

# **THE STATE OF DELHI BILL 2016**

## **A**

### **Bill**

*To provide for the establishment of the State of Delhi and for matters connected therewith.*

*Be it enacted by .....*

## **PART 1**

### **Preliminary**

1. This Act may be called the State of Delhi Act, 2016
2. In this Act, unless the context otherwise requires,-
  - (a) “Lt. Governor” means the Lt. Governor/Administrator appointed by the President under article 239;
  - (b) “appointed day” means the day which the Central government may, by notification, appoint;
  - (c) “article” means an article of the Constitution;
  - (d) “assembly constituency” and “parliamentary constituency” have the meanings assigned to them in the Representation of the People Act, 1950;
  - (e) “Election Commission” means the Election Commission referred to in article 324
  - (f) “existing National Capital Territory” means the National Capital Territory called as the National Capital Territory of Delhi as existing immediately before the appointed day;
  - (g) “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;
  - (h) “notification” means a notification published in the Official Gazette;
  - (i) “sitting member”, in relation to the either House of Parliament or of the Legislative Assembly of the existing Union territory, means a person who, immediately before the appointed day, is a member of that House or that Assembly, as the case may be;
  - (j) “treasury” includes a sub-treasury

## **PART II**

### ***ESTABLISHMENT OF THE STATE OF DELHI***

3. On and from the appointed day, there shall be established a new State to be known as the State of Delhi comprising the territories of the existing National Capital Territory of Delhi.
4. On and from the appointed day, in the First Schedule to the Constitution, -
  - (a) Under the heading "1, THE STATES" after entry 29, the following entry shall be inserted namely:-

"30 Delhi - The territories specified in section 3 of the State of Delhi Act, 2016"
  - (b) Under the heading "II. THE UNION TERRITORIES", entry 1 relating to Delhi shall be omitted and entries 2 to 7 shall consecutively be re-numbered as entries 1 to 6.
5. Nothing in the foregoing provisions of this Part shall be deemed to affect the power of the Government of the State of Delhi to alter, after the appointed day, area or boundaries of any district or other territorial division in the State

## **PART III**

### ***REPRESENTATION IN THE LEGISLATURES***

#### ***The Council of States***

6. On and from the appointed day, there shall be allotted three seats in the Council of States to the State of Delhi and in the Fourth Schedule to the Constitution, the entry 30 relating to the existing National Capital Territory shall be deemed to be the entry relating to the State of Delhi
7. (1) On and from the appointed day the three sitting members of the Council of States, representing the existing National Capital Territory, shall be deemed to have been duly elected under clause (4) of article 80 to fill the seats allotted to the State of Delhi;  
(2) The term of office of the sitting member shall remain unaltered

#### ***The House of the People***

8. (1) On and from the appointed day, the allocation of seats to the State of Delhi in the House of the People shall be seven and the number of seats to be reserved for the Scheduled Castes shall be one out of those seats and the First Schedule to the Representation of the People Act, 1950 shall be deemed to be amended accordingly

(2) On and from the appointed day, the parliamentary constituencies of the existing National Capital Territory of Delhi shall be deemed to be the parliamentary constituencies of the State of Delhi and the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall be construed accordingly.

9. The sitting members of the House of People representing the constituencies which, on the appointed day, by virtue of the provisions of section 8 become the constituencies of the State of Delhi shall be deemed to have been elected under sub-clause (b) of clause (1) of article 81 to the House of the People by those constituencies

### ***The Legislative Assembly***

10. On and from the appointed day, -
- i) The total number of seats in the Legislative Assembly of the State of Delhi to be filled by person chosen by direct election from assembly constituencies shall be seventy and the Second Schedule of the Representation of the People Act, 1950 shall be deemed to be amended, accordingly,
  - ii) The assembly constituencies of the existing National Capital Territory shall be deemed to be the assembly constituencies of the State of Delhi and the Delimitation of Assembly Constituencies Order, 1976, shall be construed accordingly,
  - iii) The sitting members of the Legislative Assembly representing the constituencies which, on the appointed day, by virtue of the provisions of clause (ii) become the constituencies of the State of Delhi, shall be deemed to have been elected under clause (1) of article 170 to the Legislative Assembly of the State of Delhi;
  - iv) The period of five years referred to in clause (1) of article 172 shall, in case of Legislative Assembly deemed to be the Legislative Assembly of the State of Delhi under clause (ii), be deemed to have commenced on the date on which the duration of the Legislative Assembly of the existing National Capital Territory commenced under section 5 of the Government of National Capital Territory of Delhi Act, 1991
11. The persons who immediately before the appointed day are the Speaker, and the Deputy Speaker, of the Legislative Assembly of the existing National Capital Territory shall be the Speaker and the Deputy Speaker respectively, of the Legislative Assembly deemed to be the Legislative Assembly of the State of Delhi under clause (ii) of section 10.
12. The rules of procedure and conduct of business of the Legislative Assembly of the existing National Capital Territory, 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 deemed to be the Legislative Assembly of the State of Delhi under clause (ii) of section 10 subject to such modification and adaptations as may be made therein by the Speaker thereof

**PART IV**

**HIGH COURT**

13. On and from the appointed day,-
- (a) The High Court for the existing National Capital Territory (hereinafter referred to as the existing High Court) shall be deemed to be the High Court for the State of Delhi under article 214, to be called the High Court of Delhi (hereinafter referred to as the High Court of Delhi);
  - (b) The Judges of the existing High Court holding office immediately before that day shall unless they have elected otherwise, become, on that day, the Judges of the High Court of Delhi;
  - (c) The High Court of Delhi shall have, in respect of territories comprised in the State of Delhi, all jurisdiction, powers and authority as, under the law in force immediately before the day, are exercisable in respect of those territories by the existing High Court.
14. (1) On and from the appointed day, in the Advocates Act, 1961, in section 3, -
- i) In sub section (1), for the clause (f), the following clause shall be substituted namely:-

“(f) for the State of Delhi to be known as the Bar Council of Delhi”,
  - ii) In sub section (2), the words “in the case of the State Bar Council of Delhi, the Additional Solicitor General of India, ex officio,” shall be omitted
- (2) Any person who, immediately before the appointed day, is an advocate entitled to practise in the existing High court shall be entitled to practise as an advocate in the High Court of Delhi
- (3) All persons who immediately before the appointed day, are advocates on the roll of the existing Bar Council of Delhi shall, on and from the appointed day, become advocates on the roll of the Bar Council of Delhi
- (4) The right of audience in the High Court of Delhi shall be regulated in accordance the like principles as, immediately before the appointed day, are in force with respect of the right of audience in the existing High Court
15. Subject to the provisions of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the existing High court shall, with the necessary modifications, applies in relation to the High Court of Delhi

16. The law in force immediately before the appointed day with respect to the custody of the seal of the existing High Court shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of Delhi.
17. 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 existing High Court shall, with necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Delhi.
18. 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 existing High Court and with respect to all matter ancillary to the exercise of those powers shall, with the necessary modification, apply in relation to the High Court of Delhi.
19. (1) The principal seat of the High Court of Delhi shall be at the same place at which the principal seat of the existing High Court is located immediately before the appointed day.  
  
(2) Notwithstanding anything contained in sub-section (1), the Judges and division courts of the High Court of Delhi may also sit at such other place or places within the territories to which the jurisdiction of that High Court extends as the Chief Justice of that High Court may, with the approval of the Governor of the State, appoint.
20. The law in force immediately before the appointed day relating to appeals to the Supreme Court from the existing High Court and the Judges and division courts thereof shall, with the necessary modifications, apply in relation to the High Court of Delhi
21. (1) All proceedings pending in the existing High Court immediately before the appointed day shall, from such day, stand transferred to the High Court of Delhi  
  
(2) Every proceeding transferred under sub-section (1) shall be disposed of by the High Court of Delhi as if such proceeding was entertained by that High Court
22. (1) for the purpose of section 21, -
  - (a) Proceedings shall be deemed to be pending in a court until that court has disposed of all issues between the parties, including any issue with respect to the taxation of the costs of the proceedings and shall include appeals, application for leave to appeal to the Supreme Court, applications for review petitions for revision and petitions for writs; and
  - (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 of a judge shall be construed as including references to a sentence, judgement or decree passed or made by that court or judge;

2) Any person who, immediately before the appointed day, is an advocate entitled to practise in the existing High Court and was authorised to appear or to act in any proceedings transferred from the High Court to the High Court of Delhi under section 21 shall have the right to appear or to act, as the case may be, in the High Court of Delhi in relation to those proceedings.

## **PART V**

### ***AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES***

23. (1) The President may, at any time before the appointed day, authorise the order such expenditure from the Consolidated Fund of the State of Delhi as he deems necessary 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 Delhi;

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

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

24. The reports of the Comptroller and Auditor General of India referred to in section 48 of the Government of National Capital Territory of Delhi Act, 1991, relating to the accounts of the existing National Capital Territory in respect of any period prior to the appointed day, shall be submitted to the Governor of the State of Delhi who shall cause them to be laid before the Legislative Assembly of that State
25. The allowances and privileges of the Governor of the State of Delhi shall, until provision in that behalf is made by the Parliament by law under clause (3) of article 158, be the same as are provided to the Lt. Governor of the existing National Capital Territory immediately before the appointed day.
26. The President shall, by order, determine the grants-in-aid of the revenues of the State of Delhi and share of that State in the Union duties and taxes in such manner as he thinks fit by 31<sup>st</sup> day of March, 20

## **PART VI**

### ***ASSETS AND LIABILITIES***

27. In this Part "Union purposes" means the purposes of Government relating to any of the matters mentioned in the List I of the Seventh Schedule to the Constitution.

28. (1) Subject to the provisions of this Part, all land and all stores, articles and other goods held immediately before the appointed day, by the Union for the purposes of the governance of the existing National Capital Territory, shall, on and from that day pass to the State of Delhi, unless any such land, stores, articles or goods are owned or held for the Union purposes.

(2) The stores held for specific purposes, such as use or utilisation in particular institutions, workshops or undertakings or on particular works under construction, shall be retained by the Union if such institution, workshop, undertaking or work is carried on for Union purposes

(3) In this section, the expression "land" includes immovable property of every kind and any rights in or over such property

29. The total of the cash balances in all treasuries, the Reserve Bank of India, the State Bank of India and any nationalised bank, of the existing National Capital Territory immediately before the appointed day shall be the cash balances of the State of Delhi

*Explanation* – In this section, "balance" includes a debit balance

30. (1) The right to recover arrears of any tax or duty (including arrears of land revenue) on any property situated in the territory of the State of Delhi shall belong to the state of Delhi

(2) The right to recover arrears of any tax or duty, other than a tax or duty specified in sub-section (1), shall belong to the State of Delhi if the place of assessment of that tax or duty is included in the territory of the State of Delhi;

Provided that nothing contained in this sub-section shall empower the State of Delhi to recover any tax or duty which that State is not competent to impose.

31. (1) The liability of the Union or the Government of the existing National Capital Territory whether attributable to the Consolidated Fund of India or the Consolidated Fund of the existing National Capital Territory, in respect of any loan taken by the Union or the government of the existing National Capital Territory for the purposes of the existing National Capital Territory shall be the liability of the State of Delhi on and from the appointed day subject to such contribution from the Union as may be determined by the Central Government.

(2) The right to recover any loans or advances made by the Union or the Government of the existing National Capital Territory before the appointed day to any local body, society, agriculturist or other person in the territory of the State of Delhi shall belong to the State of Delhi.

Provided that the right to recover loans or advances of pay and travelling allowances to a Government servant made before the appointed day by the Lieutenant Governor shall pass to the State of Delhi if such Government servants is allotted to that State.

32. The assets and liabilities relating to any commercial undertaking of the existing National Capital Territory shall pass to the State of Delhi.

*Explanation* – For the purposes of this section the expression “any commercial undertaking of the existing National Capital Territory” shall not include any undertaking to which provisions of Part VII are applicable

33. The liability of the Union to refund –

(a) Any tax or duty on property, including land revenue collected in excess, shall go to the State of Delhi if the property is situated in the territories of that State;

(b) Any other tax or duty collected in excess shall go to the State of Delhi if the place of assessment of that tax or duty is included in the territory of the State of Delhi

34. The liability of the Union in respect of any civil deposit or local fund shall, on and from the appointed day, be the liability of the State of Delhi, if the deposits has been made in the territory of the State of Delhi.

35. (1) The liability of the Union in respect of the provident fund account of a Government servant employed in connection with the administration of the existing National Capital Territory and in service on the appointed day shall, on and from that day, be the liability of the State of Delhi if that Government servant is permanently allotted to that State.

(2) The liability of the Union in respect of the provident fund account of a Government servant employed in connection with the administration of the existing National Capital Territory who has retired from service before the appointed day shall be the liability of the State of Delhi.

36. (1) Subject to the adjustments mentioned in sub-section (4), the State of Delhi shall, in respect of pensions granted before the appointed day by the Lt. Governor of the existing National Capital Territory, pay the pensions drawn in the treasuries in Delhi of the existing National Capital Territory.

(2) Subject to the adjustments mentioned in sub-section (4), the liability in respect of pensions of Government servants employed in connection with the affairs of the existing National Capital Territory who retire or proceed on leave preparatory to retirement before the appointed day but whose claims for pensions are outstanding immediately before that day, shall be the liability of the State of Delhi.

(3) The liability of the Union in respect of pensions granted before the appointed day by the Lt. Governor and drawn in any treasury outside the existing National Capital Territory shall be the liability of the State of Delhi.

(4) In respect of the period commencing on the appointed day and ending on the 31<sup>st</sup> day of March, 20 , and in respect of each subsequent financial year, the total payments made by the State of Delhi in respect of pensions referred to in sub-section (1) and sub-section (2) shall be apportioned between the State of Delhi and the Union in such manner as may be agreed between them before the expiration of one year from the appointed day, or in default of such agreement in such manner as the Central Government may, by order, direct.

(5) The liability in respect of the pension of any Government servant employed immediately before the appointed day in connection with the affairs of the existing National Capital Territory and retired on or after that day, shall be that of the State of Delhi or the Union, as the case may be, but the portion of the pension in respect of the period of service of any such Government servant before the appointed day shall be apportioned between the State of Delhi and the Union in such manner as may be agreed between them before the expiration of one year from the appointed day, or in default of such agreement in such manner as the Central Government may, by order, direct.

(6) Any reference in this section to a pension shall be construed as including a reference to the commuted value of the pension.

37. (1) Where before the appointed day, the Union has made any contract in the exercise of its executive power for any purposes of the existing National Capital territory that contract shall be deemed to have been made in the exercise of the executive power of the State of Delhi, if the purposes of the contract are, on and from that day, exclusively purposes of that State, and all rights and liabilities which have accrued, or may accrue, under any such contract shall, to the extent to which they would have been rights or liabilities of the Union, be rights or liabilities of the State of Delhi.

(2) For the purposes of this section, there shall be deemed to be included in liabilities which have accrued or may accrue under any contract –

(a) Any liability to satisfy an order or award made by any court or other tribunal in proceedings relating to the contract; and

(b) Any liability in respect of expenses incurred in, or in connection with, any such proceedings.

(3) This section shall have effect subject to the other provisions of this Part relating to the apportionment of liabilities in respect of loans, guarantees and other financial obligations.

38. Where, immediately before the appointed day, the Union, in connection with the governance of the existing National Capital Territory, is subject to any liability in respect of an actionable wrong, other than breach of contract, that liability shall, -
- (a) If the cause of action arose wholly within the territories of the existing National Capital Territory, be a liability of the State of Delhi; and
  - (b) In any other case, be initially a liability of the State of Delhi but subject to such financial adjustments as may be agreed upon between the State of Delhi and the Union, or in default of such agreement, as the Central Government may, by order, direct.
39. Where, immediately before the appointed day, the Union, in connection with the governance of the existing National Capital Territory, is liable as guarantor in respect of any liability of a registered co-operative society or other person, that liability of the Union shall be a liability of the State of Delhi if the area of the operations of such society or person is limited to the territories of the existing National Capital Territory.
40. If any item in suspense is ultimately, found to affect an asset or liability of the nature referred to in any of the foregoing provisions of this Part, it shall be dealt with in accordance with that provision
41. The benefit or burden of any assets or liabilities of the Union in connection with governance of the existing National Capital Territory not dealt with in the foregoing provisions of this Part shall be retained by the Union
42. Where the State of Delhi and the Union agree that the benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that provided for in the foregoing provisions of this Part, then, notwithstanding anything contained therein, the benefit or burden of that asset or liability shall be apportioned in the manner agreed upon
43. Where, by virtue of any of the provisions of this Part, the Union becomes entitled to any property or obtains any benefits or the State of Delhi becomes subject to any liability, and the Central Government is of opinion on a reference made within a period of three years from the appointed day by the State of Delhi that it is just and equitable that property or those benefits should be transferred to, or shared with, the State of Delhi or that a contribution towards that liability should be made by the Union, the said property or benefits shall be allocated in such manner, or the Union shall make the said property or benefits shall be allocated in such manner, or the Union shall make to the State of Delhi such contribution in respect thereof, as the Central Government may, after consultation with the Government of the State of Delhi, by order, determine.

## **PART VII**

### **PROVISIONS AS TO ARRANGEMENTS, CORPORATIONS AND INTER-STATE AGREEMENTS**

44. If it appears to the Central Government that the arrangements in regard to the generation or supply of electric power or the supply of water or the disposal of sewage for any area or in regard to the execution of any project for such generations, supply or disposal has been or is likely to be modified to the disadvantage of that area by reason of the fact that it has been transferred by the provisions of Part II from the existing National Capital Territory to the State of Delhi in which the power station and other installation for the generation and supply of such power or disposal of the sewerage or the catchment area, reservoir and other work for the supply of water, or disposal of sewage, as the case may be, are located, the Central Government may give directions as it deems fit, to the State Government or other authority concerned for the maintenance of previous arrangement.

45. Notwithstanding anything contained in section 22 of the Banking Regulation Act, 1949, where by virtue of the provisions of Part II, a co-operative bank is newly formed on the appointed day or within three months thereof in the State of Delhi, it may commence and conduct banking business without obtaining a licence under that section from the Reserve Bank of India, until it is granted such a licence or until it is informed by the Reserve Bank of India that such a licence cannot be granted to it:

Provided that such bank applies to the Reserve Bank of India for such a licence within a period of three months from the date of formation of the bank.

46. (1) Notwithstanding anything contained in section 81 of the Motor Vehicle Act, 1988, a permit granted in the existing National Capital Territory shall, if such permit was immediately before the appointed day, valid and effective in any area therein, be deemed to continue to be valid and effective in that area up to the 31<sup>st</sup> March, 20 , subject to the provisions of that Act as for the time being in force in that area and it shall not be necessary for any such permit to be countersigned by any State or Regional Transport Authority for the purpose of validating it for use in such area;

Provided that the Central Government may, after consultation with the Government the State of Delhi, add to, amend or vary the conditions attached to the permit by the authority by which the permit was granted.

(2) No toll, entrance fees or other charges of a like nature shall be levied for a period up to and inclusive of the 31<sup>st</sup> day of March, 20 , in respect of any transport vehicle for its operations in the State of Delhi under any such permit, if such vehicles are immediately before that day exempt from the payment of any such toll, entrance fees or other charges for its operations within the existing National Capital Territory;

Provided that the Central Government may, after consultation with the State Government of Delhi authorise the levy of any such toll, entrance fees or other charges, as the case may be.

47. Where, by virtue of the provisions of Part II, any-body corporate constituted under a Central Act, State Act or Provincial Act, any co-operative society registered under any law relating to co-operative societies or any commercial or industrial undertaking is reconstituted or reorganised in any manner whatsoever or is amalgamated with any other body corporate, cooperative society or undertaking, or is dissolved, an in consequence of such reconstitution, reorganisation, amalgamation or dissolution, any workman employed by such body corporate or any such cooperative society or undertaking, is transferred to, or re-employed by any other body corporate, or in any other cooperative society or undertaking, then, notwithstanding anything contained in section 25F or section 25FF or section 25FFF, of the Industrial Disputes Act, 1947, such transfer or re-employment shall not entitle him to any compensation under that section;

Provided that –

- (a) The terms and conditions of service applicable to the workman after such transfer or re-employment are not less favourable to the workman than those applicable to him immediately before the transfer or re-employment; and
  - (b) The employer in relation to the body corporate, the cooperative society or the undertaking where the workman is transferred to or re-employed, is by agreement or otherwise, legally liable to pay to the workman, in the event of his retirement, compensation under section 25F or section 25FF or section 25FFF of the Industrial Disputes Act, 1947, on the basis that his service has been continuous and has not been interrupted by the transfer or re-employment.
48. Where the assets, rights and liabilities of any-body corporate carrying on business are, under the provisions of this Part, transferred to any other bodies corporate which after the transfer carry on the same business, the losses of profits or gains sustained by the body corporate first mentioned which, but for such transfer, would have been allowed to be carried forward and set-off in accordance with the provisions of Chapter VI of the Income-tax Act, 1961 shall be apportioned amongst the transferee bodies corporate in accordance with the rules to be made by the Central Government in this behalf and, upon such appointment, the share of loss allotted to each transferee body corporate shall be dealt with in accordance with the provisions of Chapter VI of the said Act as if the transferee body corporate had itself sustained such loss in a business carried on by it in the years in which these losses were sustained.
49. On and from the appointed day, the Government of the State of Delhi shall, in respect of the educational or technical institutions or universities or any other State institutions located or which may be established in the State of Delhi continue to provide facilities to the persons resident in the territories comprising the State of Delhi which

shall not in any respect be less favourable than those which were being provided to them immediately before that day upon such terms and conditions (including those relating to any contribution or payment to be made for the provisions of such facilities) as may be agreed upon between the State of Delhi and the Union before the 1<sup>st</sup> day of April, 20 , or if no such agreement is reached by the said date, as may be fixed by the order of the Central Government.

## **PART VIII**

### **PROVISIONS AS TO SERVICES**

50. (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; and
  - (c) In relation to the Indian Forest Service, has the meaning assigned to it in the Indian Forest Service (Cadre) Rules, 1966.
- (2) The strength and composition of the State Cadre of the State of Delhi shall, on and from the appointed day, continue as such it is existing immediately before such day in respect of the existing National Capital Territory, till the Central Government, by notification, provides a separate Cadre for the State of Delhi.
- (3) Nothing in this section shall be deemed to affect the operation, on or after the appointed day, of the All India Services Act, 1951, or the rules made thereunder, in relation to the State Cadres of the said services and in relation to the member of those services borne on the said Cadres.
51. (1) Every person employed in connection with the affairs of the State of Delhi and serving, immediately before the appointed day, in the existing National Capital Territory shall, on and from that day –
- (a) Continue to serve in connection with the affairs of the State of Delhi; and
  - (b) Be deemed to be provisionally allotted to serve in connection with the affairs of the said State :
- Provided that nothing in clause (b) shall apply to a person to whom the provisions of section 50 apply or to a person on deputation from any State.

(2) As soon as may be after the appointed day, the Central Government shall by general or special order, determine whether every person referred to in clause (b) of sub-section (1) shall be finally allotted for service in the State of Delhi or under the Union in connection with the affairs of the National Capital Territory and the date with effect from which such allotment shall take effect be deemed to have taken effect.

(3) As soon as may be after the Central Government passes order finally allotting an employee in terms of sub-section (2), the State of Delhi or the Union shall take steps to integrate him into the services under its control in accordance with such special or general orders or instructions as may be issued by the Central Government from time to time to this behalf.

(4) The Central Government may, by order, establish one or more Advisory Committees for the purpose of assisting it in regard to –

- (a) The division of the services between the State of Delhi and the Union; and
- (b) The ensuring of fair and equitable treatment to all persons affected by the provisions of this section and the proper consideration of any representations made by such persons:

Provided that notwithstanding anything to the contrary contained in any law or rule for the time being in force, no representation shall lie against any order passed by the competent authority on matters arising out of the division and integration of services under this Act, on the expiry of three months from the date of publication or services, whichever is earlier, of such order:

Provided further that, notwithstanding anything contained in the preceding proviso, the Central Government may suo moto or otherwise and for reasons to be recorded, reopen any matter and pass such orders thereon, as may appear to it to be appropriate if it is satisfied that it is necessary so to do, in order to prevent any miscarriage of justice to any affected employee.

(5) Nothing in this section shall be deemed to affect, on or after the appointed day, the operation of the provisions of Chapter I of the Part XIV of the Constitution in relation to the determination of the conditions of service of persons serving in connection with the affairs of the State of Delhi or the Union:

Provided that the conditions of service applicable immediately before the appointed day to the case of any person referred to in sub-section (1) or sub-section (2) shall not be varied to his disadvantage except with the previous approval of the Central Government.

(6) All services prior to the appointed day rendered by a person allotted under sub-section (2) in connection with the affairs of the existing National Capital territory shall for purpose of the rules regarding his conditions of service, be deemed to have been rendered in connection with the affairs of the State or the Union to which he is finally allotted.

(7) The provisions of this section other than clause (b) of sub-section (1) shall not apply in relation to any person to whom the provisions of section 50 apply.

52. Every person who immediately before the appointed day is holding or discharging the duties of any post or office in connection with the affairs of the existing National Capital Territory shall continue to hold the same post or office and shall be deemed, on and from that day, to have been duly appointed on the same terms and conditions of appointment and on the same tenure to that post or office by the Government of, or the other appropriate authority, in the State of Delhi or of the Union, as the case may be :

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.

53. The Central Government may give such directions to the Government of the State of Delhi as may appear to it be necessary for the purpose of giving effect to the foregoing provisions of this Part and the said State Government shall comply with such directions.

## **PART IX**

### ***AMENDMENT TO CERTAIN LEGISLATIONS OF THE CENTRAL GOVERNMENT***

54. Amendment to the Delhi Municipal Corporation Act, 1957,-

- (i) In section 2 for Clause (10) the following change shall be substituted, namely:-

“(10) – Delhi means the entire area of the State of Delhi except New Delhi and Delhi Cantonment.”

- (ii) 2(b) – for the words ‘Central Government’ wherever occurring in different sections the word “Government of the State of Delhi” shall be substituted including in sections 2(43), 2(51), 3(6), 9(1)(g), 22(8), 31,54, 90(8), 96(c), 106,185, 195(1), proviso to 195(2), 485,486,487, 488, 490 and 490A.

- (iii) For the words, National Capital Territory of Delhi, wherever they occurring in different sections, the words “State of Delhi” shall be substituted.

(iv) For Clause (21A), the following change shall be substituted namely:-

“(21A) – Government means the Government of the State of Delhi”

55. Amendment to the Delhi Development Act, 1957,-

For the words “Central Government” wherever they occurring in different sections, the words “Government of the State of Delhi” shall be substituted;

56. Amendment to the Delhi Police Act, 1978,-

(i) For the words “Union Territory of Delhi” wherever they occurring in different sections, the words “State of Delhi” shall be substituted;

(ii) For the words “Central Government” wherever they occurring in different sections, the words “Government of the State of Delhi” shall be substituted.

57. All consequential amendments to the Delhi Municipal Corporation Act 1957, the Delhi Development Act 1957, the Delhi Police Act 1978 and other statutes passed by the Parliament in respect of matters enumerated in the State List in the Seventh Schedule of the Constitution will henceforth be carried out by the Legislative Assembly of the State of Delhi.

58. For the words “Administrator or Lt. Governor” wherever they occur in different sections, the word “Governor” shall be substituted in the Delhi Municipal Corporation Act, the Delhi Development Act and the Delhi Police Act.

*Explanation* – The Governor will act on the aid and advise of the Council of Ministers as provided in Article 163 of the Constitution.

## **PART X**

### ***SPECIAL PROVISIONS WITH RESPECT TO NEW DELHI***

59. Parliament to have exclusively legislative powers and the President, acting through the Governor, executive power for New Delhi with respect to any matter specified in Entries 1, 2, 5 and 18 of the State List and Entries 64, 65 and 66 of that List so far as they relate to the said Entries 1, 2, 5 and 18.

*Explanation* – For the purposes of this sub-section, the expression “New Delhi” has the meaning assigned to it in clause (27) of section 2 of the New Delhi Municipal Council Act, 1994.

## **PART XI**

### **LEGAL AND MISCELLANEOUS PROVISIONS**

60. On and from the appointed day, in section 15 of the States Reorganisation Act, 1956, in clause (b), for the words “and Jammu and Kashmir and the Union territories of Delhi, and Chandigarh”, the words “Jammu and Kashmir, Delhi and the Union territory of Chandigarh” shall be substituted.
61. The provisions of Part II shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and the territorial references in any such law to the existing National Capital Territory shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within the existing National Capital Territory before the appointed day.
62. For the purpose of facilitating the application in relation to the State of Delhi 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”, subject to the provisions of article 371J, 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 Delhi.
63. Notwithstanding that no provisions or insufficient provision has been made under section 56 for the adaption 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 Delhi, 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 .
64. All courts and tribunals and all authorities discharging lawful functions throughout the existing National Capital Territory 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.

65. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.
66. (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.
67. (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;
- Provided that no such order shall be made after the expiry of three years from the appointed day.
- (2) Every order made under this section shall be laid before each House of Parliament.
68. (1) The Central Government may, by notification, make rules for carrying out 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 each House of Parliament, while it is in session, of a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session 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 the no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previous done under that rule.
69. The Government of National Capital Territory of Delhi Act, 1991 shall be repealed with effect from the appointed day.