

## FIFTH SCHEDULE

[Articles 189 (a) and 190 (1)]

### PROVISIONS AS TO THE ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES

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#### Part I

##### GENERAL

1. Executive power of a State in scheduled areas.—Subject to the provisions of this Schedule the executive power of a State for the time being specified in Part I of the First Schedule extends to the scheduled areas therein. 10

2. Report by the Governor to the Government of India regarding the administration of the scheduled areas.—The Governor of each State having scheduled areas therein shall annually, or whenever so required by the Government of India, make a report to that Government regarding the administration of the scheduled areas in that State and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas. 15

#### Part II

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### PROVISIONS AS TO THE STATES OF MADRAS, BOMBAY, WEST BENGAL, BIHAR, THE CENTRAL PROVINCES AND BERAR, AND ORISSA

3. Application of Part II.—The provisions of this Part shall apply to the States of Madras, Bombay, West Bengal, Bihar, the Central Provinces and Berar, and Orissa. 25

4. Tribes Advisory Council.—(1) As soon as may be after the commencement of this Constitution, there shall be established in the States of Madras, Bombay, West Bengal, Bihar, the Central Provinces and Berar, and Orissa, a Tribes Advisory Council consisting of not less than ten and more than twenty-five members, of whom, as nearly as may be, three-fourths shall be elected representatives of the scheduled tribes in the Legislative Assembly of the State. 30

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(2) It shall be the duty of the Tribes Advisory Council generally to advise the Government of the State on all matters pertaining to the administration of the scheduled areas, if any, and the welfare of the scheduled tribes in the State.

(3) The Governor may make rules prescribing or regulating 5  
as the case may be—

- (a) the number of members of the Council, the mode of their appointment and of the appointment of its Chairman and of the officers and servants thereof;
- (b) the conduct of its meetings and its procedure in 10  
general;
- (c) its relations with officials and local bodies in the State; and
- (d) all other incidental matters.

5. Law applicable to scheduled areas.—(1) The Governor 15  
may, if so advised by the Tribes Advisory Council for the State, by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a scheduled area or any part thereof in the State or shall 20  
apply to a scheduled area or any part thereof in the State subject to such exceptions and modifications as he may with the approval of the said Council specify in the notification:

Provided that where such Act relates to any of the following subjects, that is to say—

- (a) marriage; 25
- (b) inheritance of property;
- (c) social customs of the tribes;
- (d) land, other than lands which are reserved forest under the Indian Forest Act, 1927 or under any other law for the time being in force in the area in 30  
question, including rights of tenants, allotment of land and reservation of land for any purpose;
- (e) any matter relating to village administration including the establishment of village panchayats,

the Governor shall issue such direction when so advised by the 35  
Tribes Advisory Council.

(2) The Governor may, after consultation with the Tribes Advisory Council for the State, make Regulations for any scheduled area in the State with respect to any matter not provided for by any law for the time being in force in such 40  
area.

(3) The Governor may also make regulations for any scheduled area in the State with respect to the trial of cases relating to offences other than those which are punishable with

death, transportation for life or imprisonment for five years or upwards or relating to disputes other than those arising out of any such laws as may be defined in such regulations, and may by such regulations empower the headmen or panchayats in any such area to try such cases. 5

(4) Any regulations made under this paragraph when promulgated by the Governor shall have the same force and effect as any Act of the appropriate Legislature which applies to such area and has been enacted by virtue of the powers conferred on that Legislature by this Constitution. 10

6. Alienation and allotment of lands to non-tribals in scheduled areas.—(1) It shall not be lawful for a member of the scheduled tribes to transfer any land in a scheduled area to any person who is not a member of the scheduled tribes; 15

(2) No land in a scheduled area vested in the State within which such area is situate shall be allotted to, or settled with, any person who is not a member of the scheduled tribes except in accordance with rules made in that behalf by the Governor in consultation with the Tribes Advisory Council for the State. 20

7. Regulation of money-lending in scheduled areas.—The Governor may, and if so advised by the Tribes Advisory Council for the State shall, by public notification direct that no person shall carry on business as a money-lender in a scheduled area in the State except under or in accordance with the conditions of a licence issued by an officer authorised in this behalf by the Government of the State and every such direction shall provide that a breach of it shall be an offence, and shall specify the penalty with which it shall be punishable. 25 30

8. Estimated receipts and expenditure pertaining to scheduled areas to be shown separately in the annual financial statement.—The estimated receipts and expenditure pertaining to a scheduled area in a State which are to be credited to, or is to be met from, the revenues of the State shall be shown separately in the annual financial statement of the State to be laid before the Legislature of the State under article 177 of this Constitution. 35

9. Application of Part II to areas other than Scheduled areas.—(1) The Governor may, at any time by public notification, direct that all or any of the provisions of this Part 40

shall on and from such date as may be specified in the notification apply in relation to any area in the State inhabited by members of any scheduled tribe other than a scheduled area as they apply in relation to a scheduled area in the State, and the publication of such notification shall be conclusive evidence that such provisions have been duly applied in relation to such other area. 5

(2) The Governor may by a like notification direct that all or any of the provisions of this Part shall on and from such date as may be specified in the notification cease to apply in relation to any area in the State in respect of which a notification may have been issued under sub-paragraph (1) of this paragraph. 10

### Part III

#### PROVISIONS AS TO THE STATE OF THE UNITED PROVINCES

10. Application of Part III.—The provisions of this Part shall apply only to the State of the United Provinces.

11. Scheduled Areas Advisory Committee.—(1) As soon as may be after the commencement of this Constitution the Governor shall by order appoint for the State a Scheduled Areas Advisory Committee, two-thirds of the members of which shall be the members of the Scheduled tribes. Such order may define the composition, powers and procedure of the Committee and may contain such incidental or ancillary provisions as the Governor may consider necessary or desirable. 20

(2) It shall be the duty of the Scheduled Areas Advisory Committee generally to advise the Government of the State on all matters pertaining to the development of scheduled areas in the State. 25

12. Power of Governor to make regulations in certain cases.—(1) The Governor may make regulations for any scheduled area in the State with respect to the trial of cases relating to offences other than those which are punishable with death, transportation for life or imprisonment for five years or upwards or for the trial of such classes of suits or cases of small pecuniary value as may be specified in such regulations, and may also by such regulations empower the headmen or panchayats in any such area to try such cases or suits. 35 40

(2) The Governor may also make regulations so as to prohibit the transfer of any land in a scheduled area in the State by a member of the scheduled tribes to any person who is not a member of the scheduled tribes.

(3) Any regulations made under this paragraph when promulgated by the Governor shall have the same force and effect as any Act of the appropriate Legislature which applies to such area and has been enacted by virtue of the powers conferred on that Legislature by this Constitution. 5

13. Estimated receipts and expenditure pertaining to scheduled areas to be shown separately in the Annual Financial Statement.—The estimated receipts and expenditure pertaining to the scheduled areas in the State which are to be credited to, or is to be met from, the revenues of the State shall be shown separately in the Annual Financial Statement of the State to be laid before the Legislature of the State under Article 177 of this Constitution. 10 15

## Part IV

### PROVISIONS AS TO THE STATE OF EAST PUNJAB

14. Application of Part IV.—The provisions of this Part shall apply only to the State of East Punjab. 20

15. Appointment of Scheduled Areas Advisory Committee.—

(1) As soon as may be after the commencement of this Constitution the Governor shall by order appoint for the State a Scheduled Areas Advisory Committee, two-thirds of the members of which shall be the residents of the scheduled areas in the State. Such order may define the composition, powers and procedure of the Committee and may contain such incidental or ancillary provisions as the Governor may consider necessary or desirable. 25 30

(2) It shall be the duty of the Scheduled Areas Advisory Committee generally to advise the Government of the State on all matters pertaining to the administration of the scheduled areas in the State.

16. Application of Acts of Parliament or of the Legislature of the State to scheduled areas.—The Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a scheduled area or any part thereof in the State or shall apply to a scheduled area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification. 35 40

17. Power of Governor to make regulations.—(1) The Governor may make regulations for any scheduled area in the State with respect to the trial of cases relating to offences other than those which are punishable with death, transportation for life or imprisonment for five years or upwards, or for 5 the trial of such classes of suits or cases of small pecuniary value as may be specified in such regulations, and may also by such regulations empower the headmen or panchayats in any such area to try such cases or suits.

(2) The Governor may also make regulations so as to prohibit the transfer of any land in a scheduled area in the State by a member of the scheduled tribes to any person who is not a member of the scheduled tribes.

(3) Any regulations made under this paragraph when promulgated by the Governor shall have the same force and 15 effect as any Act of the appropriate Legislature which applies to such area and has been enacted by virtue of the powers conferred on that Legislature by this Constitution.

## Part V

### SCHEDULED AREAS

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\*18. Scheduled areas.—(1) The areas specified in Parts I to VII of the Table below shall be the scheduled areas within the meaning of this Constitution, and any reference in the said Table to any division, district, administrative area, tahsil or estate shall be construed as a reference to that divi- 25 sion, district, area, tahsil or estate as existing on the date of commencement of this Constitution.

(2) The President may at any time by Order—

- (a) direct that the whole or any specified part of a scheduled area shall cease to be a scheduled area 30 or a part of such an area;
- (b) alter, but only by way of rectification of boundaries, any scheduled area;

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\*The Committee is of opinion that a provision on the lines of section 91(2) of the Government of India Act, 1935, as originally enacted, should be included in this paragraph to enable any area to be excluded from or included in the scheduled areas and the Committee has accordingly added sub-paragraph (2) to this paragraph.

(c) on any alteration of the boundaries of a State for the time being specified in Part I of the First Schedule or on the inclusion in Part I of that Schedule of a new State admitted into the Union or established by Parliament by law, declare any territory not previously included in any State so specified to be, or to form part of, a scheduled area, 5

and any such Order may contain such incidental and consequential provisions as appear to the President to be necessary and proper. 10

## TABLE

### I—MADRAS

The Laccadive Islands (including Minicoy) and the Amin-divi Islands.

The East Godavari Agency and so much of the Vizagapatam Agency as is not transferred to Orissa under the provisions of the Government of India (Constitution of Orissa) Order, 1936. 15

### II—BOMBAY

In the West Khandesh District:—The Navapur Petha, the Akrani Mahal and the villages belonging to the following Mehwasssi Chiefs: (1) the Parvi of Kathi, (2) the Parvi of Nal, (3) the Parvi of Singpur, (4) the Walwi of Gaohali, (5) the Wassawa of Chikhli, and (6) the Parvi of Navalpur. 20

In the East Khandesh District:—The Satpura Hills reserved forest areas. 25

In the Nasik District:—The Kalvan Taluk and Peint Petha.

In the Thana District:—The Dahanu and Shahapur Talukas and Mokhada and Umbergaon Pethas. 30

### III.—THE UNITED PROVINCES

The Jaunsar-Bawar Pargana of the Dehra Dun District. The portion of the Mirzapur District south of the Kaimur range.

### IV.—EAST PUNJAB

Spiti and Lahaul in the Kangra District. 35

### V.—BIHAR

The Ranchi and Singhbhum Districts, and the Latehar sub-division of the Palamau District of the Chota Nagpur Division. 40

The Santal Parganas District excluding the Godda and Deogarh Sub-divisions.

#### VI.—THE CENTRAL PROVINCES AND BERAR

In the Chanda district, the Ahiri Zamindari in the Sironcha Tahsil and the Dhanora, Dudmala, Gewardha, 5 Jharapapra Khutgaon, Kotgal, Muramgaon, Palasgarh, Rangi, Sirsundi Sonsari, Chandala, Gilgaon, Pai-Muranda and Potegaon Zamindaris in the Garchiroli Tahsil.

The Harrai, Gorakghat, Gorpani, Batkagarh, Bardagarh Partabgarh (Pagara), Almod and Sonpur Jagirs of the 10 Chhindwara District, and the portion of the Pachmarhi jagir in the Chhindwara District.

The Mandla District.

The Pendra, Kenda, Matin, Lapha, Uprora, Chhuri and Korba Zamindaris of the Bilaspur District. 15

The Aundhi, Koracha, Panabaras and Ambagarh Chauki Zamindaris of the Drug District.

The Baihar Tahsil of the Balaghat District.

The Melghat Taluk of the Amraoti District.

The Bhainsdehi Tahsil of the Betul District. 20

#### VII.—ORISSA

The Ganjam Agency Tracts including Khondmals.

The Koraput District.