

Berar Laws Act, 1941

Section 1 - SHORT TITLE AND COMMENCEMENT

BERAR LAWS ACT, 1941 BERAR LAWS ACT, 1941 4 of 1941 17th March, 1941 STATEMENT OF OBJECTS AND REASONS "Though the provisions of many Central Acts are applicable to Berar. this result does not flow from the British Indian Act itself being proprio vigore operative in Berar but is achieved by the application to Berar by order made under the Indian (Foreign Jurisdiction) Order in Council. 1903, of each such Act often with certain modifications of the form in which the Act is in force in British India. Certain administrative inconveniences result from this. The Act as in force in British India is distinct from the Act as in force in Berar. the former being an enactment applying proprio vigore to British India but not to Berar, the latter consisting of the provisions of the British Indian Act made applicable to Berar by order under the Foreign Jurisdiction Order but not applicable to British India, Notifications and statutory Rules issued under identical provisions, operative both in British India and in Berar. have accordingly to be issued separately for British India and for Berar. and a similar dual process must attend any subsequent amendment of such notifications and rules. The repeal in British India of an Act made applicable to Berar does not automatically make the Act inoperative in Berar. 2. Since the commencement of Part 3 of the Government of India Act. 1935 on the 1st April 1937 Berar and the Central Provinces have been deemed to be one Governor's Province and an Act passed after that date and expressed to extend to the whole of British India does extend proprio vigore to Berar. .1. The primary object of the present Bill is to assimilate the position of Central Acts passed before the 1st day 0. April. 1937. to that of those passed after that date and automatically in force in Berar. that is to say. by means of one comprehensive enactment to extend to and make operative proprio vigore in Berar Central Acts passed before the commencement of Part 3 of the Government of India Act, 1935. while simultaneously nullifying the orders under the Foreign Jurisdiction Order in Council by virtue of which those Acts are operative in Berar. It is possible, now that the legislative competence of the Central Legislature Legislature is confined to matters enumerated in List I and I-ist III of the Seventh Schedule to the Government of India Act. 1935. to achieve the result aimed at only in Part by legislation in the Central legislature. So far as the Central Legislature is incompetent to achieve the result completely. because the subject-matter of the Act to be extended is included in List II. it is anticipated that this Central legislation will be supplemented by Provincial legislation. and that the Central Act and the Provincial Act will come into operation simultaneously, each thus completing what the other left incomplete. Accordingly the Acts to be extended to Berar are grouped in two separate Schedules. Schedules I and II. according as their subject-matter is relatable solely to List I and List III or only partly to those Lists and partly to List II. 4. In addition to Central Act- the provisions of which are already applicable to Berar by virtue of orders under the Foreign Jurisdiction Order in Council. Schedules I and II also contain a few Acts which it seems advisable to take the opportunity afforded by the Bill to extend to Berar. 5. One Act. the Indian Cotton Cess Act. 1923. which was made operative proprio vigore in Berar by the Government of India (Adaptation of Indian Laws) Order. 1937. is also still operative by virtue of an order under the Foreign Jurisdiction Order in Council. This Act has received special treatment in Cl. 3 of the present Bill. 6. Two Acts. the Code of Civil Procedure, 1908. and the Indian Limitation Act 1908. require small modifications when operative in Berar owing to the fact that a special law .the Berar Small Cause Courts Law. 1905. takes the place of the Provincial Small Cause Courts Act. 1887. in Berar. These modifications have been effected in the Third Schedule to the Bill. The Fourth Schedule contains a list of Acts in regard to which doubts might arise whether they are or not still operative in Berar. They were at one time applied to Berar. and on the repeal or expiry of the Acts in British India no overt action was taken to cancel the notifications by which their provisions were applied to Berar." Gaz. of India. 1940. Part V. page 247. An Act to extend certain Acts to Berar, WHEREAS by orders made under the Indian (Foreign Jurisdiction) Order in Council. 1902. the provisions of certain Acts 1[* *] have from time to time been applied to. and are now. by virtue of such application, in force in. Berar: AND WHEREAS it is expedient that those and certain other Acts should be extended to. and be. by virtue of such

extension, in force in. Berar: It is hereby enacted as follows:- 1) This Act maybe called The Berar Laws Act, 1941. (2) It shall come into force on such2date as the Central Government may. by notification in the Official Gazette, appoint.

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