

**(Rules and Orders for regulating the Powers and Procedure of Benches of Magistrates in Myanmar)**

**No.266**

**[Amendment : 18.06.1989 ]**

**Amending Law**

No. 266.- In exercise of the powers conferred by sections 15, 16, 260, 261 and 265 of the Code of Criminal Procedure, 1898 (Act V of 1898), and in supersession of the notifications of this department cited in the margin, the Lieutenant-Governor is pleased to make the following rules and orders for regulating the powers and procedure of Benches of Magistrates in Myanmar:-

- (1) Any two or more of the Honorary Magistrates appointed for any district may sit together as a Bench, with or without a salaried Magistrate, as the District Magistrate may direct.
- (2) A Bench on which a Magistrate of the 1st class is sitting is invested with the power of a Magistrate of the 1st class.
- (3) Every other Bench is invested with the powers of a Magistrate of the 2nd class.
- (4) Benches shall try only such cases as may be referred to them for disposal by, or under the orders of, the District Magistrate. Only cases which the Bench can try summarily shall be so referred.

Provided that in the Rangoon Town district-

- (i) any Honorary Magistrate, who is a Magistrate of the second class, may be empowered by the District Magistrate to receive complaints under section 190 (a) of the Code of Criminal Procedure, 1898; and
- (ii) cases not triable summarily may be tried by any Bench, two or more members of which are Magistrates of the first or second class.

- (5) Every Bench invested with the powers of a Magistrate of the 1st class is specially empowered to try, in a summary way, the offences mentioned in section 260 of the Code of Criminal Procedure, 1898.
- (6) Every Bench invested with the powers of a Magistrate of the 2nd class is empowered to try summarily the offences mentioned in section 261 of the Code of Criminal Procedure, 1898.
- (7) Every Bench is authorized to prepare the record and judgment mentioned in section 265 of the Code of Criminal Procedure by means of an officer appointed in this behalf by the District Magistrate. As provided by the said section, the Magistrate's record or judgment as prepared shall be signed by each member of such Bench present taking part in the proceedings.
- (8) The Bench shall sit at such place and on such dates as the District Magistrate may prescribe. The Honorary Magistrates shall sit in the rotation arranged by the District or Subdivisional Magistrate, but any Magistrate may sit at any time provided he is not personally interested in the case before the Bench.
- (9) The Chairman of the Bench for the time being shall be the Magistrate of highest powers present at a sitting. Where two or more are of equal powers, the Bench may elect its own Chairman: provided always that it shall be in the discretion of the District Magistrate to appoint the Chairman for each time of sitting or generally.
- (10) Each member of the Bench shall have a voice in deciding as to the admissibility of evidence and in the finding and sentence. In a Bench of three or other uneven number of members the opinion of the majority shall prevail. When the members are evenly divided in opinion the Chairman shall have a casting vote.

(11) The Bench may refer any point of law for the opinion of the District Magistrate or Subdivisional Magistrate or of any 1st class Magistrate appointed by the District Magistrate for that purpose, and the Magistrate may certify his opinion thereon.

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