

MINISTRY OF HOME AFFAIRS
(Department of Jammu and Kashmir Affairs)

NOTIFICATION

New Delhi, the 19th December, 2018

G.S.R. 1223(E).—The following Proclamation by the President is published for general information:—

Whereas, I, Ram Nath Kovind, President of India, have received a report from the Governor of the State of Jammu and Kashmir and after considering the report and other information received by me, I am satisfied that a situation has arisen in which the Government of that State cannot be carried on in accordance with the provisions of the Constitution of India, as applicable to that State (hereinafter referred to as “the Constitution”) and of the Constitution of Jammu and Kashmir (hereinafter referred to as “the State Constitution”);

Now, therefore, in exercise of the powers conferred by article 356 of the Constitution, and of all other powers enabling me in that behalf, I hereby proclaim that I:—

- (a) assume to myself as President of India all the functions of the Government of the said State and all powers vested in or exercisable by the Governor of that State under the Constitution and the State Constitution;
- (b) declare that the powers of the Legislature of the said State shall be exercisable by or under the authority of Parliament; and
- (c) make the following incidental and consequential provisions which appear to me to be necessary or desirable for giving effect to the objects of this Proclamation, namely:—
 - (i) in the exercise of the functions and powers assumed to myself by virtue of clause (a) of this Proclamation as aforesaid, it shall be lawful for me as President of India to act to such extent as I think fit through the Governor of the said State;
 - (ii) the operation of the following provisions of the Constitution and of the State Constitution is hereby suspended, namely:—

“So much of the first proviso to article 3 of the Constitution as relates to the reference by the President to the Legislature of the State and the second proviso to that article; so much of clause (2) of article 151 of the Constitution as relates to the laying before the Legislature of the State of the report submitted to the Governor by the Comptroller and Auditor-General of India;

sections 35 to 41 (both inclusive), so much of section 43 as relates to the allocation among the Ministers of the business of the Government of the State, section 44, sub-section (1) and clause (a) of sub-section (2) of section 53, sections 54, 55, 56 and 57, clauses (b) and (c) of section 58 and the first proviso thereto, section 59, section 60, sub-section (2) of section 61 so far as it relates to clause (c) of, and the first proviso to section 58 and to section 60, sections 65, 66, 67, 71 and 72; sections 74, 75 and 76, sub-sections (3) and (4) of section 77, sections 85 to 88 (both inclusive) and so much of section 137 as relates to the laying of the report with a memorandum before the Legislature of the State, of the State Constitution”;

- (iii) any reference in the Constitution and the State Constitution to the Governor shall, in relation to the said State, be construed as a reference to the President, and any reference in the Constitution and the State Constitution to the Legislature of the State or the Houses thereof shall, in so far as it relates to the functions and powers thereof, be construed, unless the context otherwise requires, as a reference to Parliament, and, in particular, the reference in section 91 of the State Constitution to the Governor and

to the Legislature of the State or the Houses thereof, shall be construed as references to the President and to Parliament or to the Houses thereof respectively:

Provided that nothing herein shall affect the provisions of sub-section (1) of section 26, sections 27 to 31 (both inclusive), section 122, section 143 and paragraph 1 to 8 (both inclusive) of the Second Schedule to the State Constitution or prevent the President from acting under sub-clause (1) of this clause to such extent as he thinks fit through the Governor of the said State;

- (iv) any reference in the Constitution or in the State Constitution to Acts or laws of, or made by, the Legislature of the State shall be construed as including a reference to Acts or laws made, in exercise of the powers of the Legislature of the State, by Parliament, by virtue of this Proclamation, or by the President or other authority referred to in sub-clause (a) of clause (1) of article 357 of the Constitution and the Jammu and Kashmir General Clauses Act, 1977 (Act no. XX of 1977) and so much of the General Clauses Act, 1897 (10 of 1897) as applies to State laws, shall have effect in relation to any such Act or law as if it were an Act of the Legislature of the State.

NEW DELHI;

The 19th December, 2018.

RAM NATH KOVIND

PRESIDENT

[F. No. 11012/03/2018-K-I]

RAJIV GAUBA, Home Secy.