

# Indian Independence Act 1947

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## Indian Independence Act 1947 (1947)

*The Indian Independence Act 1947 was passed to give independence to India and Pakistan*

An Act to make provision for the setting up in India of two independent Dominion, to substitute order provision for certain provisions of the Government of India Act. 1935, which apply outside those Dominions, and to provide for other matters consequential on or connected with the setting up of those Dominions.

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:-

### **The new Dominions.**

**1.**—(1) As from the fifteenth day of August, nineteen hundred and forty-seven, two independent Dominions shall be set up in India, to be known respectively as India and Pakistan.

(2) The said Dominions are hereafter in this Act referred to as "the new Dominions" and the said fifteenth day of August is hereafter in this Act referred to as "the appointed day".

**2.**—(1) Subject to the provisions of subsection (3) (4) of this section, the territories of India shall be the territories under the sovereignty of His Majesty which, immediately before the appointed day, were included in British India except the territories which, under subsection (2) of this section, are to be the territories of Pakistan.

(2) Subject to the provisions of subsections (3) and (4) of this section, the territories of Pakistan shall be -

(a) the territories which, on the appointed day, are included in the provinces of East Bengal and West Punjab, as constituted under the two following section:

(b) the territories which, at the date of the passing of this Act, are included in the Province of Sind and the Chief Commissioner's Province of the British Baluchistan; and of the new Province of East Bengal, then, as from that day, a part of Assam shall, in accordance with the Provisions of the subsection (3) of this section, form part of the new Province of East Bengal.

**3.** The boundaries of the new Provinces aforesaid and, in the event mentioned in subsection (2) of this section, the boundaries after the appointed day of the Province of Assam, shall be such as may be the determined, whether before or after the appointed day, by the award of a boundary

commissions appointed or to be appointed by the Governor-General in that behalf, but until the boundaries are so determined -

- (a) the Bengal Districts specified in the First Schedule to this Act, together with, in the event mentioned in subsection (2) of this section, the Assam District of Sylhet, shall be treated as the Territories which are to be comprised in the new Province of West Bengal;
- (b) the remainder of the territories comprised at the date of the passing of this Act in the Province of Bengal shall be treated as the territories which are to be comprised in the new Province of West Bengal; and
- (c) in the event mentioned in subsection (2) of this section the District of Sylhet shall be excluded from the Province of Assam.

(4) In this section, the expression "award" means, in relation to a boundary commission the decisions of the chairman of that commission contained in his report to the Governor-General at the conclusion of the commission's proceedings

**4.—(1)** As from the appointed day -

- (a) the Province of the Punjab, as constituted under the Government of India Act, 1935, shall cease to exist; and
- (b) there shall be constituted two new Provinces, to be known respectively as East Punjab and West Punjab.

(2) The boundaries of the said new Provinces shall be such as may be determined, whether before or after the appointed day, by the award of a boundary commission appointed or to be appointed by the Governor-General in that behalf, but until the boundaries are so determined :-

- (a) the Districts specified in the Second Schedule to this Act shall be treated as the territories to be comprised in the New Province of West Punjab; and
- (b) the remainder of the territories comprised at the date of the passing of this Act in the Province of the Punjab shall be treated as the territories which are to be comprised in the New Province of East Punjab.

(3) In this section, the expression "award" means, in relation to a boundary commission, the decisions of the chairman of that commission contained in his report to the Governor-General at the conclusion of the Commission's proceedings.

**5.** For each of the new Dominions, there shall be Governor-General who shall be appointed by His Majesty and shall represent His Majesty for the purposes of the government of the Dominion:

Provided that, unless and until provision to the contrary is made by a law of the Legislature of either of the new Dominions, the same person may be Governor-General of both the new Dominion:

**Legislation for the new Dominions.**

**6.—(1)** The legislature of each of the New Dominions shall have full power to make laws for that Dominion, including laws having extra-territorial operation.

(2) No law and no provision of any law made by the Legislature of either of the new Dominions shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of this or any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Legislature of each Dominion include the power to repeal or amend any such Act, order, rule or regulation in so far as it is part of the law of the Dominion.

(3) The Governor-General of each of the new Dominions shall have full power to assent in His Majesty's name to any law of the Legislature of that Dominion and so much of any Act as relates to the disallowance of laws by His Majesty or the reservation of laws for the signification of His Majesty's pleasure thereon or the suspension of the operation of laws until signification of His Majesty's pleasure thereon shall not apply to laws of the Legislature of either of the new Dominions.

(4) No Act Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to either or the new Dominions as part of the law of that dominion unless it is extended thereto by a law of the Legislature of the Dominion.

(5) No Order in Council made on or after the appointed day under any Act passed before the appointed day, and no order, rule or other instrument made on or after the appointed day under any such Act by any United Kingdom Minister or other authority, shall extend, or to deemed to extended, to either of the new Dominions as part of the law of that Dominion.

(6) The power referred to in subsection (i) of this section extends to the marking of laws limiting for the future the powers of the Legislature of the Dominion.

### **Consequences of the setting up of the new Dominions.**

**7.—(1)** As from the appointed day:-

(a) His Majesty's Government in the United kingdom have no responsibility as respects the government of any of the territories which, immediately before that day, were included in British India.

(b) the suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the rulers of Indian States, all functions exercisable by His Majesty at that date with respect to Indian States, all obligations of His Majesty existing at that date with towards Indian States or the rulers thereof, and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise; and

(c) there also any treaties or agreements in force at the date of the passing of this Act between His Majesty and any persons having authority in the tribal areas, any obligations of His Majesty existing at that date to any such persons or with respect to the tribal areas,

and all powers, rights, authority or jurisdiction exercisable at that date by His Majesty in or in relation to the tribal areas by treaty, grant, usage, sufferance or otherwise:

Provided that, notwithstanding anything in paragraph (b) or paragraph (c) of this subsection, effect shall, as nearly as may be continue to be given to the provisions of any such agreement as is therein referred to which relate to customs transit and communications, posts and telegraph, or other like matters, until the provisions in question are denounced by the Ruler of the Indian State or person having authority in the tribal areas on the one hand, or by the Dominion or Province or other part there of concerned on the other hand, or are superseded by subsequent agreements.

(2) The assent of the Parliament of the United Kingdom is hereby given to the omission from the Royal Style and Titles of the words "Indian Emperor" and the words "Emperor of India" and to the issue by His Majesty for that purpose of His Royal Proclamation under the Great Seal of the Realm.

**8.**—(1) In the case of the new Dominions, the powers of the Legislature of the Dominion shall, for the purpose of making provision as to the constitution of the Dominion, be exercisable in the first instance by the Constituent Assembly of that Dominion, and references in this Act to the Legislature of the Dominion shall be construed accordingly.

(2) Except in so far as other provision is made by or in accordance with a law made by the Constituent Assembly of the Dominion under subsection (1) of this section, each of the new Dominions and all Provinces and other parts thereof shall be governed as nearly as may be in accordance with the Government of India Act, 1935; and the provisions of that Act, and of the orders in Council, rules and other instruments made thereunder, shall, so far as applicable and subject to any express provisions of this Act, and with such omissions, additions, adaptations and modifications as may be specified in orders of the Governor-General under the next succeeding section, have effect accordingly:

Provided that-

- (a) the said provisions shall apply separately in relation to the new Dominions and nothing in this subsection shall be construed as continuing on or after the appointed day any Central Government or Legislature common to both the new Dominions;
- (b) nothing in this subsection shall be construed as continuing in force on or after the appointed day any form of control by His Majesty's Government in the United Kingdom over the affairs of the new Dominions or of any Province or other part thereof;
- (c) so much of the said provisions as requires the Governor-General or any Governor to act in his discretion or exercise his individual judgment as respects any matter shall cease to have effect as from the appointed day;
- (d) as from the appointed day, no Provincial Bill shall be reserved under the Government of India Act, 1935, for the signification of His Majesty's pleasure, and no Provincial Act shall be disallowed by His Majesty there under; and
- (e) the powers of the Federal Legislature or Indian Legislature under that Act, as in force in relation to each Dominion, shall in the first instance, be exercisable by the Constituent

Assembly of the Dominion in addition to the powers exercisable by that Assembly under subsection(1) of this section.

(3) Any provision of the Government of India Act, 1935, which, as applied to either of the new Dominions by subsection (2) of this section and the orders therein referred to, operates to limit the power of the legislature of that Dominion shall, unless and until other provision is made by or in accordance with a law made by the Constituent Assembly of the Dominion in accordance with the provisions of sub- section, (1) of this section, have the like effect as a law of the Legislature of the Dominion limiting for the future the powers of the Legislature.

**9.—(1)** The Governor-General shall by order make such provision as appears to him to be necessary or expedient :-

- (a) for being the provisions of this Act into effective operation;
- (b) for dividing between the New Dominions, and between the new Provinces to be constituted under this Act, the powers, rights, property, duties and liabilities of the Governor-General of Council or, as the case may be, of the relevant Provinces which, under this Act, are to cease to exist,
- (c) for making omissions from, additions to, and adaptations and modifications, of, the Government of India Act, 1935, and the Orders in Council, rules and other instruments made thereunder, in their application to the separate new Dominions:
- (d) For removing difficulties arising in connection with the transition to the provisions of this Act,
- (e) for authorising the carrying on of the business of the Governor-General in Council between the passing of this Act and the appoint day otherwise than in accordance with the provision in that behalf of the Ninth Schedule to the Government of India Act, 1953;
- (f) for enabling agreements to be entered into, and other acts done, on behalf of either of the new Dominions before the appointed day;
- (g) for authorising the continued carrying on for the time being on behalf of the new Dominions, or on behalf of any two or more of said new provinces, of services and activities previously carried on behalf of British India as a whole or on behalf of the former Provinces which choose new Provinces represent;
- (h) for regulating the monetary system and any matters pertaining to the Reserve Bank of India; and
- (i) so far as it appears necessary or expedient in connection with any of the matters aforesaid, for varying the constitution, powers or jurisdiction of any legislature, court or other authority in the new Dominions and creating new legislatures, courts or other authorities therein.

(2) The powers conferred by this section on the Governor-General shall, in relation to their respective provinces, be exercisable also by the Governors of the Provinces which, under this Act, are to cease to exist; and those powers shall, for the purposes of the Government of India Act, 1935, be deemed to be matters as respects which the Governors, are, under that Act, to exercise their individual judgement.

(3) This section shall be deemed to have had effect as from the third day of June, nineteen hundred and forty seven, and any order of the Governor-General or any Governor made on or after that date as to any matter shall have effect accordingly, and any order made under this section may be made so as to be retrospective to any date not earlier than the said third day of June:

Provided that no person shall be deemed to be guilty of an offence by reason of so much of any such order as makes any provision there of retrospective to any date before the making thereof.

(4) Any orders made under this section, whether before or after the appointed day, shall have effect -

- (a) up to the appointed day, in British India;
- (b) on and after the appointed day, in the new dominion or dominions concerned; and
- (c) outside British India, or, as the case may be, outside the new dominion or dominions concerned, to such extent whether before, on or after the appointed day, as a law of the legislature of the dominion or dominions concerned would have on or after the appointed day, but shall, in the case of each of the Dominions, be subject to the same powers of repeal and amendment as laws the legislature of that dominion.

(5) No order shall be made under this section, by the Governor of any Province, after the appointed day, or by the Governor-General, after the thirty-first day of March, nineteen hundred and forty-eight, or such earlier date as may be determined, in the case of either Dominion, by any law of the Legislature of the Dominion.

(6) If it appears that a part of the Province of Assam is, on the appointed day, to become part of the new Province of East Bengal, the preceding provisions of this section shall have effect as if, under this Act, the province of Assam was to cease to exist on the appointed day and be reconstituted on that day as a new province.

**10.**—(1) The provision of this Act keeping in force provisions of the Government of India Act, 1935, shall not continue in force the provisions of that Act relating to appointments to the civil services of, and civil posts under, the Crown in India by the secretary of State, or the provisions of that Act relating to the reservation of posts.

(2) Every person who-

- (a) having been appointed by the Secretary of State, or Secretary of State in Council, to a civil service of the Crown in India continues on and after the appointed day to serve under the Government of either of the new Dominions or of any Province or Part thereof; or
- (b) having been appointed by His Majesty before the appointed day to be a judge of the Federal Court or of any court which is a High Court within the meaning of the Government of India Act, 1935, continues on and after the appointed day to serve as a judge in either of the new dominions,

shall be entitled to receive from the Governments of the Dominions and Province or Parts which he is from time to time serving or, as the case may be, which are served by the courts in which is from time to time judge, the same continues of conditions of service as respects remuneration, leave and pension, and the same rights as respects disciplinary matters or, as the case may be, as respects the tenure of his office, or rights as similar there to as changed circumstances may permit, as that person was entitled to immediately before the appointed day.

(3) Nothing in this Act shall be construed as enabling the rights and liabilities of any person with respect to the family person funds vested in Commissioner's under section two hundred and seventy-three of the Government of India Act, 1935, to be governed otherwise than by Orders in Council made (whether before or after the passing of this Act or the appointed day) by His Majesty in Council and the rules made (whether before or after the Passing of this Act or the appointed day) by His Majesty in Council and rules made (whether before or after the passing of this Act or the appointed day) by a Secretary of State or such other Minister of the Crown as may be designated in that behalf by Order in Council under the Ministers of the Crown (Transfer of Functions) Act, 1946.

**11.**—(1) The orders to be made by the Governor-General under the preceding provision of this Act shall make provision for the divisions of the Indian armed forces of His Majesty between the new dominions, and for the command and governance of those forces until the division is completed.

(2) as from the appointed day, while any number of His Majesty's forces, other than His Majesty's Indian forces, is attached to or serving with any of His Majesty's Indian forces—

(a) He shall, subject to any provision to the contrary made by a law of the Legislature of the Dominion or Dominions concerned or by any other of the Governor-General under the preceding provisions of this Act, have, in relation to the Indian forces in question, the powers of command and punishment appropriate to his rank and functions; but

(b) nothing in any enactment in force at the date of the passing of this Act shall render him subject in any way to the law governing the Indian forces in question.

**12.**—(1) Nothing in this Act affects the jurisdiction or authority of His Majesty's Government United Kingdom, or of the Admiralty, the Army Council, or the Air Council or the any other United Kingdom authority, in relation to any of His Majesty's forces which may, on or after the appointed day, be in either of the new Dominions or else where in the territories which, before appointed day, were included in India, not being Indian forces.

(2) in its application in relation to His Majesty's forces, the Army Act shall have effect on or after the appointed day—

(a) as if His Majesty's Indian forces were not included in the expressions "the forces" His Majesty's" and "the regular forces" and

(b) subject to the further modifications specified in parts I and II of the third Schedule to this Act.

(3) Subject to the provisions of subsection (2) of this section, and to any provision any law of the Legislature of the Dominion, concerned, all civil authorities in the new Dominion, and, subject as aforesaid and subject also to the provisions of the last preceding section, all service authorities in the new Dominions, shall, in those Dominion and in the other territories which were included in India before the appointed day, perform in relation to His Majesty's Military forces, not being Indian forces, the same functions as were, before the appointed day, performed by them or by the authorities corresponding to them, whether by virtue of the Army Act or otherwise, and the matters for which provision in to be made by order of the Governor-General under the preceding provision of this Act included facilitating of the withdrawal from the new Dominion and other territories aforesaid of His Majesty's military forces not being Indian forces.

(4) The provisions of subsections (2) and (3) of this section shall apply in relation to the air forces of His Majesty, not being Indian forces, as they apply in relation to His Majesty's military forces, subject, however, to the necessary adaptation, and in particular, as if-

(a) for the references to the Army Act there were substituted references to the Air Force Act; and

(b) for the references to Part II of the Third Schedule to this Act there were substituted a reference to Part III of that Schedule.

13.—(1) In the application of the Naval Discipline Act to His Majesty's naval forces, other than Indian naval forces, references to His Majesty's navy and His Majesty's ships shall not as from the appointed day, include, references to His Majesty's Indian navy and the ships thereof.

(2) In the application of the Naval Discipline Act by virtue of any law made in India before the appointed day to India naval forces, refers to His Majesty's navy and His Majesty's ships shall, as from the appointed day, be deemed to be, and to be only, references to His Majesty's Indian navy and the ships thereof.

(3) In section ninety B of the naval Discipline Act (which, in certain cases, subjects officers and men of the Royal Marines to the law and customs of the ships and naval forces to other parts of His Majesty's dominions) the words "or of India" shall be repealed as from the appointed day, wherever those words occur.

#### **Provisions as to the Secretary of State and the Auditor of Indian Home Accounts.**

14.—(1) A Secretary of State, or such other Minister of the Crown as may be designated in that behalf by order in Council under the Ministers of the Crown (Transfer of Functions) Act, 1946, is hereby authorised to continue for the time being the performance, on behalf of whatever government or governments may be concerned, of functions as to the making of payments and other matters similar to the functions which, up to the appointed day, the Secretary of State was performing on behalf of Governments constituted or continued under the Government of India Act, 1935.

(2) The functions referred to in subsection (1) of this section include functions as respects the management of, and the making of payments on respect of, government debt, and any the enactments relating to such debt shall have effect accordingly.

Provided that nothing in this subsection shall be construed as continuing in force so much of any enactment as empowers the Secretary of State to contract sterling loans on behalf of any such Government as the aforesaid or as applying to the Government of either of the new Dominions the prohibition imposed on the Governor-General in Council by section three hundred and fifteen of the Government of India Act, 1935, and respects the contracting of sterling loans.

(3) As from the appointed day, there shall not be any such advisors of the Secretary of State as are provided for the section two hundred and seventy-eight of the Government of India Act, 1935, and that section, and any provisions of that Act of his advisers are hereby repealed as from that day.

(4) The Auditor of Indian Home Accounts is hereby authorised to continue for the time being to exercise his functions as respects the accounts of the Secretary of State or any such other Minister of the Crown as in mentioned in subsection (1) of this section, both in respect of activities before, and in respect of activities after, the appointed day, in the same manner, as nearly as may be as he would have done if this act had not passed.

#### **Legal proceedings by and against the Secretary of State.**

**15.**—(1) Notwithstanding anything in this Act, and, in particular, notwithstanding any of the provisions of the last preceding section, any provision of any enactment which, but for the passing of this Act, would authorise legal proceedings to be taken, in India or elsewhere, by or against the Secretary of State in respect of any right or liability of India or any part of India shall cease to have effect on the appointed day, and any legal proceedings pending by virtue of any such provision on the appointed day shall, by virtue of this act, abate on the appointed day, so far as the Secretary of State is concerned.

(2) Subject to the provision of this subsection any legal proceedings which, but for the passing of this Act, could have been brought by or against the Secretary of State in respect of any right or liability of India, or any part of India, shall instead be brought:-

(a) in the case of proceedings in the United kingdom, by or against the High commissioner;

(b) in the case of other proceedings, by or against such person as may be designated by order of the Governor-General under the preceding provisions of this Act or otherwise by the law of the new Dominion concerned, and any legal proceedings by or against the Secretary of State in respect of any such right or liability as aforesaid which are pending immediately before the appointing day shall be continued by or against the High Commissioner or, as the case may be, the person designated as aforesaid:

Provided that, at any time after the appointed day, the right conferred by this subsection to bring or continue proceedings may, whether the proceedings are by, or are against, the High

commissioner or person designated as aforesaid, be withdrawn by a law of the legislature of either of the new Dominions so far as that Dominion is concerned, and any such law operated as respects proceedings pending at the date of the passing of the law.

(3) In this section, the expression "the High Commissioner means, in relation to each of the new Dominions, any such officer as may for the time being be authorised to perform in the United Kingdom, in relation to that Dominion, functions similar to those performed before the appointed day, in relation to the Governor-General in Council, by the High Commissioner referred to in section three hundred and two of the Government of India Act, 1935; and any legal proceedings of an immediately before the appointed day are the subject of an appeal to His Majesty in Council, or of a petition for the special leave to appeal to His Majesty in Council, shall be treated for the purposes of this sections as legal proceedings pending in the United Kingdom.

**16.**—(1) Subsections (2) to (4) of section two hundred and eighty-eight of the Government of India Act, 1935 which confer on His Majesty were to make Order in Council provision for the government of Aden shall cease to have effect and the British Settlements Acts, 1887 and 1945, (which authorise His Majesty to make laws and establish institutions for British Settlements as defined in those Acts) shall apply in relation to Aden as if it were a British Settlement as so defined.

(2) Notwithstanding the repeal of the said subsections (2) to (4) Orders in Council in force there under at the date of the passing of this Act shall continue in force, but the said Orders in Council, and other orders in Council made under the Government of India Act 1935, in so far as they apply to Aden, and any enactments applied to Aden or amended in relation to Aden, and any enactments applied to Aden or amended in relation of Aden by any such Orders in Council as aforesaid, may be repealed, revoked or amended under the powers of the British Settlements Acts, 1887 and 1945.

(3) Unless and until provision to the contrary is made as respects Aden under the powers of the British Settlements Acts, 1887 and 1945, or, as respects the new Dominion in question by a law of the Legislature of that Dominion, the provisions of the said Orders in Council and enactments relating to appeals from any courts in Aden to any courts which will, after the appointed day, be in either of the new Dominions, shall continue in force in their application both to Aden and to the Dominion in question, and the last mentioned courts shall exercise their jurisdiction accordingly.

**17.**—(1) No court in either of the new Dominions shall, by virtue of the Indian and Colonial Divorce Jurisdiction Acts, 1926 and 1940, have jurisdiction in or in relation to any proceedings for a decree for the dissolution of a marriage, unless those proceedings were instituted before the appointed day but, save as aforesaid and subject to any provision to the contrary which may hereafter be made by any Act of the parliament of the United Kingdom or by any law of the Legislature of the new Dominion concerned, all courts in the new Dominions shall have the same jurisdiction under the said Acts as they would have had if this Act had not been passed.

(2) Any rules made on or after the appointed day under subsection (4) of section one of the Indian and Colonial Divorce Jurisdiction Act, 1926, for a court in either of the new Dominions

shall, instead of being made by the Secretary of State with the concurrence of the Lord Chancellor, be made by such authority as may be determined by the law of the Dominion concerned, and so much of the said subsection and of any rules in force thereunder immediately before the appointed day as require the approval of the Lord Chancellor to the nomination for any purpose of any judges of any such court shall cease to have effect,

(3) The reference in subsection (1) of this section to Proceeding for a decree for the dissolution of a marriage include references to proceedings for such a decree of presumption of death and dissolution of a marriage as is authorised by section eight of the Matrimonial Causes Act, 1937.

(4) Nothing in this section affects any court outside the new Dominions, and the power conferred by section two of the Indian and Colonial Divorce Jurisdiction Act, 1926, to apply certain provisions of that Act to other parts of His Majesty's dominions as they apply to India shall be deemed to power to apply those provisions as they would have applied to India if this Act had not passed.

#### **Provisions as to existing laws, etc.**

**18.**—(1) In so far as any Act of Parliament, Order in Council, order, rule, regulation or other instrument passed or made before the appointed day operates otherwise than as part of the law of British India or the new Dominions, references therein to India or British India, however worded and whether by name or not, shall, in so far as the context permits and except so far as Parliament may hereafter otherwise provide, be construed as, or as including, references to the new Dominions, according as the circumstances and subject matter may require:

Provided that nothing in this subsection shall be construed as continuing in operation any provision in so far as the continuance thereof as adapted by this subsection is inconsistent with any of the provision of this Act other than this section.

(2) Subject to the provision of subsection (1) of this section and to any other express provision of this Act, the order in Council made under subsection (5) of section three hundred and eleven of the Government of India Act, 1935, for adapting and modifying Act of Parliament shall, except so far as Parliament may thereafter otherwise provide, continue in force in relation to all Acts in so far as they operate otherwise than as part of the law of British India or the new Dominions.

(3) Save as otherwise expressly provided in this Act, the law of British India and of the several parts thereof existing immediately before the appointed day shall, so far as applicable and with the necessary adaptations, continue as the law of each of the new Dominion and the several parts thereof until other provision is made by laws of the Legislature of the Dominion in question or by any other Legislature or other authority having power in that behalf.

(4) It is hereby declared that the Instruments if Instructions issued before the passing of this Act by His Majesty to the Governor-General and the Governors of Provinces lapse as from the appointed day, and nothing in this Act shall be construed as continuing in force any provision of the Government of India Act, 1935, relating to such Instruments of Instructions.

(5) As from the appointed day, so much of any enactment as requires the approval of His Majesty in Council to any rules of Court shall not apply to any court in either of the new Dominions.

**19.—**(1) Reference in this Act to the Governor-General shall, in relation to any order to be made or other act done on or after the appointed day, be construed:-

- (a) where the order or other act concerns one only of the now Dominions, as references to the Governor-General of that Dominion.
- (b) where the order or other act concerns both of the new Dominions and the same person is the Governor-General of both those Dominions, as references to that person; and
- (c) in any other case, as references to the Governor-General of the new Dominions, acting jointly.

(2) References in this Act to the Governor-General shall, in relation to any order to be made or other act done before the appointed day, be construed as references to the Governor-General of India within the meaning of the Governor-General of India within the meaning of the Government of India Act, 1935, and so much of that or any other Act as requires references to the Governor-General to be construed as references to the Governor-General in Council shall not apply to references to the Governor-General in this Act.

(3) References in this Act to the Constituent Assembly, of a Dominion shall be construed as references :-

- (a) in relation to India, to the Constituent Assembly, the first sitting whereof was held on the ninth day of December, nineteenth hundred and forty-six, modified;-
  - (i) by the exclusion of the members representing Bengal, the Punjab, Sind and British Baluchistan; and
  - (ii) should it appear that the north-West Frontier Province will form Part of Pakistan, by the exclusion of the members representing that province; and
  - (iii) by the inclusion of members representing West Bengal and East Punjab; and
  - (iv) should it appear that, on the appointed day a part of the Province of Assam is to form part of the new Province of East Bengal, by the exclusion of the members therefore representing the Province of Assam and the inclusion of members chosen to represent remainder of that Province ;
- (b) in relation to Pakistan, to the Assembly set up or about to be set up at the date of the passing of this Act under the authority of the Governor-General as the Constituent Assembly for Pakistan;

Provided that nothing in this subsection shall be construed as affecting the extent to which representatives of the Indian States take part in either of the said Assemblies, or as preventing the filling of casual vacancies in the said assemblies, or as preventing the participation in either of the said Assemblies, in accordance with such arrangements as may be made in that behalf, of representatives of the tribal areas on the borders of the Dominion for which that Assembly sits, and the powers of the said Assemblies shall extend and be deemed always to have extended to the making of provision for the matters specified in this proviso.

(4) In this act, except so far as the context otherwise requires :-

Reference to the Government of India Act, 1935, include references to any enactments amending or supplementing that Act, and, in particular, references to the India (Central Government and Legislature) Act, 1946;

“India”, where the reference is to a state of affairs existing before the appointed day or which would have existed but for the passing of this Act, has the meaning assigned to it by section three hundred and eleven of the Government of India Act, 1935.

“Indian forces” includes all His Majesty's Indian forces existing before the appointed day and also any forces of either of the new Dominions :

“pension” means, in relation to any person, a pension whether contributory or not, of any kind whatsoever payable to or in respect of that person, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or other additions thereto, of subscriptions to a provident fund;

“Province” means a Governor's Province,

“remuneration” includes leave pay, allowances and the cost of any privileges or facilities provided in kind.

(5) Any power conferred by this Act to make any order includes power to revoke or vary any order previously made in the exercise of that power.

### **Short Title.**

**20.** This Act may be cited as the Indian Independence Act, 1947.

### SCHEDULES

#### First Schedule

#### BENGAL DISTRICTS PROVISIONALLY INCLUDED IN THE NEW PROVINCE OF EAST BENGAL.

In the Chittagong Division, the districts of Chittagong, Naokhali and Tippera.

In the Dacca Division the Districts of Bakargani, Dacca, Faridpur and Mymensingh.

In the Presidency Division, the districts of Jessor, Murshidabad and Nadia.

In the Rajshahi Division, the districts of Bogra, Dinajpur, Malda, Pabna, Rajshahi and Rangpur.

#### Second Schedule

#### DISTRICTS PROVISIONALLY INCLUDED IN THE NEW PROVINCE OF WEST PUNJAB.

In the lahore Division, the districts of Gujranwala, Gurdaspur, Lahore, Sheikhpura and Sialkot.

In the Rawalpindi Division, the districts of Attock, Gujarat, Jhelum, Mianwali Rawalpindi and Shahpur.

In the Multan Division, the districts of Dera Ghazi Khan, Jhang, Lyallpur, Montgomery, Multan and Muzsafargarh.

### Third Schedule

## MODIFICATIONS OF ARMY ACT AND AIR FORCE ACT IN RELATION TO BRITISH FORCES

### Part 1 - MODIFICATION OF ARMY ACT APPLICABLE ALSO TO AIR FORCE ACT.

1. The proviso to section forty-one (which limits the jurisdiction of courts martial) shall not apply to offences committed in either of the new dominions or in any of the other territories which were included in India before the appointed day.
2. In section forty-three (which relates to complaints), the words "with the approval of the Governor-General of India in Council" shall be omitted.
3. In subsections (8) and (9) of section fifty-four (which amongst other, things require certain sentences to be confirmed by the Governor-General, in council) the words "India or the word" by the Governor-General as the case may be, and words "in India by the Governor-General or if he has been tried" shall be omitted.
4. In subsection (3) of section seventy-three (which provides for the nomination of officers with power to dispense with courts martial for desertion and fraudulent enlistment) the words "with the approval of the Governor-General" shall be omitted.
5. The powers conferred by subsection (5) of section one hundred and thirty (which provides for the removal of insane persons) shall not be exercise except with the consent of the officers commanding the forces in the new Dominions.
6. In subsection (2) of section one hundred and thirty-two (Which relates to rules regulating service prisons and detention barracks) the words " and in India for the Governor-General" and the words "Governor-General" shall be omitted except as respects rules made before the appointed day.
7. In the cases specified in subsection (1) of section on hundred and thirty-four, inquests shall be held in all cases in accordance with the provisions of subsection (3) of that section.
8. In section one hundred and thirty-six (which relates to deductions from pay,) in subsection (1) the words " India or" and the words "being in the case of India a law of the Indian legislature", and the whole of subsection (2) shall be omitted.

9. In paragraph (4) of section one hundred and thirty-seven (which relates to penal stoppages from the ordinary pay of officers), the words " or in the case of officers serving in India the Governor-General" the words "India or" and the words "for India or" as the case may be" shall be omitted.

10. In paragraph (12) of section one hundred and seventy five and paragraph (11) of section one hundred and seventy-six which apply the Act to certain (members of His Majesty's Indian Forces and to certain other persons) the words "India" shall be omitted wherever it occurs.

11. In subsection (1) of section one hundred and eighty (which provides for the punishment of misconduct by civilians in relation to courts martial) the words "India or" shall be omitted wherever they occur.

12. In the provisions of section one hundred and eighty-three relating to the reduction in rank of non-commissioned officers, the words "with the approval of the Governor-General" shall be omitted in both places where they occur.

## Part II - MODIFICATIONS OF ARMY ACT

Section 184B (which regulates relations with the Indian Air Force ) shall be omitted.

## Part III - MODIFICATIONS OF AIR FORCE ACT

1. In section 179D (which relates to the attachment of officers and airmen to Indian and Burma Air Forces ), the words "by the Air Council and the Governor-General of India or, as the case may be", and the words "India or" wherever those words occur, shall be omitted.

2. In section 184B (which regulates relations with Indian and Burma Air Force) the words " India or" and the words "by the Air Council and Governor-General of India or, as the case may be", shall be omitted.

3. Sub- paragraph (e) of paragraph (4) of section one hundred and ninety (which provides that officers of His Majesty's Indian Air Force are to be officers within the meaning of the Act) shall be omitted.

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