THE STATE OF HIMACHAL PRADESH ACT, 1970

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THE STATE OF HIMACHAL PRADESH ACT, 1970

ACT NO. 53 OF 1970

[25*th December*, 1970.]

An Act to provide for the establishment of the State of Himachal Pradesh and for matters connected therewith.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. Short title.—This Act may be called the State of Himachal Pradesh Act, 1970.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "Administrator" means the administrator appointed by the President under article 239 of the Constitution;

(*b*) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;

(*c*) "article" means an article of the Constitution;

(*d*) "Election Commission" means the Election Commission appointed by the President under article 324;

(*e*) "existing Union territory of Himachal Pradesh" means the Union territory of Himachal Pradesh as existing immediately before the appointed day;

(*f*) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having, immediately before the appointed day, the force of law in the whole or any part of the existing Union territory of Himachal Pradesh;

(*g*) "sitting member", in relation to either House of Parliament or of the Legislative Assembly of the existing Union territory of Himachal Pradesh, means a person who, immediately before the appointed day, is a member of that House or that Assembly;

(*h*) "treasury" includes a sub-treasury.

PART II

ESTABLISHMENT OF THE STATE OF HIMACHAL PRADESH

3. Establishment of State of Himachal Pradesh.—On and from the appointed day, there shall be established a new State, to be known as the State of Himachal Pradesh, comprising the territories which immediately before that day were comprised in the existing Union territory of Himachal Pradesh.

4. Amendment of First Schedule to the Constitution.—On and from the appointed day, in the First Schedule to the Constitution,—

(*a*) under the heading "I. THE STATES," after entry 17, the following entry shall be inserted, namely:—

"18. Himachal Pradesh	The territories which immediately before the commencement of this Constitution were being administered as if they were Chief Commissioners' Provinces under the names of Himachal Pradesh and Bilaspur and the territories specified in sub-section (*1*) of section 5 of the Punjab Reorganisation Act, 1966.";

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(*b*) under the heading "II. THE UNION TERRITORIES", entry 2 relating to Himachal Pradesh shall be omitted and entries 3 to 10 shall be re-numbered as entries 2 to 9 respectively.

PART III

REPRESENTATION IN THE LEGISLATURES

The Council of States

5. Amendment of Fourth Schedule to the Constitution.—On and from the appointed day, in the Fourth Schedule to the Constitution, in the Table,—

(*a*) entry 18 shall be re-numbered as entry 19 and before the entry as so re-numbered, the following entry shall be inserted, namely:—

"18. Himachal Pradesh……3";

(*b*) entry 19 shall be omitted.

6. Allocation of sitting members.—(*1*) On and from the appointed day, the three sitting members of the Council of States representing the existing Union territory of Himachal Pradesh shall be deemed to have been duly elected under clause (4) of article 80 to fill the three seats allotted to the State of Himachal Pradesh in that Council.

(*2*) The term of office of such sitting members shall remain unaltered.

7. Amendment of section 27A of Act 43 of 1950.—On and from the appointed day, in section 27A of the Representation of the People Act, 1950, in sub-section (*4*), the words "Himachal Pradesh" shall be omitted.

The House of the People

8. [*Allocation of seats in the existing House of the People*.] *Omitted by the State of Himachal, Pradesh (Amendment) Act*, 1971 (15 *of* 1971), *s*. 2 (*w.e.f.* 5-1-1971).

9. [*Provision as to sitting members*.] *Omitted by s.2, ibid.* (*w.e.f.* 5-1-1971).

The Legislative Assembly

10. Provision as to Legislative Assembly as constituted on the appointed day.—(*1*) On and from the appointed day, the total number of seats in the Legislative Assembly of the State of Himachal Pradesh to be filled by persons chosen by direct election from Assembly constituencies shall be sixty and the number of seats to be reserved for the Scheduled Castes and for the Scheduled Tribes of that State shall be fourteen and three respectively; and the Second Schedule to the Representation of the People Act, 1950 (43 of 1950), shall be deemed to be amended accordingly.

(*2*) On and from the appointed day, the sixty territorial constituencies of the existing Union territory of Himachal Pradesh shall be deemed to be the constituencies of the Legislative Assembly of the State of Himachal Pradesh and the Delimitation of Parliamentary and Assembly Constituencies Order, 1966, shall be construed accordingly.

(*3*) Every sitting member of the Legislative Assembly of the existing Union territory of Himachal Pradesh representing a territorial constituency which, on the appointed day by virtue of the provisions of sub-section (*2*), becomes a constituency of the State of Himachal Pradesh, shall be deemed to have been elected under article 170 to the Legislative Assembly of the State of Himachal Pradesh by that constituency.

(*4*) Notwithstanding anything contained in any other law for the time being in force, the Legislative Assembly of the State of Himachal Pradesh shall be deemed to be duly constituted on the appointed day.

11. Duration of Legislative Assembly.—The period of five years referred to in clause (1) of article 172 shall, in the case of the Legislative Assembly of the State of Himachal Pradesh, be deemed to have commenced on the day on which the duration of the existing Legislative Assembly of the Union territory of Himachal Pradesh commenced under section 5 of the Government of Union Territories Act, 1963 (20 of 1963).

12. Speaker and Deputy Speaker.—The persons who immediately before the appointed day are the Speaker and the Deputy Speaker of the Legislative Assembly of the Union territory of Himachal Pradesh

shall be the Speaker and the Deputy Speaker, respectively, of the Legislative Assembly of the State of Himachal Pradesh on and from that day.

13. Rules of procedure.—The rules of procedure and conduct of business of the Legislative Assembly of the existing Union territory of Himachal Pradesh as in force immediately before the appointed day shall, until rules are made under clause (1) of article 208, be the rules of procedure and conduct of business of the Legislative Assembly of the State of Himachal Pradesh, subject to such modifications and adaptations as may be made therein by the Speaker thereof.

Delimitation of constituencies

14. Allocation of seats in the House of the People.—In the House of the People to be constituted after the appointed day, there shall be allotted four seats to the State of Himachal Pradesh of which one seat shall be reserved for the Scheduled Castes.

15. Allocation of seats in the Legislative Assembly.—The total number of seats in the Legislative Assembly of the State of Himachal Pradesh to be constituted at any time after the appointed day, to be filled by persons chosen by direct election from territorial constituencies, shall be sixty-eight of which sixteen seats shall be reserved for the Scheduled Castes and three seats shall be reserved for the Scheduled Tribes.

16. Amendment of First and Second Schedules to Act 43 of 1950.—(*1*) In the Representation of the People Act, 1950,—

(*a*) in the First Schedule,—

(*i*) under the heading "I. STATES", after entry 17, the following entry shall be inserted, namely:—

"18. Himachal Pradesh.....4 1.....";

(*ii*) under the heading "II. UNION TERRITORIES", entry 6 relating to Himachal Pradesh shall be omitted;

(*b*) in the Second Schedule,—

(*i*) under the heading "I. STATES", after entry 16, the following entry shall be inserted, namely:—

"17. Himachal Pradesh.....68 16 3";

(*ii*) under the heading "II. UNION TERRITORIES", entry 2 relating to Himachal Pradesh shall be omitted.

(*2*) The amendments made by clauses (*a*) and (*b*) of sub-section (*1*) shall have effect in relation to the House of the People and the Legislative Assembly of Himachal Pradesh to be constituted at any time after the appointed day.

17. Delimitation of Constituencies.—(*1*) The Election Commission shall, in the manner herein provided, distribute, whether before or after the appointed day, the seats in the House of the People allotted to the State of Himachal Pradesh under section 14 and the seats assigned to the Legislative Assembly of the State of Himachal Pradesh under section 15 to single-member territorial constituencies and delimit them on the basis of the latest census figures, having regard to the provisions of the Constitution and to the following provisions, namely:—

(*a*) all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience;

(*b*) every assembly constituency shall be so delimited as to fall wholly within one parliamentary constituency;

(*c*) constituencies in which seats are reserved for the Scheduled Castes shall be distributed in different parts of the State and located, as far as practicable, in those areas where the proportion of their population to the total population is comparatively large; and

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(*d*) constituencies in which seats are reserved for the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total population is the largest.

Explanation.—In this section, "latest census figures" mean the census figures with respect to the existing Union territory of Himachal Pradesh or, as the case may be, of the State of Himachal Pradesh ascertainable from the latest census of which the finally published figures are available.

(*2*) For the purpose of assisting it in the performance of its functions under sub-section (*1*), the Election Commission shall associate with itself as associate members,—

[1][(*a*) all the persons (or as many of them as are available) who having been elected from parliamentary constituencies in the Union territory of Himachal Pradesh, were members of the House of the People immediately before its dissolution by the order of the President published with notification No. 37/2/70/T, dated the 27th December, 1970, of the Lok Sabha Secretariat, in the Gazette of India, dated the 27th December, 1970, or if the delimitation of any constituencies is taken up after the first constitution, following such dissolution, of the House of the People, all the members elected to such House (or as many of them as are available) from parliamentary constituencies in the State of Himachal Pradesh; and]

(*b*) such six of the members of the Legislative Assembly of the existing Union territory of Himachal Pradesh or, as the case may be, of the State of Himachal Pradesh referred to in section 10 as the Speaker thereof may nominate:

Provided that none of the associate members shall have a right to vote or to sign any decision of the Election Commission.

(*3*) If owing to death or resignation, the office of an associate member falls vacant, it shall be filled, if practicable, in accordance with the provisions of sub-section (*2*).

(*4*) The Election Commission shall—

(*a*) publish its proposals for the delimitation of constituencies, together with the dissenting proposals, if any, of any associate member who desires publication thereof, in the Official Gazette and in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(*b*) consider all objections and suggestions which may have been received by it before the date so specified;

(*c*) after considering all objections and suggestions which may have been received by it before the date so specified, determine by one or more orders the delimitation of constituencies and cause such order or orders to be published in the Official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

(*5*) As soon as may be after such publication, every such order relating to parliamentary constituencies shall be laid before the House of the People and every such order relating to assembly constituencies shall be laid before the Legislative Assembly.

18. Power of Election Commission to maintain delimitation orders up-to-date.—(*1*) The Election Commission may, from time to time, by notification in the Official Gazette,—

(*a*) correct any printing mistake in any order made under section 17 or any error arising therein from inadvertent slip or omission;

(*b*) where the boundaries or name of any territorial division mentioned in any such order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing such order up-to-date.

(*2*) Every notification under this section relating to a parliamentary or an assembly constituency shall be laid, as soon as may be after it is issued, before the House of the People or, as the case may be, the Legislative Assembly.

1. Subs. by Act 15 of 1971, s. 3, for clause (*a*) (w.e.f. 5-1-1971).

19. Amendment of Scheduled Castes Orders.—(*1*) On and from the appointed day, the Constitution (Scheduled Castes) Order, 1950, shall stand amended as directed in the First Schedule.

(*2*) On and from the appointed day, the Constitution (Scheduled Castes) (Union Territories) Order, 1951, shall stand amended as directed in the Second Schedule.

20. Amendment of Scheduled Tribes Orders.—(*1*) On and from the appointed day, the Constitution (Scheduled Tribes) Order, 1950, shall stand amended as directed in the Third Schedule.

(*2*) On and from the appointed day, the Constitution (Scheduled Tribes) (Union Territories) Order, 1951, shall stand amended as directed in the Fourth Schedule.

PART IV

HIGH COURT

21. High Court for Himachal Pradesh.—(*1*) On and from the appointed day, there shall be a separate High Court for the State of Himachal Pradesh (hereinafter referred to as the High Court of Himachal Pradesh).

(*2*) The principal seat of the High Court of Himachal Pradesh shall be at Simla.

22. Judges of High Court.—(*1*) The President may, if he thinks fit, direct that such of the Judges of the High Court of Delhi holding office immediately before the appointed day as may be determined by him, shall on that day cease to be Judges of the High Court of Delhi and become Judges of the High Court of Himachal Pradesh.

(*2*) The persons who by virtue of sub-section (*1*) becomes Judges of the High Court of Himachal Pradesh shall, except in the case where any such person is appointed to be the Chief Justice of the High Court, rank in that Court according to the priority of their respective appointments as Judges of the High Court of Delhi.

23. Jurisdiction of High Court.—The High Court of Himachal Pradesh shall have, in respect of any part of the territories comprised in the State of Himachal Pradesh, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect of that part of the said territories by the High Court of Delhi.

24. Special provision relating to Advocates and Bar Council.—(*1*) Subject to any rule made or direction given by the High Court of Himachal Pradesh in this behalf, any person who immediately before the appointed day is an advocate entitled to practise in the High Court of Delhi shall be entitled to practise as an advocate in the High Court of Himachal Pradesh.

(*2*) The right of audience in the High Court of Himachal Pradesh shall be regulated in accordance with the like principles as immediately before the appointed day are in force with respect to the right of audience in the High Court of Delhi.

(*3*) On and from the appointed day, in the Advocates Act, 1961 (25 of 1961) (hereafter in this section referred to as the Advocates Act), in section 3,—

(*a*) in sub-section (*1*), for clause (*d*), the following clauses shall be substituted, namely:—

"(*d*) for the States of Punjab and Haryana and the Union territory of Chandigarh, to be known as the Bar Council of Punjab and Haryana;

(*dd*) for the State of Himachal Pradesh, to be known as the Bar Council of Himachal Pradesh;

(*b*) in clause (*b*) of sub-section (*2*), after the words "Bar Council of Orissa", the words ", the Bar Council of Himachal Pradesh" shall be inserted.

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(*4*) The provisions of section 17 of the Advocates Act shall have effect in respect of the roll of the Bar Council of Himachal Pradesh subject to the modifications that—

(*a*) for clause (*a*) of sub-section (*1*) of the said section 17, the following clause shall be substituted, namely:—

"(*a*) all persons who were entered as advocates on the roll of the Bar Council of Punjab and Haryana immediately before the day appointed under clause (*b*) of section 2 of the State of Himachal Pradesh Act, 1970, and who within three months from that day express in such manner as the Bar Council of India may, by rules, prescribe an intention in writing to practise within the jurisdiction of the Bar Council of Himachal Pradesh";

(*b*) in clause (*a*) of sub-section (*3*) of the said section 17, for the words and figures "with his date of enrolment under the Indian Bar Councils Act, 1926 (38 of 1926)", the words "with his seniority on the roll of the Bar Council of Punjab and Haryana" shall be substituted.

(*5*) Notwithstanding anything contained in the Advocates Act as amended or modified by sub-sections (*3*) and (*4*),—

(*a*) in the case of the first Bar Council of Himachal Pradesh under that Act, the fifteen members required to be elected under clause (*b*) of sub-section (*2*) of section 3 of that Act, as amended by sub-section (*3*), shall be nominated by the Chief Justice of the High Court of Himachal Pradesh from amongst advocates who are entitled as of right to practise in the High Court of Himachal Pradesh and are ordinarily practising within the territories comprised in the State of Himachal Pradesh and the term of office of the members so nominated shall be one year from the date of the first meeting of the Council or until their successors are duly elected in accordance with the provisions of the said Act, whichever is earlier;

(*b*) until the members of the first Bar Council of Himachal Pradesh required to be nominated under clause (*a*) are duly nominated in accordance with the provisions of that clause, the Bar Council of Punjab and Haryana shall function as the Bar Council of Himachal Pradesh and the provisions of the Advocates Act shall, so far as may be, apply accordingly;

(*c*) the names of persons entered on the roll of the Bar Council of Himachal Pradesh in accordance with the provisions of clause (*a*) of sub-section (*1*) of section 17 of the Advocates Act, as modified by sub-section (*4*), shall, as from the date or dates on which the names are so entered, stand removed from the roll of the Bar Council of Punjab and Haryana;

(*d*) any proceedings which may be pending or which may be instituted against any person before or by the Bar Council of Punjab and Haryana immediately before his name is removed under clause (*c*) from the roll of that Bar Council may after such removal be continued or instituted before or by the Bar Council of Himachal Pradesh;

(*e*) every person who immediately before his name stands removed from the roll of the Bar Council of Punjab and Haryana in accordance with the provisions of clause (*c*) is a member of the Bar Council of Punjab and Haryana shall cease to be a member of that Council as from the date on which his name stands so removed from the roll of that Bar Council;

(*f*) the rules made or deemed to have been made by the Bar Council of Punjab and Haryana and in force immediately before the date on which the first Bar Council of Himachal Pradesh is duly constituted in accordance with the provisions of clause (*a*) shall, subject to such modifications and adaptations as may be made therein by the Chairman of the Bar Council of Himachal Pradesh, be deemed to be rules made by the Bar Council of Himachal Pradesh and shall have effect accordingly.

(*6*) As soon as may be, after the first Bar Council of Himachal Pradesh is duly constituted in accordance with the provisions of clause (*a*) of sub-section (*5*), the assets and liabilities of the Bar Council of Punjab and Haryana shall be apportioned between that Bar Council and the Bar Council of Himachal Pradesh in such manner and proportion as may be agreed upon by the two Bar Councils and in default of agreement with reference to any matter, the matter shall be referred to the Chairman of the Bar Council of India and his decision thereon shall be final.

Explanation.—Expressions used in this section but not defined in this Act shall have the meanings assigned to them respectively in the Advocates Act.

25. Practice and procedure in High Court.—Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the High Court of Delhi shall, with the necessary modifications, apply in relation to the High Court of Himachal Pradesh.

26. Custody of seal of High Court.—The law in force immediately before the appointed day with respect to the custody of the seal of the High Court of Delhi shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of Himachal Pradesh.

27. Form of writs and other processes.—The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court of Delhi shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Himachal Pradesh.

28. Powers of Judges.—The law in force immediately before the appointed day with respect to the powers of the Chief Justice, single Judges and division courts of the High Court of Delhi and with respect to all matters ancillary to the exercise of those powers shall, with the necessary modifications, apply in relation to the High Court of Himachal Pradesh.

29. Procedure as to appeals to Supreme Court.—The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court of Delhi and the Judges and division courts thereof, shall, with the necessary modifications, apply in relation to the High Court of Himachal Pradesh.

30. Transfer of proceedings from High Court of Delhi to High Court of Himachal Pradesh.—(*1*) Except as hereinafter provided, the High Court of Delhi shall, on and from the appointed day, have no jurisdiction in respect of the territories comprised in the State of Himachal Pradesh.

(*2*) Such proceedings pending in the High Court of Delhi immediately before the appointed day as are certified, whether before or after that day, by the Chief Justice of that High Court, having regard to the place of accrual of the cause of action and other circumstances, to be proceedings which ought to be heard and decided by the High Court of Himachal Pradesh shall, as soon as may be after such certification, be transferred to the High Court of Himachal Pradesh.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*) of this section or in section 23, but save as hereinafter provided, the High Court of Delhi shall have, and the High Court of Himachal Pradesh shall not have, jurisdiction to entertain, hear or dispose of appeals, applications for leave to appeal to the Supreme Court, applications for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the High Court of Delhi before the appointed day:

Provided that if, after any such proceedings have been entertained by the High Court of Delhi, it appears to the Chief Justice of that High Court that they ought to be transferred to the High Court of Himachal Pradesh, he shall order that they shall be so transferred, and such proceedings shall thereupon be transferred accordingly.

(*4*) Any order made by the High Court of Delhi—

(*a*) before the appointed day, in any proceedings transferred to the High Court of Himachal Pradesh by virtue of sub-section (*2*); or

(*b*) in any proceedings with respect to which the High Court Delhi retains jurisdiction by virtue of sub-section (*3*),

shall, for all purposes, have effect not only as an order of the High Court of Delhi, but also as an order made by the High Court of Himachal Pradesh.

Explanation.—For the purposes of this section—

(*a*) proceedings shall be deemed to be pending in a court until that court has disposed of all issues between the parties including any issues with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, applications for review, petitions for revision and petitions for writs;

(*b*) references to a High Court shall be construed as including references to a Judge or division court thereof, and references to an order made by a court or a Judge shall be construed as including references to a sentence, judgment or decree passed or made by that court or Judge.

31. Right to appear or to act in proceedings transferred to High Court of Himachal Pradesh.—Any person who, immediately before the appointed day, is an advocate entitled to practice in the High Court of Delhi and was authorised to appear or to act in any proceedings transferred from that High Court to the High Court of Himachal Pradesh under section 30 shall have the right to appear or to act, as the case may be, in the High Court of Himachal Pradesh in relation to those proceedings.

32. Savings.—Nothing in this Part shall affect the application to the High Court of Himachal Pradesh of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by any Legislature or other authority having power to make such provision.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

33. Authorisation of expenditure pending its sanction by the Legislature.—(*1*) The President may, at any time before the appointed day, authorise by order such expenditure from the Consolidated Fund of the State of Himachal Pradesh as he deems necessary for a period of not more than six months beginning with the appointed day, pending the sanction of such expenditure by the Legislative Assembly of the State of Himachal Pradesh:

Provided that the Governor of Himachal Pradesh may, after the appointed day, authorise by order such further expenditure as he deems necessary from the Consolidated Fund of the State of Himachal Pradesh for any period not extending beyond the said period of six months.

(*2*) The President or, as the case may be, the Governor of Himachal Pradesh shall make separate orders under sub-section (*1*) in respect of periods falling in different financial years.

34. Reports relating to the accounts of the existing Union territory of Himachal Pradesh.—(*1*) The reports of the Comptroller and Auditor-General of India referred to in section 49 of the Government of Union Territories Act, 1963 (20 of 1963), relating to the accounts of the existing Union territory of Himachal Pradesh in respect of any period prior to the appointed day, shall be submitted to the Governor of Himachal Pradesh who shall cause them to be laid before the Legislative Assembly of the State.

(*2*) The Governor may, by order,—

(*a*) declare any expenditure incurred out of the Consolidated Fund of the existing Union territory of Himachal Pradesh on any service in respect of any period prior to the appointed day during the financial year 1970-71 or in respect of any earlier financial year in excess of the amount granted for that service and for that year as disclosed in the reports referred to in sub-section (*1*) to have been duly authorised, and

(*b*) provide for any action to be taken on any matter arising out of the said reports.

35. Allowances and privileges of Governor of Himachal Pradesh.—The allowances and privileges of the Governor of Himachal Pradesh shall, until provision in that behalf is made by Parliament by law under clause (3) of article 158, be such as the President may, by order, determine.

36. Distribution of revenues.—The President shall, by order, determine the grants-in-aid of the revenues of the State of Himachal Pradesh and the share of that State in the Union duties of excise, estate duty and taxes on income and for that purpose amend thereby the relevant provisions of the Union Duties of Excise (Distribution) Act, 1962 (3 of 1962), the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957), the Estate Duty (Distribution) Act, 1962 (9 of 1962), and the Constitution (Distribution of Revenues) Order, 1969 (C.O. 87), in such manner as he thinks fit.

PART VI

ASSETS AND LIABILITIES

37. Property, assets, rights, liabilities, obligations, etc.—(*1*) All such property and assets within the existing Union territory of Himachal Pradesh as are held immediately before the appointed day by the

Union for purposes of governance of that Union territory shall, on and from that day, pass to the State of Himachal Pradesh, unless the purposes for which such property and assets are so held are Union purposes:

Provided that the cash balances in the treasuries in the Union territory of Himachal Pradesh before the appointed day shall, as from that day, vest in the State of Himachal Pradesh.

(*2*) All rights, liabilities and obligation (other than those relatable to, or in connection with, a Union purpose), whether arising out of any contract or otherwise, which are, immediately before the appointed day,—

(*a*) the rights, liabilities and obligations of the Central Government arising out of, or in connection with, the governance of the Union territory of Himachal Pradesh; or

(*b*) the rights, liabilities and obligations of the Administrator of the existing Union territory of Himachal Pradesh in his capacity as such, or of the Government of that Union territory,

shall, on and from the appointed day, be the rights, liabilities and obligations of the Government of the State of Himachal Pradesh.

(*3*) The right to recover arrears of—

(*a*) any tax or duty being a tax or duty enumerated in the State List in the Seventh Schedule to the Constitution, or

(*b*) any duty referred to in article 268, or

(*c*) any tax under the Central Sales Tax Act, 1956 (74 of 1956),

which have fallen due in the existing Union territory of Himachal Pradesh shall pass to the State of Himachal Pradesh.

(*4*) The provisions of this section shall not apply to or in relation to,—

(*a*) any benefit or burden of any assets, rights, liabilities or obligations of the Union under the Punjab Reorganisation Act, 1966 (31 of 1966) attributable to the transferred territories as defined in the said Act;

(*b*) any institution, undertaking or project the expenditure in relation to which is immediately before the appointed day met from out of the Consolidated Fund of India;

(*c*) any property which has been placed by the Union at the disposal of the Administration of the existing Union territory of Himachal Pradesh subject to the condition that the ownership thereof will continue to vest in the Union.

*Explanation***.—**For the purposes of this section—

(*a*) "liability" includes liability in respect of any civil deposit, local fund deposit, charitable or other endowment, provident fund account, pension or actionable wrong;

(*b*) "Union purposes" mean the purposes of Government relatable to any of the matters mentioned in the Union List.

38. Special provision as to transfer of assets, rights, liabilities, etc., of Union in relation to transferred territories under Act 31 of 1966.—(*1*) In this section, the expression "successor States" and "transferred territories" have the meaning respectively assigned to them in the Punjab Reorganisation Act, 1966.

(*2*) The Central Government may, by order, transfer to the State of Himachal Pradesh the benefit or burden of any assets rights, liabilities or obligations of the Union under the Punjab Reorganisation Act, 1966, in so far as such benefit or burden is, in the opinion of the Central Government, attributable to the transferred territories.

(*3*) An order made under sub-section (*2*) may provide that the State of Himachal Pradesh shall be successor State in relation to the transferred territories for all or any of the purposes of the Punjab

Reorganisation Act, 1966, or confer or impose on the State of Himachal Pradesh rights and obligations which correspond so far as may be to the rights and obligations conferred or imposed on the successor States by or under that Act.

(*4*) Without prejudice to the provisions of section 49, the Central Government may, for the purpose of giving effect to the provisions of this section, by order, direct that the provisions of Part VI, Part VII, Part VIII and Part IX and connected provisions of the Punjab Reorganisation Act, 1966, shall have effect subject to such exceptions and modifications as may be specified in the order.

PART VII

PROVISIONS AS TO SERVICES

39. Provisions relating to All-India Services.—(*1*) In this section, the expression "State cadre",—

(*a*) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954;

(*b*) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954;

(*c*) in relation to the Indian Forest Service, has the meaning assigned to it in the Indian Forest Service (Cadre) Rules, 1966.

(*2*) On and from the appointed day, there shall be constituted for the State of Himachal Pradesh a State cadre of the Indian Administrative Service, a State cadre of the Indian Police Service and a State cadre of the Indian Forest Service.

(*3*) The initial strength and composition of each of the said State cadres shall be such as the Central Government may, by order, determine before the appointed day.

(*4*) Such of the members of each of the said Services borne on the Union Territories cadre thereof immediately before the appointed day, as the Central Government may, by order, specify, shall be allocated to the State cadre of Himachal Pradesh of the same Service with effect from such date or dates as may be specified in the order.

(*5*) Nothing in this section shall be deemed to affect the operation after the appointed day of the All-India Services Act 1951 (61 of 1951), or the rules or regulations made thereunder in relation to the State cadres of the said Services referred to in sub-section (*2*) or sub-section (*4*) and in relation to the members of those services borne on the State cadres.

40. Provision relating to certain Services.—(*1*) On and from the appointed day, there shall be constituted for the State of Himachal Pradesh the following Services, namely:—

(*a*) the Himachal Pradesh Administrative Service; and

(*b*) the Himachal Pradesh Police Service.

(*2*) The initial strength and composition of the cadres of the said Services shall be such as the Administrator of the existing Union territory of Himachal Pradesh may, with the approval of the Central Government, by order, determine before the appointed day.

(*3*) On and from the appointed day, the existing Delhi, Himachal Pradesh and Andaman and Nicobar Islands Civil Service (hereinafter referred to as the existing Civil Service) shall be known as the Delhi and Andaman and Nicobar Islands Civil Service and Delhi, Himachal Pradesh and Andaman and Nicobar Islands Police Service (hereinafter referred to as the existing Police Service) shall be known as the Delhi and Andaman and Nicobar Islands Police Service.

(*4*) Such members of the existing Civil Service as the Central Government may, by order, specify shall be allocated to the cadre of the Himachal Pradesh Administrative Service and such members of the existing Police Service as the Central Government may, by order, specify, shall be allocated to the cadre of the Himachal Pradesh Police Service and any such order may specify the date or dates from which the allocation made thereunder shall be effective.

(*5*) All persons who are allocated under sub-section (*4*) and who immediately before the date on which they are allocated, are borne on a Select List for promotion to a State cadre of an All-India Service, shall be deemed to have been included in the same order as in that list in the Select List for promotion to the State cadre of the same Service constituted under sub-section (*2*) of section 39.

(*6*) Subject to the foregoing provisions of this section, the rules and regulations applicable to or in relation to the members of the existing Civil Service and the existing Police Service as in force immeditefy before the appointed day shall, so far as may, be apply respectively to and in relation to the members of the Himachal Pradesh Administrative Service and the Himachal Pradesh Police Service, until altered, repealed or amended by the competent authority.

(*7*) Every member of the Central Health Service who immediately before the appointed day is holding any post in the existing Union territory of Himachal Pradesh being a post included in the authorised strength of that Service, shall, until otherwise directed by the Central Government, be deemed to be on deputation, on and from the appointed day, to the Government of the State of Himachal Pradesh on the same terms and conditions of service as are applicable to him under the Central Health Service Rules, 1963, but without any deputation allowance:

Provided that the period of such deputation shall in no case extend beyond a period of three years from the appointed day.

*Explanation***.—**In this sub-section, "Central Health Service" means the Central Health Service constituted under the Central Health Service Rules, 1963.

41. Provisions relating to other services.—(*1*) Every person who immediately before the appointed day is serving in connection with the affairs of the Union under the administrative control of the Administrator of the Union territory of Himachal Pradesh shall, unless otherwise directed by an order of the Central Government, be deemed to have been allocated for service as from that day in connection with the affairs of the State of Himachal Pradesh:

Provided that no directions shall be issued under this section after the expiry of a period of one year from the appointed day:

Provided further that nothing in this section shall affect the operation of section 82 of the Punjab Reorganisation Act, 1966 (31 of 1966).

(*2*) The provisions of this section shall not apply in relation to persons to whom the provisions of sections 39 and 40 apply.

42. Other provisions as to services.—(*1*) Nothing in this section or sections 40 and 41 shall be deemed to affect on or after the appointed day the operations of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the State of Himachal Pradesh:

Provided that the conditions of service applicable immediately before the appointed day in the case of any person referred to in section 40 or section 41 shall not be varied to his disadvantage except with the previous approval of the Central Government.

(*2*) All services prior to the appointed day rendered by a person allocated under section 40 or deemed to have been allocated under section 41 in connection with the administration of Union territory of Himachal Pradesh, shall be deemed to have been rendered in connection with the affairs of the State of Himachal Pradesh for the purposes of the rules regulating his conditions of service.

43. Provisions as to continuance of officers in same posts.—Every person who immediately before the appointed day is holding or discharging the duties of any post or office in connection with the administration of the Union territory of Himachal Pradesh, shall continue to hold the same post or office in the State of Himachal Pradesh and shall be deemed, on and from that day, to have been duly appointed to the post or office by the Government of, or other appropriate authority in, the State of Himachal Pradesh;

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Provided that nothing in this section shall be deemed to prevent a competent authority on or after the appointed day from passing in relation to such person any order affecting his continuance in such post or office.

44. Advisory Committees.—The Central Government may, by order establish one or more advisory committees for the purpose of assisting it in regard to—

(*a*) the discharge of its functions under this Part; and

(*b*) the ensuring of fair and equitable treatment to all persons affected by the provisions of this Part and the proper consideration of any representations made by such persons.

45. Power of Central Government to give directions.—The Central Government may give such directions to the Government of the State of Himachal Pradesh as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part and also the provisions of Part IX of the Punjab Reorganisation Act, 1966 (31 of 1966), and the State Government shall comply with such directions.

PART VIII

LEGAL AND MISCELLANEOUS PROVISIONS

46. Amendment of article 210 and Article 239A.—On and from the appointed day—

(*a*) in article 210, in clause (2), the following proviso shall be inserted at the end, namely;—

'Provided that in relation to the Legislature of the State of Himachal Pradesh this clause shall have effect as if for the words "fifteen years" occurring therein, the words "twenty-five years" were substituted.';

(*b*) in article 239A, in clause (1), the words "Himachal Pradesh" shall be omitted.

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47. Amendment of Act 37 of 1956.—On and from the appointed day, in clause (*a*) of section 15 of the States Reorganisation Act, 1956,—

(*i*) for the word "Punjab", the words "Punjab, Himachal Pradesh" shall be substituted;

(*ii*) for the words "Himachal Pradesh and Chandigarh", the words "and Chandigarh" shall be substituted.

48. Amendment of Act 20 of 1963.—On and from the appointed day, in the Government of Union Territories Act, 1963, in clause (b) of sub-section (*1*) of section 2 and in sub-section (*2*) of section 44, the words "Himachal Pradesh" shall be omitted.

49. Continuance of existing laws and their adaptation.—(*1*) All laws in force, immediately before the appointed day, in the existing Union territory of Himachal Pradesh shall continue to be in force in the State of Himachal Pradesh until altered, repealed or amended by a competent Legislature or other competent authority.

(*2*) For the purpose of facilitating the application in relation to the State of Himachal Pradesh of any law made before the appointed day, the appropriate Government may, within two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation.—In this section, the expression "appropriate Government" means, as respects any law relating to a matter enumerated in the Union List in the Seventh Schedule to the Constitution, the Central Government; and as respects any other law, the Government of the State of Himachal Pradesh.

50. Power to construe laws.—Notwithstanding that no provision or insufficient provision has been made under section 49 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Himachal Pradesh, construe the law in such manner not affecting the substance as

may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

51. Provisions as to continuance of courts, etc.—All courts and tribunals and all authorities discharging lawful functions throughout the existing Union territory of Himachal Pradesh or any part thereof immediately before the appointed day shall, unless their continuance is inconsistent with the provisions of this Act or until other provision is made by a competent Legislature or other competent authority, continue to exercise their respective functions.

52. Effect of provisions of Act inconsistent with other laws.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

53. Power to remove difficulties.—(*1*) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty.

(*2*) Every order made under this section shall be laid before each House of Parliament.

54. Power to make rules.—(*1*) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(*2*) Every rule made under this section shall be laid as soon as may be after it is made before such House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or [1][in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid,] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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1. Subs. by Act 4 of 1986, s. 2 and the Schedule, for "in two successive sessions, and if, before the expiry of the sessions in which it is so laid or the session immediately following" (w.e.f. 5-5-1986).

THE FIRST SCHEDULE

[*See* section 19(*1*)]

AMENDMENT OF THE CONSTITUTION (SCHEDULED CASTES) ORDER, 1950

(*1*) In paragraph 2, for the figure "XIII", the figure "XIV" shall be substituted, and in paragraph 4, for the portion beginning with the words, figures and letter "and any reference in Parts IVA and X of the Schedule" and ending with the words and figures "the first day of November, 1966", the following shall be substituted, namely:—

"any reference in Parts IVA and X of the Schedule to a State or to a district or other territorial division thereof shall be construed as a reference to the State, district or other territorial division constituted as from the first day of November, 1966; and any reference in Part XIV to a State or to a district or other territorial division thereof shall be construed as a reference to the State, district or other territorial division constituted as from the day appointed under clause (*b*) of section 2 of the State of Himachal Pradesh Act, 1970."

(*2*) In the Schedule, after Part XIII, the following Part shall be inserted, namely:—

"PART XIV.—*Himachal Pradesh*

1. Throughout the State except the territories specified in sub-section (*1*) of section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966):—

1. Ad-dharmi
2. Badhi or Nagalu
3. Bandhela
4. Balmiki, Chura or Bhangi
5. Bangali
6. Banjara
7. Bansi
8. Barad
9. Barar
10. Batwal
11. Bawaria
12. Bazigar
13. Bhanjra
14. Chamar, Mochi, Ramdasi, Ravidasi or Ramdasia
15. Chanal
16. Chhimbe (Dhobi)
17. Chuhre
18. Dagi
19. Daole
20. Darai or Daryai
21. Daule
22. Dhaki or Toori
23. Dhaogri or Dhuai

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24. Doom or Doomna

25. Dumme (Bhanjre)

26. Hali

27. Hesi

28. Jogi

29. Julahe

30. Kabirpanthi, Julaha or Keer

31. Kamoh or Dagoli

32. Karoack

33. Khatik

34. Koli

35. Lohar

36. Mazhabi

37. Megh

38. Nat

39. Od

40. Pasi

41. Phrera

42. Rehar

43. Rehara

44. Sansi

45. Sapela

46. Sarde, Sarare or Siryare

47. Sarehde

48. Sikligar

49. Sipi

50. Sirkiband

51. Teli

52. Thathiar or Thathera.

2. In the territories specified in sub-section (*1*) of section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966):—

1. Ad Dharmi

2. Bangali

3. Barar, Burar or Berar

4. Batwal

5. Bauria or Bawaria

6. Bazigar

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7. Balmiki, Chura or Bhangi

8. Bhanjra

9. Charmar, Jatia Chamar, Rehgar, Raigar, Ramdasi or Ravidasi

10. Chanal

11. Dagi

12. Darain

13. Dhanak

14. Dhogri, Dhangri or Siggi

15. Dumna, Mahasha or Doom

16. Gagra

17. Gandhila or Gandil Gondola

18. Kabirpanthi or Julaha

19. Khatik

20. Kori or Koli

21. Marija or Marecha

22. Mazhabi

23. Megh

24. Nat

25. Od

26. Pasi

27. Perna

28. Pherera

29. Sanhai

30. Sanhal

31. Sansoi

32. Sansi, Bhedkut or Manesh

33. Sapela

34. Sarera

35. Sikligar

36. Sirkiband.".

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THE SECOND SCHEDULE

[*See* section 19(*2*)]

AMENDMENT OF THE CONSTITUTION (SCHEDULED CASTES) (UNION TERRITORIES) ORDER, 1951

(*1*) In paragraph 4, for the words and figures "Parts II and V" in both the places where they occur, the word and figure "Part V" shall be substituted.

(*2*) In the Schedule, Part II shall be omitted.

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THE THIRD SCHEDULE

[*See* section 20 (*1*)]

AMENDMENT OF THE CONSTITUTION (SCHEDULED TRIBES) ORDER, 1950

(*1*) In paragraph 2 for the figure "XII", the figure "XIII" shall be substituted, and in paragraph 3, for the portion beginning with the words, figures and letter "and any reference in Parts IV and VIIA" and ending with the words, figures and letters "as from the 1st day of May, I960", the following shall be substituted, namely:—

"any reference in Parts IV and VIIA of the Schedule to a State or to a district or other territorial division thereof shall be construed as a reference to the State, district or other territorial division constituted as from the 1st day of May, 1960; and any reference in Part XIII to a State or to a district or other territorial division thereof shall be construed as a reference to the State, district or other territorial division constituted as from the day appointed under clause (*b*) of section 2 of the State of Himachal Pradesh Act, 1970.".

(*2*) In the Schedule, after Part XII, the following Part shall be inserted, namely:—

"PART XIII.—*Himachal Pradesh*

1. Throughout the State, except the territories specified in sub-section (*1*) of section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966):—

1. Gaddi

2. Gujjar

3. Jad, Lamba, Khampa and Bhot or Bodh

4. Kanaura or Kinnara

5. Lahaula

6. Pangwala

2. In Lahaul and Spiti district:—

1. Gaddi

2. Swangla

3. Bhot or Bodh.".

THE FOURTH SCHEDULE

[*See* section 20 (*2*)]

AMENDMENT OF THE CONSTITUTION (SCHEDULED TRIBES) (UNION TERRITORIES) ORDER, 1951

(*1*) For paragraph 3, the following paragraph shall be substituted, namely:—

"3. Any reference in this Order to a Union Territory shall be constituted as a reference to the territory constituted as a Union Territory as from the 1st day of November, 1956.".

(*2*) In the Schedule, Part I shall be omitted.

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