

The Bihar And West Bengal (Transfer Of Territories) Act, 1956

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Act 40 of 1956

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1365.

The State Reorganisation Commission recommended the transfer of certain areas in the Purnea and Manbhum districts from Bihar to West Bengal for the reasons mentioned in Chapter XV of its report. These recommendations were discussed both in Parliament and in the Legislatures of the States. This Bill seeks to give effect to the Commission's recommendations with certain minor modifications. 2. The main proposal contained in the Bill is to transfer from Bihar to West Bengal-(i) the portion of the Kishanganj subdivision in the Purnea district which lies to the east of the river Mahananda; (ii) the portion of the Gopalpur thana of the Purnea district which lies to the north of the national highway and the portion which occupied by this highway, and (iii) the Purulia sub-district of the Manbhum district except for the Chas and Chandil thanas and the Patamda police station of the Barabhum thana. 3. The Bill also makes necessary supplemental and incidental provisions in regard to representation in the Legislatures, transfer of jurisdiction to the Calcutta High Court, authorisation of expenditure, apportionment of assets and liabilities and certain other matters. 4. As required by the proviso to Article 3 of the Constitution, this Bill was referred to the President on the 10th June, 1956, to the Legislatures of Bihar and West Bengal and they given one month's time for expressing their views. The views of both the Legislatures will be placed before Parliament in due course.- Gazette of India, 16-7-1956, Pt. II, Section 2, Ext., page 456. [1st September, 1956] An Act to provide for the transfer of certain territories from Bihar to West Bengal and for matters connected therewith. BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:--

Part I – Preliminary

1. Short title.

This Act may be called the Bihar and West Bengal (Transfer of Territories) Act, 1956.

2. Definitions.

In this Act, unless the context otherwise requires,--(a)"appointed day" means the 1st day of November, 1956;(b)"article" means an article of the Constitution;(c)"assembly constituency", "council constituency" and "parliamentary constituency" have the same meanings as in the Representation of the People Act, 1950 (43 of 1950);(d)"Election Commission" means the Election Commission appointed by the President under article 324;(e)"law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having the force of law in the whole or in any part of Bihar or West Bengal;(f)"notified order" means an order published in the Official Gazette;(g)"population ratio" means such ratio as the Central Government may, by notified order, specify to be the ratio between the population as ascertained at the last census of the State of Bihar excluding the transferred territories and the population as so ascertained of the transferred territories;(h)"prescribed" means prescribed by rules made under this Act;(i)"sitting member" in relation to either House of Parliament or of the Legislature of a State means a person who, immediately before the appointed day, is a member of that House;(j)"transferred territories" means the territories transferred from the State of Bihar to the State of West Bengal by section 3;(k)"treasury" includes a sub-treasury.

Part II – Transfer Of Territories

3. Transfer of territories from Bihar to West Bengal.

(1)As from the appointed day, there shall be added to the State of West Bengal the territories which on the 1st day of March, 1956, were comprised in--(a)that portion of Kishanganj sub-division of Purnea district which lies to the east of the boundary line demarcated in accordance with the provisions of sub-section (2) by an authority appointed in this behalf by the Central Government and that portion of Gopalpur thana of the said district which lies to the east or north, as the case may be, of the said boundary line; and(b)Purulia sub-division of Manbhum district, excluding Chas thana, Chandil thana and Patamda police station of Barabhum thana; and the said territories shall thereupon cease to form part of the State of Bihar.(2)The boundary line referred to in sub-section (1) shall be so demarcated as to be generally two hundred yards to the west of the highway in Purnea district connecting Dalkola, Kishanganj and Chopra with Siliguri in Darjeeling district and two hundred yards to the south or south-west of the highway in Purnea district connecting Dalkola and Karandighi with Raiganj in West Dinajpur district:Provided that the boundary line shall be so demarcated as not to cut across any village or town:Provided further that from the point where the first-mentioned highway meets the southern boundary of Kishanganj municipality to the point where it leaves the northern boundary of that municipality, the boundary line shall be the same as the boundary of that municipality on the east.(3)The territory specified in clause (a) of sub-section (1) shall be included in, and form part of, Darjeeling district, and the territory specified in clause (b)

of that sub-section shall form a separate district to be known as Purulia district within Burdwan division of the State of West Bengal.(4)Nothing in sub-section (3) shall be deemed to affect the power of the State Government to alter after the appointed day the name, extent and boundaries of any district or division in the State of West Bengal.

4. Amendment of First Schedule to the Constitution.

As from the appointed day, in the First Schedule to the Constitution, in Part A, in the description of the territories of States,--(a)after the paragraph relating to the territory of the State of Assam, the following paragraphs shall be inserted, namely:--"The territory of the State of Bihar shall comprise the territories which immediately before the commencement of this Constitution were either comprised in the Province of Bihar or were being administered as if they formed part of that Province, but shall not include the territories specified in sub-section (1) of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956. The territory of the State of West Bengal shall comprise the territories which immediately before the commencement of this Constitution were either comprised in the Province of West Bengal or were being administered as if they formed part of that Province and the territory of Chandernagore as defined in clause (c) of section 2 of the Chandernagore (Merger) Act, 1954, and also the territories specified in sub-section (1) of section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956.";(b)in the last paragraph, the words, brackets, letter and figures "and in the case of the State of West Bengal, shall also comprise the territory of Chandernagore as defined in clause (c) of section 2 of the Chandernagore (Merger) Act, 1954," shall be omitted.

Part III – Representation In The Legislatures

Council of States

5. Amendment of Fourth Schedule to the Constitution.

As from the appointed day, in the Fourth Schedule to the Constitution, in the Table of Seats, for the entries in the second column relating to Bihar and West Bengal, the entries "22" and "16" shall, respectively, be substituted.

6. By-elections to fill vacancies in the Council of States.

As soon as may be after the appointed day, by-elections shall be held to fill the vacancies existing on that day in the seats allotted to Bihar and West Bengal.

7. Term of office of members of the Council of States.

In order that, as nearly as may be, one-third of the members of the Council of States may retire on the 2nd day of April, 1958, and on the expiration of every second year thereafter, the President shall, after consultation with the Election Commission, make by order such provisions as he thinks fit in

regard to the terms of office of the members elected under sectionHouse of People

8. Provision as to existing House of the People.

Nothing in section 3 shall be deemed to affect the extent of the constituency of any sitting member of the existing House of the People from Bihar.Legislative Assemblies

9. Allocation of certain sitting members of the Bihar Legislative Assembly.

The sitting members of the Legislative Assembly of Bihar representing the Thakurganj, Karandighi, Para-cum-Chas and Bara-bazar-cum-Chandil constituencies shall, notwithstanding the reduction in the extent of those constituencies by the transfer of portions thereof to West Bengal, continue to be members of the legislative Assembly of Bihar; and the sitting members of that Assembly representing any other constituency lying wholly or partly in the transferred territories shall, as from the appointed day, be deemed to have been elected to the Legislative Assembly of West Bengal and cease to be members of the Legislative Assembly of Bihar.

10. Duration of Legislative Assemblies of Bihar and West Bengal.

The changes in the composition of the Legislative Assemblies of Bihar and West Bengal under section 9 shall not affect their duration as provided in clause (1) of article 172.Legislative Councils.

11. Bihar Legislative Council.

(1)Any reference in the Delimitation of Council Constituencies (Bihar) Order, 1951, to the State of Bihar, Bhagalpur division or Chota Nagpur division shall be construed as excluding the transferred territories from that State or division, as the case may be.(2)Every sitting member of the Legislative Council of Bihar representing a council constituency the extent of which is altered by virtue of sub-section (1) shall, as from the appointed day, be deemed to have been elected to the said Council by that constituency as so altered.

12. West Bengal Legislative Council.

(1)Any reference in the Delimitation of Council Constituencies (West Bengal) Order, 1951, to the State of West Bengal, Burdwan division or Darjeeling district shall be construed as including the transferred territories to that State, division or district, as the case may be.(2)In the Table appended to the said Order, in the entry in the second column, against West Bengal West (Graduates) Constituency, after the word "Bankura", the word "Purulia" shall be inserted.(3)Every sitting member of the Legislative Council of West Bengal representing a council constituency the extent of which is altered by virtue of sub-section (1) or sub-section (2) shall, as from the appointed day, be deemed to have been elected to the said Council by that constituency as so altered.Delimitation of constituencies

13. Allocation of seats in the House of the People and assignment of seats to State Legislative Assemblies.

The number of seats in the House of the People allotted to Bihar and to West Bengal and the number of seats assigned to the Legislative Assembly of each of those States by order of the Delimitation Commission under the Delimitation Commission Act, 1952 (81 of 1952), shall be modified as follows:--

	Number of seats in the House of the People	Number of seats in the Legislative Assembly
Bihar	53	318
West Bengal	36	252

14. Modification of the Scheduled Castes and Scheduled Tribes Orders.

As soon as may be after the commencement of this Act, the President may, by notified order, make such modifications in the Constitution (Scheduled Castes) Order, 1950, and the Constitution (Scheduled Tribes) Order, 1950, as he thinks fit, having regard to the transfer of territories effected by section 3.

15. Determination of population of Scheduled Castes and Scheduled Tribes.

(1)After the said Orders have been so modified, the population as at the last census of the Scheduled Castes and of the Scheduled Tribes in Bihar and West Bengal shall be ascertained or estimated by the census authority in such manner as may be prescribed and shall be [notified] [For Notification see Gazette of India, 8-11-1956, Pt. I, Section 1, Ext., p. 1021] by that authority in the Gazette of India.(2)The population figures so notified shall be taken to be the relevant population figures as ascertained at the last census and shall supersede any figures previously published.

16. Delimitation of constituencies.

(1)As soon as may be after the commencement of this Act, the Central Government shall, by notified order, appoint an authority--(a)to determine on the basis of the population figures notified under section 15 the number of seats to be reserved for the Scheduled Castes and the Scheduled Tribes of Bihar and of West Bengal in the House of the People and in the Legislative Assembly of each of those States, having regard to the relevant provisions of the Constitution and of this Act; and(b)to revise to such extent as may be necessary or expedient, having regard to the said provisions, the orders of the Delimitation Commission made under section 8 of the Delimitation Commission Act, 1952 (81 of 1952), with respect to Bihar and West Bengal.(2)The said authority shall perform its functions in such manner and shall follow such procedure, as may be prescribed.

Part IV – High Courts

17. Extension of jurisdiction of, and transfer of proceedings to Calcutta High Court.

(1) Except as hereinafter provided,--(a) the jurisdiction of the High Court at Calcutta shall, as from the appointed day, extend to the transferred territories; and (b) the High Court at Patna shall, as from that day, have no jurisdiction in respect of the transferred territories. (2) Such proceedings pending in the High Court at Patna immediately before the appointed day as are certified by the Chief Justice of that High Court, having regard to the place of accrual of the cause of action and other circumstances, to be proceedings which ought to be heard and decided by the High Court at Calcutta shall, as soon as may be after such certification, be transferred to the High Court at Calcutta. (3) Notwithstanding anything contained in sub-sections (1) and (2), but save as hereinafter provided, the High Court at Patna shall have, and the High Court at Calcutta shall not have, jurisdiction to entertain, hear or dispose of appeals, applications for leave to appeal to the Supreme Court, applications for review and other proceedings, where any such proceedings seek any relief in respect of any order passed by the High Court at Patna before the appointed day: Provided that if, after such proceedings have been entertained by the High Court at Patna, it appears to the Chief Justice of that High Court that they ought to be transferred to the High Court at Calcutta, he shall order that they shall be so transferred, and such proceedings shall thereupon be transferred accordingly. (4) Any order made by the High Court at Patna--(a) before the appointed day in any proceedings transferred to the High Court at Calcutta by virtue of sub-section (2); or (b) in any proceedings with respect to which the High Court at Patna retains jurisdiction by virtue of sub-section (3), shall, for all purposes, have effect, not only as an order of the High Court at Patna, but also as an order made by the High Court at Calcutta.

18. Right to appear in any proceedings transferred to Calcutta High Court.

Any person who immediately before the appointed day is an advocate entitled to practise in the High Court at Patna and was authorized to appear in any proceedings transferred from that High Court to the High Court at Calcutta under section 17 shall have the right to appear in the High Court at Calcutta in relation to those proceedings.

19. Interpretation.

For the purposes of sections 17 and 18,--(a) proceedings shall be deemed to be pending in the High Court at Patna until that Court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, applications for review, petitions for revision and petitions for writs; (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 or a Judge shall be construed as including references to a sentence, judgment or decree passed or made by that Court or Judge.

Part V – Authorization Of Expenditure

20. Appropriation of moneys for expenditure in transferred Appropriation Acts.

(1)As from the appointed day, any Act passed by the Legislature of West Bengal before that day for the appropriation of any money out of the Consolidated Fund of the State to meet any expenditure in respect of any part of the financial year 1956-57 shall have effect also in relation to the transferred territories, and it shall be lawful for the State Government to spend any amount in those territories out of the amount authorized by such Act to be expended for any service in that State.(2)The Governor of West Bengal may, after the appointed day, authorize such expenditure from the Consolidated Fund of the State as he deems necessary for any purpose or service in the transferred territories for any period not extending beyond the 31st day of March, 1957.[Note. - After the word "transferred" the words "territory under existing" appear to have been inadvertently omitted. - Ed.]

21. Distribution of revenues.

Section 3 of the Union Duties of Excise (Distribution) Act, 1953, (3 of 1953.) and paragraphs 3, 4 and 5 of the Constitution (Distribution of Revenues) Order, 1953, shall, in respect of the financial year 1956-57 have effect subject to such modifications as the President may, by notified order, specify having regard to the transfer of territories effected by section 3 of this Act.

Part VI – Apportionment Of Assets And Liabilities

22. Land and goods.

(1)Subject to the other provisions of this Part, all land and all stores, articles and other goods in the transferred territories belonging to the State of Bihar shall, as from the appointed day, pass to the State of West Bengal.(2)Any unissued stores of any class in Bihar shall be divided between West Bengal and Bihar in proportion to the total indents for stores of that class made in the period of three years ending with the 31st day of March, 1956, for the transferred territories and for the rest of Bihar:Provided that nothing in this sub-section shall apply to stores held for specific purposes such as use or utilisation in particular institutions, workshops or undertakings or on particular works under construction.(3)In this section, the expression "land" includes immovable property of every kind and any rights in or over such property and the expression "goods" does not include coins, bank notes and currency notes.

23. Treasury and bank balances.

The total of the cash balances in all treasuries of Bihar and the credit balances of Bihar with the Reserve Bank of India immediately before the appointed day shall be divided between that State and West Bengal according to the population ratio:Provided that for the purposes of such division, there

shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit balances of Bihar and West Bengal in the books of the Reserve Bank of India on the appointed day.

24. Arrears of taxes.

The right of Bihar to recover arrears of any tax or duty on property situate in the transferred territories, including land revenue, shall belong to West Bengal and the right of Bihar to recover arrears of any other tax or duty in any case where the place of assessment of that tax or duty is in the transferred territories shall also belong to West Bengal.

25. Right to recover loans and advances.

The right to recover any loans or advances made before the appointed day by Bihar to any local body, society, agriculturist or other person in the transferred territories shall belong to West Bengal.

26. Credits in certain funds.

The investments in the cash balance investments account, the famine relief fund and the general fund of Bihar and the sums at the credit of Bihar in the central road fund shall be divided between Bihar and West Bengal according to the population ratio; and the investments in any special fund the objects of which are confined to the transferred territories or any part thereof shall pass to West Bengal.

27. Assets and liabilities of State undertakings.

(1)The assets and liabilities relating to any commercial or industrial undertaking of Bihar located in the transferred territories shall pass to West Bengal.(2)Where a depreciation reserve fund is maintained by Bihar for any such commercial or industrial undertaking, the securities held in respect of investments made from that fund shall also pass to West Bengal.

28. Public debt.

(1)The public debt of Bihar attributable to loans raised by the issue of Government securities and outstanding with the public immediately before the appointed day shall continue to be the debt of Bihar:Provided that--(a)West Bengal shall be liable to pay to Bihar a share of the sums due from time to time for the servicing and repayment of the public debt; and(b)for the purpose of determining the said share, the said debt shall be deemed to be divided between Bihar and West Bengal as if it were a debt referred to in sub-section (2).(2)The public debt of Bihar attributable to loans taken from the Central Government, the Reserve Bank of India or any other bank before the appointed day shall be divided between Bihar and West Bengal in proportion to the total expenditure on all capital works and other capital outlays incurred up to the appointed day in the territories of Bihar excluding the transferred territories and in the transferred territories,

respectively: Provided that for the purposes of such division, only expenditure on assets for which capital accounts have been kept shall be taken into account. (3) Where a sinking fund or depreciation fund is maintained by Bihar for the repayment of any loan raised by it, the securities held in respect of investments made from that fund shall be divided between Bihar and West Bengal in the same proportion as the public debt referred to in sub-section (2). (4) In this section, the expression "Government security" means a security created and issued for the purpose of raising a public loan and having any of the forms specified or prescribed under clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1944).

29. Refund of taxes collected in excess.

The liability of Bihar to refund any tax or duty on property situate in the transferred territories, including land revenue, collected in excess shall be the liability of West Bengal and the liability of Bihar to refund any other tax or duty collected in excess in any case where the place of assessment of that tax or duty is in the transferred territories shall also be the liability of West Bengal.

30. Deposits.

The liability of Bihar in respect of any civil deposit or local fund deposit made in the transferred territories shall, as from the appointed day, be the liability of West Bengal.

31. Provident Funds.

The liability of Bihar in respect of the provident fund account of any Government servant who, being in service on the appointed day, is permanently allotted to West Bengal shall, as from that day, be the liability of West Bengal.

32. Pensions.

The liability of Bihar in respect of pensions shall be apportioned between that State and West Bengal in accordance with the provisions contained in the Schedule.

33. Contracts.

(1) Where, before the appointed day, the State of Bihar has made any contract in the exercise of its executive power for any purposes of the State, that contract shall be deemed to have been made in the exercise of the executive power--(a) of Bihar, if the purposes of the contract are, as from the appointed day, exclusively purposes of that State; (b) of West Bengal, if the purposes of the contract are, as from that day, exclusively purposes of that State; and (c) of Bihar, in any other case; 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 Bihar, be rights or liabilities of Bihar or of West Bengal, as the case may be: Provided that, in any such case as is referred to in clause (c), the initial allocation of rights and liabilities made by this sub-section shall be subject to such financial

adjustment as may be agreed upon between the two States, or in default of such agreement, as the Central Government may by order direct.(2)For the purposes of this section, there shall be deemed to be included in the 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; and bank balances and securities shall, notwithstanding that they partake of the nature of contractual rights, be dealt with under those provisions.

34. Liability in respect of actionable wrong.

Where, immediately before the appointed day, Bihar is subject to any liability in respect of actionable wrong other than breach of contract, that liability shall,--(a)if the cause of action arose wholly within the transferred territories, be a liability of West Bengal;(b)if the cause of action arose wholly within the territories of Bihar excluding the transferred territories, be a liability of Bihar; and(c)in any other case, be initially a liability of Bihar, but subject to such financial adjustment as may be agreed upon between that State and West Bengal, or in default of such agreement, as the Central Government may by order direct.

35. Liability as guarantor of co-operative societies.

Where, immediately before the appointed day, Bihar is liable as guarantor in respect of any liability of a registered co-operative society, that liability shall--(a)if the area of the society's operations is limited to the transferred territories, be a liability of West Bengal; and(b)in any other case, continue to be a liability of Bihar.

36. Items in suspense.

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.

37. Power of the Central Government to order allocation or adjustment in certain cases.

Where either Bihar or West Bengal becomes entitled to any property or obtains any benefits or becomes subject to any liability, and the Central Government, on a reference made within a period of three years from the appointed day by either of the States, is of opinion that it is just and equitable that that property or those benefits should be transferred to, or shared with, the other State or that a contribution towards that liability should be made by the other State, the said property or benefits shall be allocated in such manner between the two States, or the other State shall make to the State subject to the liability such contribution in respect thereof, as the Central Government may, after consultation with the two State Government, by order determine.

38. Certain expenditure to be charged on the Consolidated Fund.

All sums payable by either Bihar or West Bengal to the other State by virtue of the provisions of this Part shall be charged on the Consolidated Fund of the State by which such sums are payable.

Part VII – Administrative Provisions

39. State Financial Corporations.

(1)As from the appointed day, the Financial Corporations constituted under the State Financial Corporations Act, 1951 (63 of 1951), for the States of Bihar and West Bengal shall be deemed to have been constituted for those States with their areas as altered by the provisions of section 3.(2)Bihar shall be liable to pay to West Bengal on account of its share of the paid-up capital of the Bihar State Financial Corporation such amount as the Central Government may by order determine.

40. Temporary provisions as to the continuance of certain existing road transport permits.

(1)Notwithstanding anything contained in section 63 of the Motor Vehicles Act, 1939 (4 of 1939), a permit granted by the State Transport Authority of Bihar or by any Regional Transport Authority in Bihar shall, if such permit was immediately before the appointed day valid and effective in any area within the transferred territories, be deemed to continue to be valid and effective in that area after that day 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 the State Transport Authority of West Bengal or by any Regional Transport Authority in West Bengal for the purpose of validating it for use in such area:Provided that the Central Government may, after consultation with the State Governments, add to, amend or vary the conditions attached to the permit by the authority by which the permit was granted.(2)No toll, entrance fee or other charge of a like nature shall be levied after the appointed day in respect of any transport vehicle for its operations in the transferred territories under any such permit, if such vehicle was immediately before that day exempt from the payment of any such toll, entrance fee or other charge for its operations beyond the boundaries of Bihar:Provided that the Central Government may, after consultation with both the State Governments, authorize the levy of any such toll, entrance fee or other charge as the case may be.

41. Provisions relating to services.

(1)Every person who immediately before the appointed day is serving in connection with the affairs of Bihar shall, as from that day, continue so to serve, unless he is required by general or special order of the Central Government to serve provisionally in connection with the affairs of West Bengal.(2)As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the State to which every person provisionally allotted to West Bengal shall be finally allotted for service and the date from which such allotment shall take effect or be deemed to have taken effect.(3)Every person who is finally allotted under the provisions of sub-section (2) to

Bihar or West Bengal shall, if he is not already serving therein, be made available for serving in that State from such date as may be agreed upon between the two State Governments and in default of such agreement, as may be determined by the Central Government.(4)Nothing in this section shall be deemed to affect after the appointed day the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to the determination of the conditions of service of persons serving in connection with the affairs of Bihar or of West Bengal:Provided that the conditions of service applicable immediately before the appointed day to the case of any person provisionally or finally allotted to West Bengal under this section shall not be varied to his disadvantage except with the previous approval of the Central Government.(5)The Central Government may at any time before or after the appointed day give such directions to either State Government as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this section and the State Government shall comply with such directions.

42. Provisions as to the continuance of officers in the same posts.

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 Bihar in any area within the transferred territories shall continue to hold the same post or office in West Bengal, and shall be deemed as from that day to have been duly appointed to that post or office by the Government of, or other appropriate authority in, West Bengal:Provided that nothing in this section shall be deemed to prevent a competent authority, after the appointed day, from passing in relation to any such person any order affecting his continuance in such post or office.

Part VIII – Legal And Miscellaneous Provisions

43. Territorial extent of laws.

The provisions of section 3 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 territorial references in any such law to Bihar or West Bengal shall, until otherwise provided by a competent legislature or other competent authority, be construed as meaning the territories within that State immediately before the appointed day.

44. Power to adapt laws.

For the purpose of facilitating the application of any law in relation to Bihar or West Bengal, the appropriate Government may, before the expiration of one year from the appointed 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 authority or competent legislature.Explanation.--In this section, the expression "appropriate Government" means, as respects any law relating to a matter enumerated in the Union List, the Central Government, and as respects any other law, the State Government.

45. Power to construe laws.

Notwithstanding that no provision or insufficient provision has been made for the adaptation 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 Bihar or West Bengal, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the Court, tribunal or authority.

46. Power to name authorities, etc., for exercising statutory functions.

The Government of West Bengal may, by notification in the Official Gazette, specify the authority, officer or person who, as from the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day in any part of the transferred territories as may be mentioned in that notification, and such law shall have effect accordingly.

47. Legal proceedings.

Where, immediately before the appointed day, the State of Bihar is a party to any legal proceedings with respect to any property, rights or liabilities transferred to the State of West Bengal under this Act, that State shall be deemed to be substituted for the State of Bihar as a party to those proceedings, or added as a party thereto, as the case may be, and the proceedings may continue accordingly.

48. Transfer of pending proceedings.

(1) Every proceeding pending immediately before the appointed day before a Court (other than a High Court), tribunal, authority or officer--(a) in any area which on that day remains within Bihar shall, if it is a proceeding relating exclusively to any part of the transferred territories, stand transferred to the corresponding Court, tribunal, authority or officer in West Bengal; and (b) in any area which on that day falls within the transferred territories shall, if it is a proceeding relating exclusively to any part of the territories remaining within Bihar, stand transferred to the corresponding Court, tribunal authority or officer in that State. (2) If any question arises as to whether any proceeding should stand transferred under sub-section (1), it shall be referred to the High Court having jurisdiction in respect of the area in which the Court, tribunal, authority or officer before which, or before whom, such proceeding is pending on the appointed day, is functioning and the decision of that High Court shall be final. (3) In this section,--(a) "proceeding" includes any suit, case or appeal; and (b) "corresponding Court, tribunal, authority or officer" in a State means--(i) the Court, tribunal, authority or officer in which, or before whom, the proceeding would have lain if the proceeding had been instituted after the appointed day, or (ii) in case of doubt, such Court, tribunal, authority or officer in that State as may be determined after the appointed day by the Government of that State, or before the appointed day by the Government of Bihar, to be the corresponding Court, tribunal, authority or officer.

49. Right of pleaders to practise in certain Courts.

Any person who, immediately before the appointed day, is enrolled as a pleader entitled to practise in any subordinate Courts in the transferred territories shall, for a period of six months from that day, continue to be entitled to practise in those Courts, notwithstanding that the whole or any part of the territories within the jurisdiction of those Courts has been transferred to West Bengal.

50. Effect of provisions inconsistent with other laws.

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

51. Power to remove difficulties.

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.

52. Power to make rules.

(1)The Central Government may, by notification in the Official Gazette, make rules to give effect to 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, for 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 sessions 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 no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.] [Substituted by Act 4 of 1986, Section 2 and Sch. (w.e.f. 15.5.1986).]THE SCHEDULE(See section 32)APPORTIONMENT OF LIABILITY IN RESPECT OF PENSIONS

1. Subject to the adjustments mentioned in paragraph 3, each of the States of Bihar and West Bengal shall, in respect of pensions granted by Bihar before the appointed day, pay the pensions drawn in its treasuries.

2. Subject to the said adjustments, the liability in respect of pensions of officers serving in connection with the affairs of Bihar 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 Bihar.

3. There shall be computed in respect of the period commencing on the appointed day and ending on the 31st day of March, 1957 and in respect of each subsequent financial year, the total payments made in respect of pensions referred to in paragraphs 1 and 2; that total, representing the liability of Bihar in respect of pensions, shall be apportioned between Bihar and West Bengal in the population ratio, and the State paying more than its due share shall be reimbursed the excess amount by the other State.

4.

(1)The liability in respect of the pension of any officer serving immediately before the appointed day in connection with the affairs of Bihar, and retiring on or after that day, shall be the liability of the State which grants him the pension; but the portion of the pension attributable to the service of any such officer before the appointed day in connection with the affairs of Bihar shall be allocated between Bihar and West Bengal in the population ratio, and the Government which grants the pension shall be entitled to receive from the other Government its share of this liability.(2)If any such officer was serving after the appointed day for some period in connection with the affairs of Bihar and for some period in connection with the affairs of West Bengal, the Government other than the one granting the pension shall reimburse to the Government by which the pension is granted an amount which bears to the portion of the pension attributable to his service after the appointed day the same ratio as the period of his qualifying service after the appointed day under the reimbursing State bears to the total qualifying service after the appointed day reckoned for the purposes of pension.

5. Any reference in this Schedule to a pension shall be construed as including a reference to the commuted value of the pension.