{1}{2}$ gallons capacity	2 8
Myingyan	Per bowl-shaped iron cauldron, not exceeding 7 gallons capacity	2 8

In the Shwebo † district the salt-bearing areas shall be divided into three classes according to the quality of the soil and assessed at the following rates :—

Class.	Township.	Village.	Rate per bowl-shaped iron cauldron not exceeding 7 gallons capacity.
			Rs.
First	Shwebo	<div> <div>Halin, Taungbo quarter</div> <div>Halin, Twinma quarter</div> <div>Halin, Tanaunggôn</div> <div>Halin, Yatthit</div> <div>Halin, Yebu</div> </div>	20
Second	Shwebo	<div> <div>Halin, Ingan</div> <div>Pagogôn</div> <div>Minywa</div> <div>Tagundaing (west of old Mu canal), wells 35 to 40 cubits.</div> <div>Tagundaing (east of old Mu canal), wells 35 to 40 cubits.</div> <div>Thabyethicho</div> <div>Pauktôn</div> <div>Mingyaung</div> </div>	15

* Substituted by Financial Commissioner's Notn. No. 24, dated the 28th July 1899.

† Added by Financial Commissioner's Notn. No. 51, dated the 21st November 1896.

Class.	Township.	Village.	Rate per bowl-shaped iron cauldron not exceeding 7 gallons capacity.
1	2	3	4
			Rs.
Second	Sheinmaga	Thakuttaw ...	15
		Kyibingan ...	
		Kawdaw ...	
		Singut ...	
		Magyibyu ...	
		Tachantha ...	
		Wetleywè ...	
		Kunbegôn ...	
		Samun ...	
	Myedu ...	Sadwingyi ...	
Third	Sheinmaga	Hnette ...	10
		Sinnin ...	
		Nyaungzauk ...	
	Shwebo	Tagantha ...	
		Nyaunggan ...	
		Kyaungban gan ...	
		Mingyaung ...	
		Sadwingôn ...	

CHAPTER XVII.*

Rules for determining the time and mode of payment of Revenue [Section 38 (1)].

147. (1) When the number and amount of the instalments by which, the person to whom, and the time, place and manner at and in which, any revenue is to be paid, or any of such matters are expressly determined by any lease, grant, license, agreement or other instrument in writing made by or binding upon the Government, then payment shall be made as in such instrument determined so far as the same applies.

(2) Save as provided in sub-rule (1), the rules hereinafter contained shall apply.

* Chapter XVI.—Rules as to tolls for Navigation in Irrigation-channels [Section 35 (2)] has been omitted as section 35 was repealed by Burma Act, 11 of 1905.

148.* Unless in any case the Financial Commissioner otherwise direct, land revenue and water-rate shall be paid as follows :—

- (a) for land cropped with **mayin** or hot-weather paddy and all other crops which mature about the same time—**on the 15th July**;
- (b) for land cropped with **kaukyin** or early wet-weather paddy and all other crops which mature about the same time—**on the 15th October**;
- (c) for land cropped with **kaukyi** or late wet-weather paddy and all other crops which mature about the same time—**on the 15th February**;
- (d) for **island crops** and land on which crops mature about the same time—**on the 15th April**.

The Collector shall decide in cases of doubt which of the foregoing dates applies to any particular kind of crop.

149.* The *thathameda*-tax shall be payable on the 1st day of January of the year of assessment.

150.* Land revenue, water-rate, and *thathameda*-tax shall be paid in cash to the *thugyi* at his headquarters or to such other officer and at such other place as the Collector may appoint.

151.* Where in any case the foregoing rules do not apply, the Collector shall determine the number and amount of instalments by which, the person to whom, and the time, place, and manner in which, revenue is to be paid.

152-5. *Cancelled by Financial Commissioner's Notification No. 158, dated the 8th August 1905.*

155A.† On payment in full of the land revenue, water-rate, or fruit-tree tax by any person, such person shall be furnished by the *thugyi* with a receipt in the form prescribed. The amount of rupees paid shall be expressed both in words and figures in the receipt.

Form III, page 167.

CHAPTER XVIII.

Rules ‡ regarding Processes [Section 44 (1)].

Officers competent to enforce Processes described in section 41 of the Upper Burma Land and Revenue Regulation, 1889.

156. (1) A Collector may enforce any of the processes described in section 41 (1).

* Substituted by the F. C.'s., Notification No. 158, dated the 8th August 1905.

† Added by F. C.'s Notification No. 32, dated the 21st October 1895, and amended by Rev. Dept. Notification No. 604, dated the 23rd December 1904.

‡ See also Directions 97-104, pages 136-9.

(2) An Assistant Collector of the first class may enforce the following processes :—

- (a) service on defaulter of a notice requiring him to pay an arrear [section 41 (1), (a)];
- (b) attachment and sale of moveable property of a defaulter [section 41 (1), (b)]; and
- (c) arrest of a defaulter [section 41 (1), (c)].

(3) An Assistant Collector of the second class may enforce the following processes :—

- (a) service on a defaulter of a notice requiring him to pay an arrear [section 41 (1), (a)], and
- (b) attachment of moveable property of a defaulter and sale thereof with the previous sanction of the Collector or of an Assistant Collector of the first class [section 41 (1), (b)].

157. No process shall issue until the statement of account, certified as required by section 40, has been placed upon record.

Notice of Demand [section 41 (1), (a)].

158. A notice under section 41, sub-section (1), clause (a) shall be in a printed form in duplicate and shall be served by the *thugyi* in the manner prescribed in section 16. The original notice shall be given to the defaulter* and the duplicate shall be returned to the officer who issued it with the manner and date of service duly endorsed upon it.

159. Ordinarily a notice shall be served upon a defaulter before any other process is enforced. But the Collector or within the limits of his powers an Assistant Collector of the first class, may, if he thinks fit, enforce any of the processes in addition to or in lieu of notice.

160. If any Revenue Officer other than the Collector or an Assistant Collector of the first class considers that any defaulter is likely to abscond, he shall report the case to the Collector or an Assistant Collector of the first class before issuing a notice under section 41, sub-section (1), clause (a).

Attachment and sale of moveable property of a defaulter [section 41 (1), (b)].

161. An order for the attachment of moveable property belonging to a defaulter shall be addressed to the *thugyi* and shall be in the prescribed form.

* For procedure when defaulter has left the district, see Directions 102-4, pages 138-9, Form Rev. Misc. 9, Application for process for realisation of arrears of revenue, may be used by *thugyis* applying for process.

162. On receipt of the order, the *thugyi* shall proceed to attach any moveable property belonging to the defaulter. He shall prepare a list of the property so attached, and shall either leave the property in the care of the defaulter on his furnishing security for the payment of the full amount of the arrear, including costs, for arrange otherwise for its safe custody. He shall then submit a list of the property attached, together with a report of the manner in which he has arranged for the custody of the property, to the Collector or Assistant Collector who issued the order of attachment.

163. If the amount of the arrear, including costs, is not paid within fifteen days of the date of attachment, the Collector or Assistant Collector who issued the order of attachment may order the sale of the property or of such part thereof as may be sufficient to defray the arrear, including costs. The sale of the property may be made by lots or otherwise as the Collector or Assistant Collector may direct.

164. (1) If, before the sale takes place, the amount of the arrear, including costs, is paid to the *thugyi*, or the payment thereof to any other officer authorized by these rules to receive the same is certified to the officer who is to conduct the sale, the sale shall be stayed and a report made to the officer who ordered the sale, who shall thereupon order the release of the property.

(2) In any other case the *thugyi* or other officer who is to conduct the sale shall proceed to sell the property.

165. The sale shall be made by public auction for cash, and shall take place in the village in which the defaulter lives, or in or on account of which the arrear accrued, unless the officer ordering the sale shall otherwise direct. Proclamation of the intended sale shall, at least twenty-four hours before the sale, be made in the defaulter's village and in the place in which the sale is to take place.

166. At the conclusion of the sale, any property remaining unsold, after satisfaction of the amount of the arrear with cost, shall be released and returned to the defaulter.

Arrest and imprisonment of defaulter [section 41 (1), (c)].

167. A warrant of arrest * shall be addressed to the *thugyi* and shall require him to bring the defaulter before the officer issuing the warrant, unless the defaulter shall pay the amount of the arrear, including costs, to the *thugyi* before he reaches the office of the officer issuing the warrant.

* See Direction 97, page 136, which enjoins caution in regard to the issue of warrants of arrest.

168. If the *thugyi* requires assistance in order to make the arrest, he shall apply to the officer in charge of the nearest police-station. Such officer shall give the *thugyi* all assistance necessary to enable him to execute the warrant.

169. When the defaulter is brought before the officer who issued the warrant, the officer shall examine the defaulter as to his reason for not having paid the amount of the arrear, and may either release him or order his commitment to prison for such period, not exceeding one month, as he may deem fit.

Attachment and sale of immoveable property of a defaulter
[section (41) (1), (d)].

170. An order for the attachment of immoveable property belonging to a defaulter shall be addressed to the Assistant Collector in charge of the township in which the property is situated.

171. The Assistant Collector, on receipt of the order for attachment, shall proceed in person to the immoveable property of the defaulter, and shall, if the arrear, including costs, is not paid, issue a notice to the defaulter attaching such property and notifying that unless the arrear, including costs, is paid within one month from the date of the notice, the property will be sold. If such arrear is paid within the month, the attachment shall be withdrawn and the property released. If such arrear is not so paid, the Assistant Collector shall fix a date for the sale of the property not later than one month from the date of the expiration of the period fixed by the notice, and shall advertise the sale by proclamation. A copy of the proclamation shall, in addition to being posted on some conspicuous place on or near the property, be also posted in the Collector's office and in the office of the Assistant Collector in charge of the township. The proclamation shall specify—

- (a) the name of the defaulter ;
- (b) the area of the property to be sold ;
- (c) the village in which the property to be sold is situated ;
- (d) the boundaries of the property to be sold ;
- (e) the amount of the arrear, including costs ;
- (f) the manner in which the property is to be sold, whether in one parcel or by lots.

172. On the date fixed for the sale of the property, it shall be put up to auction at the headquarters of the township by the Collector or by such other Revenue Officer, * not below the rank of

* Bailiffs must not be allowed commission on such sales, see Direction 101, page 138.

Assistant Collector of the second class, as the Collector may appoint, to conduct the sale.

173. The property shall be sold to the highest bidder. Twenty-five per cent. of the purchase-money must be paid at once and the remainder within fifteen days of the date of the sale : provided that, if the amount of the purchase-money is less than two hundred rupees, the Collector or other officer conducting the sale may require the whole amount to be paid at once. If no bids are made for the property, or if the amount bid is not sufficient to cover the amount of the arrear, inclusive of costs, the officer conducting the sale may buy in the property for the Government for the amount of the arrear and costs.

174. (1) The officer conducting the sale shall record each bid, the amount bid, and the name of the bidder, and if he is not himself the Collector, shall report * the result of the sale to the Collector, who shall forward the proceedings to the Commissioner for confirmation.

(2) No sale shall be absolute until the confirmation of the Commissioner has been received.

175. If any person other than the defaulter shall prefer any claim to the attached property before or at the time of the sale to the officer ordering or conducting the sale, that officer shall inform the claimant of the provisions of section 42 of the Upper Burma Land and Revenue Regulation, 1889. He shall not be bound to stay the sale or to make any enquiry into the merits of the claim.

176.† When the sale has been made absolute, a certificate of sale shall be given to the purchaser in the prescribed form with a plan of the land attached. A true copy of the certificate and of the plan will be sent to the *thugyi* or other officer entrusted with the upkeep of the annual village record under Rule 84, and another true copy will be forwarded to the Registering Officer of the township in which the land is situated.

177. Any person whose property has been sold under this chapter, and who remains without lawful authority in occupation of such property, shall, in addition to any other penalty to which he may be liable, be punished with imprisonment which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

* The result of the sale must also be reported to the Land Records Department, Direction 100, page 138.

† Substituted by Revenue Department Notn. No. 604, dated the 23rd December 1904.

Commission to be allowed to persons appointed to receive payment of revenue.

178. (1) *Thugyis* shall be entitled to receive commission at a fixed rate, not exceeding 10 per cent., or such other rate* as the Financial Commissioner may prescribe, on the revenue actually collected by them:

(2) No commission shall be paid until the *thugyi* has collected all the money for which he is responsible. But where any revenue is payable in instalments or at different periods according to crop, the Financial Commissioner may, by general or special order, sanction payment of commission to the *thugyi* on account of each instalment collected, or each periodical collection so made.

179. When commission is payable to more persons than one, it shall be divided in such manner as has heretofore been customary, unless or until any special order with respect to the division thereof has been made by the Financial Commissioner and been sanctioned by the Local Government. †

180.‡ All *thugyis* shall give such security for the honest discharge of their duties as the Collector may require. The security shall ordinarily be that of the co-villagers or the mutual guarantee of other revenue-collecting headmen, unless the Commissioner permits other security to be given. The security bonds [a] shall be signed by the *thugyi* and his sureties in presence of the Collector, or of an Assistant Collector empowered by him in this behalf, and shall be entered in the prescribed register [b] in the Collector's office.

[a] Forms Nos. XXIX (a) to (c), pages 199-201.

[b] Form No. XXIX (d), page 202.

181.† The year on account of which *thugyis'* security bonds are taken shall be the agricultural year, commencing on the 1st July and ending on the 30th June following. Any surety who desires to withdraw from his suretyship shall be entitled to do so, provided he gives written notice of such intention to the Collector on or before the 30th April of any year, and the Collector shall accept such withdrawal, with or without reason assigned, from the 1st July

* In Kyaukse, Mandalay, Minbu and Meiktila the prescribed rate is 10 per cent. on collections up to Rs. 1,000 and 5 per cent. on collections over that amount. In other districts the rate is 10 per cent. up to Rs. 6,000 and 5 per cent. on larger sums.

† In the case of revenue from salt and from mineral licenses the rate is 10 per cent. on the amount actually collected.

‡ Substituted by Financial Commissioner's Notn. No. 29, dated the 22nd July 1898.

§ Substituted by Financial Commissioner's Notn. No. 33, dated the 31st March 1902.

following. But no withdrawal from suretyship shall be accepted on account of the agricultural year within which it is made.

181A.* The Assistant Collector in charge of the township shall personally verify between the 1st July and the 31st August of each year the sufficiency of all property (if any) pledged by the surety or sureties of each thugyi in his township and shall report such verification to the Collector.

CHAPTER XIX.

Rules † regarding Process-fees and Costs [section 44 (1) (c) and section 50 (a), (b), (c)].

182. Revenue authorities shall, for the purpose of levying process-fees, be divided into grades as in the following table:—

Grade.			Revenue-authority.
First	...	...	The Financial Commissioner.
Second	...	...	Commissioners and Collectors.
Third	...	...	Assistant Collectors of the first class.
Fourth	...	...	Assistant Collectors of the second class.

183. Fees shall be levied ‡ by Revenue authorities of each grade according to the following scale:—

Nature of process.	REVENUE AUTHORITY.							
	First grade.		Second grade.		Third grade.		Fourth grade.	
	Rs.	A. P.	Rs.	A. P.	Rs.	A. P.	Rs.	A. P.
(1) Summons on defendant ...	3	0 0	2	0 0	1	0 0	0	12 0
(2) Summons on witness ...	2	0 0	1	0 0	0	8 0	0	8 0
(3) Warrant of attachment or arrest—								
(a) in respect of warrant ...	4	0 0	2	0 0	1	0 0	1	0 0
(b) in respect of each person necessary to take charge of property attached.	0	8 0	0	8 0	0	8 0	0	8 0
(4) Notice, proclamation, or other order not specified above.	2	0 0	1	0 0	0	8 0	0	8 0

* Substituted by Financial Commissioner's Notn. No. 33, dated the 31st March 1902.

† (1) For rules issued by the Local Government for the maintenance of process-serving establishments—see the Upper Burma Courts Manual.

(2) By Financial Commissioner's Notification No. 37, dated the 9th April 1902, the following registers in connection with the issue and service of processes are prescribed:—

(i) "Annual Register of processes issued" in form U. B. Jud. Misc. 3. Revenue processes entered in this register will be numbered in a consecutive series for the agricultural year beginning 1st July.

(ii) "Process-servers' Employment Register" in form U. B. Jud. Misc. 4.

In offices where there is only one process-server this register need not be kept up

‡ Regarding remission of process fees, see Directions 98-9, page 137.

184. When any process, other than a warrant of arrest or attachment, is to be served upon four or more persons, one fee only shall be charged in respect of the first four persons, according to the scale in the last foregoing rule, and an additional fee shall be charged for each person to be served with process in excess of four according to the following scale: Provided that the aggregate amount of the fee leviable under this rule shall not exceed the maximum prescribed in such scale in the case of revenue authorities of each grade:—

				REVENUE AUTHORITY.			
				First grade.	Second grade.	Third grade.	Fourth grade.
				Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
Additional fee	...	...	...	0 8 0	0 8 0	0 4 0	0 4 0
Maximum	...	...	...	15 0 0	10 0 0	5 0 0	2 8 0

185. No fee shall be charged under Rule 183 or 184 for serving or executing—

- (a) any notice calling for objections to an application for land in pursuance of these rules; or
- (b) any order calling upon an Assistant Collector in charge of a township or upon a thugyi to report upon any application preferred to a Revenue Officer.

186. Except the fees chargeable under Rules 183 and 184, nothing shall be charged to the person at whose instance a process is issued, and all charges on account of boat-hire, tolls, railway-fares, postage, and other contingencies will be paid by the Government and debited to the head of judicial contingencies of the office by which the charge was incurred.

187. No process which comes within the operation of Rule 183 or 184, and which is not a process for the recovery of revenue, shall be drawn up for service or execution until the proper fee has been paid. Such fee shall be paid in court-fee stamps, which shall be affixed either to the application by which the Revenue Officer is moved to issue the process, or, if no such application is filed, to the order by which such officer directs the issue of the process. If such an application is filed, it must bear the requisite stamp for the fee in addition to such stamp, if any, as may be necessary for its own validity.

188. (1) A process issued by any Revenue Court or Officer in British India shall be served free of charge by any Revenue Officer in Upper Burma if it is certified on the process that the proper fee has been levied under the rules applicable to the Revenue Court or Officer issuing the process.

(2) When any Revenue Officer in Upper Burma sends a process for service or execution to any Revenue Court or Officer beyond his jurisdiction, he shall endorse on the process a certificate to the effect that the fee chargeable under these rules has been levied.

(3) This rule does not apply to processes for the recovery of revenue, which will be served or executed without prepayment of the fees* chargeable in respect thereof.

189. No application for the refund of a process-fee shall be entertained unless it is preferred within one year of the date on which the fee was paid.

190.† In cases before Revenue Officers the expenses of witnesses or other persons required to attend may be allowed at the rates specified in the following scale :—

(1) **Ordinary labouring class of natives.**—The actual railway or steam-boat fare to and from the revenue office by the lowest class, or where the journey could not have been performed by rail or steam-boat, actual travelling expenses up to a limit of Rs. 2 a day by boat and of 4 annas a mile by road, and an allowance for each day's absence from home of 6 annas to those who are residents of places other than the place where the office is situated, and 4 annas to those who are residents of the place where the office is situated.

(2) **Petty village officers.**—Double the above rates of daily allowance. Same rates as mentioned above for railway or steam-boat fare, or actual travelling expenses by boat or road, up to the limit of Rs. 2 a day and of 4 annas a mile by road.

(3) ‡ **Persons of higher ranks of life such as clerks, trades-people and thugyis.**—Second-class railway or steam-boat fare to and from the revenue office, or, where the journey could not have been performed by rail or steam-boat, actual travelling expenses up to a limit of Rs. 4 a day by boat, and of 6 annas a mile by road, and an allowance not to exceed, except in special cases, Rs. 3 for each day's absence from home to Europeans or Eurasians, and Re. 1 to natives.

(4) **Persons of superior rank.**—The actual sum spent in travelling to and from the revenue office with an allowance accord-

* The fees must however be recovered unless remitted under the orders of the Collector. See Directions 98-9, page 137.

† Substituted by F. C's. Notn. No. 7, dated 20th May 1893.

‡ Amended by R. D. Notn. No. 604, dated 23rd December 1904.

ing to circumstances not to exceed, except in very special cases, Rs. 5 for each day's absence from home to Europeans or Eurasians, and Rs. 2 to native gentlemen.

(5) **Witnesses following any profession, such as medicine or law**—A special allowance according to circumstances.

Provided that Government officers who are entitled to travelling allowances under the Civil Travelling Allowance Code shall not receive their expenses under these rules.

191. (1) A Revenue Officer may award and apportion the cost of any proceedings before him among the parties thereto in such manner as he may deem just.

(2) Costs awarded by a Revenue Officer may be realised from the person ordered to pay the same as if they were an arrear of revenue payable by such person.

(NOTE.—When the journey has to be performed partly by rail or steam-boat and partly by road or boat, the fare shall be paid in respect of the former, and the mileage or boat allowance in respect of the latter part of the journey.)

CHAPTER XX.

Grant of copies and inspection of records other than those in the custody of the Department of Land Records.

[See Chapter XII, *Burma District Office Manual*, 1904.]

CHAPTER XXA.

Grant of copies and inspection of records in the custody of the Department of Land Records.

[Will appear in the projected *Land Records Manual*.]

CHAPTER XXI.

Rules declaring the Language to be used in Revenue Offices [section 50 (f)].

227. The language of Revenue Offices shall be—

- (a) Burmese if either party is a native of Burma and understands Burmese, and
- (b) English in all other cases.

228. A party to a proceeding or his recognised agent or legal practitioner may make an application to be allowed to plead in the Hindustani or any other language if both the parties or their recognised agents or legal practitioners understand Hindustani or such other language, and the presiding officer may consent to the use of Hindustani or the other language.

CHAPTER XXII.

**Rules for remission of Revenue ^[a] or Water-rate ^[a]
[section 50 (g)].**

229.* Remission of land revenue ^[a] or water-rate ^[a] may be granted to any cultivator if his crop in whole or in part has been damaged or destroyed by drought, inundation, blight, ravages of insects, or other cause not ordinarily preventable. But no damage to, or destruction of, any crop after the crop has been reaped shall ordinarily be held to be a ground for allowing remission.

NOTE.—This rule does not apply in cases in which it is necessary to remit land revenue or water-rate on account of the discovery of errors in assessment. In such cases the Collector may remit the revenue and, in making refunds † should follow the procedure laid down in Rules 239A, 239B and 239C *mutatis mutandis*.

230.‡ The amount of remission to be granted to a cultivator shall be computed in the following manner:—

- (a) If the entire, or nearly the entire, crop on his holding has been destroyed, the whole of the land revenue may be remitted.
- (b) If damage or destruction causing loss of part of the crop on his holding has occurred, the remission to be granted may bear the same ratio to the full assessment of the cultivated area of the holding as the amount of loss of crop bears to the estimated ordinary full crop. Provided that no remission shall ordinarily be granted if the loss of crop does not exceed one-third of the estimated ordinary full crop of the holding, or if the crop has been removed from the ground before inspection by the Assistant Collector in charge of the township.

Explanation.—(1) In computing the amount of remission of land revenue to be given to any person, any crop grown on land held under a period of exemption shall not be taken into account.

(2) In this rule the word ‘holding’ shall mean the area under each description of crop held by the applicant within the village in which the land, with respect to which the application for remission is made, is situated. It shall include land under that description of crop which he holds as an occupier or mortgagee, or of which, in any other capacity, he enjoys, in whole or in part, the produce.

Illustrations.

A, a cultivator, has a holding which ordinarily yields 750 baskets of paddy, of which 250 baskets have been destroyed, or such damage has been done to the crop as is equivalent to a loss of 250 baskets. **A** can obtain no remission.

B, a cultivator, has a holding which ordinarily yields 500 baskets of paddy, of which 200 baskets have been destroyed, or damage has occurred equivalent to the destruction of 200 baskets. If the assessment of the cultivated area of the holding is Rs. 25, **B** may be granted remission of two-fifths=Rs. 10.

* Amended by F. C.’s Notification No. 72, dated the 17th October 1901, and by R. D. Notification No. 604, dated the 23rd December 1904.

† For the procedure in making refunds, see Directions 105-8, pages 139-40.

‡ Amended by F. C.’s Notifications Nos. 34 and 29, dated the 21st October 1895 and the 13th May 1891, and R. D. Notification No. 604, dated the 23rd December 1904.

[a]—[a] Added by F. C.’s Notification No. 34, dated the 21st October 1895, as amended by Rev. Dept. Notification No. 604, dated the 23rd December 1904.

231.* (1) Except as provided in Rule 234 and in sub-section (2) of this Rule applications for remission of land revenue or water-rate shall be made in writing † in the prescribed form to the Assistant Collector in charge of the township not later than two months before the date fixed under Rule 148 for the payment of revenue on account of the crop for which remission is sought. On receipt of an application the Assistant Collector shall cause the lower part of the form to be filled in and shall sign and return it to the applicant as an acknowledgment of his application.

(2) An application shall not be rejected merely because it is not written in the prescribed form, but the Assistant Collector in charge of the township shall cause the particulars to be entered in that form and shall then proceed as laid down in sub-section (1).

231A. *Cancelled by Financial Commissioner's Notification No. 14, dated the 11th February 1902.*

232.* No remission shall ordinarily be granted on any application made after the dates fixed under the preceding rule unless the damage to the crop has occurred subsequent to such dates.

233. *Cancelled by Financial Commissioner's Notification No. 34, dated the 21st October 1895.*

234.* In any tract where damage to crops has been extensive, the Collector may, by proclamation, authorize the cultivators to make oral applications for remission to himself or to any officer whom he may appoint in this behalf.

235. The Assistant Collector, on receiving an application for remission of land revenue, ^[a] or water-rate, ^[a] shall proceed, as soon as possible, to the land on account of which remission is claimed and personally inspect and, if necessary, measure such land, recording there and then such facts bearing upon the case as he ascertains from inquiry or observes in his inspection of the land.

* Substituted by F. C.'s Notification No. 14, dated the 11th February 1902 as amended by No. 159, dated 24th August 1905.

† (a) "Applications for remission of land revenue should be stamped with a Court-fee stamp of one anna under clause (a), Article 1, Schedule II, Court-fees Act, except in the case specified in clause 45-B, Rule 50, of the Court-fees Rules, 1902." (*Directions regarding Stamps*, 12 (b)).

(b) "The Governor-General in Council has been pleased * * * to remit the fees chargeable on applications presented to officers of Land Revenue for the suspension or remission of revenue on the ground that a crop has not been sown or has failed." [*Court fees Rules*, 50 (45-B).]

[a]—[a] Added by F. C.'s Notification No. 34, dated the 21st October 1895, as amended by Rev. Dept. Notification No. 604, dated the 23rd December 1904.

236.* If the Assistant Collector finds the applicant not entitled to remission under Rule 230, he may dismiss the application. Otherwise he shall prepare a brief report in the prescribed form upon the merits of the application, setting forth the area of the damaged or destroyed crop, the estimated amount of loss, and the amount of land revenue, ^[a] or water-rate, ^[a] if any, which such officer recommends to be remitted.

236A.† The Assistant Collector shall also report whether the amount of which remission is recommended has been collected or not. If it has not been collected, and if the tax receipt is in the possession of the thugyi, he shall attach such receipt to his report. If the tax receipt has not yet reached the thugyi, he shall record the fact.

237.‡ The report prepared under the last foregoing rule shall be forwarded without unnecessary delay in original to the Collector, or where there is an Assistant Collector in charge of the subdivision, to that officer, who shall, after personal inspection of the land, or such further inquiry as may be necessary, submit the report, with his opinion thereon, to the Collector.

238.§ On receipt of the report the Collector, after such further enquiry, if any, as he deems necessary, shall pass orders on the case either rejecting the application or granting such remission as he thinks fit. In cases where the remission applied for is large, the Collector shall, if possible, make a personal inspection of some part of the land.

239.¶ (1) When the amount that the Collector considers should be remitted in any one case exceeds Rs. 25, he shall submit his proceedings and recommendations in the prescribed form for the orders of the Commissioner.

(2) When the amount that the Commissioner considers should be remitted in any one case exceeds Rs. 100, he shall submit his proceedings and recommendations in the prescribed form for the orders of the Financial Commissioner.

239A.† When the amount remitted represents the whole of the revenue assessed on the applicant in any particular *kwin*, the

* Amended by F. C.'s Notification No. 48, dated the 16th November 1900.

† Added by F. C.'s Notification No. 72, dated the 17th October 1901.

‡ Amended by F. C.'s Notification No. 14, dated the 11th February 1902.

§ Substituted by F. C.'s Notification No. 45, dated the 14th October 1896.

¶ Amended by F. C.'s Notifications No. 45, dated the 14th October 1896, and No. 48, dated the 16th November 1900.

[a]-[a] Added by F. C.'s Notification No. 34, dated the 21st October 1895, as amended by R. D. Notification No. 604, dated the 23rd December 1904.

Collector shall cause the tax-ticket, if any, attached to the Assistant Collector's report under Rule 236A, to be torn across and endorsed with the word "*cancelled*" in red ink. If part only of the revenue has been remitted or recommended for remission, the Collector shall cause the following particulars to be endorsed on the tax-ticket in red ink :—

	Rs.	A.	P.
Amount of original demand
Amount recommended for remission
Balance to be collected

and shall send it to the Assistant Collector for return to the *thugyi*. If the full amount of remission recommended under Rule 239 is not sanctioned, a supplementary tax-ticket shall be issued for the balance remaining for collection.

239B.* If from the report of the Assistant Collector under Rule 236A or otherwise he is satisfied that the amount remitted has been collected before remission, the Collector, when passing orders under Rule 238 or on receipt of the Commissioner's or Financial Commissioner's orders under Rule 239, shall cause a refund order to be made out (in T. F. No. 45) and shall send it with the remission proceedings to the Assistant Collector in charge of the township, who will inform the applicant that, on production of the *thugyi's* receipt for the tax, he will be entitled to receive the refund order. On the production of the receipt, the Assistant Collector, after satisfying himself as to the applicant's identity, shall deliver to him the refund order (which may then be cashed at the township treasure-chest), and shall record in the prescribed form that he has done so. If the full amount paid in has been refunded, the Assistant Collector shall write "*cancelled*" with his signature in red ink across the tax receipt, which he shall then attach to the proceedings. If part only of the amount paid has been refunded, the Assistant Collector shall enter on the tax receipt the amount refunded and shall then return the receipt to the applicant and the proceedings to the Collector. On return of the proceedings, the Collector shall cause the amount refunded and the date of the refund to be noted in the assessment roll and in the Account Registers.

239C.* When the Collector is uncertain whether the amount remitted has or has not been collected, he shall return the proceedings to the Assistant Collector for further enquiry on this point.

240. The Collector may in any year of widespread or sudden disaster authorize by name any *thugyi* to inquire into and report

* Added by F. C.'s Notification No. 72, dated the 17th October 1901.

upon the damage to or destruction of crops upon lands in respect of which remission of land revenue ^[a] or water-rate, ^[a] is applied for. Any thugyi so authorized shall endorse his report on the application and submit the application so endorsed to the Assistant Collector in charge of the township, and the provisions of Rules 236 and 237 shall, *mutatis mutandis*, apply to such report.

241.* When land revenue, or water-rate, is irrecoverable from causes other than those mentioned above, the Collector may strike off the irrecoverable amount from the demand, provided that when the amount which the Collector proposes to strike off in respect of any one holding exceeds Rs. 25, the Collector shall submit his proceedings and recommendations for the orders of the Commissioner.

Explanation.†—Revenue shall be deemed to be irrecoverable ‡ when the Collector is satisfied, either after the unsuccessful issue of process or otherwise, that the defaulter has no property or means of paying. A warrant of arrest should ordinarily not be issued save in cases where it is considered advisable to imprison a contumacious defaulter or it is believed that it will be the most effectual method of recovering the arrear of revenue in whole or in part.

CHAPTER XXIII.

Rules for declaring what persons shall be permitted to practise as petition writers and regulating the conduct of persons so practising [section 50 (g)].

[See Chapter XI, *Burma District Office Manual*, 1904.]

SCHEDULES OF LICENSE FEES FOR FISHING IMPLEMENTS.

SCHEDULE A.

(See Rule 122, page 70.)

1. In the following schedule the entry in column 4 is the name by which the implement intended to be taxed is commonly known in some parts of the province; but as local names vary greatly, the Revenue Officer, in deciding whether any particular implement is taxable or not, and in issuing licenses, must be guided mainly by the description in column 5, whether the local name agrees with that entered in column 4 or not.

[a]—[2] Added by F. C.'s Notification No. 34, dated the 21st October 1895, as amended by R. D. Notification No. 604, dated the 23rd December 1904.

* Substituted by F. C.'s Notification No. 45, dated the 14th October 1896, as amended by No. 54, dated the 15th August 1901 and R. D. Notification No. 604, dated the 23rd December 1904.

† Substituted by F. C.'s Notification No. 170, dated the 23rd August 1904.

‡ See Direction 97, page 136.

2. The term “**casting net**” includes nets known as *kun*, *metkun*, *letpyitkun*, and *kungya*, and any net, by whatever name known, which answers generally to the description in column 5.

3. The term net (*paik*) under the heads of **hauling nets** and **drifting nets**, and nets anchored or fixed to the ground, includes nets known in various parts of the province as—

<i>Swepaik,</i>	<i>Bupaik,</i>	<i>Paik sungyu,</i>
<i>Nginpaik,</i>	<i>Kyikaungpaik,</i>	<i>Paiklet hna lóngwin,</i>
<i>Hmyawpaik,</i>	<i>Tazaungpaik,</i>	<i>Paikseik,</i>
<i>Myawpaik,</i>	<i>Lègwinpaik,</i>	<i>Paiktau,</i>
<i>Pashupaik,</i>	<i>Yanpaik,</i>	<i>Paikchido,</i>
<i>Ngathalaupaik,</i>	<i>Paikkyi,</i>	<i>Paikwunbu,</i>

with or without the words ‘*kyi*’ ‘*kale*,’ added. The above list is not exhaustive, and every net made of cotton, twine, or rope, the greater part of which is made in straight pieces and not in the shape of a bag, is to be assessed under these heads if it is used without any additional apparatus except ropes, floats, sinks, anchors, and sticks for stretching it open (e.g., *paiktaukkale*), and if it is more than ten cubits long.

4. Every net of cotton, twine, or rope made in the shape of a bag and used in the manner described in the schedule opposite *paikdamin* is to be taxed as *paikdamin*, by whatever name it may be locally known.

5. * No net or implement of any kind licensed under this schedule may be used as a fixed engine as defined in section 32 (1) (c).

6. The license fee for each class of implement is as follows:—

Class.	Rs.	Class.	Rs.
I ...	... 1	VI ..	... 20
II ...	... 2	VII ...	... 30
III ...	... 5	VIII ...	... 40
IV ...	... 10	IX ...	... 50
V ...	... 15		

7. “Cubit” means 1 foot and 6 inches. Four cubits equal 1 fathom.

8. Some of the implements in Schedule A are entered in Schedule B also, because they are sometimes fixed obstructions and sometimes not, according to the position in which they are placed.

* The words “fixed engine as defined in section 32 (1) (c)” have been substituted for the words “fixed obstruction as defined in clause (a) of Rule 1.”

SCHEDULE A.

Class.	Fee.	Serial No.	Name of implement.	Description of implement.	Minimum mesh in inches.	Remarks.
1	2	3	4	5	6	7
	Rs.		Casting net ...	A circular net, with a rope attached to the centre, and pieces of lead round the circumference—		If less than 6 cubits in length when closed, not to be taxed.
II	2	1	...	Length, when closed, exceeding 6, but not exceeding 10 cubits.	$\frac{1}{2}$	
III	5	2	...	Length, when closed, exceeding 10, but not exceeding 20 cubits.	$\frac{1}{2}$	
IV	10	3	...	Length, when closed, exceeding 20 cubits.	$\frac{1}{2}$	
			Hauling net and drifting net.	Any net, other than a casting net, used to throw into the water and haul in again, or to drift down a river catching the fish by the gills; whether it has a bag in the middle or not; being fixed to the earth at one end only, or not fixed to the earth at all—		
II	2	4	...	If more than 10, but not more than 50 cubits long.	$\frac{1}{2}$	
III	5	5	...	If more than 50, but not more than 100 cubits long.	$\frac{1}{2}$	
IV	10	6	...	If more than 100, but not more than 200 cubits long.	$\frac{1}{2}$	

SCHEDULE A—continued.

Class.	Fee.	Serial No.	Name of implement.	Description of implement.	Minimum mesh in inches.	Remarks.
1	2	3	4	5	6	7
	Rs.					
V	15	7	...	If more than 200, but not more than 400 cubits long.	$\frac{1}{2}$	
VI	20	8	...	If more than 400, but not more than 800 cubits long.	$\frac{1}{2}$	
VII	30	9	...	If more than 800, but not more than 1,200 cubits long.	$\frac{1}{2}$	
VIII	40	10	...	If more than 1,200, but not more than 2,000 cubits long.	$\frac{1}{2}$	
IX	50	11	...	If more than 2,000 cubits long.	$\frac{1}{2}$	
			Net, anchored or fixed to the ground.	Any net fixed to the ground at both ends or at more points than one end only.	...	See paragraph 5 of the note prefixed to this schedule.
III	5	12	...	If more than 10, but not more than 50 cubits long.	$\frac{1}{2}$	
IV	10	13	...	If more than 50, but not more than 200 cubits long.	$\frac{1}{2}$	
V	15	14	...	If more than 200, but not more than 400 cubits long.	$\frac{1}{2}$	
VI	20	15	...	If more than 400, but not more than 800 cubits long.	$\frac{1}{2}$	
VII	30	16	...	If more than 800, but not more than 1,200 cubits long.	$\frac{1}{2}$	
VIII	40	17	...	If more than 1,200, but not more than 2,000 cubits long.	$\frac{1}{2}$	
IX	50	18	...	If more than 2,000 cubits long ...	$\frac{1}{2}$	

SCHEDULE A—continued.

Class.	Fee.	Serial No.	Name of implement.	Description of implement.	Minimum mesh in inches.	Remarks.
1	2	3	4	5	6	7
	Rs.					
V	15	19	<i>Paikdamin</i> or bag-net.	Any net made in the shape of a bag and fixed with its mouth stretched open in a vertical plane transverse to the current by attaching it to posts or bamboos planted or anchored in the bed of a river— If the circumference of the mouth be more than 5 and not more than 20 cubits.	$\frac{1}{2}$	See paragraph 5 of the note prefixed to this schedule.
VII	30	20	...	If the circumference of the mouth be more than 20 and not more than 30 cubits.	$\frac{1}{2}$	
VIII	40	21	...	If the circumference of the mouth be more than 30 cubits.	$\frac{1}{2}$	
III	5	22	<i>Yindun, hmyin-paik, gawpaik, or tóngawa.</i>	A triangular or scoop-shaped net or piece of coarse canvas, with one or two handles, which the fisherman pushes before him, whether used in a boat or not.	No limit	
IV	10	23	<i>Yagwin</i> or <i>tetkun, tinkun.</i>	A square net, 7 cubits each side or larger, stretched flat horizontally by two half-hoops of cane crossing diagonally. It is raised out of the water by a long pole, one end of which is attached to the half-hoops where they cross. May be worked either on the bank or in a boat.	$\frac{1}{2}$	If less than 7 × 7 cubits, not to be taxed.

SCHEDULE A—continued.

Class.	Fee.	Serial No.	Name of implement.	Description of implement.	Minimum mesh in inches.	Remarks.
1	2	3	4	5	6	7
	Rs.					
IV	10	24	<i>Kawa paik</i> or <i>tawpaik</i> .	A net with a bag at one end, 25 cubits long, more or less, suspended between two boats, which are lashed together and paddled up stream.	$\frac{1}{2}$	
IV	10	25	<i>Sulepaik</i> ...	A triangular net, 20 cubits long, more or less, attached to bamboo poles and suspended between two boats that are lashed together and paddled up stream or allowed to drift. The net is worked from a staging between the two boats.	$\frac{1}{2}$	
			<i>Faikganav</i> ...	Two V-shaped bamboo frames, to which nets are attached. The boat is anchored by the stern in a current, and the nets are lowered into the water—	...	See paragraph 5 of the note prefixed to this schedule.
IV	10	26	...	Length of net not exceeding 20 cubits.	$\frac{1}{2}$ for nets attached to the bamboo frames. $\frac{1}{8}$ for bags attached to the nets.	
VI	20	27	...	Length of net exceeding 20 but not exceeding 40 cubits.		
VII	30	28	...	Length of net exceeding 40 cubits.		

SCHEDULE A—continued.

Class.	Fee.	Serial No.	Name of implement.	Description of implement.	Minimum mesh in inches.	Remarks.
1	2	3	4	5	6	7
VII	Rs. 30	29	Hledamin ...	Two V-shaped shallow troughs, 12 cubits long, more or less, made of strips of split bamboo and attached horizontally to the two sides of a boat. The boat is anchored by the stern in a current, and the broad ends of the troughs are lowered into the water. The apex of each trough is curled up into the form of a round hole, to which is fastened a basket to receive the fish.	$\frac{1}{4}$	See paragraph 5 of the note prefixed to this schedule.
VI	20	30	Paungdamin ...	A V-shaped trough of strips of bamboo, with a basket at the apex, fixed between two bamboo rafts, which are either anchored or fastened to posts planted in the water.	$\frac{1}{4}$	See paragraph 5 of the note prefixed to this schedule.
VI	20	31	Taingdaung dami or luthyi, or lutnge.	A V-shaped trough of strips of bamboo, with screens at each side fastened to stakes planted in the water, and with a basket at the apex of the trough to receive the fish.	$\frac{1}{4}$	See paragraph 5 of the note prefixed to the schedule.

SCHEDULE A—concluded.

Class	Fee.	Serial No.	Name of implement.	Description of implement.	Minimum mesh in inches.	Remarks.
1	2	3	4	5	6	7
I	Re. 1 per 10 cubits up to 200 cubits; Re. 1 per 25 cubits for any length beyond 200 cubits.	32	<i>Chanlamu</i> , or <i>bawun</i> , or <i>myet-kwins</i> .	A line of bamboo screens, or a fence of split bamboos enclosing a space where the fish are stranded at low water.	$\frac{1}{2}$	See paragraph 5 of the note prefixed to this schedule.
	Rs.		<i>Sanda</i> ...	A straight bamboo fence placed across a mud bank in a wide river with a trap at the outer end near low-water mark.	...	See paragraph 5 of the note prefixed to this schedule.
III	5	33	...	Length not exceeding 20 cubits ...	$\frac{1}{2}$	
VI	20	34	...	Length exceeding 20 cubits, but not exceeding 100 cubits.	$\frac{1}{2}$	
VII	30	35	...	Length exceeding 100 cubits, but not exceeding 150 cubits.	$\frac{1}{2}$	
VIII	40	36	...	Length exceeding 150 cubits, but not exceeding 200 cubits.	$\frac{1}{2}$	
IX	50	37	...	Length exceeding 200 cubits ...	$\frac{1}{2}$	
III	5	38	<i>Paiksan</i> ...	A square cloth, 10 cubits each side or larger, with a rope stitched round the edge and fastened to small posts, 5 or 6 cubits high.	No limit ...	See paragraph 5 of the note prefixed to this schedule.
I	1	39	<i>Ngasinpaik</i> ...	A bamboo trap, 12 cubits long, more or less, with the open end about 5 cubits in circumference, and tapering off to the other end, which is closed. The trap is anchored to a pole or bamboo planted in the water.	$\frac{1}{2}$	

SCHEDULE B.
(See Rule 131, page 72.)

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Rules—Schedule B.

Serial No.	Name of fixed obstruction.	Description.	RATE OF LICENSE FEE.		Remarks.
			Rs.	Per	
1	2	3	4	5	6
1	<i>Chaungpeikpaik</i> or <i>tanpaik</i> .	A net stretched across a stream	5	10 cubits width of stream.	
2	<i>Seyinse, lamu,</i> or <i>chanlamu chaung paik</i> .	A line of bamboo screens placed across a stream, with or without a second line of screens a short distance up stream.	5	10 cubits width of stream.	
3	<i>Tinhmyin</i> or <i>tinbaing</i> or <i>yinsáung</i> .	A line of bamboo screens with bamboo traps at intervals used in shallow water.	5	10 cubits width of stream.	
4	<i>Kadóngyi</i> ...	A cylindrical bamboo trap, with an involuted mouth all along one side, placed upright in the bed of a small creek, with screens at both sides to prevent fish from passing the trap.	5	10 cubits width of stream.	
5	<i>Myinwun</i> or <i>myin-wunse</i> .	A screen or fence across a stream, with or without dam along its foot, with a gap or gaps in the centre or at the sides, leading into one or more traps or bag-nets or enclosures in which the fish are caught.	5	10 cubits width of stream.	
6	<i>Taingdaungdamin</i> ...	Same as No. 31 of Schedule A, when placed in any creek in which it is a fixed obstruction.	5	10 cubits width of stream.	
7	<i>Paungdamin</i> ...	Same as No. 30 of Schedule A, when placed in any creek in which it is a fixed obstruction.	5	10 cubits width of stream.	
8	<i>Paikdamin</i> ...	Same as Nos. 19—21 of Schedule A, when placed in any creek in which it is a fixed obstruction.	5	10 cubits width of stream.	

[Substituted by Financial Commissioner's Notification No. 17, dated the 22nd April 1897.]

PART III.

**DIRECTIONS UNDER THE UPPER BURMA
LAND AND REVENUE REGULATION, 1889,
AND THE RULES THEREUNDER.**

DIRECTIONS UNDER THE UPPER BURMALAND AND REVENUE REGULATION 1889, AND THE RULES THEREUNDER.

*(Published in the Financial Commissioner's Notification No. 167,
dated the 12th August 1905.)*

(i) These Directions may be cited as the **Upper Burma Land Revenue Directions, 1905.**

(ii) In these Directions—

- (a) the word "**Section**" used in conjunction with a number refers to the section bearing that number in the Upper Burma Land and Revenue Regulation, 1889;
- (b) the word "**Regulation**" used alone refers to the Upper Burma Land and Revenue Regulation, 1889;
- (c) the word "**Rule**" when used in conjunction with a number refers to the rule bearing that number in the Rules under the Upper Burma Land and Revenue Regulation, 1889, published with the Government of Burma's Revenue Department Notification No. 148, dated the 10th May 1892 as amended up to date;
- (d) all other words have the meaning if any assigned to them in the Regulation or Rules thereunder, unless the contrary appears from the context.

CHAPTER I.

POWERS AND PROCEDURE.

Conferment of powers on Officers.

1. * Under section 4, sub-section (3), the Local Government has appointed all Assistant Commissioners, Extra Assistant Commissioners, and *Myoōks* in charge of subdivisions and Cantonment Magistrates within the limits of their Cantonments to be Assistant Collectors of the first class; and all Assistant Commissioners, Extra Assistant Commissioners, and *Myoōks* not in charge of subdivisions and all *Akunwuns* and Superintendents of Land Records to be Assistant Collectors of the second class.

* Published in Revenue Department Notification No. 371, dated the 26th October 1892, and No. 289, dated the 8th July 1896, and in Military Department Notification No. 33, dated the 20th June 1894.

2. * Under clause (1) of section 21 the Local Government has conferred on (a) Settlement Officers and (b) Assistant Settlement Officers, respectively, the powers of a Collector under (a) sections 24 and 27 and (b) section 24, and under clause (3) has directed that Settlement Officers shall not be subject to the control of the Collector when exercising their powers under section 27.

Orders under section 5 regarding the functions of officers.

3. † The Local Government has directed that the functions of a Revenue Officer under section 27 shall be discharged by the Collector.

4. Cases of the following description shall be tried by Collectors only:—

- (i) claims as against the State to the ownership or possession of any land with respect to which a declaration that it is State land has been made, or may be made, under the Regulation;
- (ii) claims as against the State to hold such land free of land revenue or at a favourable rate of land revenue, or to establish any lien upon, or other interest in, such land, or the rents, profits, or produce thereof;
- (iii) claims to hold free of revenue any land, fishery, or natural products of land or water;
- (iv) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of revenue or any sum recoverable as such an arrear;
- (v) any claim not otherwise provided for.

5. Cases of the following description may be tried by the Collector or by an Assistant Collector of the first class:—

- (i) disputes as to the limits of State lands;
- (ii) claims to a right to fish or connected with or arising out of the demarcation or disposal of any fishery.

6. Cases of the following description may be tried by the Collector or by an Assistant Collector of the first or second class:—

- (i) claims connected with or arising out of the collection of the revenue, or the enforcement of any process for the recovery of an arrear of revenue or any sum recoverable as such an arrear;

* Published in Revenue Department Notification No. 326, dated the 27th August 1894, No. 385, dated the 6th October 1894, and No. 436, dated the 20th November 1894.

† Published in Revenue Department Notification No. 384, dated the 6th October 1894.

- (ii) any claim as to the amount of, or the liability of any person to pay, any fees, costs, or other charges imposed under the Regulation;
- (iii) any dispute arising out of the preparation or maintenance of a record-of-rights or periodical edition of such record.
- (iv) claims between private individuals to the occupation or possession of State land or to hold such land rent free or at a favourable rent or rate of rent, or to establish any lien upon or other interest in such land or the rents, profits, or produce thereof.

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“Thugyis” not to survey lands in tracts under Supplementary Survey.

7. In districts in which supplementary survey has been introduced, *thugyis* (whether collecting revenue or not) who reside within tracts under supplementary survey, shall neither be required nor permitted to act as the surveyors of the lands included in their charges, even if qualified and willing to do so. All such survey work will be carried out by revenue surveyors. This is not intended to interfere with the training under the survey class scheme of *thugyis'* sons or the cadets of *thugyis'* families who wish to qualify for revenue surveyorships, provided that no such person may be afterwards concurrently appointed both revenue surveyor and *thugyi*.

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Procedure in trial of claims to State-land under section 24 (2).

8. With the previous sanction of the Commissioner the Collector may refer any claim under section 24 (2) for local enquiry, record of evidence and report, to an Assistant Collector of the first class *by name*, and the Collector may decide the case on such report: *provided* that, if the claimant challenges any of the evidence taken before the Assistant Collector, or any statement of fact made in the Assistant Collector's report, the Collector shall re-hear the evidence or verify the facts challenged before deciding the case.

9. In any district where claims under section 24 (2) are very numerous, the Collector may apply for the services of a special Assistant Collector of the first class for the purposes set forth in Direction 8.

10. In order that the procedure of the Collector or Assistant Collector of the first class in conducting the "local inquiry" may be thorough and complete—

- (i) the petitioner shall be required to mark off the area claimed in such a way as to permit of easy recognition ;
- (ii) the Collector (if he tries the claim without reference to an Assistant Collector), or the Assistant Collector to whom the claim has been referred for local inquiry, shall visit the land and shall there take such evidence as may be tendered or may be forthcoming ;
- (iii) a map on the scale of 16 inches to a mile shall be made of the area in respect of which the Collector has passed a final order, and the map shall be filed in the order.

Award of costs to successful claimant under section 24 (2).

11. Under Rule 191 a Collector is competent to award costs to a successful claimant under section 24 (2), without reference to any higher authority. The expenditure so incurred may be met from the contingent allotment of the district under the head "Land Revenue."

Jurisdiction of Civil Courts and Revenue Officers in land suits.

12. In clause (ii) of section 53 (2) it is laid down that a Civil Court shall not exercise jurisdiction over any claim to the ownership or possession of any State land, or to hold such land free of land revenue or at a favourable rate of land revenue or to establish any lien upon, or other interest in, such land, or the rents, profits or produce thereof; and that any such claim shall be cognizable exclusively by Revenue Officers. In Civil Second Appeal No. 123 of 1897* it has been laid down by the Judicial Commissioner that the character of the relief sought is the correct test to be applied in determining the Court by which any particular claim should be heard. If, therefore, in an application made to a Revenue Officer the relief sought, whether against the State or against a private individual, falls within one of the headings specified in clause (ii) of section 53 (2), the claim should be dealt with on the revenue side. If not the applicant should be referred to a Civil Court.

* 2 U. B. R., 1897-1901, page 207.