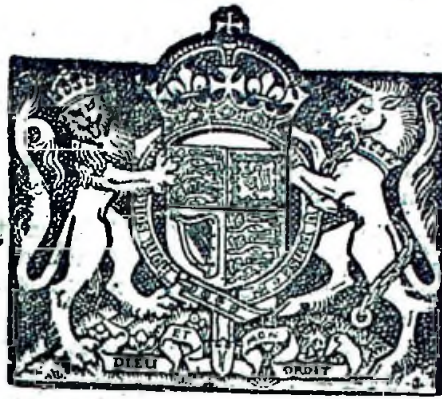


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CUTTACK, FRIDAY, JANUARY 1, 1943

SEPARATE PAGING IS GIVEN TO THIS PART, IN ORDER THAT IT MAY BE FILED AS A SEPARATE COMPILATION

## PART V

Acts of the Indian Legislature assented to by the Governor General

GOVERNMENT OF INDIA  
LEGISLATIVE DEPARTMENT

NOTIFICATION

New Delhi, 30th November 1942

No. 4-X/42-P.—The following Statute is republished for general information :—

THE INDIA AND BURMA (TEMPORARY AND MISCELLANEOUS  
PROVISIONS) ACT, 1942

(5 & 6 Geo. 6, Ch. 39)

CHAPTER 39

*An Act to make temporary amendments as respects the Government of India, to make certain other amendments in the Government of India Act, 1935, and to make temporary provision as to certain matters connected with Burma*

[22nd October 1942]

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 :—

Extension of  
proclamations  
under s. 93 of  
Government of  
India Act, 1935

1. Notwithstanding anything in the proviso to sub-section (3) of section ninety-three of the Government of India Act, 1935, a proclamation under that section made during the war period shall not cease to be in force by reason only that it has been in force for three years, and any such proclamation which would, but for this section, cease to be in force for that reason shall, if the resolutions in that behalf required by the said proviso are from time to time passed by both Houses of Parliament, continue in force, unless revoked, till the expiration of twelve months after the end of the war period. 26 Geo. 5 &  
1 Edw. 8. c. 2

Appeals to Privy  
Council from  
emergency courts

2. (1) No application made after the passing of this Act for special leave to appeal to His Majesty in Council from any sentence passed in India during the war period by an emergency court shall be entertained if the sentence of the court has been reviewed and confirmed by a High Court or by a person holding office as a judge of a High Court.

(2) In this section, the expression "emergency court" means a court declared by an ordinance to have been constituted to meet conditions of grave emergency and to be a court to which it is expedient that this section shall for the time being apply; and the expression "ordinance" means an ordinance under section seventy-two of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935.

(3) Section four of the India and Burma (Emergency Provisions) Act, 1940 (which requires prior reference to be made to the Secretary of State in certain cases), shall apply to the making of ordinances for the purposes of this section as it applies to the making of ordinances by virtue of that Act. 3 & 4 Geo. 6.  
c. 33

Amendment of  
Ninth Schedule of  
Government of  
India Act, 1935

3. (1) At the end of sub-section (1) of section sixty-three E of the Ninth Schedule to the Government of India Act, 1935, there shall be added the following proviso :—

" Provided that an Act of the Indian Legislature may declare any office in the service of the Crown in India to be an office the holding of which does not disqualify the holder thereof for election as, or continuance as,

a member of either chamber of the Indian Legislature, and any such Act may be made to have effect from any date before the passing thereof, not earlier than the third day of September, nineteen hundred and thirty-nine."

(2) In sub-section (1) of section three hundred and seventeen of the said Act the words " consequential on the provisions of this Act " are hereby repealed.

Amendment of  
s. 298 of  
Government of  
India Act, 1935

4. (1) For paragraph (a) of sub-section (2) of section two hundred and ninety-eight of the Government of India Act, 1935 (which excepts certain laws from the general prohibition of disabilities by reason of race, religion, etc.), there shall be substituted the following paragraph :—

" (a) prohibits, either absolutely or subject to exceptions, dispositions of agricultural land situate in any particular area and owned by a person belonging to some class recognised by the law as being a class of persons engaged in or connected with agriculture in that area or as being an aboriginal tribe, in favour or for the benefit of any person not belonging to that class."

(2) At the end of the said section two hundred and ninety-eight there shall be inserted the following sub-section :—

" (4) In paragraph (a) of sub-section (2) of this section, ' agricultural land ', in relation to any area where there is in force immediately before the commencement of Part III of this Act any law the operation of which is to any extent saved by the said paragraph (a), includes all such property and rights in or over property as are included in the expression ' land ' as defined for the purposes of that law as then in force."

Provisions as to  
Burma

5. (1) Any references in the Government of Burma Act, 1935, to the raising of forces in Burma shall, as respects the war period, be construed as including, and as always having included, references to the raising of forces in India by or for the Government of Burma, and any references in the said Act to the civil services of, or civil posts under, the Crown in Burma or to any authorities in Burma shall, as respects the war period, be construed as including, and as always having included, references to services, posts or authorities established in India in continuation of or in substitution for those services, posts or authorities.

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

(2) Acts of the Governor of Burma may, as respects the war period, confer on such courts in British India as may be designated by the Governor-General of India in consultation with the Governor of Burma such jurisdiction in relation to matters to which this sub-section applies as may be specified in the Acts, being jurisdiction which, before the enemy occupation of Burma, was exercisable by a court in Burma, but subject to such modifications, if any, as may be so specified, including jurisdiction in or as respects proceedings which at the date of the said occupation were pending in any court in Burma.

The matters to which this sub-section applies are insolvency, divorce, probate and letters of administration and trusts, and such other matters as may be agreed from time to time between the Governor-General of India and the Governor of Burma :

Provided that the jurisdiction of any court in India under the Indian and Colonial Divorce Jurisdiction Act, 1926, shall not be extended under this sub-section save in relation to proceedings which at the date of the occupation of Burma were pending in a court in Burma.

16 & 17 Geo.  
5. c. 40

In this sub-section the expression " Acts of the Governor of Burma " includes any Acts or ordinances which the Governor of Burma is authorised to make by or under the Government of Burma Act, 1935.

Interpretation and  
supplemental

6. (1) In this Act, the expression " the war period " means the period beginning with the twenty-fourth day of August, nineteen hundred and thirty-nine, and ending when the Emergency Powers (Defence) Act, 1939, ceases to be in force.

2 & 3 Geo.  
6. c. 62

(2) The amendments made by sections three and four of this Act in the Government of India Act, 1935, shall be deemed to have been made therein immediately before the passing thereof.

(3) A copy of the said Act giving effect to—

(a) the amendments mentioned in sub-section (3) of section one of the India (Federal Court Judges) Act, 1942 ; and

5. & 6 Geo.  
6. c. 7

(b) the amendments made by sections three and four of this Act,

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 Government of India Act, 1935, which are printed after the said copy has been so prepared, certified and deposited.

Short title and  
construction

7. This Act may be cited as the India and Burma (Temporary and Miscellaneous Provisions) Act, 1942, and shall, as respects India, be construed as one with the Government of India Act, 1935, and, as respects Burma, be construed as one with the Government of Burma Act, 1935.

G. H. SPENCE

Secy. to the Govt. of India