

## PART XI

## Emergency Provisions

Proclamation  
of Emer-  
gency.

275. (1) If the President is satisfied that a grave emergency exists whereby the security of India is threatened, whether by war or domestic violence, he may by proclamation, make a declaration to that effect. 5

(2) A proclamation issued under clause (1) of this article (in this Constitution referred to as "a Proclamation of Emergency")— 10

(a) may be revoked by a subsequent proclamation;

(b) shall be laid before each House of Parliament;

(c) shall cease to operate at the expiration of 15 six months, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament.

(3) A Proclamation of Emergency declaring that the security of India is threatened by war or by domestic violence may be made before the actual occurrence of war or of any such violence if the President is satisfied that there is imminent danger thereof.

Effect of  
Proclamation  
of Emer-  
gency.

276. Where a Proclamation of Emergency is in operation, then, notwithstanding anything contained in this Constitution— 25

(a) the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised; 30

(b) the power of Parliament to make laws with respect to any matter shall include power to make laws conferring powers and imposing duties or authorising the conferring of powers and the imposition of duties upon the Government of India or officers and authorities of the Government of India as respects that matter. 35 40

Application of provisions relating to distribution of revenues during the period a Proclamation of Emergency is in operation.

Provisions in case of failure of constitutional machinery in States in Part I of the First Schedule.

277. The President may, while a Proclamation of Emergency is in operation, by order, direct that all or any of the provisions of articles 249 to 259 of this Constitution shall for such period, not extending in any case beyond the expiration of the financial year in which such proclamation ceases to operate, as may be specified in the order, have effect subject to such exceptions or modifications as he thinks fit. 5

278. (1) If the President, on receipt of a proclamation issued by the Governor of a State under article 188 of this Constitution, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, he may by proclamation— 10

- (a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or any body or authority in the State other than the Legislature of the State; 15 20
- (b) declare that the powers of the Legislature of the State shall be exercisable only by Parliament;

and any such proclamation may contain such incidental and consequential provisions as may appear to him to be necessary or desirable for giving effect to the objects of the proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in that State: 25

Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court or to suspend, either in whole or in part, the operation of any provision of this Constitution relating to High Courts. 35

(2) Any such proclamation may be revoked or varied by a subsequent proclamation.

(3) A proclamation under this article—

- (a) shall be laid before each House of Parliament; 40

- (b) except where it is a proclamation revoking a previous proclamation, shall cease to operate at the expiration of six months:

Provided that, if and so often as a resolution approving the continuance in force of such a proclamation is passed by both Houses of Parliament, the proclamation shall, unless revoked, continue in force for a further period of twelve months from the date on which under this clause it would otherwise have ceased to operate, but no such proclamation shall in any case remain in force for more than three years.

- (4) Where by a proclamation issued under clause (1) of this article it has been declared that the powers of the Legislature of the State shall be exercisable only by Parliament, it shall be competent—

(a) for Parliament to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Government of India or officers and authorities of the Government of India;

(b) for the President to promulgate Ordinances under article 102, of this Constitution except when both Houses of Parliament are in session.

(5) Any law made by Parliament which Parliament would not but for the issue of a proclamation under this article have been competent to make shall to the extent of the incompetency cease to have effect on the expiration of a period of one year after the proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period unless the provisions which shall so cease to have effect are sooner repealed or re-enacted with or without modification by the Legislature of the State.

Suspension  
of provisions  
of article 13  
during  
emergencies.

279. While a Proclamation of Emergency is in operation, nothing in article 13 of Part III of this Constitution shall restrict the power of the State as defined in that Part to make any law or to take any executive action which the State would otherwise be competent to make or to take.

Suspension  
of the rights  
guaranteed  
by article  
25 of this  
Constitution  
during  
emergencies.

**\*280. Where a Proclamation of Emergency is in operation, the President may by order declare that the rights guaranteed by article 25 of this Constitution shall remain suspended for such period not extending beyond a period of six months after the proclamation has ceased to be in operation as may be specified in such order.**

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\* The Committee is of opinion that no provision should be made for suspension of the Fundamental Rights under article 13 or for suspension of the enforcement of such rights under article 25 where an emergency is declared by the Government of a State for the time being specified in Part III of the First Schedule as it will create unnecessary complications.