

## ACT No. XVI OF 1886.

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PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 16th July, 1886.)*

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An Act to make provision for the more speedy trial of certain accused persons in custody in Lower Burma.

WHEREAS it is expedient to make provision for the more speedy trial of certain accused persons in custody in Lower Burma; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Lower Burma Gaols Delivery Act, 1886.

(2) It extends to such districts of Lower Burma as the Local Government may by notification in the official Gazette declare to be disturbed; and

(3) It shall come into force at once.

Construction.

2. (1) This Act shall, so far as is consistent with the terms thereof, be construed as one with the Code of Criminal Procedure, 1882.

(2) "Lower Burma" in this Act means the territories administered by the Chief Commissioner of British Burma on the thirty-first day of December, 1885: and

(3) "Scheduled offence" means an offence mentioned in the schedule to this Act.

Conferment of powers of Court of Session on Magistrates.

3. (1) The Local Government may by notification in the official Gazette confer on any Magistrate of the first class the powers of a Court of Session as a Court of original jurisdiction for the trial of persons accused of scheduled offences.

(2) A Magistrate on whom those powers of a Court

Court of Session have been so conferred may take cognizance of—

- (a) any scheduled offence without the accused person being committed to him by a Magistrate, and
- (b) such cases in which persons accused of any scheduled offence have been committed to the Court of Session by Magistrates as the Local Government by general or special order directs him to try or as the Sessions Judge of the Division makes over to him for trial.

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(3) When a Magistrate in exercise of those powers of a Court of Session takes cognizance of any scheduled offence without the accused person being committed to him by a Magistrate, he shall follow the procedure prescribed by the Code of Criminal Procedure for the trial of warrant-cases by Magistrates, and the provisions of that Code relating to trial before a Court of Session shall not apply.

(4) Proceedings pending before a Magistrate under Chapter XVIII of the Code of Criminal Procedure at the time of the conferment on him of those powers of a Court of Session may be continued by him under Chapter XXI of that Code as if they had been commenced under the latter Chapter :

Provided that the accused person may demand that any witness who has given evidence before the conferment of the powers be re-summoned and re-heard.

(5) Sentences, judgments and orders passed by a Magistrate in exercise of those powers of a Court of Session shall be subject to confirmation, appeal and revision as if they had been passed by a Court of Session.

4. (1) The Local Government, with the previous sanction of the Governor General in Council, may by notification in the official Gazette appoint such person

Appointment  
of Additional  
Judicial  
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person or persons as it thinks fit to be an Additional Judicial Commissioner or Additional Judicial Commissioners, and to sit as such in any districts mentioned in the notification.

(2) An Additional Judicial Commissioner shall, with respect to scheduled offences, exercise within any districts in which he is appointed to sit such jurisdiction and powers of the Judicial Commissioner as the Local Government may prescribe.

(3) Every enactment for the time being applicable to the Judicial Commissioner shall apply to an Additional Judicial Commissioner when exercising any jurisdiction or powers under sub-section (2).

Withdrawal of powers and cancellation of appointment under this Act.

5. The Local Government may withdraw any powers, and cancel any appointment, conferred or made under this Act.

Modification of Whipping Act.

6. Notwithstanding anything in Act VI of 1864 (*an Act to authorize the punishment of whipping in certain cases*), but subject to the provisions of sections 390 to 395 (both inclusive) of the Code of Criminal Procedure, a person convicted of a scheduled offence may be sentenced to whipping either in lieu of or in addition to any other punishment to which he may be liable under the Indian Penal Code.

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Limitation for appeal from conviction of scheduled offence.

7. Notwithstanding anything in the Indian Limitation Act, 1877, the period of limitation for an appeal to the Judicial Commissioner or an Additional Judicial Commissioner from a conviction of a scheduled offence shall, except in the cases provided for by No. 150 and No. 157 of the second schedule to that Act, be thirty days from the date of the conviction.

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Expiration of Act.

8. This Act shall expire on the thirtieth day of June, 1887, or on such earlier date as the Local Government, with the previous sanction of the Governor General in Council, may by notification in the official Gazette appoint in this behalf.

THE SCHEDULE.

## THE SCHEDULE.

Section of Indian Penal Code.	Offence.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.
121A	Conspiring to commit certain offences against the State.
122	Collecting arms, &c., with the intention of waging war against the Queen.
124A	Exciting, or attempting to excite, disaffection.
302	Murder.
304	Culpable homicide not amounting to murder.
307	Attempt to murder.
325	Voluntarily causing grievous hurt.
326	Voluntarily causing grievous hurt by dangerous weapons or means.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
333	Voluntarily causing grievous hurt to deter public servant from his duty.
332	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.
386	Extortion by putting a person in fear of death or grievous hurt.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.
392	Robbery.
393	Attempt to commit robbery.
394	Person voluntarily causing hurt in committing, or attempting to commit, robbery, or any other person jointly concerned in such robbery.
395	Dacoity.
396	Murder in dacoity.
	397. Robbery

THE SCHEDULE—*concluded.*

Section of Indian Penal Code.	Offence.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.
399	Making preparation to commit dacoity.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.
402	Being one of five or more persons assembled for the purpose of committing dacoity.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.
435	Mischiefs by fire, or explosive substance, with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.
436	Mischiefs by fire, or explosive substance, with intent to destroy a house, &c.
440	Mischiefs committed after preparation made for causing death or hurt, &c.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.
506	Criminal intimidation, if threat be to cause death or grievous hurt, &c. Abetment of any of the foregoing offences. Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences.