

## **India (Provisional Constitution) Order, 1947**

(Vide No. G.G.O. 14, dated 14-8-1947. Gazette of India, 1947, Extraordinary. Page 834)

[As amended by the India Provisional Constitution and Provincial Legislatures Amendment] Order, 1947, and the India Provisional Constitution (Second Amendment) Order, 1947,]

WHEAREAS by sub-section (2) of section 8 hereinafter referred to as the Indian Independence Act, 1947 (hereafter in the recitals to this Order referred to as the said Act), it is provided that except in so far as other provision is made by or in accordance with a law made by the Constituent Assembly of the Dominion under sub-section (1) of the said section, each of the new Dominions and all Provinces and other parts thereof shall be governed as nearly as may be in accordance with the provisions of the Government of India Act, 1935, and that the provisions of that Act shall, so far as applicable and subject to any express provisions of the said Act and with such omissions, additions, adaptations and modifications as may be specified in orders of the Governor-General under the next succeeding section of the said Act have effect accordingly;

AND WHEREAS by paragraph (c) of sub-section (1) of section 9 of the said Act it is provided that the Governor-General shall by order make such provision as appears to him to be necessary or expedient for making omissions from, additions to, and adaptations and, modifications of, the Government of India Act, 1935, in its application to the separate new Dominions;

AND WHEREAS by sub-section (4) of section 19 of the said Act it is provided that in the said Act, except so far as the context otherwise requires references to the Government of India Act, 1935, include references to any enactments amending or supplementing that Act and in particular references to the India (Central Government and Legislature) Act, 1946;

NOW THEREFORE in exercise of the powers conferred by the said provisions of the said Act, the Governor-General is pleased to make the following Order:-

1. (1) This Order may be cited as the **India (Provisional Constitution) Order; 1947.**

(2) It shall **come into force on the fifteenth day of August 1947**, which day is hereinafter referred to as “the India” means the Dominion of India.

2. (1) In this Order “India” means the Dominion of India.

(2) Where a provision of the Government of India Act, 1935, has been amended before the appointed day, a reference to that provision in the Schedule to this Order shall be read as referring to the provision be as in force immediately before the appointed day.

(3) The Interpretation Act, 1689, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3. (1) As from the appointed day, the Government of India Act, 1935, including the provisions of that Act which have not come into force before the appointed day; and the India (Central Government and Legislature) Act, 1946, shall, until other provision is made by or in accordance with a law made by the Constituent Assembly of India, apply to India with the omissions, additions, adaptations and modifications directed in the following provisions of this paragraph and in the Schedule to this Order.

(2) The following expressions shall be omitted wherever they occur, namely, “in at his discretion”, “acting in his discretion” and “exercising his individual judgment”.

(3) For each expression specified in the first column of the following Table, wherever that expression occurs, there shall be substituted the expression specified in the corresponding entry in the second column of the Table.

TABLE

existing Indian law	existing law.
existing India Act	existing law.
Federation	Dominion.
Federal Government	Dominion Government.
Federal law	Dominion law.
Federal Legislature	Dominion Legislature.
Federated	Acceding.

4. Where the Schedule to this Order requires that in any specified provision certain words shall be substituted for certain other words or that certain words shall be omitted, that substitution or omission, as the case may be, shall, unless otherwise expressly provided, be made wherever the words referred to appear in that provision.

5. Where any instrument is in force under any provision of the Government of India Act, 1935, immediately before the appointed day, and that provision remains in force, whether with or without modifications, on and after the appointed day, the said instrument shall, so far as applicable and with any necessary modifications, remain in force as from that day as if it were an instrument of the appropriate kind duly made by the appropriate authority under the said provision as in force after that day, and may be varied or revoked accordingly.

6. Where any law made by the Governor of Province by virtue of section 93 of the Government of India Act, 1935, is in force immediately before the appointed day, the said-law, notwithstanding that the said section is directed to be omitted in the Schedule to this Order or that by reason of such omission a Proclamation under the said section ceases to have effect, shall remain in force for the period for which it would have remained in force if the said section had been at all material times in operation.

7. (1) Subject to any general or special orders of arrangements affecting his case, any person who immediately before the appointed day is holding any civil post under the crown in connection with the affairs of the Governor-General or Governor-General in Council of a Province other than Bengal or the Punjab shall, as from that day, be deemed to have been duly appointed to the corresponding post under the Crown in connection with the affairs of the Dominion of India or, as the case may be, of the Province.

(2) Notwithstanding that section 170 of the Government of India Act, 1935, is directed to be omitted in the Schedule to this Order, the person holding the office of the Auditor of Indian Home Accounts immediately before the appointed day is hereby authorized to continue, until such date as the Governor-General may specify, to perform such duties, and exercise such powers, in relation to transactions in the United Kingdom affecting the revenues of India or of any Province thereof as he was before the appointed day performing or exercising under the provisions of the said section 170.

### THE SCHEDULE

1. The Government of India Act, 1935

2. Omit.

3. For this section substitute:-

“3. *The Governor-General.* - The Governor-General of India is appointed by His Majesty by a commission under the Royal Sign Manual.”

4. Omit.

5. For this section substitute:-

“5. *Establishment of the Dominion.* - (1) The Dominion of India established by the Indian Independence Act, 1947, shall as from the fifteenth day of August, 1947, be a Union comprising :-

(a) the Provinces hereafter called Governors Provinces;

(b) the Provinces hereinafter called Chief Commissioners Provinces;

(c) the Indian States acceding to the dominion in the manner hereinafter provided, and

(d) any other areas that may with the consent of the Dominion be included in the Dominion.

(2) The said dominion of India is hereinafter in this Act referred to as “the Dominion” and the said fifteenth day of August is hereinafter in this Act referred to as ‘the date of the establishment of the Dominion.’”

6. For this section substitute:-

“6. *Accession of Indian States* :- (1) An Indian State shall be deemed to have acceded to the Dominion if the Governor-General has signified his acceptance of an

Instrument of Accession executed by the ruler thereof whereby the ruler on behalf of the State:-

- (a) declares that he accedes to the dominion with the intent that the Governor-General, the dominion Legislature, the Federal Court and any other dominion authority established for the purposes of the Dominion shall, by virtue of his Instrument of Accession, but subject always to the terms thereof, and for the purposes only of the Dominion, exercise in relation to the State such functions as may be vested in them by order under this Act; and
- (b) assumes the obligation of ensuring that due effect is given within the State to the provisions of this Act far as they are applicable therein by virtue of the Instrument of Accession.

(2) An Instrument of Accession shall specify the matters which the Ruler accepts as matters with respect to which the Dominion Legislature may make laws for the State, and the limitations, if any, to which the power of the Dominion Legislature to make laws for the State, and the exercise of the executive authority of the Dominion in the State, are respectively to be subject.

(3) A Ruler may, by a supplementary Instrument executed by him and accepted by the Governor-General vary the Instrument of Accession of his State by extending the functions which by virtue of that Instrument are exercisable by any Dominion authority in relation to his State.

(4) references in this Act to the Ruler of a State include references to any persons for the time being exercising the powers of the Ruler of the State, whether by reason of the Ruler's minority or for any other reason.

(5) In this Act a State which has acceded to the Dominion is referred to as an Acceding State and the Instrument by virtue of which a State has so acceded, construed together with any supplementary Instrument executed under this section, is referred to as the Instrument of Accession of that State.

(6) As soon as may be after any Instrument of Accession or supplementary Instrument has been accepted by the Governor-General under this section, copies of the Instrument and of the Governor-General's acceptance thereof shall be laid before the Dominion Legislature, and all courts shall take judicial notice of every such Instrument and acceptance".

THE DOMINION EXECUTIVE  
The Governor-General  
Functions of the Governor General

7.-(1) Subject to the provisions of this Act, the executive authority of the Dominion shall be exercised on behalf of His Majesty by the Governor-General, either directly or through officers subordinate to him, but nothing in this section shall prevent the Dominion Legislature from conferring functions upon subordinate authorities, or be

deemed to transfer to the Governor-General any functions conferred by any existing Indian law on any court, judge or officer, or on any local or, other authority.

(2) References in this Act to the functions of the Governor-General shall be construed as references to his **powers and duties** in the exercise of the executive authority of the Dominion and to any other powers and duties conferred or imposed on him as Governor - General.

#### Extent of **Executive Authority of the Dominion**

8- (1) Subject to the provisions of this Act, the Executive Authority of the Dominion extends - To the **matters** with respect to which Dominion Legislature has power to make law, including the exercise of **rights, authority and jurisdiction** in and **in relation to areas outside the Dominion.**

#### **Provided that -**

(i) the said authority does not, save as expressly provided in this Act, extend in any Province to matters with respect to which the Provincial Legislature has power to make laws;

(ii) the said authority does not, save as expressly provided in this Act, extend in any Acceding State save to matters with respect to which the Dominion Legislature has power to make laws for that State and the exercise thereof on each State shall be subject to such limitations. if any, as may be specified in the Instrument of Accession of the State.

(2) The executive authority of the Ruler of an Acceding State shall, notwithstanding anything in this section continue to be exercisable in that State with respect to matters with respect to which the Dominion Legislature has power to make laws for that State except in so far as the executive authority of the Dominion becomes exercisable in the State **to the exclusion of the executive authority of the Ruler by virtue of a Dominion law.**

7. In sub-section (2), omit all words after” by or under this Act”.

8. In sub-section (1), for paragraphs (a), (b) and (c), substitute “ to the matters with respect to which the Dominion Legislature has power to make laws, including the exercise of rights, authority and jurisdiction in and in relation to areas outside the Dominion”, and in the proviso omit paragraphs (iii) and (iv).

9. For this section substitute:-

“9. *Council of ministers* – There shall be a council of ministers to aid and advise the Governor-General in the exercise of his functions”.

10. In sub-section (2), omit “either Chamber of”.  
*Omit* sub-section (5).

11. 15. *Omit*.

16. In sub-section (2), for “British India” substitute “any Governor’s or Chief Commissioner’s Province” and for “federal interests” substitute “Dominion interests”,  
*Omit* sub-section (4).

17. In sub-section (3), omit all words after “the said business”.  
*Omit* sub-section (4) and (5).

18. For this section substitute:-

“18. *Constitution of the Dominion Legislature.* – The powers of the Dominion Legislature under this Act shall, until other provision is made by or in accordance with a law made by the Constituent Assembly under sub-section (1) of section 8 of the Indian Independence Act, 1947, be exercisable by that Assembly, and accordingly references in this Act to the Dominion Legislature shall be construed as references to the Constituent Assembly.

19. In sub-section (1), omit “The Chambers of”.

In sub-section (2), for “The Chambers” substitute “the Dominion Legislature”, omit “or either Chamber”, and omit paragraph (c)

*Omit* sub-section (3).

20. In sub-section (1), Omit “either Chamber of” and “or both Chamber as ssembled together”.

In sub-section (2), omit “either Chamber of” and for “a Chamber to whom any message is so sent” substitute “the Legislature”.

21. *Omit* “every counselor”.

For “either Chamber, any joint sitting of the Chambers and any committee of the Legislature” substitute “the Dominion Legislature or any committee thereof”.

22. *Omit* sub-sections (1), (2) and (5)

In sub-section (4), for “and the Deputy President of the Council of State” substitute “of the Dominion Legislature”, for “salaries” substitute “salary”, and omit “respectively”.

23. *Omit* “or Speaker”.

In sub-section (1), for “or joint sitting of the Chambers” substitute “of the Dominion Legislature.”

In sub-section (2), omit “A chamber of”.

In sub-section (3), for a Chamber” and “the Chamber” substitute “the Legislature”.

24-27, *Omit.*

28. In sub-section (1), omit “either Chamber of”.

In sub-section (2), for “the Chambers” substitute “the Dominion Legislature”.  
Omit sub-sections (3) and (4).

In sub-section (5), for “a Chamber” substitute “the Legislature”.

29. For “either Chamber” substitute “Dominion Legislature”.

30. For this section substitute:-

“30. *Provision as to Pending Bills.*-(1) A Bill pending in the dominion Legislature shall not lapse by reason of the prorogation of the Legislature.

(2) A Bill which, immediately before the establishment of the Dominion, was pending in the Legislative Assembly of the Indian Legislature may subject to any provision to the contrary which may be included in rules made by the Dominion Legislature under section 38 of this Act, be continued in the Dominion Legislature as if the proceedings taken with reference to the Bill in the said Legislative Assembly had been taken in the Dominion Legislature.”

31. *Omit.*

32. In sub-section (1), for “Chamber” substitute “Dominion Legislature”, and omit “or that he reserves the Bill for the signification of His Majesty’s pleasure.”

*Omit* sub-section (2) and (3).

In sub-section (1), omit “both Chambers of.”

In sub-section (2), omit all the words after “from other expenditure.”

In sub-section (3).-

(i) in paragraph (a), for “required to be made by Order in Council” substitute”  
made by or under the Third Schedule to this Act”;

(ii) for paragraph (c) substitute –  
“(c) the salaries and allowances of ministers, of the advocate-general and  
of chief commissioners”;

(iii) *omit* paragraphs (e),(f) and (g).

*Omit* sub-section (4).

34. In sub-section (1) omit “either. Chamber of” and “or paragraph (f)”.

In sub-section (2) for “Federal Assembly, and thereafter to the Council of State, and either Chamber” substitute “Dominion Legislature which”. and omit the proviso.

*Omit* sub-section (3):

35. In sub-section (1) for “Chambers” substitute “Legislature” and omit the proviso.

In sub-section (2) for “both Chambers” substitute “the Legislature”.

To sub-section (3), add:-

*“Provided* that expenditure from the said revenues during the period beginning with the 15<sup>th</sup> day of August 1947 and ending with the 31<sup>st</sup> day of March 1948 may be authorized or ratified by general or special order of the Governor-General”.

36. Omit “both Chambers of”.

37. In sub-section (1) omit all words after “Governor-General”.

In sub-section (3) for “either Chamber” substitute “the Dominion Legislature” and for “that Chamber” substitute “the Legislature”.

38. In sub-section (1), omit “Each Chamber of” and the proviso.

*Omit* sub-section (2) and (4).

In sub-section (3) after “with respect to” insert the Legislative Assembly of” and for “Governor-General” substitute “President of that Legislature”.

39. *Omit*.

40. *Omit* sub-section (2).

42. For this section substitute:-

*“42. Power of Governor-General to promulgate Ordinances in cases of emergency.-* The Governor-General may, in cases of emergency, make and promulgate Ordinances for the peace and good government of the Dominion or any part thereof, and. Any Ordinance so made shall for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the Dominion Legislature; but the power of making Ordinances under this section is subject to the like restrictions as the power of the Dominion Legislature under this Act to make laws; and any Ordinance made under this section may be controlled or superseded by any such Act”.

Control by Sec. 6. (3)  
Of II Act.



43-45 *Omit.*

46. In sub-section (1) for the word from “Bengal” to “Sind” substitute “West Bengal, the United Provinces, East Punjab, Bihar, the Central Provinces and Berar, Assam and Orissa”.

*Omit* sub-section (2).

47. For this section substitute:-

“47. *Provisions as to Berar.* – Berar shall continue to be governed together with the Central Provinces as one of Governor’s Province under this Act by the name of the Central Provinces and Berar and in the same manner as immediately before the establishment of the Dominion; and any references in this Act to the Dominion of India shall be construed as including a reference to Berar”.

48. For sub-section (1) substitute:-

“(1) The Governor of a Province holding office from the date of the establishment of the Dominion is appointed by His Majesty by a Commission under the Royal Sign Manual; but any person appointed thereafter to be the Governor of a Province shall be appointed by the Governor-General”.

50. For this section substitute:-

“50 *Council of Ministers.*- There shall be a council of ministers to aid and advise the Governor in the exercise of his functions”.

51. *Omit* sub-section (5).

52. to 54 *Omit.*

52-54 *Omit*

55. *Omit* sub-section (4).

56-58 *Omit.*

59. In sub-section (3) omit all words after “said business”.

*Omit* sub-section (4) and (5)

60. In sub-section (1) for “Bengal, the United Provinces, Bihar and Assam” substitute “the United Provinces and Bihar”.

62. *Omit* sub-section (3).

67. For the words from “that one” to the end substitute “the form set out in that behalf in the Fourth Schedule to this Act”.

68. *Omit* sub-section (2).

69. In sub-section (1), in paragraph (*e*), omit “whether before or after the commencement of this part of this Act”, and for “by a Court in British India or in a

State which is a Federated State” substitute “before the date of the establishment of the Dominion by a Court in British India, or on or after that date by a Court in a Governor’s or Chief Commissioner’s Province or an acceding State”, and in paragraph (f) for “Federal” substitute “Dominion Legislature”.

71. In sub-section (2) for the words from “commencement of this Part” to “Province” substitute “establishment of the Dominion enjoyed by members of that Chamber, or in the case of West Bengal and East Punjab, by members of the Provincial Legislative Assemblies of Bengal and the Punjab, respectively”.

72. Omit all words after “Legislature,” and add the following proviso:-

*“Provided that until other provision is so made, members of the Legislative Assemblies of West Bengal and East Punjab shall be entitled to receive salaries and allowances at such rates and upon such conditions as were immediately before the establishment of the Dominion applicable in the case of members of the Legislative Assemblies of Bengal and the Punjab, respectively.”*

74. In sub-section (2) omit” or affects the discharge of any of his special responsibilities” and the last sentence.

76. In sub-section (1) omit “or that he reserves the Bill for the signification of **His Majesty’s** pleasure thereon”.

*Omit* sub-section (2)

77. *Omit.*

78. In sub-section (2) omit all words after “from other expenditure”.

In paragraph (a) of sub-section (3) for “required to be made by order in Council” substitute” made by or under the **Third Schedule to this Act**”.

*Omit* sub-section (4).

80. *Omit* the proviso to sub-section (1).

To sub-section (3), add:-

*“Provided that expenditure from the revenues of the Province of West Bengal or East Punjab during the period beginning with the 15<sup>th</sup> day of August 1947 and ending with the 31<sup>st</sup> day of March 1948 may be authorized or ratified by general or special order of the Governor”.*

83. *Omit.*

84. In sub-section (1) omit the proviso.  
In sub-section (2) omit the last sentence.  
For sub-section (3) substitute:

“(3) Until rules are made under this section, the rules of procedure and standing orders in force immediately before the establishment of the Dominion with respect to the Legislative Assemblies of Bengal and the Punjab, respectively, shall have effect in relation to the Legislative Assemblies of West Bengal and East Punjab, subject to such modifications and adaptations as may be made therein by the Speakers of those Assemblies”.

85. *Omit.*

86. *Omit* sub-section (2).

88. For the Proviso to sub-section (1) substitute:-

“*Provided* that the Governor shall not, without instructions from the Governor-General, promulgate any such ordinance if an Act of the Provincial Legislature containing the same provisions would under this Act have been invalid unless, having been reserved for the consideration of the Governor-General, it had received assent of the Governor-General”.

In sub-section (2) omit paragraph (b).

89-90. *Omit.*

**91. For this section substitute:-** (at page 86 of Act 1935)

“91. *Excluded areas and partially excluded areas.* –In this Act, the expressions ‘excluded area and partially excluded area’ mean respectively such areas as were excluded or partially **excluded areas immediately before the establishment of the Dominion.**”

92. In sub-section (2) omit all words after “**shall have no effect**”.

*Omit* sub-section (3).

93. *Omit.*

94. In sub-section (1) omit ‘British Baluchistan’.  
*Omit* sub-section (2).

95. *Omit.*

96. For this section substitute:-

“96 *The Andaman and Nicobar Islands.* – The Governor-General may make regulations for the peace and good government of the Andaman and Nicobar Islands, and any regulations so made may repeal or amend any Act of the Dominion Legislature or any existing law which is for the time being applicable to the Province, and, when promulgated by the Governor-General,

shall have the same force and effect as an Act of the Dominion Legislature which applies to the Province”.

97. For “**His Majesty in Council**” substitute “or in accordance with a law made by the Constituent Assembly under sub-section (1) of section 8 of the Indian Independence Act, 1947”.

98. *Omit.*

99. In sub-section (1) for “for the whole or any part of British India or for any Federal State” substitute “(including laws having extra territorial operation) for the whole or any part of the Dominion”.

*Omit* sub-section (2).

102. For sub-section (3) substitute:-

“(3) A proclamation of Emergency may be revoked by a subsequent Proclamation”.

104. *Omit* sub-section (2).

105. *Omit.*

107. In sub-section (4), omit “or for the signification of His Majesty’s pleasure”. and “or of His Majesty”

108. *Omit.*

109. In sub-section (2), in paragraph (a), for “by the Governor-General or by His Majesty” substitute “or by the Governor-General,” and in paragraph (b), for “either by the Governor-General or by His Majesty” substitute “by the Governor-General”.

110-121. *Omit.*

123. *Omit.*

126. In the proviso to sub-section (2), *omit* “either Chamber of”.

*Omit* sub-section (4).

In sub-section (5), for the words 14; from. “Without prejudice” to “Governor of” substitute “The Executive Authority of the Dominion shall also extend to the giving of directions to”.

126. A. In paragraph (a), *omit* all words after “exercised”.

129. In sub-section (4), for “the Governor – General in his discretion” substitute “an arbitrator appointed by the Chief Justice of India”.

In sub-section (5), *omit* all words after “any part thereof”.

131. *Omit* the proviso to sub-sections (5) and (7), the words ‘His Majesty in Council,’ and sub-section (9).

134. For “the Ruler whereof” substitute “unless the Ruler thereof”, and for “are not to apply” substitute “are, to apply”.

135. *Omit* “His Majesty upon consideration of representations addressed to him by”.

For “His Majesty in Council” substitute “the Governor-General”.

136. *Omit* “and subject to the provisions of this Act with respect to the Federal Railway Authority”.

138. For “Federal” substitute, “Dominion”; and for “subsequent Order in Council” substitute “Order of the Governor-General”.

In sub-section (1), for “one per cent, or such other” substitute “such”

In sub-section (4), for “His Majesty in Council” substitute “Order of the Governor-General” and omit “or of the Federal Railway Authority”.

139. *Omit*.

140. In sub-section (2), for “one-half or such greater proportion as His Majesty in Council may determine” substitute “such proportion as the Governor General may by order determine”.

142. For “His majesty in Council” substitute “Order of the Governor-General”, for “His Majesty” substitute “the Governor-General”, and omit the proviso.

143. After sub-section (1) insert-

“(1A) Nothing in the foregoing provisions of this Chapter authorizes the levy of any duty or tax by the Dominion in any acceding State unless provision in that behalf is made in the Instrument of Accession of that State”.

145-149 *Omit*.

150 For “India” substitute “the Dominion”.

151. *Omit* sub-section (2).

152. *Omit*.

153. *Omit* “either Chamber of”.

154 A. *Omit* “the Federal Railway Authority or” and “that authority or”.

155. In sub-section (1), for “British India” substitute “India”.

157-161. *Omit.*

162. *Omit* “Subject to the provisions of Part XIII of this Act with respect to borrowing in sterling.”

163. In sub-section (4), for “the Governor-General and the decision of the Governor-General in his discretion shall be final” substitute “an arbitrator appointed by the Chief Justice of India, whose decision shall be final”.

165. *Omit.*

166. In sub-section (2), for “His Majesty in Council” substitute “Order of the Governor-General.”

In sub-section (3), for “His Majesty in Council” substitute “the Governor-General”.

167. In sub-section (1), for “His Majesty” substitute “the Governor” and omit “after the expiration of two years from the commencement of Part III of this Act”.

In paragraph (b) of sub-section (2), for “sub-section (3)” substitute “sub-sections (2) and (3)”.

171-173. *Omit.*

175. In sub-section (1), *omit* the proviso.

In sub-section (2), *omit* “or of the exercise of the –functions of the Crown in its relations with the Indian States”.

In sub-section (3), *omit* “Subject to the provisions of this Act with respect to the Federal Railway Authority”.

176. *Omit* sub-section (2).

177. *Omit.*

178. *Omit* all sub-sections except sub-section (3). In sub-section (3), after “this Act” insert “and of the Indian Independence Act, 1947”.

179-199. *Omit.*

200. In sub-section (1) for “as His Majesty” substitute “ as the Governor-General” and for “an address has been presented by the Federal Legislature to the Governor-General for submission to His Majesty praying for” substitute “a resolution is passed by the Dominion Legislature approving.

In sub-section (2), for “His Majesty by warrant under the Royal Sign Manual” substitute “order of the Governor-General” and in paragraph (b) of the proviso omit “by His Majesty” where those words occur for the second time.

In sub-section (3), omit “in British India or in a Federal State” and paragraph (i) of the proviso.

Add the following to sub-section (3):-

“In this sub-section the expression ‘High Court’ includes a High court in an acceding State and any Court which was a High Court in British India”.

201. For “His Majesty n Council” substitute “the Governor-General”.
202. In sub-section (1), for “appointed by His Majesty” substitute “permanently appointed” and for “for the purpose” substitute “as acting Chief Justice”.

In sub-section (2), for “appointed by **His Majesty**” substitute “permanently appointed”.

204. In paragraph (a) of the proviso to sub-section (1):-

in sub-paragraph (i), after the word “there under” insert “before the date of the establishment of the Dominion or of an order made thereunder on or after that date, or the interpretation of the Indian Independence Act, 1947, or of any order made there under”:

for sub-paragraph (iii) substitute:-

“(iii) arises under an agreement between the State and the Dominion or a Province, being an agreement which expressly provides that the said jurisdiction shall extend to such a dispute, and in the case of an agreement with a Province, has been made with the approval of the Governor-General”.

205. In sub-section (1), omit “ in British India”, and after “made thereunder” insert “before the date of the establishment of the Dominion or any order made thereunder on or after that date, or as to the interpretation of the Indian Independence Act, 1947, or of any order made thereunder.”

206. In sub-section (1), *omit* “in British India”, and after “certificate as aforesaid”.

Correction (1)

In sub-section (2,) *omit* “in British India”.

In sub-section (3,.) *omit* “either Chamber of”.

207. In sub-section (1), for “made there under or” substitute “made thereunder before the date of the establishment of the Dominion or an order made thereunder on or after that date, or concerns the interpretation of the Indian Independence Act, 1947, or of any order made thereunder or *concerns*”.

208. In paragraph (a), for “made thereunder, or “substitute “made thereunder before the date of the establishment of the Dominion, or an order made thereunder on or after that date, or concerns the interpretation of the Indian Independence Act, 1947, or of an order made thereunder or concerns.
210. In sub-section (2), omit “as respects British India and the Federated States” and “in British India” and for “British India or of any” substitute “ a Governor’s Province, Chief Commissioner’s Province or”.
212. For “British India” substitute “any Governor’s Province or Chief Commissioner’s Province, “ and for “thereunder” substitute “or order thereunder, or of the Indian Independence Act, 1947, or of any order thereunder”.
216. *Omit* sub-section (2).
217. For “His Majesty” substitute “the Governor-General”.
218. *Omit* “in British India” and for “outside British India” substitute “outside India.”
219. For “British India” substitute “India.” In sub-section (1) for the words from “Lahore” to “and in sind” substitute “Patna and Nagpur, the High Court of East Punjab, the Chief Court in Oudh,” for “His Majesty in Council” substitute “an Act of the appropriate Legislature,” and in the proviso for the words from “has been made” to “then, as from” substitute “is made by His Majesty by Letters Patent for the establishment of a High Court to replace any court or courts mentioned in this subsection, then, as from”.

Add the following sub-section:-

“(3) In this chapter ‘India’ means the territories comprised in the Governors’ Provinces and Chief commissioners’ Provinces, and does not include any Acceding State”.

220. In sub-section (1), for “as His Majesty may” substitute “as the Governor-General may” and for “His Majesty in Council may fix” substitute “the Governor-General may by order fix”.

In sub-section (2), for “His Majesty may by warrant under the Royal Sign Manual” substitute “the Governor-General.” In paragraph (b) of the proviso omit “by His Majesty” where those words occur for the second” time, and in paragraph (c) omit “by His Majesty”.

In sub-section (3), omit the proviso, and after “shall be included” insert “and in computing the period” during which a person has served as a judge of a High Court, or been a pleader of a High Court, or held judicial office in India, any period before the establishment the Dominion during which the person has served as a judge or been a pleader of a High Court in British India or has held judicial office in India, as the case may be, shall be included”.



221. For “His Majesty in council” substitute “order of the Governor-General”.
222. In sub-section (1), for “appointed by His Majesty” substitute “permanently appointed” and for “for the purpose” substitute “ as acting chief justice”.
- In sub-section (2), for “appointed by His Majesty” substitute “permanently appointed.”
223. After “any other Act” insert “to the provisions of any order made under the Indian Independence Act, 1947,” and for “commencement of Part III of this Act” substitute “establishment of the Dominion”.
228. *Omit* sub-section (2).
230. In sub-section (1), for “His Majesty in Council” substitute “The Governor-General,” for “extend” substitute “by order extend”, and for “British India” substitute “India”.
- In sub-section (2), for “commencement of Part III of this Act” substitute “establishment of the dominion”.
231. In sub-section (2), *omit* “and expenses”.
- 232-239. *Omit*.
240. In sub-section (2), after “aforesaid” insert -
- “who having been appointed by the Secretary of State or the Secretary of State in council continues after the establishment of the dominion to serve under the Crown in India shall be dismissed from the service of His Majesty by any authority subordinate to the Governor-General or the Governor according as that person is serving in connection with the affairs of the Dominion or of a Province, and no other such person as aforesaid”.
241. In sub-section (1), *omit* “after the commencement of Part III of this Act”.  
In sub-section (2) to (5), *omit* “in India”.
- In sub-section 3), in paragraph (a), for “some person empowered by the Secretary of States to give directions in that respect” substitute “the Governor-General or the Governor as the case may be,” and in paragraph (b), for “Secretary of State or by some person empowered by the Secretary of State to give directions in that respect” substitute “Governor-General or the Governor as the case may be”.
242. *Omit* sub-sections (1) and (2).
- In sub-section (3), after “to posts in the” insert “railway”.
- 244-246. *Omit*.

247. For this section, substitute -

“27, *conditions of service of persons originally recruited by Secretary of State.* –The conditions of service of all persons who, having been appointed by the Secretary of State or the Secretary of State in Council to a civil service of the Crown in India, continue on and after the date of the establishment of the Dominion to serve under the Government of the dominion or of any Province, shall –

(a) as respects persons serving in connection with the affairs of the Dominion, be such as may be prescribed by rules made by the Governor –General;

(b) as respects persons serving in connection with the affairs of a Province –

(i) in regard to their pay, leave, pensions, general rights such as medical attendance and any other matter which immediately before the establishment of the dominion was regulated by rules made by the Secretary of State, be such as may be prescribed by rules made by the Governor-General; and

(ii) in regard to any other matter, be such as may be prescribed by rules made by the Governor of the province.”

248-252. *Omit.*

253. In sub-section (1), for “orders in council” substitute “orders of the Governor-General “and for “His Majesty” substitute Governor-General”.

In sub-section (2), after “meaning of this Act’ insert “as originally enacted”.

*Omit* sub-section (3).

257-259. *Omit.*

260. For the words from “commencement of Part III” to the end of the sub-section substitute “establishment of the Dominion shall, if it would have been payable by the Government of any Province if the Indian Independence Act, 1947, had been passed, be paid out of the revenues of that Province, or, if that Province has ceased to exist, of such new Province as may be determined by orders made under that Act, and in any other case shall be paid out of the revenues of the Dominion of India or of Pakistan as may be so determined”.

261. *Omit.*

262. *Omit* sub-sections (3) and (5).

In paragraph (a) of the proviso to sub-section (4), for “is in the permanent service of the Crown in India” substitute “ was in the permanent service of the Crown in India (within the meaning of this Act as originally enacted)”.

265. In sub-section (1) *omit* “in India”.
266. In sub-section (3) *omit* “The Secretary of State as respects services and posts to which appointments are made by him “and” other” before “services and posts”.
- In sub-section (4) for the words from “the various communities” to “in India” substitute “communities or in the case of the subordinate ranks of police-forces”.
267. *Omit* all words after “Governor”.
- 269-270. *Omit*.
271. In sub-section (2), for “Indian Code of Criminal Procedure” substitute “Code of Criminal, Procedure, 1898” and for “Indian Code of Civil Procedure” substitute “Code of Civil Procedure, 1908,” and *omit* “either chamber of”.

*Omit* sub-section (2).

In sub-section (3), for “Indian Code of Civil Procedure” substitute “Code of Civil Procedure, 1908”.

- 272-274. *Omit*.
275. *Omit* paragraph (e).
277. *Omit* sub-section (2) and (3).
- 278-289. *Omit*.
290. In sub-section (1) for “His Majesty may be Order in Council” substitute “the Governor-General may by Order,” and for the words from “before the draft” to “Chamber or Chambers of the Legislature” substitute “before making any such Order the Governor-General shall ascertain the views of the Government”.

For sub-section (2) substitute:-

“(2) An Order made under this sub-section may contain such provisions as the Governor General may deem necessary or proper –

- (a) for varying the representation in the Dominion Legislature of any Governor’s Province the boundaries of which are altered by the Order;
- (b) for varying the composition of the Legislature of any such province;

- (c) where a new Governor's Province is created for constituting the Legislature thereof;
  - (d) for apportionments and adjustments of and in respect of assets and liabilities; and
  - (e) for other supplemental, incidental and consequential matters."
291. For "His Majesty in Council may from time to time make provision" substitute "in relation to any Provincial Legislature, provision may be made by Act of that Legislature".
- 292-294. *Omit.*
295. *Omit* sub-section (1).
296. In sub-section (i) for "British India" substitute "a Governor's or Chief Commissioner's Province".
298. In sub-section (1) *omit* "British".
- Omit* sub-section (3)
299. In sub-section (1) *omit* "in British India".
- In sub-section (3) *omit* "either Chamber of".
300. *Omit.*
302. *Omit.*
302. In sub-section (1) for "Bengali" substitute "West Bengal".
- 305 A. *Omit.*
306. In sub-section (1) for "against the Governor of a Province, or against the Secretary of State" substitute "or against the Governor of a Province," for "His Majesty in Council" substitute "the Governor-General," after "has been the Governor-General" insert "His Majesty's Representative for the exercise of the functions of the crown in its relations with Indian States," and in the proviso for "a Province or the Secretary of State" substitute "or a Province".
- Omit* sub-section (2).
- 307.-310.*Omit.*
311. *Omit* sub-section (1), (3), (4) and (5).
- In sub-section (2) –

in the definition of “corresponding Province for “His Majesty in Council “substitute “the Governor-General”;

in the definition of “existing law,” for “commencement of Part III of this Act” substitute “establishment of the Dominion,” and after “territories” insert “which were”;

in the definition of “pension” *omit* “in India, Burma or Aden”; in the definition of “Indian State Railway” *omit* “the Federal Railway Authority.

In sub-section (6) for “Federal” substitute “Dominion,” and *omit* “or a Governor-General’s Act” and “or a Governor’s Act”.

312-320. *Omit.*

19. In sub-section (2), for “Governor-General” substitute “President of the Dominion Legislature.”

22. To sub-section (4), add the following:-

“Any reference in this Act to the President of the Dominion Legislature shall, except in sections 19 and 38, be construed as including a reference to any other person elected by the Constituent Assembly to preside over that Assembly when it functions as the Dominion Legislature under this Act”.

49. In sub-section (1), for “Federal” substitute “Dominion Legislature”.

107. In the proviso to sub-section (2), omit “either Chamber of”.

137. In the proviso, for “Federal purposes” substitute “Dominion purposes”.

141. In sub-section (1), omit “either Chamber of”.

150. In sub-section (2), for “Federal” substitute “Dominion Legislature”.

166. In sub-section (1), for “His Majesty” substitute “the Governor-General”.

176. In sub-section (1), for “Federal” substitute “Dominion Legislature”.

178. In sub-section (3), for “Federal” substitute “Dominion Legislature”.

220. In clause (c) of sub-section (3) *omit* “British”.

225. For “Federal” substitute “Dominion”.

226. In sub-section (2), for “in a Chamber of the Federal or a Provincial Legislature” substitute “in the Dominion Legislature in a Chamber of a Provincial Legislature”.

242. In sub-section (4), for “said section” substitute “last preceding section”.
296. In sub-section (1), for “Federal or” substitute “Dominion Legislature or of”.
299. In sub-section (2), for “Federal” substitute “Dominion Legislature”.
304. *Omit* “by His Majesty”.
311. In sub-section (2), in the definition of “estate duty” for “Federal” substitute “Dominion”.

First Schedule, *Omit*.

Second Schedule, *Omit*.

Third Schedule:

In paragraph 1 omit all entries after the entry relating to the Governor-General, and insert:-

“The Governor of Province 66,000 rupees. Provided that the annual salary payable to any person annual salary payable to any person who having been the Governor of a Province immediately before the 15<sup>th</sup> day of August, 1947, continues to be the Governor of that Province, shall be the same as before that date”.

In paragraph 2 for “fixed by His Majesty in Council” substitute “fixed, as respects the Governor-General by Act of the Dominion Legislature, and as respects Governor by order of the Governor-General”, and for “determined by His Majesty in Council” substitute “so determined”.

In paragraph 3 for “His Majesty in Council” substitute “such an Act, or, as the case may be, an order, as aforesaid”.

In paragraph 4 for “Order in Council” substitute “such an Act, or, as the case may be, an order, as aforesaid”.

In paragraph 5 for “appointed”, by “His Majesty” substitute “appointed”, and for “His Majesty in Council” substitute “such an Act, or as the case may be, an order, as aforesaid”.

After paragraph 6 insert:-

“7. Until other provision is made by Act of the Dominion Legislature, the Governor-General shall be entitled to the same allowances and privileges as he was entitled to immediately before the date of the establishment of the Dominion under the rules and orders then in force.”

**India (Consequential Provision) Act, 1949**  
(12, 13 & 14 GEO.6, Ch.92) [16-12-1949]

*An Act to make provision as to the operation of the law in relation to India, and persons and things in any way belonging to or connected with India, in view of India's becoming a Republic while remaining a member of the Commonwealth.*

Whereas on the twenty-sixth day of January, nineteen hundred and fifty, India is to become a Republic while remaining a member of the Commonwealth:

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

(1). *Operation of existing law in relation to India in view of India's becoming a Republic.* – (1) On and after the date of India's becoming a Republic, all existing law, that is to say, all law which, whether being a rule of law or a provision of an Act of Parliament or any other enactment or instrument whatsoever, is in force on that date or has been passed or made before that date and comes into force thereafter, shall, until provision to the contrary is made by the authority having power to alter that law and subject to the provisions of sub-section (3) of this section, have the same operation in relation to India, and to persons and things in any way belonging to or connected with India, as it would have had if India had not become a Republic.

(2) This Act extends to law of, or any part of, the United Kingdom, a colony, a protectorate or a United Kingdom trust territory, and also, but so far only as concerns law which cannot be amended by a law of the legislature thereof, to law of Southern Rhodesia or of any part thereof.

The references in this sub-section to a colony, to a protectorate and to United Kingdom trust territory shall be construed as if they were references contained in the British Nationality Act, 1948 (11 & 12 Geo. 6,c.56).

(3) His majesty may by Order in Council make provision for such modification of any existing law to which this Act extends as may appear to him to be necessary or expedient in view of India's becoming a Republic while remaining a member of the Commonwealth, and sub-section (1) of this section shall have effect in relation to any such law as modified by such an Order save in so far as the contrary intention appears in the Order.

An Order in Council under this section –

(a) may be made either before or after India becomes a Republic, and may be revoked or varied by a subsequent Order in Council; and

(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Any increase attributable to an Order in Council under this section in sums payable out of moneys provided by Parliament or out of the Consolidated Fund of the United Kingdom or the growing produce thereof shall be defrayed out of moneys so provided or out of that fund or the growing produce thereof as the case may be.

2. Short title. – This Act may be cited as the India (Consequential Provision) Act, 1949.



