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## 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

LAW DEPARTMENT  
NOTIFICATION

The 29th August 1944

No. 3276-L.—The following Ordinances, promulgated by the Governor-General, are hereby published for general information.

By order of the Governor  
C. G. NAIB

Secretary to Government

New Delhi, 19th August 1944

ORDINANCE No. XXXVII of 1944

AN

## ORDINANCE

to provide for the transfer from one corps, department, establishment, formation or appointment to another of civilian personnel employed under the War Department of the Central Government

WHEREAS an emergency has arisen which makes it necessary to provide for the transfer from one corps, department, establishment, formation or appointment to another of civilian personnel employed under the War Department of the Central Government ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement*—(1) This Ordinance may be called the Civilian Personnel (War Department) Transfer Ordinance, 1944.

(2) It extends to the whole of British India, and applies also to British subjects and servants of the Crown in any part of India, and to British subjects who are domiciled in any part of India wherever they may be.

(3) It shall come into force at once.

2. *Definitions*—In this Ordinance—

(a) "competent authority" means any person designated by the Commander-in-Chief of His Majesty's Forces in India in this behalf ;

(b) "contract or service" includes, in relation to any person, any other conditions of service applicable to him ;

(c) "the period of the present emergency" means the period beginning with the date of the promulgation of this Ordinance and ending with such date as the Central Government may, by notification in the official Gazette, declare to be the date on which the emergency which was the occasion of the making of this Ordinance came to an end.

3. *Transfers of civilian personnel*—(1) During the period of the present emergency, any person, whether or not for the time being subject to naval, military or air force law, who is employed in a civilian capacity under the War Department of the Central Government, other than a person engaged outside India for such employment, may, notwithstanding anything to the contrary contained in his contract of service, be transferred without his consent from one corps, department, establishment, formation or appointment to another under the War Department by order of the competent authority:

Provided that no transfer shall be ordered in pursuance of this section—

(a) if it would operate to the financial disadvantage of the person concerned, or

(b) if it would involve service overseas or in an operational or field service area where liability for such service is not included in the contract of service of the person concerned:

Provided further that the restriction contained in clause (a) of the first proviso shall not apply to any reduction or

reversion to a lower appointment which may for any reason be ordered under the contract of service of the person concerned.

(2) If any question arises as to whether a proposed transfer is one which cannot be ordered by reason of the provisions of the first proviso to sub-section (1), the decision of the Commander-in-Chief of His Majesty's Forces in India thereon shall be final.

4. *Retransfer on request at end of emergency period*—At the end of the period of the present emergency any person transferred under the provisions of section 3 shall, if he continues to be employed as aforesaid and so desires, be retransferred by the competent authority as soon as may be convenient to the corps, department, establishment, formation or appointment, as the case may be, in which he was employed at the time when he was first so transferred.

WAVELL

Viceroy and Governor-General

New, Delhi, 23rd August 1944

ORDINANCE No. XXXVIII of 1944

AN

## ORDINANCE

to prevent the disposal or concealment of property procured by means of certain offences

WHEREAS an emergency has arisen which makes it necessary to provide for preventing the disposal or concealment of money or other property procured by means of certain offences punishable under the Indian Penal Code ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement*—(1) This Ordinance may be called the Criminal Law Amendment Ordinance, 1944.

(2) It extends to the whole of British India, and applies also to British subjects and servants of the Crown in any part of India and to British subjects who are domiciled in any part of India wherever they may be.

2. *Interpretation*—(1) In this Ordinance, "scheduled offence" means an offence specified in the Schedule to this Ordinance.

(2) For the purposes of this Ordinance the date of the termination of criminal proceedings shall be deemed to be—

(a) where such proceedings are taken to the High Court, whether in appeal or on revision, the date on which the High Court passes its final orders in such appeal or revision, or

(b) where such proceedings are not taken to the High Court, the day immediately following the expiry of sixty days from the date of the last judgment or order of a Criminal Court in the proceedings.

(3) The functions of a District Judge under this Ordinance shall in a Presidency-town be exercised by the Chief Judge of the Small Cause Court.

3. *Application for attachment of property*—(1) Where the Provincial Government has reason to believe that any person has committed (whether after the commencement of this Ordinance or not) any scheduled offence, the Provincial Government may, whether or not any Court has taken cognizance of the offence, authorise the making of an application to the District Judge within the local limits of whose jurisdiction the said person ordinarily resides or carries on his business, for the attachment under this

Ordinance of the money or other property which the Provincial Government believes the said person to have procured by means of the offence, or if such money or other property cannot for any reason be attached, of other property of the said person of value as nearly as may be equivalent to that of the aforesaid money or other property.

(2) The provisions of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908), shall apply to proceedings for an order of attachment under this Ordinance as they apply to suits by the Crown.

(3) An application under sub-section (1) shall be accompanied by one or more affidavits stating the grounds on which the belief that the said person has committed any scheduled offence is founded, and the amount of money or the value of other property believed to have been procured by means of the offence: the application shall also furnish—

(a) any information available as to the location for the time being of any such money or other property, and shall, if necessary, give particulars, including the estimated value, of other property of the said person;

(b) the names and addresses of any other persons believed to have, or to be likely to claim, any interest or title in the property of the said person.

4. *Ad interim attachment*—(1) Upon receipt of an application under section 3, the District Judge shall, unless for reasons to be recorded in writing he is of opinion that there exist no *prima facie* grounds for believing that the person in respect of whom the application is made has committed any scheduled offence or that he has procured thereby any money or other property, pass without delay an *ad interim* order attaching the money or other property alleged to have been so procured, or if it transpires that such money or other property is not available for attachment, such other property of the said person of equivalent value as the District Judge may think fit:

Provided that the District Judge may if he thinks fit before passing such order, and shall before refusing to pass such order, examine the person or persons making the affidavits accompanying the application.

(2) At the same time as he passes an order under sub-section (1), the District Judge shall issue to the person whose money or other property is being attached a notice, accompanied by copies of the order, the application and affidavits and of the evidence, if any, recorded, calling upon him to show cause on a date to be specified in the notice why the order of attachment should not be made absolute.

(3) The District Judge shall also issue notices, accompanied by copies of the documents accompanying the notice under sub-section (2), to all persons represented to him as having, or being likely to claim, any interest or title in the property of the person to whom notice is issued under the said sub-section, calling upon each such person to appear on the same date as that specified in the notice under the said sub-section and make objection if he so desire to the attachment of the property or any portion thereof on the ground that he has an interest in such property or portion thereof.

(4) Any other person claiming an interest in the attached property or any portion thereof may, notwithstanding that no notice has been served upon him under this section, make an objection as aforesaid to the District Judge at any time before an order is passed under sub-section (1) or sub-section (3), as the case may be, of section 5.

5. *Investigation of objections to attachment*—(1) If no cause is shown and no objections are made under section 4 on or before the specified date, the District Judge shall forthwith pass an order making the *ad interim* order of attachment absolute.

(2) If cause is shown or any objections are made as aforesaid, the District Judge shall proceed to investigate the same, and in so doing, as regards the examination of the parties and in all other respects he shall, subject to the provisions of this Ordinance, follow the procedure and exercise all the powers of a Court in hearing a suit under the Code of Civil Procedure, 1908 (Act V of 1908); and any person making an objection under section 4 shall be required to adduce evidence to show that at the date of the attachment he had some interest in the property attached.

(3) After investigation under sub-section (2), the District Judge shall pass an order either making the *ad interim* order of attachment absolute or varying it by releasing a portion of the property from attachment or withdrawing the order:

Provided that the District Judge shall not—

(a) release from attachment any interest which he is satisfied that the person believed to have committed a

scheduled offence has in the property, unless he is also satisfied that there will remain under attachment an amount of the said person's property of value not less than that of the property believed to have been procured by the said person by means of the offence, or

(b) withdraw the order of attachment unless he is satisfied that the said person has not by means of the said offence procured any money or other property.

6. *Attachment of property of mala fide transferees*—

(1) Where the assets available for attachment of a person believed to have committed a scheduled offence are found to be less than the amount or value which he is believed to have procured by means of such offence, and where the District Judge is satisfied, by affidavit or otherwise, that there is reasonable cause for believing that the said person has, after the date on which the offence is alleged to have been committed, transferred (whether after the commencement of this Ordinance or not) any of his property otherwise than in good faith and for consideration, the District Judge may by notice require any transferee of such property (whether or not he received the property directly from the said person) to appear on a date to be specified in the notice and show cause why so much of the transferee's property as is equivalent to the proper value of the property transferred should not be attached.

(2) Where the said transferee does not appear and show cause on the specified date, or where after investigation in the manner provided in sub-section (2) of section 5, the District Judge is satisfied that the transfer of the property to the said transferee was not in good faith and for consideration, the District Judge shall order the attachment of so much of the said transferee's property as is in the opinion of the District Judge equivalent to the proper value of the property transferred.

7. *Execution of orders of attachment*—An order of attachment of property under this Ordinance shall be carried into effect so far as may be practicable in the manner provided in the Code of Civil Procedure, 1908 (Act V of 1908), for the attachment of property in execution of a decree.

8. *Security in lieu of attachment*—Any person whose property has been or is about to be attached under this Ordinance may at any time apply to the District Judge to be permitted to give security in lieu of such attachment, and where the security offered and given is in the opinion of the District Judge satisfactory and sufficient, he may withdraw or, as the case may be, refrain from passing, the order of attachment.

9. *Administration of attached property*—(1) The District Judge may, on the application of any person interested in any property attached under this Ordinance and after giving the agent of the Provincial Government an opportunity of being heard, make such orders as the District Judge considers just and reasonable for—

(a) providing from such of the attached property as the applicant claims an interest in, such sums as may be reasonably necessary for the maintenance of the applicant and of his family, and for the expenses connected with the defence of the applicant where criminal proceedings have been instituted against him in any Court for a scheduled offence;

(b) safeguarding so far as may be practicable the interests of any business affected by the attachment, and in particular, the interests of any partners in such business.

(2) Where it appears to the District Judge to be just and convenient, he may by order appoint a receiver to manage any property attached under this Ordinance in accordance with such instructions as the District Judge may from time to time think fit to give; and where a receiver is so appointed, the provisions of rules 2, 3, 4 and 5 of Order XL of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908), shall be applicable.

10. *Duration of attachment*—An order of attachment of property under this Ordinance shall, unless it is withdrawn earlier in accordance with the provisions of this Ordinance, continue in force—

(a) where no Court has taken cognizance of the alleged scheduled offence at the time when the order is applied for, for three months from the date of the order under sub-section (1) of section 4 or sub-section (2) of section 6, as the case may be, unless cognizance of such offence is in the meantime so taken, or unless the District Judge on application by the agent of the Provincial Government thinks it proper and just that the period should be extended and passes an order accordingly; or

(b) where a Court has taken cognizance of the alleged scheduled offence whether before or after the time when the order was applied for until orders are passed by the

District Judge in accordance with the provisions of this Ordinance after the termination of the criminal proceedings.

11. *Appeals*—(1) The Provincial Government or any person who has shown cause under section 4 or section 5 or has made an objection under section 4 or has made an application under section 8 or section 9, if aggrieved by any order of the District Judge under any of the foregoing provisions of this Ordinance, may appeal to the High Court within thirty days from the date on which the order complained against was passed.

(2) Upon any appeal under this section the High Court may, after giving such parties as it thinks proper an opportunity of being heard, pass such orders as it thinks fit.

(3) Until an appeal under this section is finally disposed of by the High Court, no Court shall, otherwise than in accordance with the provisions of section 8 or section 13, order the withdrawal or suspension of any order of attachment to which the appeal relates.

12. *Criminal Courts to evaluate property procured by scheduled offences*—(1) Where before judgment is pronounced in any criminal trial for a scheduled offence it is represented to the Court that an order of attachment of property has been passed under this Ordinance in connection with such offence, the Court shall, if it is convicting the accused, record a finding as to the amount of money or value of other property procured by the accused by means of the offence.

(2) In any appeal or revisional proceedings against such conviction, the appellate or revisional Court shall, unless it sets aside the conviction, either confirm such finding or modify it in such manner as it thinks proper.

(3) In any appeal or revisional proceedings against an order of acquittal passed in a trial such as is referred to in sub-section (1), the appellate or revisional Court, if it convicts the accused, shall record a finding such as is referred to in that sub-section.

13. *Disposal of attached property upon termination of criminal proceedings*—(1) Upon the termination of any criminal proceedings for any scheduled offence in respect of which any order of attachment of property has been made under this Ordinance or security given in lieu thereof, the agent of the Provincial Government shall without delay inform the District Judge, and shall where criminal proceedings have been taken in any Court, furnish the District Judge with a copy of the judgment or order of the trying Court and with copies of the judgments or orders, if any, of the appellate or revisional Courts thereon.

(2) Where it is reported to the District Judge under sub-section (1) that cognizance of the alleged scheduled offence has not been taken or where the final judgment or order of the criminal Courts is one of acquittal, the District Judge shall forthwith withdraw any orders of attachment of property made in connection with the offence, or where security has been given in lieu of such attachment, order such security to be returned.

(3) Where the final judgment or order of the criminal Courts is one of conviction, the District Judge shall order that from the property of the convicted person attached under this Ordinance or out of the security given in lieu of such attachment, there shall be forfeited to His Majesty such amount or value as is found in the final judgment or order of the criminal Courts in pursuance of section 12 to have been procured by the convicted person by means of the offence, together with the costs of attachment as determined by the District Judge: and where the final judgment or order of the criminal Courts has imposed or upheld a sentence of fine on the said person (whether alone or in conjunction with any other punishment), the District Judge may order, without prejudice to any other mode of recovery, that the said fine shall be recovered from the residue of the said attached property or of the security given in lieu of attachment.

(4) Where the amounts ordered to be forfeited or recovered under sub-section (3) exceed the value of the property of the convicted person attached, and where the property of any transferee of the convicted person has been attached under section 6, the District Judge shall order that the balance of the amount ordered to be forfeited under sub-section (3) together with the costs of attachment of the transferee's property as determined by the District Judge shall be forfeited to His Majesty from the attached property of the transferee or out of the security given in lieu of such attachment; and the District Judge may order, without prejudice to any other mode of recovery, that any fine referred to in sub-section (3) or any portion thereof not recovered under that sub-section shall be recovered

from the attached property of the transferee or out of the security given in lieu of such attachment.

(5) If any property remains under attachment in respect of any scheduled offence or any security given in lieu of such attachment remains with the District Judge after his orders under sub-sections (3) and (4) have been carried into effect, the order of attachment in respect of such property remaining shall be forthwith withdrawn, or as the case may be, the remainder of the security returned, under the orders of the District Judge.

14. *Bar to other proceedings*—Save as provided in section 11 and notwithstanding anything contained in any other law—

(a) no suit or other legal proceeding shall be maintainable in any Court—

(i) in respect of any property ordered to be forfeited under section 13 or which has been taken in recovery of fine in pursuance of an order under that section, or

(ii) while any other property is attached under this Ordinance, in respect of such other property, by any person upon whom a notice has been served under section 4 or section 6 or who has made an objection under sub-section (4) of section 4; and

(b) no Court shall, in any legal proceedings or otherwise, pass any decree or order, other than a final decree in a suit by a person not being a person referred to in clause (a), which shall have the effect of nullifying or affecting in any way any subsisting order of attachment of property under this Ordinance, or the right of the District Judge to hold security in lieu of any such order of attachment.

15. *Protection of action taken*—No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done in pursuance of this Ordinance.

#### The SCHEDULE

(See section 2)

#### Offences in connection with which property is liable to be attached

1. An offence punishable under section 161 or section 165 of the Indian Penal Code.
2. An offence punishable under section 406 or section 409 of the Indian Penal Code, where the property in respect of which the offence is committed is property entrusted by His Majesty's Government in the United Kingdom or in any part of His Majesty's dominions or the Central or a Provincial Government or a department of any such Government or a local authority or a person acting on behalf of any such Government or department or authority.
3. An offence punishable under section 411 or section 414 of the Indian Penal Code, where the stolen property in respect of which the offence is committed is property such as is described in the preceding item and in respect of which an offence punishable under section 406 or section 409 of the said Code has been committed.
4. An offence punishable under section 417 or section 420 of the Indian Penal Code, where the person deceived is His Majesty's Government in the United Kingdom or in any part of His Majesty's dominions or the Central or a Provincial Government or a department of any such Government or a local authority or a person acting on behalf of any such Government or department or authority.
5. Any conspiracy to commit or any attempt to commit or any abetment of any of the aforesaid offences.

WAVELL

Viceroy and Governor-General

#### HOME DEPARTMENT NOTIFICATIONS

The 26th August 1944

No. 4575-A.—The following notification, issued by the Government of India in the Legislative Department, is republished for general information.

By order of the Governor

S. J. MAJUMDAR

Under-Secretary to Government

New Delhi, 17th July 1944

No. P. 174/44-C. & G.—In exercise of the powers conferred by sections 64 and 129-A of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor-General in Council, with the sanction of the Secretary of State, is pleased to direct that the following further amendment shall be

made in the Legislative Assembly Electoral Rules, namely:—

After the proviso to sub-rule (4) of rule 9 of the said Rules the following further proviso shall be added, namely:—

“Provided further that the Governor-General in Council may by a like notification direct that a fresh roll shall not be prepared upon the expiration of the said period, and when he so directs the roll shall continue in force until by a like notification he directs a fresh roll to be prepared.”

S. A. LAL

Secy. to the Govt. of India

The 29th August 1944

**No. 2739-C.**—The following notification by the Government of India is republished for general information.

By order of the Governor  
J. E. MAHER

Chief Secretary to Government

WAR DEPARTMENT

New Delhi, 1st July 1944

**No. 1036**—In pursuance of sub-rule (1) of rule 59-C and sub-rule (1) of rule 62-AA of the Defence of India Rules, the Central Government is pleased to authorise the Naval Officers-in-charge at the ports of Madras, Bombay, Calcutta, Chittagong, Karachi, Cochin and Vizagapatam to issue directions under the said sub-rules.

2. The notification of the Government of India in the Defence Co-ordination Department No. 1330-OR/42, dated the 25th April 1942, as subsequently amended, is hereby cancelled.

M. J. A. STAGGS

Under-Secretary to the Govt. of India

### COMMERCE AND LABOUR DEPARTMENT NOTIFICATION

The 30th August 1944

**No. 3293-Com.**—The following notification, issued by the Government of India in the Department of Commerce, is republished for general information.

By order of the Governor  
C. G. NAIR

Secretary to Government

REGISTRATION OF ACCOUNTANTS

New Delhi, 5th August 1944

**No. 1-A(3)/44**—In exercise of the powers conferred by sub-section (2) of section 144 of the Indian Companies Act, 1913 (VII of 1913), the Central Government is pleased to direct that the following further amendments shall be made in the Auditor's Certificates Rule, 1932, the same having been previously published as required by the said sub-section, namely:—

In the said Rules—

I. for clause (c) of rule 6, the following clause shall be substituted, namely:—

“(c) being a person who is entitled to act as an auditor within a province by virtue of a restricted certificate granted by a Provincial Government, or who was entitled to practise in Burma as a restricted certificate holder, has satisfied the Central Government that he is a fit person to be enrolled”.

II. to sub-rule (3) of rule 10 the following proviso shall be added, namely:—

“Provided that in the case of a person who was entitled to practise in Burma as a restricted certificate holder, the application may be made to the Central Government direct”.

V. N. SUKTHANKAR

Joint Secy. to the Govt. of India

### OFFICE OF THE COMMISSIONER OF INCOME-TAX, BIHAR AND ORISSA NOTIFICATION

### CENTRAL BOARD OF REVENUE ORDER

Simla, 8th August 1944

**C. No. 4-Adm(Per)/44**—Mr. K. P. Sinha, officiating Appellate Assistant Commissioner of Income-tax, has been posted to Purulia in the Income-tax Department, Bihar and Orissa, with effect from the 17th July 1944.

S. RANGANATHAN

Secretary, Central Board of Revenue

### GOVERNMENT OF INDIA

### FINANCE DEPARTMENT (CENTRAL REVENUES) NOTIFICATION

INCOME-TAX ESTABLISHMENTS

Simla, 12th August 1944

**No. 36**—In exercise of the powers conferred by sub-section (3) of section 5 of the Indian Income-tax Act, 1922

(XI of 1922), the Central Government has been pleased to appoint Mr. K. P. Sinha, Income-tax Officer, to officiate as an Appellate Assistant Commissioner of Income-tax, with effect from the 17th July 1944.

S. RANGANATHAN

Deputy Secy. to the Govt. of India

### DEVELOPMENT DEPARTMENT NOTIFICATION

The 30th August 1944

**No. 2913-D.**—The following notification of the Government of India in the Department of Education, Health and Lands is republished for general information.

By order of the Governor

P. C. DAS

Secretary to Government

(AGRICULTURE)

Simla, 17th July 1944

**No. F-16-3/43**—In exercise of the powers conferred by section 4-A of the Destructive Insects and Pests Act, 1914 (II of 1914), the Central Government is pleased to direct that the following amendment shall be made in the notification of the Government of India in the Department of Education, Health and Lands No. F-16-3/43-A., dated the 28th March 1944, namely:—

For clause (a) of the said notification the following clause shall be substituted, namely—

“(a) by letter, sample or parcel post, or by air or sea; or”.

P. M. KHAREGAT

Addl. Secy. to Govt. of India

### DEPARTMENT OF SUPPLY AND TRANSPORT NOTIFICATIONS

The 30th August 1944

**No. 15366-S.T.**—The following notification, issued by the Government of India, Department of Industries and Civil Supplies, is hereby republished for general information.

By order of the Governor

C. S. JHA

Secretary to Government

New Delhi, 29th July 1944

**No. F-198(8)-AP/44**—In exercise of the powers conferred by sub-rule (2) of rule 81 of the Defence of India Rules, the Central Government is pleased to direct that the following entry shall be added to the schedule annexed to the Consumer Goods (Control and Distribution) Order, 1944, namely:—

“32. Camphor and Camphor powder synthetic.”

AZIZUL HAQ

Asst. Secy. to the Govt. of India

The 30th August 1944

**No. 15368-S.T.**—The following notification, issued by the Government of India, Department of Industries and Civil Supplies, is republished for general information.

By order of the Governor

C. S. JHA

Secretary to Government

New Delhi, 1st July 1944

**No. LS/W(3)**—In exercise of the powers conferred by sub-rule (2) of rule 81 of the Defence of India Rules, the Central Government is pleased to direct that the following further amendments shall be made in the Indian Woollen Goods (Control) Order, 1944, namely:—

In the second schedule to the said Order—

(1) From the entry relating to Shillong the following shall be deleted:—

“Messrs. A. L. Mullick”.

(2) In the entry relating to Cawnpore the following shall be added:—

“The Government Servants' Shop”.

N. O'H. O'NEILL

Deputy Secy. to the Govt. of India

ERRATUM

The 30th August 1944

In the Consumer Goods (Control) of Distribution) Order, 1944, republished at page 276 of Part IV of the Orissa Gazette, dated the 4th August 1944, under Government of Orissa, Supply and Transport Department Notification No. 13244-S.T., dated the 31st July 1944:—

(1) in clause 9(c), for the words “authorised by the Central Government to exercise all or” read “and search, any premises, and seize, or authorise any”, and

(2) in the Schedule, for the entries “23. Cycles, cycle spare parts and accessories” printed for the second time, read “24. Photographic negatives and printing papers”.