

# GOVERNMENT OF INDIA ACT, 1935

DRAFT of INSTRUMENT OF INSTRUCTIONS which it is proposed  
to recommend His Majesty to issue to the Governors of  
Indian Provinces

INDIA OFFICE,  
3rd November, 1936

S. F. STEWART  
Under-Secretary of State for India

*Presented to Parliament pursuant to the Government of India Act, 1935,  
Section 53.*

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DRAFT INSTRUMENT OF INSTRUCTIONS TO THE  
GOVERNOR OF MADRAS, BOMBAY, BENGAL,  
THE UNITED PROVINCES, THE PUNJAB, BIHAR,  
THE CENTRAL PROVINCES AND BERAR, ASSAM,  
THE NORTH-WEST FRONTIER PROVINCE, ORISSA,  
AND SIND.

WHEREAS by Letters Patent bearing date the \_\_\_\_\_ day  
of \_\_\_\_\_ Nineteen hundred and thirty-seven  
We have made permanent provision for the Office of Governor  
of \_\_\_\_\_

AND WHEREAS by those Letters Patent and by the Act of  
Parliament passed on the second day of August, Nineteen  
hundred and thirty-five and entitled the Government of India  
Act, 1935 (hereinafter called "the Act"), certain powers, functions  
and authority for the government of the Province of \_\_\_\_\_  
are declared to be vested in the Governor as Our Representative :

AND WHEREAS, without prejudice to the provision in the Act  
that in certain regards therein specified the Governor shall  
act according to instructions received from to time from Our  
Governor-General, and to the duty of Our Governor to give effect  
to instructions so received, We are minded to make general  
provision regarding the due manner in which Our said Governor  
shall execute all things which, according to the Act and the said  
Letters Patent, belong to his Office, and to the trust which We  
have reposed in him :

AND WHEREAS a draft of these Instructions has been laid before  
Parliament in accordance with the provisions of subsection (1)  
of section fifty-three of the Act and an Address has been presented  
to Us by both Houses of Parliament praying that instructions  
may be issued in the terms of these Instructions :

NOW THEREFORE We do by these Our Instructions under Our  
Sign Manual and Signet declare Our pleasure to be as follows :—

A.—INTRODUCTORY.

I. Under these Our Instructions, unless the context otherwise  
require, the term "Governor" shall include every person for the  
time being acting as Governor according to the provisions of  
the Act.

II. Our Governor for the time being shall, with all due solemnity,  
cause Our Commission under Our Sign Manual appointing him to  
be read and published in the presence of the Chief Justice for the  
time being, or, in his absence, other Judge, of the High Court of  
the Province.

III. Our said Governor shall take the oath of allegiance and  
the oath for the due execution of the Office of Our Governor of

, and for the due and impartial administration of justice, in the form hereto appended, which oaths the Chief Justice for the time being, or in his absence any Judge, of the High Court, shall, and he is hereby required to, tender and administer unto him.

IV. And We do authorise and require Our Governor, by himself or by any other person to be authorised by him in that behalf, to administer to every person appointed by him to hold office as a member of the Council of Ministers the oaths of office and of secrecy hereto appended.

V. And We do further direct that every person who under these Instructions shall be required to take an oath may make an affirmation in place of an oath if he has any objection to making an oath.

VI. And whereas great prejudice may happen to Our service by the absence of Our Governor, he shall not quit India during his term of office without having first obtained leave from Us under Our Sign Manual or through one of Our Principal Secretaries of State.

#### B.—IN REGARD TO THE EXECUTIVE AUTHORITY OF THE PROVINCE.

VII. In making appointments to his Council of Ministers Our Governor shall use his best endeavours to select his Ministers in the following manner, that is to say, to appoint in consultation with the person who in his judgment is most likely to command a stable majority in the Legislature those persons (including so far as practicable members of important minority communities) who will best be in a position collectively to command the confidence of the Legislature. In so acting, he shall bear constantly in mind the need for fostering a sense of joint responsibility among his Ministers.

VIII. In all matters within the scope of the executive authority of the Province, save in relation to functions which he is required by or under the Act to exercise in his discretion, Our Governor shall in the exercise of the powers conferred upon him be guided by the advice of his Ministers, unless in his opinion so to be guided would be inconsistent with the fulfilment of any of the special responsibilities which are by the Act committed to him, or with the proper discharge of any of the functions which he is otherwise by or under the Act required to exercise in his individual judgment; in any of which cases Our Governor shall, notwithstanding his Ministers' advice, act in exercise of the powers by or under the Act conferred upon him in such manner as to his individual judgment seems requisite for the due discharge of the responsibilities and functions aforesaid. But he shall be studious so to exercise his

powers as not to enable his Ministers to rely upon his special responsibilities in order to relieve themselves of responsibilities which are properly their own.

IX. Our Governor shall interpret his special responsibility for the safeguarding of the legitimate interests of minorities as requiring him to secure, in general, that those racial or religious communities for the members of which special representation is accorded in the Legislature, and those classes of the people committed to his charge who, whether on account of the smallness of their number or their primitive condition or their lack of educational or material advantages or from any other cause, cannot as yet fully rely for their welfare upon joint political action in the Legislature, shall not suffer, or have reasonable cause to fear, neglect or oppression. But he shall not regard as entitled to his protection any body of persons by reason only that they share a view on a particular question which has not found favour with the majority.

Further, Our Governor shall interpret the said special responsibility as requiring him to secure a due proportion of appointments in Our Services to the several communities, and, so far as there may be in his Province at the date of the issue of these Our Instructions an accepted policy in this regard, he shall be guided thereby, unless he is fully satisfied that modification of that policy is essential in the interests of the communities affected or of the welfare of the public.

X. In the discharge of his special responsibility for the securing to members of the public services of any rights provided for them by or under the Act and the safeguarding of their legitimate interests Our Governor shall be careful to safeguard the members of Our Services not only in any rights provided for them by or under the Act or any other law for the time being in force, but also against any action which, in his judgment, would be inequitable.

XI. The special responsibility of Our Governor for securing in the sphere of executive action any of the purposes which the provisions of Chapter III of Part V of the Act are designed to secure in relation to legislation shall be construed by him as requiring him to differ from his Ministers if in his individual judgment their advice would have effects of the kind which it is the purpose of the said Chapter to prevent, even though the advice so tendered to him is not in conflict with any specific provision of the Act.

XII. Our Governor shall construe his special responsibility for the protection of the rights of any Indian State as requiring him to see that no action shall be taken by his Ministers which would

imperil the economic life of any State, or affect prejudicially any right of any State heretofore or hereafter recognised, whether derived from treaty, grant, usage, sufferance or otherwise : and he shall refer to Our Governor-General any questions which may arise as to the existence of any such right.

XIIA. In pursuance of the Agreement made between Us and His Exalted Highness the Nizam of Hyderabad as contemplated in Part III of the Act, Our Governor shall interpret his special responsibility for the protection of the rights of any Indian State as also requiring him in the administration of Berar to have due regard to the commercial and economic interests of the State of Hyderabad.

Further, if Our Governor is at any time of opinion that the policy hitherto in force affords to him no satisfactory guidance in the interpretation of his special responsibility for securing that a reasonable share of the revenues of his Province is expended in or for the benefit of Berar he shall, if he deems it expedient, fortify himself with advice from a body of experienced and unbiased persons whom he may appoint for the purpose of recommending what changes in policy would be suitable and equitable.

*(The foregoing paragraph will be included in the Instrument of Instructions to the Governor of the Central Provinces and Berar only.)*

XIII. In the framing of rules for the regulation of the business of the Provincial Government Our Governor shall ensure that, amongst other provisions for the effective discharge of that business, due provision is made that the Finance Minister shall be consulted upon any proposal by any other Minister which affects the finances of the Province : and further that no reappropriation within a Grant shall be made by any Department other than the Finance Department, except in accordance with such rules as the Finance Minister may approve ; and that in any case in which the Finance Minister does not concur in any such proposal the matter shall be brought for decision before the Council of Ministers.

He shall further in those rules make due provision to secure that prompt attention is paid to any representation received by his Government from any minority.

XIV. Having regard to the powers conferred by the Act upon Our Secretary of State to appoint persons to Our service if, in his opinion, circumstances arise which render it necessary for him so to do in order to secure efficiency in irrigation, Our Governor shall make it his care to see that he is kept constantly supplied with information as to the conduct of irrigation in his Province in order that he may, if need be, place this information at the disposal of Our Governor-General.

XV. In the exercise of the powers by law conferred upon him in relation to the administration of areas declared under the Act to be Excluded or Partially Excluded Areas, or to the discharge of his special responsibility for the safeguarding of the legitimate interests of minorities, Our Governor shall, if he thinks this course would enable him the better to discharge his duties to the inhabitants of those areas or to primitive sections of the population elsewhere, appoint an officer with the duty of bringing their needs to his notice and advising him regarding measures for their welfare.

XVA. Our Governor shall bear constantly in mind the danger to India as a whole of any failure to maintain peace and security on the North-West Frontier. He shall, therefore, in the exercise of the executive authority of the Province, constantly have regard to the due discharge of his functions as Agent to Our Governor-General in respect of the tribal areas situate between the frontiers of India and the North-West Frontier Province; and he shall not hesitate to exercise his special responsibility for securing that the due discharge of his functions in respect of such tribal areas is not prejudiced or impeded by any course of action taken with respect to any other matter.

*(The foregoing paragraph will be included in the Instructions to the Governor of the North-West Frontier Province only.)*

#### C.—MATTERS AFFECTING THE LEGISLATURE.

XVI. In determining whether he shall in Our name give his assent to, or withhold his assent from, any Bill Our Governor shall, without prejudice to the generality of his power to withhold his assent on any ground which appears to him in his discretion to render such action necessary or expedient, have particular regard to the bearing of the provisions of the Bill upon any of the special responsibilities imposed upon him by the Act.

XVII. Without prejudice to the generality of his powers as to reservation of Bills, Our Governor shall not assent in Our name to, but shall reserve for the consideration of Our Governor-General, any Bill of any of the classes herein specified, that is to say:—

- (a) any Bill the provisions of which would repeal or be repugnant to the provisions of any Act of Parliament extending to British India;
- (b) any Bill which in his opinion would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by the Act designed to fill;
- (c) any Bill regarding which he feels doubt whether it does, or does not, offend against the purposes of Chapter III of Part V or section 299 of the Act;

(d) any Bill which would alter the character of the Permanent Settlement.

And in view of the provisions in this clause of these Our Instructions, it is Our will and pleasure that if his previous sanction is required under the Act to the introduction of any Bill of the last-mentioned description Our Governor shall not withhold that sanction to the introduction of the Bill.

XVIIA. Our Governor in declaring his assent in Our name to any Bill of the Legislature of the Central Provinces and Berar applying to Berar or in notifying Our assent to any such Bill reserved for the signification of Our pleasure shall state that the assent to the Bill in its application to Berar has been given by virtue of the assent of His Exalted Highness the Nizam to the aforesaid Agreement.

*(The foregoing paragraph will be included in the Instructions to the Governor of the Central Provinces and Berar only.)*

XVIII. It is Our will that the power vested by the Act in Our Governor to stay proceedings upon a Bill, clause or amendment in the Provincial Legislature in the discharge of his special responsibility for the prevention of grave menace to peace and tranquillity shall not be exercised unless, in his judgment, the public discussion of the Bill, clause or amendment would itself endanger peace and tranquillity.

XIX. It is Our will and pleasure that the seats in the Legislative Council to be filled by the nomination of Our Governor shall be so apportioned as in general to redress, so far as may be, inequalities of representation which may have resulted from election, and in particular to secure representation for women and the Scheduled Castes in that Chamber.

#### D.—GENERAL.

XX. And generally Our Governor shall do all that in him lies to maintain standards of good administration; to promote all measures making for moral, social and economic welfare and tending to fit all classes of the population to take their due share in the public life and government of the Province; and to secure amongst all classes and creeds co-operation, goodwill and mutual respect for religious beliefs and sentiments; and he shall further have regard to this Instruction in the exercise of the powers by law conferred upon him in relation to matters whether of legislation or of executive government.

XXI. And We do hereby charge Our Governor to communicate these Our Instructions to his Ministers and to publish the same in his Province in such manner as he may think fit.

## APPENDIX.

## FORM OF OATH OF ALLEGIANCE.

I, \_\_\_\_\_, do swear that I will be faithful and bear true allegiance to His Majesty, King Edward the Eighth, Emperor of India, His Heirs and Successors, according to law.

So help me God.

## FORM OF OATH OF OFFICE.

I, \_\_\_\_\_, do swear that I will well and truly serve Our Sovereign, King Edward the Eighth, Emperor of India, in the Office of \_\_\_\_\_, and that I will do right to all manner of people after the laws and usages of India, without fear or favour, affection or ill-will.

So help me God.

## FORM OF OATH OF SECRECY FOR MINISTERS.

I, \_\_\_\_\_, do swear that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration, or shall become known to me as a Minister in \_\_\_\_\_, except as may be required for the due discharge of my duties as such Minister or as may be specially permitted by the Governor in the case of any matter pertaining to the functions to be exercised by him in his discretion.

So help me God.