



## **Government of Tamilnadu**

### **Department of Employment and Training**

Course : TNPSC Group II Exam  
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Topic : **Emergency Provisions**

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# EMERGENCY PROVISIONS

- ❖ The Emergency provisions are contained in Part XVIII of the Constitution, from Article 352 to 360.
- ❖ This kind of transformation of the political system from federal during normal times to unitary during Emergency is a unique feature of the Indian Constitution.

## ***The Constitution stipulates three types of emergencies:***

- ❖ An emergency due to war, external aggression or armed rebellion (Art 352). This is popularly known as 'National Emergency.'
- ❖ An Emergency due to the failure of the constitutional machinery in the states (Art 356). This is popularly known as 'President's Rule'. It is also known by two other names, State Emergency or constitutional Emergency.
- ❖ Financial Emergency due to a threat to the financial stability or credit of India (Art 360).

## ***National Emergency:***

- ❖ First emergency was declared in 1962 due to Chinese aggression
- ❖ Second emergency was declared in 1971 due to Indo-Pakistan war
- ❖ Third emergency was declared in 1975, on the grounds of Internal disturbance

## ***Financial Emergency:***

- ❖ So far, no emergency declared

## ***Grounds of Declaration:***

- ❖ Under Article 352, the President can declare a national emergency when the security of India or a part of it is threatened by war or external aggression or armed rebellion.
- ❖ The President can also issue different proclamations on grounds of war, external aggression, and armed rebellion.
- ❖ When a national emergency is declared on the ground of 'war' or 'external aggression', it is known as 'External Emergency',

it is declared on the ground of armed rebellion', it is known as 'Internal Emergency.'

- ❖ The 44<sup>th</sup> Amendment Act of 1978 substituted the words 'armed rebellion' for 'internal disturbance.'
- ❖ The President, however, can proclaim a national emergency only after receiving a written recommendation from the cabinet by 44<sup>th</sup> Amendment Act of 1978.

### **Parliamentary Approval and Duration:**

- ❖ Approved by the both the Houses of Parliament within one month from the date of its issue. Originally, it was two months, but was reduced by the 44<sup>th</sup> Amendment Act of 1978.
- ❖ The emergency continues for six months, with an approval of the Parliament for every six months, added by 44<sup>th</sup> Amendment Act of 1978.
- ❖ Every resolution approving the proclamation of emergency or its continuance must be passed by either House of Parliament by a

special majority, introduced by the 44<sup>th</sup> Amendment Act of 1978.

### **Revocation of Proclamation:**

- ❖ A Proclamation of emergency may be revoked by the president at any time by a subsequent proclamation. Such a proclamation does not require the parliamentary approval.
- ❖ Further, the President must revoke a proclamation if the Lok Sabha passes a resolution disapproving its continuation, this safeguard was introduced by the 44<sup>th</sup> Amendment Act of 1978

### **Effects of National Emergency:**

1. Effects on the Centre-state relations.
2. Effect on the life of the Lok Sabha and State assembly, and
3. Effect on the Fundamental Rights.

### **1. Effects on the Centre-State Relations**

#### **(a) Executive**

The Centre becomes entitled to give executive directions to a state on 'any' matter. Thus the state

governments are brought under the complete control of the Centre, though they are not suspended.

### **(b) Legislative**

The normal distribution of the legislative powers between the Centre and state is suspended, though the state Legislatures are not suspended.

### **(c) Financial**

The president can either reduce or cancel the transfer of finances from Centre to the states.

## **2. Effect on the life of the Lok Sabha and State assembly**

The life of the Lok Sabha may be extended beyond its normal term (Five years) by a law of parliament for one year at time. This extension cannot continue beyond a period of six months after the emergency has ceased to operate.

## **3. Effect on the Fundamental Rights**

- ❖ Article 358 – Suspension of the Fundamental Rights guaranteed by Article 19.
- ❖ The six fundamental rights under article 19 are automatically

suspended. No separate order for their suspension is required. When the national emergency ceases to operate, it automatically came into force.

- ❖ Article 359 - Suspension of the other Fundamental Rights guaranteed except Article 20 and 21
- ❖ Under this fundamental rights as such are not suspended, but only their enforcement. The suspension of enforcement relates to only those specified in the Presidential order.
- ❖ Declarations made so far
- ❖ This type of emergency has been proclaimed three times so far-in 1962, 1971, 1975

## **PRESIDENT RULE:**

### ***Grounds of imposition***

The President rule can be proclaimed under Article 356 on two grounds

1. Article 365 empowers the President to issue a proclamation, if he is satisfied that a situation has arisen in which the government of a state

## Emergency Provisions

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- cannot be carried on in accordance with the provisions of the constitution.
  - 2. Article 365 says that whenever a state fails to comply with or to give effect to any direction from the centre

### **Parliamentary approval and duration:**

- ❖ Approved by the both the Houses of Parliament within two months from the date of its issue.
- ❖ If approved by both the houses of parliament, the President's rule continues for six months. It can be extended for a maximum period of three years with the approval of the parliament, every six months.
- ❖ Every resolution approving the proclamation of President's rule or its continuation can be passed by either house of parliament only by simple majority.

### **Consequences of President's Rule:**

- ❖ When the President's Rule is imposed in a state, the President dismisses the state council of

ministers headed by the chief minister.

- ❖ The state governor, on behalf of the President, carries on the state administration with the help of the chief secretary of the state or the advisors appointed by the President.
- ❖ 356 is popularly known as the imposition of 'president's rule' in a state
- ❖ Further, the President either suspends or dissolves the state legislative assembly.

### **Scope of Judicial Review:**

- ❖ The 38<sup>th</sup> Amendment Act of 1975 made the satisfaction of the President in invoking Article 356 final and conclusive which could not be challenged in any court on any ground.
- ❖ But, this provision was subsequently deleted by the 44<sup>th</sup> Amendment Act of 1978 implying that the satisfaction of the President is not beyond judicial review.

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**Financial Emergency:**

**Grounds of Declaration:**

- ❖ Article 360 empowers the president to proclaim a Financial Emergency if he is satisfied that a situation has arisen due to which the financial stability or credit of India or any part of its territory is threatened.

- ❖ A resolution approving the proclamation of financial emergency can be passed by either House of Parliament only by a simple majority.

**Parliamentary Approval and**

**Duration:**

- ❖ Financial emergency must be approved by both the Houses of Parliament within two months from the date of its issue.
- ❖ Once approved by both the Houses of Parliament, the Financial Emergency continues indefinitely till it is revoked. This implies two things.
  - a) there is no maximum period prescribed for its operation; and
  - b) repeated parliamentary approval is not required for its continuation