

The United Provinces' High Courts (Amalgamation) Order, 1948

UTTAR PRADESH

India

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Rule

THE-UNITED-PROVINCES-HIGH-COURTS-AMALGAMATION-ORDER-1 of 1948

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The United Provinces' High Courts (Amalgamation) Order, 1948Published vide Notification No. S.O. 17, published in the Government of India Gazette, (Extraordinary), dated New Delhi, 19th July, 1948For United Provinces now read Uttar Pradesh.Whereas both Chambers of the Legislature of the United Provinces have presented addresses to the Governor of that Province to amalgamate the High Court in Allahabad and the Chief Court in Oudh, and the said addresses have been submitted to the Governor-General;Now, therefore, in the exercise of the powers conferred by Section 229 of the Government of India Act, 1935, and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following Order :

1.

(1)This Order may be cited as the United Provinces High Courts (Amalgamation) Order, 1948.(2)It shall come into force on the date of its publication in the Gazette of India.

2.

(1)In this Order, -"the Act" means the Government of India Act, 1935, as for the time being in force in the Dominion of India;"appointed day" means the twenty sixth day of July, 1948; and"existing high Courts" means the High Courts referred to in Section 219 of the Act as the High Court in Allahabad and the Chief Court in Oudh.(2)The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3.

As from the appointed day, the High Court in Allahabad and the Chief Court in Oudh shall be amalgamated and shall constitute one High Court by the name of the High Court of Judicature at Allahabad (hereinafter referred to as "the new High Court").

4.

(1) Every person who, immediately before the appointed day, is a permanent Judge of either of the existing High Courts shall as from that day be a permanent Judge of the new High Court. (2) Every person who, having been appointed an additional Judge of either of the existing High Courts for a term extending beyond the appointed day, is immediately before that day an Additional Judge of that High Court, shall as from that day be an Additional Judge of the new High Court, and shall be deemed to have been so appointed until the expiration of the said term. (3) Every person who, immediately before the appointed day, is an Acting Judge of either of the existing High Courts shall as from that day be an Acting Judge of the new High Court, and shall be deemed to have been so appointed under sub-section (2) of Section 222 of the Act.

5.

(1) The person who, immediately before the appointed day, is the Chief Justice of the High Court in Allahabad shall be the Chief Justice of the new High Court. (2) The other persons who by virtue of paragraph (1) of Article 4 of this Order become permanent judges of the new High Court shall rank in that Court in the following order, namely—Firstly, the former Chief Judge of the Chief Court in Oudh and the former Puisne Judges of the High Court in Allahabad, according to the priority of their respective appointments as such Chief Judge or Puisne Judge, and Secondly, the former Puisne Judges of the Chief Court in Oudh according to the priority of their respective appointments in that Court. (3) The persons who by virtue of paragraphs (2) and (3) of Article 4 of this Order become Additional Judges and Acting Judges of the new High Court shall rank in that Court according to the priority of their respective appointments as Additional Judges or Acting Judges in either of the existing High Courts.

6.

Every person who, immediately before the appointed day, is an officer or servant of either of the existing High Courts shall as from that day be an officer or servant, as the case may be, of the new High Court, and shall be deemed to have been appointed to a corresponding office or post in the new High Court on the same terms and conditions of service (or on terms and conditions as similar thereto as the changes effected by this Order may permit as were applicable to him immediately before the appointed day : Provided that nothing in this article shall be deemed to prevent the Chief Justice of the new High Court from altering the designation or the duties of any office or post.

7.

(1)The new High Court shall have, in respect of the whole of the United Provinces, all such original, appellate and other jurisdiction as, under the law in force immediately before the appointed day, is exercisable in respect of any part of that Province by either of the existing High Courts.(2)The new High Court shall also have in respect of any area outside the United Provinces all such original, appellate and other jurisdiction as under the law in force immediately before the appointed day is exercisable in respect of that area by the High Court in Allahabad.

8.

(1)The new High Court shall have the like powers to approve, admit, enrol, remove and suspend advocates and attorneys and to make rules with respect advocates and attorneys, in the whole of the United Provinces as are under the law in force immediately, before the appointed day, exercisable by either of the existing High Courts.(2)The right of audience in the new High Court shall be regulated in accordance with the like principles, as immediately before the appointed day, are in force with respect to the right of audience in the High Court in Allahabad :Provided that, subject to any rule made or direction given by the new High Court in the exercise of the powers conferred by this Article, any person who, immediately before the appointed day, is an advocate entitled to practise or an attorney entitled to act in either of the existing High Courts, shall be recognised as an advocate or an attorney entitled , to practise or to act, as the case may be, in the new High Court.[Provided further that notwithstanding the amalgamation of the existing High Courts all undertakings given by persons who have held officer as Judges of either of the existing High Courts or of the new High Court not to practise as advocates within the jurisdiction of either of the existing High Courts shall be deemed to continue in force, and the Chief Justice shall issue directions prohibiting from practice as advocates such persons to such extent as may be appropriate having regard to the terms of their undertakings, and for this purpose the said undertakings shall be construed as applicable to the new High Courts.] [Added by Notification No. S. O. 21, dated 11th April, 1948.]

9.

Subject to the provisions of this Order, the law in force immediately before the appointed day with respect to practice, and procedure in the High Court in Allahabad shall, with the necessary modifications apply in relation to the new High Court, and accordingly that High Court shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before the appointed day exercisable by the High Court in Allahabad :Provided that any rules or orders which are in force immediately before the appointed day with respect to practice and procedure in the High Court in Allahabad shall, until varied or revoked by rules or orders made for the new High Court, apply with the necessary modifications in relation to practice and procedure in the new High Court as if made by that Court :Provided further that the Chief Justice may, in his discretion order that any rules or orders which were in force immediately before the appointed day with respect to practice and procedure in the Chief Court in Oudh shall, until varied or revoked by new rules or orders made for the new High Court, apply with the necessary modifications in relation to practice and procedure in the new High Court sitting at Lucknow.

10.

Any rules or orders which, having been made by either of the existing High Court for regulating the practice and procedure of or otherwise exercising control over, Courts subject to its superintendence shall until varied or revoked by rules or orders made by the new High Court continue to apply with the necessary modifications in relation to the said subordinate Courts.

11.

(1)The new High Court shall have a seal of such form and design as the Chief Justice may direct.(2)The law in force immediately before the appointed day with respect to the custody of the seal of the High Court in Allahabad shall, with the necessary modifications, apply with respect to the custody of the seal of the new High Court.

12.

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 High Court in Allahabad shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the new High Court.

13.

The law in force immediately before the appointed day relating to the powers of the Chief Justice, Single Judges and Division Courts of the High Court in Allahabad and with respect to all matters ancillary to the exercise of those powers, shall, with the necessary modifications, apply in relation to the new High Court.

14.

The new High Court, and the Judges and Division Courts thereof, shall sit at Allahabad or at such other places in the United Provinces as the Chief Justice may, with the approval of the Governor of the United Provinces, appointed :Provided that unless Governor of the United Provinces with the concurrence of the Chief Justice, otherwise directs such Judges of the new High Court, not less than two in number, as the Chief Justice, may, from time to time, nominate, shall sit at Lucknow in order to exercise in respect of cases arising in Such areas in Oudh, as the Chief Justice may direct, the jurisdiction and power for the time being vested in the new High Court :Provided further that the Chief Justice may in his discretion order that any case or class of cases arising in the said areas shall be heard at Allahabad.

15.

The law in force immediately before the appointed day relating to appeals to His Majesty in Council or to the Federal Court from the High Court in Allahabad and the Judges and Division Courts thereof shall, with the necessary modifications, apply in relation to the new High Court.

16.

(1)Proceedings which, immediately before the appointed day, are pending in either of the existing High Courts shall, by virtue of this Order, stand transferred to the new High Court and shall be continued as if they had been proceedings instituted in that High Court.(2)Any order made by either of the existing High Courts in any such proceedings as aforesaid shall for all purposes have effect, not only as an order of that Court, but also as an order made by the new High Court.

17.

As from the appointed day-(a)the Letters Patent of Her Majesty, dated the 17th March, 1866, establishing the High Court of Judicature for the North-Western Provinces and Chapter II of the Oudh Courts Act, 1925 (U. P. Act IV of 1925), shall cease to have effect except for the purpose of construing, or giving effect to, the provisions of this Order;(b)the Government of India (High Court Judges) Order, 1937, shall be further amended as follows :(i)in the First Schedule in the entry relating to the High Court at Allahabad, for the figures "12" the Figures "21" shall be substituted, and the entry relating to the Chief Court of Oudh shall be omitted; and(ii)in the Second Schedule, the entry relating to the Chief Court of Oudh shall be omitted, and in the Note the words "a Chief Judge and an Acting Chief Judge" shall be omitted ; and(c)references in any Indian Law to either of the existing High Courts by whatever name shall, unless the context otherwise requires, be construed as references to the new High Court.

18.

Nothing in this order shall prejudice the application to the new High Court of any relevant provisions of the Act, and this Order shall have effect subject to any provisions that may be made on or after the appointed day with respect to the new High Court by any Legislature or authority having power to make such provision.