



The Orissa Gazette

PUBLISHED BY AUTHORITY.

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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

Regulations, Orders, Notifications and Rules, of the Government of India, of the Government of Bihar, and of the High Court. Papers extracted from the *Gazette of India* and Provincial Gazettes. Orders of Commandants of Volunteers Corps.

PUBLISHED UNDER THE AUTHORITY
OF THE HIGH COURT OF JUDICATURE
AT PATNA.

NOTIFICATION.

The 15th April 1940.

No. 16-0.—It is hereby notified for general information that the amendment of rule 1 of Order XXI of the first schedule to the Code of Civil Procedure, 1908, published with notification no. 17-R., dated the 2:th July 1938, in Part IV of the *Orissa Gazette*, dated the 5th August 1938, as amended by notification no. 28-R., dated the 20th October 1938, in Part IV of the *Orissa Gazette*, dated the 28th October 1938, shall have force and effect from the 1st May 1940.

By order of the High Court,

S. K. DAS,

Registrar

HOME DEPARTMENT.

NOTIFICATIONS.

The 21st April 1940.

No. 2939-A.—The following notification of the Government of Madras in the Public (Elections) Department is republished for general information.

By order of the Governor,
P. T. MANSFIELD,

Chief Secretary to Government.

As His Excellency the Governor General has issued a notification calling upon the Madras Landholders constituency of the (Indian) Legislative Assembly to elect a member on or before the 7th June 1940, the Government of Madras are pleased, under rule 11(2) of the Legislative Assembly Electoral Rules, to appoint the following dates for the election:—

Nomination of candidates.	Not later than the 3rd May 1940 (Friday).
Scrutiny of Nominations.	7th May 1940 (Tuesday).
Poll	... 3rd June 1940 (Monday).

The 21st April 1940.

No. 2940-A.—The following notification, issued by the Government of India in the Legislative Department is republished for general information.

By order of the Governor,

P. T. MANSFIELD,

Chief Secretary to Government.

The 20th April 1940.

No. E.-165—III/40-C. & G.—A vacancy having occurred in the Legislative Assembly by reason of the death of Raja Sir Vasudeva Raja, C. I. F., a member elected to the said Assembly by the Madras Landholders constituency, the Governor General is pleased, in pursuance of the provisions of sub-rule (1) of rule 26 of the Legislative Assembly Electoral Rules, to call upon the Madras Landholders constituency to elect, in accordance with the said Rules, a person for the purpose of filling the said vacancy on or before the 7th June 1940.

The 23rd April 1940.

No. 2958-A.—The following notification, issued by the Government of India in the Home Department, is republished for general information.

By order of the Governor,

P. T. MANSFIELD,

Chief Secretary to Government.

POLITICAL (W.)

The 4th April 1940.

No. 34/42/40.—In exercise of the powers conferred by section 3 of the Foreigners Act, 1940 (II of 1940), the Central Government is pleased to direct that the following further amendment shall be made in the Enemy Foreigners Order, 1939, namely:—

After paragraph 12 of the said Order the following paragraph shall be inserted, namely:—

"Procedure for the production of internees in courts.

12A. (1) No internee shall be removed from an internment camp for the purpose of appearing in any civil court, or, unless his attendance is required for the purpose of answering a charge of an offence, in any criminal court.

(2) If, in any court the attendance of an internee is required for the purpose of answering a charge of an offence, the provisions of sections 37, 38, 40 and 41 of the Prisoners Act, 1900 (III of 1900), shall apply as if references in the said

sections to a prison, the officer in charge of a prison and the Provincial Government were references to an internment camp, the Commandant of an internment camp and the Central Government, respectively.

(3) If, in any case the evidence of an internee is required for the purpose of any proceeding in any civil court, the provisions of sections 44, 45 and 46 of the Prisoners Act, 1900 (III of 1900), shall apply as if references in the said sections to a prison and the officer in charge of a prison were references to an internment camp and the Commandant of an internment camp respectively, and as if in section 44 the words and figures "who, for any of the causes mentioned in section 42 or section 43 cannot be removed" in clause (a), and clauses (b) and (c) were omitted.

(4) If, in any case the evidence of an internee is required in connection with any proceeding in a criminal court, it may be obtained by the issue of a commission in accordance with the provisions of Chapter XL of the Code of Criminal Procedure, 1898 (Act V of 1898).

(5) The provisions of sections 47 to 51 of the Prisoners Act, 1900 (III of 1900), shall apply as if references in the said sections to a prison, the officer in charge of a prison and the Provincial Government were references to an internment camp, the Commandant of an internment camp and the Central Government, respectively:

Provided that unless and until the Central Government makes rules of the nature described in the said section 51, the rules in force in the Province of Bombay shall *mutatis mutandis* be applicable."

H. J. FRAMPTON,

Deputy Secy. to the Govt. of India.

The 23rd April 1940.

No. 2959-A.—The following notification, issued by the Government of India in the Department of Commerce, is republished for general information.

By order of the Governor,

P. T. MANSFIELD,

Chief Secretary to Government.

TREATIES (WAR)

The 6th April 1940.

No. 72 (2)-Tr. (W.)/39.—In exercise of the powers conferred by sub-rule (1) of rule 114 of the Defence of India Rules, the central Government is pleased to direct that the following further amendment shall

be made in the Enemy Property (Custody and Registration) Order, 1939, namely:—

After paragraph 10 of the said Order, the following paragraph shall be added, namely:—

“ 11. *Fees for Custody.*—(1) There shall be retained by the Custodian fees equal to two per centum of—

(a) the amount of monies paid to him, and

(b) the value at the date of vesting of any property which is vested in him or of which the right of transfer is vested in him.

(2) The value of any property for the purpose of assessing the fees shall be the price which, in the opinion of the Central Government or of an authority empowered in this behalf by the Central Government, such property would fetch if sold in the open market.

(3) The fees in respect of any property may be retained out of any proceeds of the sale or transfer thereof, or out of any income accrued therefrom, or out of any other property belonging to the same enemy and vesting in the Custodian.”

A. H. LLOYD,

Secy. to the Govt. of India.

The 20th April 1940.

No. 2370-C.—The following notifications by the Government of United Provinces are republished for general information.

By order of the Governor,

P. T. MANSFIELD,

Chief Secretary to Government.

POLICE DEPARTMENT.

MISCELLANEOUS.

Lucknow, March 28, 1940.

No. 296-P/VIII—1113-40.—In exercise of the powers conferred by section 99-A of the Code of Criminal Procedure, 1898 (Act V of 1898), the Governor hereby declares to be forfeited to His Majesty every copy of a pamphlet in Hindi entitled “Rashtriya Alha Yami Bhagat Singh ki Larai (Pahila Bhag)” by Surya Prasad Misra, published by Ram Narain Tripathi Khalaganva, Derapur, Cawnpore, and printed by Pandi Radha Mohan Bajpai, at the Prahma Press, Cawnpore, and all other documents containing copies, reprints or translations of, or extracts from the said publication, on the ground that the said pamphlet contains matter the publication of which is punishable under section 124-A of the Indian Penal Code.

Lucknow, March 28, 1940.

No. 292-P./VIII—1112-40.—In exercise of the powers conferred by section 93-A of the Code of Criminal Procedure, 1898 (Act V of 1898), the Governor hereby declares to be forfeited to His Majesty every copy of a pamphlet in Hindi entitled “Krantikari andolan aur rashtriya vikas” by Manmath Nath Gupta, published by the Left Wing Publishing House, Lucknow, and printed by Thakur Lal Bahadur Singh Bhadauria at the Kshatriya Yuwak Press, Charbagh, Lucknow, and all other documents containing copies, reprints or translations of, or extracts from, the said publication, on the ground that the said pamphlet contains matter the publication of which is punishable under section 124-A of the Indian Penal Code.

By order of His Excellency the Governor,

D. S. BARRON,

For Chief Secy. to Govt., United Provinces.

The 23rd April 1940.

No. 2421-C.—The following notification by the Government of India is republished for general information.

By order of the Governor,

P. T. MANSFIELD,

Chief Secretary to Government

HOME DEPARTMENT.

POLITICAL (W.)

The 4th April 1940.

No. 34/42/40.—In exercise of the powers conferred by section 3 of the Foreigners Act, 1940 (II of 1940), the Central Government is pleased to direct that the following further amendment shall be made on the Enemy Foreigners Order, 1939, namely:—

After paragraph 12 of the said Order, the following paragraph shall be inserted, namely:—

“Procedure for the production of internees in courts.

12A. (1) No internee shall be removed from an internment camp for the purpose of appearing in any civil court, or, unless his attendance is required for the purpose of answering a charge of an offence, in any criminal court.

(2) If, in any court the attendance of an internee is required for the purpose of answering a charge of an offence, the provisions of sections 37, 38, 40 and 41 of the Prisoners Act, 1900 (III of 1900) shall apply as if references in the said sections to a prison, the officer in charge of a prison

and the Provincial Government were references to an internment camp, the Commandant of an internment camp and the Central Government, respectively.

(3) If, in any case the evidence of an internee is required for the purpose of any proceedings in any civil court, the provisions of sections 44, 45 and 46 of the Prisoners Act, 1900 (III of 1900), shall apply as if references in the said sections to a prison and the officer in charge of a prison were references to an internment camp and the Commandant of an internment camp respectively, and as if in section 44 the words and figures "who, for any of the causes mentioned in section 42 or section 43 cannot be removed" in clause (a), and clauses (b) and (c) were omitted.

(4) If, in any case the evidence of an internee is required in connection with any proceeding in a criminal court, it may be obtained by the issue of a commission in accordance with the provisions of Chapter XL of the Code of Criminal Procedure, 1898 (Act V of 1898).

(5) The provisions of sections 47 to 51 of the Prisoners Act, 1900 (III of 1900), shall apply as if references in the said sections to a prison, the officer in charge of a prison and the Provincial Government were references to an internment camp, the Commandant of an internment camp and the Central Government, respectively:

Provided that unless and until the Central Government makes rules of the nature described in the said section 51, the rules in force in the Province of Bombay shall *mutatis mutandis* be applicable."

H. J. FRAMPTON,

Dy. Secy. to the Govt. of India.

The 23rd April 1940.

No. 2422-C.—The following notification by the Government of India is republished for general information.

By order of the Governor,

P. T. MANSFIELD,

Chief Secretary to Government.

DEPARTMENT OF COMMERCE.

TREATIES (WAR).

The 6th April 1940.

No. 72(2)-Tr. (W)/39—In exercise of the powers conferred by sub-rule (1) of rule 114 of the Defence of India Rules, the Central Government is pleased to direct that the following further amendment shall be made

in the Enemy Property (Custody and Registration) Order, 1939, namely:—

After paragraph 10 of the said Order, the following paragraph shall be added, namely:—

"11. Fees for Custody—(1) There shall be retained by the Custodian fees equal to two per centum of—

(a) the amount of monies paid to him, and

(b) the value at the date of vesting of any property which is vested in him or of which the right of transfer is vested in him.

(2) The value of any property for the purpose of assessing the fees shall be the price which, in the opinion of the Central Government or of an authority empowered in this behalf by the Central Government, such property would fetch if sold in the open market.

(3) The fees in respect of any property may be retained out of any proceeds of the sale or transfer thereof, or out of any income accrued therefrom, or out of any other property belonging to the same enemy and vesting in the Custodian."

A. H. LLOYD,

Secy. to the Govt. of India.

LAW DEPARTMENT.

NOTIFICATION.

The 22nd April 1940.

No. 2817—IIA-12/40-L.—The following notification, issued by the Government of India in the Legislative Department, is republished for general information.

By order of the Governor,

W. W. DALZIEL,

Secretary to Government.

New Delhi, the 22nd February 1940.

No. 4-II/40-P.—The following Statute is republished for general information:—

The India and Burma (Miscellaneous Amendments) Act, 1940.

(3 & 4 GEO. 6 CH. 5)

INDIA AND BURMA (MISCELLANEOUS AMENDMENTS) ACT, 1940.

(3 & 4 GEO. 6 CH. 5)

ARRANGEMENT OF SECTIONS.

Provisions applicable only to India.

Section.

1. Amendment of the provisions as to taxes on income and corporation tax.

2. Taxes on professions, trades, callings and employments.
3. Amendments as to certain items in Legislative Lists
4. Amendments of s. 88, 89 and 90.
5. Power to appoint acting puisne judges of the Federal Court.
6. Amendment of s. 219 (1).
7. Amendment of Legislative Lists with respect to universities.
8. Amendment of definition of "Indian State".
9. Amendment of s. 262.
10. Provisions as to family pension funds.
11. Confirmation of appointments to India Office staff and staff of Auditor of Indian Home Accounts.
12. Provisions as to pensions of home civil servants appointed to offices in India.

Provisions applicable only to Burma.

13. Eligibility for office under the Crown in Burma of persons who are not British subjects.
14. Provisions as to pensions of home civil servants appointed to offices in Burma.
15. Amendment of s. 134 of Government of Burma Act, 1935.
16. Application of Naval Discipline Act to Burma naval forces.

General.

17. Supplemental.
18. Short title.

SCHEDULE.

CHAPTER 5.

An Act to amend the Government of India Act, 1935, and the Government of Burma Act, 1935, in certain respects, and to make a consequential amendment in the Naval Discipline Act; and for purposes connected with the matters aforesaid.

[31st January 1940.]

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:—

Provisions applicable only to India.

- 1.—(1) In sub-section (2) of section three hundred and eleven of the Government of India Act, 1935 (hereafter in this Act referred to as "the

Amendment of the provisions as to taxes on income and corporation tax.

26 Geo. 5 & 1 Edw. 8. c. 2.

principal Act") for the definition of "corporation tax" there shall be substituted the following definition:—

" 'corporation tax' means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the following conditions are fulfilled:—

- (a) that it is not chargeable in respect of agricultural income;
- (b) that no deduction in respect of the tax paid by companies is, by any enactments which may apply to the tax, authorised to be made from dividends payable by the companies to individuals;
- (c) that no provision exists for taking the tax so paid into account in computing for the purposes of Indian income-tax the total income of individuals receiving such dividends, or in computing the Indian Income tax payable by, or refundable to, such individuals;"

and after the definition of "taxation," there shall be inserted the following definition:—

" 'tax on income' includes a tax in the nature of an excess profits tax;"

(2) At the end of subsection (1) of section one hundred and thirty-eight of the principal Act (which provides for the distribution to Provinces and Federated States of the proceeds of Federal taxes on income after deducting proceeds attributable to Chief Commissioners' Provinces or to taxes payable in respect of Federal emoluments) there shall be inserted the following paragraph:—

" For the purposes of this subsection, in each financial year one per cent., or such other percentage as may be prescribed, of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Federal emoluments shall be deemed to represent proceeds attributable to Chief Commissioners' Provinces."

(3) In subsection (2) of the said section one hundred and thirty-eight (which relates to the retention by the Federation of moneys assigned by that section to Provinces and States), after the words "such sum as may be prescribed" there shall be inserted the words "or, if it is so prescribed, the whole of those moneys".

2.—(1) After section one hundred and forty-two of the principal Act there shall be inserted the following section:—

" 142A.—(1) Notwithstanding anything in section one hundred of this Act, no

Taxes on professions, trades, callings and employments.

Provincial law relating to taxes for the benefit of a Province or of a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.

(2) The total amount payable in respect of any one person to the Province or to any one municipality, district board, local board, or other local authority in the Province by way of taxes on professions, trades, callings and employments shall not, after the thirty-first day of March nineteen hundred and thirty-nine, exceed fifty rupees per annum :

Provided that, if in the financial year ending with that date there was in force in the case of any Province or any such municipality, board or authority a tax on professions, trades, callings or employments the rate, or the maximum rate, of which exceeded fifty rupees per annum, the preceding provisions of this sub-section shall, unless for the time being provision to the contrary is made by a law of the Federal Legislature, have effect in relation to that Province, municipality, board or authority as if for the reference to fifty rupees per annum there were substituted a reference to that rate or maximum rate, or such lower rate, if any, (being a rate greater than fifty rupees per annum) as may for the time being be fixed by a law of the Federal Legislature; and any law of the Federal Legislature made for any of the purposes of this proviso may be made either generally or in relation to any specified Provinces, municipalities, boards or authorities.

(3) The fact that the Provincial Legislature has power to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting, in relation to professions, trades, callings and employments, the generality of the entry in the Federal Legislative List relating to taxes on income."

(2) After paragraph 54 of the Federal Legislative List there shall be inserted the following paragraph :—

"54A. The matters specified in the proviso to sub-section (2) of section one hundred and forty-two A of this Act as matters with respect to which provision may be made by laws of the Federal Legislature."

(3) For paragraph 46 of the Provincial Legislative List there shall be substituted the following paragraph :—

"46. Taxes on professions, trades, callings and employments, subject, however, to the provisions of section one hundred and forty two A of this Act."

3.—(1) In paragraph 2 of the Federal Legislative List after the words "local self-government in cantonment areas (not being cantonment areas of Indian State troops)" there shall be inserted the words "the constitution and powers within such areas of cantonment authorities".

(2) After paragraph 48 of the Provincial Legislative List there shall be inserted the following paragraphs :—

"48A. Taxes on vehicles suitable for use on roads, whether mechanically propelled or not, including tramcars.

48B. Taxes on the consumption or sale of electricity, subject, however, to the provisions of section one hundred and fifty-four A of this Act."

(3) After section one hundred and fifty-four of the principal Act there shall be inserted the following section—

154A. Save in so far as any Federal law may otherwise provide, no Provincial law or law of a Federated State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity (whether produced by a Government or other persons) which is—

(a) consumed by the Federal Government, or sold to the Federal Government for consumption by that Government; or

(b) consumed in the construction, maintenance or operation of a Federal Railway by the Federal Railway Authority or a railway company operating that Railway, or sold to that Authority or any such railway company for consumption in the construction, maintenance or operation of a Federal Railway;

and any such law imposing, or authorising the imposition of, a tax on the sale of electricity shall secure that the price of electricity sold to the Federal Government for consumption by that Government, or to the Federal Railway Authority or any such railway company as aforesaid for consumption in the construction, maintenance or operation of a Federal Railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity."

4 -- (1) At the end of sub-section (3) of section eighty-eight of the principal Act there shall be inserted the following proviso :—

Amendments of sections 88, 89 and 90.
"Provided that, for the purposes of the provisions of this Act relating to the effect

of an Act of a Provincial Legislature which is repugnant to an Act of the Federal Legislature or an existing Indian Law with respect to a matter enumerated in the Concurrent Legislative List, an ordinance promulgated under this section in pursuance of instructions from the Governor-General, acting in his discretion, shall be deemed to be an Act of the Provincial Legislature which has been reserved for the consideration of the Governor-General and assented to by him."

(2) For the proviso to sub-section (1) of the said section eighty-eight there shall be substituted the following proviso:—

"Provided that the Governor—

(a) shall exercise his individual judgment as respects the promulgation of any ordinance under this section, if—

(i) a Bill containing the same provisions would under this Act have required his or the Governor-General's previous sanction to the introduction thereof into the Legislature; or

(ii) 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 or for the signification of His Majesty's pleasure, it had received the assent of the Governor-General or of His Majesty; and

(b) shall not without instructions from the Governor-General, acting in his discretion, promulgate any such ordinance if—

(i) a Bill containing the same provisions would under this Act have required the Governor-General's previous sanction for the introduction thereof into the Legislature; or

(ii) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the Governor-General; or

(iii) 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 or for the signification of His Majesty's pleasure, it had received the assent of the Governor-General or of His Majesty."

(3) In the proviso to sub-section (4) of section eighty-nine, and the proviso to

sub-section (3) of section ninety, of the principal Act, after the words "repugnant to an Act of the Federal Legislature" there shall be inserted the words "or an existing Indian Law with respect to a matter enumerated in the Concurrent Legislative List."

5. At the end of section two hundred and two of the principal Act there shall be inserted the following sub-section:—

"(2) If the office of any other judge of the Federal Court becomes vacant, or if any such judge is appointed to act temporarily as Chief Justice of India or is by reason of absence, or for any other reason, unable to perform the duties of his office, the Governor-General may in his discretion appoint a judge of a High Court who is duly qualified for appointment as a judge of the Federal Court to act temporarily as a judge of that court, and the person so appointed shall, unless the Governor-General in his discretion thinks fit to revoke his appointment, be deemed to be a judge of the Federal Court until some person appointed by His Majesty to the vacant office has entered on the duties thereof, or until the permanent judge has resumed his duties."

6. For the proviso to sub-section (1) of section two hundred and nineteen of the principal Act (which enumerates the Courts in British India which are to be deemed to be High Courts for the purpose of that Act) there shall be substituted the following proviso,—

"Provided that, if provision has been made, whether before or after the commencement of Part III of this Act—

(a) by His Majesty by Letters Patent for the establishment of a High Court to replace any Court or Courts mentioned in this sub-section; or

(b) by the appropriate Legislature in India for the establishment of a Chief Court to replace the Judicial Commissioner's Court in the North West Frontier Province, or the Judicial Commissioner's Court in Sind,

then, as from the establishment of the new court, this section shall have effect as if the new court were mentioned therein in lieu of the court or courts so replaced."

7.—(1) For paragraph 17 of the Provincial Legislative List there shall be substituted the following paragraph:—

"17. Education, including Universities other than those specified in paragraph 13 of List I."

(2) The Federal Legislature shall not by virtue of paragraph 33 of the Federal Legislative List (which relates to corporations and, in particular, to corporations, whether trading or not, with objects not confined to one unit), and the Provincial Legislature shall not by virtue of paragraph 33 of the Provincial Legislative List (which relates to other corporations) have power to make any law with respect to universities, and accordingly—

(a) at the end of the first of those paragraphs, there shall be added the words "but not including Universities"; and

(b) in the second of those paragraphs, for the words "other than corporations specified in List I" there shall be substituted the words "not being corporations specified in List I or Universities".

(3) This section shall come into operation on the first day of April nineteen hundred and forty.

8. In sub-section (1) of section three hundred and eleven of the principal Act for the definition of "Indian State" there shall be substituted the following definition:—

"'Indian State' means any territory, not being part of British India, which His Majesty recognises as being such a State, whether described as a State, an Estate, a Jagir or otherwise;"

9. As from the first day of April nineteen hundred and forty the following amendments shall be made in section two hundred and sixty-two of the principal Act (which relates to the eligibility for office of persons who are not British subjects):—

(a) in sub-sections (1) and (2), for the words "any subject of a specified Indian State" there shall, in both places, be substituted the words "the subjects, or any named subject, of a specified Indian State"; for the words "any native of a specified tribal area or territory adjacent to India" there shall, in both places, be substituted the words "the natives, or any named native, of a specified tribal area or territory adjacent to India", and the words "being an office specified in the declaration" shall, in both places, be omitted;

(b) in sub-section (4), after the words "Provided that" there shall be inserted the following paragraph:—

"(a) a person who at the end of March nineteen hundred and

forty is in the permanent service of the Crown in India shall not be ineligible to hold any office under the Crown in India by reason that he is not a British subject; and

(b)".

10.—(1) In sub-section (2) of section two hundred and seventy-three of the principal Act (which relates to family pension funds) —

(7) for the words "the balance in the hands of the Governor-General on the thirty-first day of March next following the passing of this Act" there shall be substituted the words "the balance in the hands of the Secretary of State in Council on the thirty-first day of March nineteen hundred and thirty-seven";

(b) for the words "three years", in both places where those words occur, there shall be substituted the words "two years";

and in sub-section () of the said section for the words "the Governor-General" there shall be substituted the words "the Secretary of State in Council".

(2) The Government of India (Family Pension Funds) Order, 1936, shall have effect and be deemed always to have had effect as if, in paragraphs ten, sixteen, twenty-two and twenty-five thereof, for the words "nineteen hundred and thirty-six" there were substituted the words "nineteen hundred and thirty-seven".

11. After section two hundred and eighty-four of the principal Act there shall be inserted the following section:—

"281A.—(1) Any appointments which the Secretary of State in Council has purported to make to his permanent establishment before the commencement of Part III of this Act, and any increases which he has purported to make in the salaries of persons on that establishment, shall for all purposes be deemed to have been validly made notwithstanding that the making thereof was not sanctioned by an Order of His Majesty in Council as provided by section seventeen of the Government of India Act.

(2) Any appointments which the Auditor of the accounts of the Secretary of State in Council has purported to make to his staff before the commencement of the said Part III shall be deemed to have been validly made notwithstanding that the

making thereof was not authorised by such a warrant of His Majesty as is mentioned in section twenty-seven of the Government of India Act, and all salaries paid to any person on the said Auditor's staff shall be deemed to have been duly paid notwithstanding that they were not so authorised."

Provisions as to pensions of home civil servants appointed to offices in India.

12. After section three hundred and five of the principal Act, there shall be inserted the following section:—

“305A.—(1) Where a civil servant, as defined by section twelve of the Superannuation Act, 1887, is appointed by His Majesty or by the Governor-General in his discretion to any office under the Crown in India, the Secretary of State may direct that his service in that office shall qualify for the grant of a pension or gratuity as if it were service rendered in the office held by him as a civil servant immediately before his appointment to service in India, and there shall be paid to, or in respect of, him out of the revenues of the Federation, and shall be charged on those revenues, in respect of his service in that office in India a pension or gratuity calculated in accordance with the Superannuation Acts, 1884 to 1935, and the orders, rules and regulations made thereunder, but on the basis of the salary of the office last held by him as a civil servant before his appointment to service in India :

Provided that nothing in the said Acts, orders, rules or regulations shall operate to prevent the grant of a pension to him with effect from the date on which he may relinquish office in India, notwithstanding that at that date he may not have attained the age of sixty.

(2) No such direction as aforesaid shall be given in relation to service in any office if the service of the person in question in that office would qualify for the grant of a pension without any such direction.

(3) This section shall apply to appointments made before the passing of this Act as well as to appointments made thereafter; and in relation to appointments made before the commencement of Part III of this Act, the reference to the Secretary of State shall be construed as a reference to the Secretary of State in Council.”

Provisions applicable only to Burma.

13. For section one hundred and twenty-three of the Government of Burma Act, 1935 (which relates to the eligibility for office under the Crown in Burma of persons who

are not British subjects) there shall be substituted the following section:—

“123. Subject to any express provision of this Act, no person who is not a British subject shall be eligible to hold any office under the Crown in Burma :

Provided that—

(a) a person who at the commencement of this Act is in the permanent service of the Crown in Burma shall not be ineligible to hold any office under the Crown in Burma by reason that he is not a British subject ;

(b) the Governor, exercising his individual judgment, may declare—

(i) that any named native of an area in Burma (not being part of British Burma), or of any Indian State, or of any territory adjacent to India or Burma, or

(ii) that the natives of any such area, State or territory as aforesaid, being an area, State or territory specified in the declaration,

shall be eligible to hold any such offices or classes of offices under the Crown in Burma as may be specified in the declaration ;

(c) the Governor, exercising his individual judgment, may authorise the temporary employment for any purpose of a person who is not a British subject.”

14. After section one hundred and fifty-one of the Government of Burma Act, 1935, there shall be inserted the following section:—

Provisions as to pensions of home civil servants appointed to offices in Burma.

“151A.—(1) Where a civil servant, as defined by section twelve of the Superannuation Act, 1887, is appointed by His Majesty or by the Governor in his discretion to any office under the Crown in Burma, the Secretary of State may direct that his service in that office shall qualify for the grant of a pension or gratuity as if it were service rendered in the office held by him as a civil servant immediately before his appointment to service in Burma, and there shall be paid to, or in respect of, him out of the revenues of Burma, and shall be charged on those revenues, in respect of his service in that office in Burma a pension or gratuity calculated in accordance with the Superannuation Acts, 1884 to 1935, and the orders, rules and regulations made thereunder, but on the basis of the salary

50 and 51
Vict. c. 67.

26 Geo. 5, &
Edw. 8, c.
3.

Eligibility for office under the Crown in Burma of persons who are not British subjects.

of the office last held by him as a civil servant before his appointment to service in Burma :

Provided that nothing in the said Acts, orders, rules or regulations shall operate to prevent the grant of a pension to him with effect from the date on which he may relinquish office in Burma, notwithstanding that at that date he may not have attained the age of sixty.

(2) No such direction as aforesaid shall be given in relation to service in any office if the service of the person in question in that office would qualify for the grant of a pension without any such direction."

15. In section one hundred and thirty-four of the Government of Burma Act, 1935 (which relates to the financial settlement as between India and Burma) for the words "the distribution of property and liabilities effected by this Act and the Government of India Act, 1935" there shall be substituted the words "the distribution of property, rights and liabilities effected by and under this Act and the Government of India Act, 1935."

16.—(1) After section thirty-three of the Government of Burma Act, 1935, the following section shall be inserted :—

"33A.—(1) Without prejudice to the provisions of this Act with respect to the legislative powers of the Legislature, provision may be made by Act of that Legislature for applying the Naval Discipline Act to any naval forces raised in Burma, and, so long as such provision for that purpose is made, the Naval Discipline Act as so applied shall have effect as if references therein to His Majesty's navy and His Majesty's ships included references to any naval forces raised or ships provided by the Governor, subject however—

(a) in the application of the said Act to the forces and ships raised and provided by the Governor and to the trial by court martial of officers and men belonging thereto, to such modifications and adaptations, if any, as may be made by the Act of the Legislature to adapt the said Act to the circumstances of Burma, including such adaptations as may be so made for the purpose of authorising or requiring anything which, under the said Act, is to be done by or to the

Admiralty or the Secretary of the Admiralty to be done by or to the Governor or some person authorised to act on his behalf ; and

(b) in the application of the said Act to the forces and ships of His Majesty's navy other than those raised and provided by the Governor, to such modifications and adaptations as may be made by His Majesty in Council for the purpose of regulating the relations of those forces and ships to the forces and ships raised and provided by the Governor.

(2) Notwithstanding anything in this Act or in any Act of the Legislature, where any forces and ships raised and provided by the Governor have been placed at the disposal of the Admiralty, the Naval Discipline Act shall apply without any such modifications and adaptations as aforesaid."

(2) In sub-section (1) of section ninety B of the Naval Discipline Act, after the words "or of India" wherever they occur there shall be inserted the words "or of Burma."

General.

17.—(1) The amendments made by this Act in the principal Act and the Government of Burma Act, 1935 (whether by way of substitution, addition or omission) shall, save where it is specifically provided that they shall come into operation on, or on some date subsequent to, the passing of this Act, be deemed to have been made in those Acts immediately before the passing thereof.

(2) A copy of each of the said Acts giving effect to—

(a) the amendments made by this Act and the Government of India Act (Amendment) Act, 1939 ; and 2 & 3 Ge.
c. 66.

(b) the amendments set out in the Schedule to this Act, being minor amendments previously made by Orders in Council in the Schedules to the said Acts,

shall be prepared and certified by the Clerk of the Parliaments, and deposited with the Rolls of Parliament, and His Majesty's printer shall print in accordance with the copy so certified all copies of the principal Act and the Government of Burma Act, 1935, which are printed after all the said amendments have come into operation.

18. This Act may be cited as the India and Burma (Miscellaneous Amendments) Act, 1940.

Short title.

SCHEDULE.

Section 17.

Amendments made in the Schedules to the Government of India Act, 1935, and the Government of Burma Act, 1935, by the Government of India (Federal Legislature Amendment) Order, 1936, the Government of India (Provincial Legislative Assemblies) Order, 1936, the Government of Burma (House of Representatives) Order, 1936, the Government of Burma (Senate Elections) Order, 1936, and the Government of Burma (Legislature) (Miscellaneous Provisions) Order, 1935.

PART I.

Amendments of Schedules to the Government of India Act, 1935.

Schedule I.

At the end of paragraph 12 of Part II of the First Schedule there shall be added the following sub-paragraph :—

“This paragraph shall have effect as if the State of Khaniadhana had been included in the Central India Agency on the first day of January nineteen hundred and thirty-five.”

In the fifth column in the Table of Seats appended to the said Part II the population of the States comprised in Division XVII, shall, instead of being stated as “3,02,197”, be stated as “3,047,129”, and the total population of the States in the Table shall, instead of being stated as “78,981,912”, be stated as “78,996,844”.

Schedule V.

In paragraph 12 of the Fifth Schedule for the words “shall not be qualified to hold a seat” there shall be substituted the words “shall not be qualified to be chosen to fill a seat”.

Schedule VI.

In paragraph 6 of Part I of the Sixth Schedule the words “or vote at any election to fill a general seat therein” shall be omitted.

At the end of paragraph 7 of the said Part I there shall be added the following provision :—

“If a person votes in more than one constituency in contravention of this paragraph, his votes in each of the constituencies shall be void.”

Sub-paragraph (7) of paragraph 13 of the said Part I shall be omitted.

In sub-paragraphs (f) and (h) of paragraph 9 of Part II of the said Schedule for the words “is registered” there shall be substituted the words “was on the last day of the previous fasli year registered”.

In sub paragraph (g) of the said paragraph 9 for the word “holds” there shall be substituted the words “held throughout the previous fasli year”.

In sub-paragraph (i) of the paragraph 9 for the words “is a landholder” there shall be substituted the words “was on the last day of the previous fasli year a registered landholder”.

In sub-paragraph (j) of the said paragraph 9 for the word “holds” there shall be substituted the words “held on the last day of the previous fasli year”.

After the said paragraph 9 there shall be inserted the following paragraph :—

“*Special qualification for Scheduled Castes.*”

9A. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, a person who is a member of the scheduled castes shall be qualified to be included in the electoral roll for any territorial constituency if throughout the previous fasli year he occupied as owner or lessee a house in a municipality, a cantonment or an area subject to the jurisdiction of a local board, with an annual rent value of not less than eighteen rupees, or a house elsewhere with an annual rent value of not less than twelve rupees.”

For paragraph 10 of the said Part II there shall be substituted the following paragraph :—

“10. No person shall, by virtue of sub-paragraph (e) of paragraph 2, sub-paragraph (e) or sub-paragraph (a) of paragraph 3, paragraph 5 or paragraph 6 of this Part of this Schedule, or by virtue of her husband being a retired, pensioned or discharged officer, non-commissioned officer or soldier, be included in the electoral roll for any territorial constituency, unless application is made in the prescribed manner by, or, if it is so prescribed, on behalf of, that person; that that person should be so included.”

At the end of paragraph 12 of the said Part II there shall be added the following sub-paragraph :—

“(3) References in this Part of this Schedule to, or to taxes payable in respect of, land or houses, relate exclusively to land or houses in the Province.”

At the end of paragraph 3 of Part V of the said Schedule there shall be inserted in the words “or, in the case of a member of the scheduled castes, if he is the owner or tenant of a house or building in the constituency the rental value whereof is not less than twelve rupees per annum.”

In paragraph 2 of Part VII of the said Schedule after the words “or is assessed, otherwise than in the Santal Parganas, to chakidari tax of an annual amount of not less than nine annas” there shall be inserted the words “or, in the case of a member of the scheduled castes, of an annual amount of not less than six annas”.

In sub-paragraph (1) of paragraph 10 of Part VIII of the said Schedule after the definition of “land revenue” there shall be inserted the following definition :—

“‘municipal tax’ means a tax imposed under the provision of the Central Provinces Municipalities Act, 1922, or of that Act as applied to Berar.”

Sub-paragraph (b) of paragraph 9 of Part IX of the said Schedule shall be omitted and at the end of that paragraph there shall be inserted the following paragraph :—

Special Provisions as to Shillong.

9A. In the case of any territorial constituency comprising any part of Shillong, any reference in this Part of this Schedule to ‘the constituency’ shall be construed as including a reference to so much of the areas under the jurisdiction of the Shillong Municipal Board and the Shillong Cantonment Authority as is not part of British India, and any reference to municipal or cantonment rates or taxes shall be construed as including a reference to any such rates or taxes assessed by, or paid to, that Board or that Authority in the exercise of any jurisdiction exercised by them in relation to areas outside British India.”

In the heading to paragraph 6 of Part XI of the said Schedule and in the said paragraph 6 the words “the sub-division of” shall be omitted.

In sub-paragraph (a) of the said paragraph 6 after the words “of not less than nine annas” there shall be inserted the words “or, in the case of a member of the scheduled castes, of not less than six annas”.

In the heading to paragraph 3 of the said Part XI for the words “and Vizagapatam and the Khondmals sub-division” there shall be substituted the words “Koraput and Khondmals”.

In the said paragraph 8—

(i) after sub-paragraph (a) there shall be inserted the following sub-paragraph :—

“(b) if he is a member of the scheduled castes and is a village servant, whether hereditary or not; or” and sub-paragraph (b) shall be re-lettered “(c)”.

(ii) for the words “and Vizagapatam or in the Khondmals sub-division” there shall be substituted the words “Koraput and Khondmals”; and

(iii) for the words “either of those districts or in that sub-division,” in both places where those words occur, there shall be substituted the words “in any of those districts”.

In sub-paragraph (b) of paragraph 3 of Part XII of the said Schedule after the words “cultivates as a Hari” there shall be inserted the words “or occupies as a tenant”.

PART II.

Amendments of the Government of Burma Act, 1935.

Schedule III.

For sub-paragraph (1) (i) of paragraph 12 of the Third Schedule there shall be substituted the following sub-paragraph :—

“(i) was, for the financial year preceding that in which the election is held, assessed to income tax in Burma, and had in the year in respect of the income, profits and gains of which the assessment was made a total income of not less than twelve thousand rupees; or”.

In sub-paragraph (2) of the said paragraph 12 after “(a)” the following words shall be inserted “‘total income’ means total income as computed for the purposes of the enactments relating to income-tax for the time being in force in Burma, and”.

At the end of the said paragraph 12 there shall be added the following subparagraphs:—

"(3) Nothing in any enactment relating to income tax shall prevent the appropriate income tax officer from disclosing to any person charged by law with the duty of enquiring into the qualifications of candidates for election to the Senate such information with respect to the total income of any such candidate as is necessary to enable him to discharge that duty.

(4) In this paragraph 'minister' means a minister under this Act or the Acts repealed by the Government of India Act, 1935".

Schedule IV.

In paragraph 3 of the Fourth Schedule the words "a subject of a prescribed Indian State, or, if it is so prescribed," shall be omitted.

COMMERCE AND LABOUR DEPARTMENT.

NOTIFICATIONS.

The 22nd April 1940.

No. 2820-Com.—The following notification issued by the Government of India, Department of Commerce, is republished for general information.

By order of the Governor,
W. W. DALZIEL,
Secretary to Government.

IMPORT AND EXPORT REGULATIONS.

New Delhi, the 9th March 1940.

No. 243 (11)-Tr. (I.E.R.)/89—In pursuance of section 13 of the Indian Rubber Control Act, 1934 (XXVIII of 1934), the Central Government is pleased to declare that the permissible maximum net exports of dry rubber from British India for the second quarter of 1940 shall be 3,550 tons.

N. R. PILLAI,
Joint Secy. to the Govt. of India.

The 23rd April 1940.

No. 2866-Com.—The following notification, issued by the Government of India, Department of Labour, is republished for general information.

By order of the Governor,
W. W. DALZIEL,
Secretary to Government.

New Delhi, the 28th March 1940.

No. M.-826.—The following draft of certain further amendments to the Petroleum Rules, 1937, which it is proposed to make

in exercise of the powers conferred by section 4 and sub-section (1) of section 29 of the Petroleum Act, 1934 (XXX of 1934), is published, as required by sub-section (2) of section 29 of the said Act, for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 1st June 1940.

Any objection or suggestion which may be received from any person in respect of the said draft before the date specified will be considered by the Central Government.

DRAFT AMENDMENTS.

In the said Rules—

1. In the proviso to rule 28, for the words "if it is" the words "alternatively in the case of" shall be substituted.

2. After rule 35 the following rules shall be inserted, namely:—

"35-A. Petroleum carried as cargo in unberthed passenger ships.—Dangerous petroleum shall not be transported as cargo by an unberthed passenger ship as defined in the Indian Merchant Shipping Act, 1923 (XXI of 1923):

Provided that the certifying officer referred to in section 157 of the Indian Merchant Shipping Act, 1923 (XXI of 1923), may, in cases where he is satisfied that no other means of transporting the petroleum are available, permit dangerous petroleum in quantity not exceeding 250 gallons to be transported otherwise than in bulk by an unberthed passenger ship other than a country craft subject to—

- (a) the condition that no more persons shall be carried in the ship than can with safety be accommodated in the ship's life-boats in case of accident;
- (b) such other conditions as the certifying officer may, after consultation with the Chief Inspector, impose:

Provided further that clause (a) of the foregoing proviso shall not apply in the case of unberthed passenger ships engaged on voyages between ports situated in British India, or between any port in British India and any port or place on the Continent of India or in the Island of Ceylon, in the course of which they do not go more than 20 miles from land."

"35-B. Transport by country craft.—No country craft shall carry dangerous petroleum if it is carrying passengers."

3. After rule 51 the following rule shall be inserted, namely:—

"51-A. Conditions of transport by unberthed passenger ships.—Dangerous petroleum may be transported otherwise than

in bulk by an unberthed passenger ship as defined in the Indian Merchant Shipping Act, 1923 (XXI of 1923), not being a country craft, in accordance with the provisions of rule 35-A and rules 53 to 61 inclusive.

4 In rule 62—

(i) the word "and" at the end of condition (b) shall be omitted;

(ii) after the words "in the case of a decked vessel" the following shall be inserted, namely:—

“; and

(d) no passengers shall be carried on board the craft.”

H. TUFNELL-BARRETT,
Deputy Secretary to the Government
of India.

The 23rd April 1940.

No. 2875—III-C-13/40-Com.—The following notification issued by the Government of India, Department of Commerce, is republished for general information.

By order of the Governor,

W. W. DALZIEL,
Secretary to Government.

IMPORT AND EXPORT REGULATIONS.

New Delhi, the 9th March 1940.

No. 202 (4)-Tr. (I.E.R.)/39.—In pursuance of section 13 of the Indian Tea Control Act, 1938 (VIII of 1938), the Central Government, after consulting the Indian Tea Licensing Committee, is pleased to declare that the Indian Export allotment of tea for the financial year 1940-41 shall be 364,080,770 pounds avoirdupois, being ninety-five per cent of India's standard export figure.

N. R. PILLAI,
Joint Secy. to the Govt. of India.

The 24th April 1940.

No. 2924—IJ-14/40-Com.—The following notification issued by the Government of India, Department of Commerce, is republished for general information.

By order of the Governor,

W. W. DALZIEL,
Secretary to Government.

REGISTRATION OF ACCOUNTANTS.

New Delhi, the 30th March 1940.

No. 4-A (3)/39.—In pursuance of clause (d) of rule 39 of the Auditor's Certificate Rules, 1932, it is hereby notified that the Central Government is pleased to remove from the List of Registered Accountants entitled to train articled clerks the name of Mr. Sachindra Nath Bandyopadhyay, M.A., B.COM., G.D.A., B.A., of Messrs. Banerjee, Roy Choudhury and Company, 10, Old Post Office Street, Calcutta.

N. R. PILLAI,
Joint Secy. to the Govt. of India.

The 24th April 1940.

No. 2926—IJ-3/40-Com.—The following notification issued by the Government of India, Department of Commerce, is republished for general information.

By order of the Governor,

W. W. DALZIEL,
Secretary to Government.

REGISTRATION OF ACCOUNTANTS.

New Delhi, the 2nd March 1940.

No. 12-A. (4)/39.—With reference to this Department's Notification No. 12-A. (1)/37, dated the 4th September 1937, it is hereby notified that in exercise of the powers conferred by rule 16 of the Auditor's Certificate Rules, 1932, the Central Government is pleased to restore to the Register of Accountants the name of the following gentleman, namely:—

549. Mr. Curpoor Varadachari
Jagannath, G.D.A.

N. R. PILLAI,
Joint Secy. to the Govt. of India.