SUPPLIED FOR THE PUBLIC SERVICE



CHAPTER 23.

An Act to amend the Government of India Act, 1935, as respects the effect of Proclamations of Emergency under section one hundred and two of that Act.

[14th February 1946.]

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:—

Amendment of s. 102 of Government of India Act, 1935. 26 Geo. 5 & 1 Edw. 8. c. 2.

1. In subsection (1) of section one hundred and two of the Government of India Act, 1935 (which enables the Central Legislature, where a Proclamation of Emergency is in force, to make laws for a Province or any part thereof with respect to any of the matters enumerated in the Provincial Legislative List), after the words " enumerated in the Provincial Legislative List " there shall be inserted the words " or to make laws, whether or not for a Province or any part thereof, with respect to any matter not enumerated in any of the Lists in the Seventh Schedule to this Act."

Commencement and transitional provision.

2.—(1) Subject to the provisions of this section, this Act shall be deemed to have come into operation on the commencement of Part III of the Government of India Act, 1935.

(2) Where, before the passing of this Act, a High Court in British India has given a judgment or made a final order in any civil proceedings involving a question as to the validity of any law, ordinance, order, byelaw, rule or regulation passed or made in India, any party to the proceedings may, at any time within ninety days from the passing of this Act, apply—

(*a*) where an appeal from the judgment or order has been decided by the Federal Court, to the Federal Court; and

(*b*) in any other case, to the High Court,

for a review of the proceedings in the light of the provisions of this Act, and the Court to which the application is made shall review the proceedings accordingly and make such order, if any, varying or reversing the judgment or order previously given or made, as may be necessary to give effect to the provisions of this Act:

Provided that, on any such application, the Court may make such order as to the costs of the application and of the proceedings as may be just, and, where it varies or reverses the original judgment or order, may order any party in whose favour the variation or reversal operates to pay to any party adversely affected by the variation or reversal such compensation as may be just for any loss sustained by him which is attributable to anything reasonably done by him in reliance on the original judgment or order.

Short title and printing.

3.—(1) This Act may be cited as the India (Proclamations of Emergency) Act, 1946.

(2) A copy of the Government of India Act, 1935, giving effect to—

9 & 10 Geo. 6. c. 2.

(*a*) the amendments mentioned in section six of the Indian Franchise Act, 1945; and

(*b*) the amendment made by section one of this Act,

shall be prepared and certified by the Clerk of the Parliaments and deposited with the Rolls of Parliament, and His Majesty's printer shall print in accordance with the copy so certified all copies of the Government of India Act, 1935, which are printed after the said copy has been so prepared, certified and deposited.

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