

LAW CAPSULE

For Law Competitive Exams



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Salient Features of The Government of India Act, 1935

The present Constitution of India has substantially borrowed from the Government of India Act, 1935. The Act of 1935 was a substantial improvement from the 1919 Act. The Non-cooperation Movement of 1920, led the British Government to appoint a Statutory Commission in 1927 to enquire into and report on the working of the Act of 1919. The Commission, headed by Sir John Simon, reported in 1930 and was considered by a Round Table Conference consisting of delegates of the British Government, British India and the rulers of the Indian States. A Bill was drafted in accordance with the recommendations of the Select Committee with certain amendments and was enacted as the Government of India Act, 1935.

Salient Features

The salient features of the Government of India Act, 1935, are as follows:

Sl. No.	Salient Features	Remarks
1.	Federal Scheme	The Act of 1935 prescribed a Federation of India (unlike earlier Acts which were unitary) taking the Provinces and the Indian States as units. The federal structure envisaged by this Act never came into being, because it was optional for the Indian States to join and they never gave their consent.
2.	Provincial Autonomy	Provincial autonomy was given effect to from April 1937. The Act of 1935 retained the control of the Central Government over the province in certain spheres requiring the Governor to act without ministerial advice. The Governor was under the control and discretion of the Governor General and through him, of the Secretary of State.
3.	Diarchy at the Centre	The executive authority of the Centre was vested in the Governor General (on behalf of the Crown), whose functions were divided into: (a) <i>Reserved subjects</i> —Defence, External Affairs, etc. left to the Governor General in his discretion; and (b) <i>Other than reserved subjects</i> —in which the Governor General was to act on the advice of a 'Council of Ministers'. In fact, no Council of Ministers came to be appointed; and the old Executive Council provided by the Act of 1919 continued to advise the Governor General until the Indian Independence Act, 1947.
4.	Distribution of legislative powers	A three- fold division was made in the Act of 1935: 1. Federal List, 2. Provincial List, and 3. Concurrent List.
5.	Federal Court	The Act set up, for the first time, a Federal Court for India. The Federal Court had an original jurisdiction to determine disputes between the units of the federation <i>inter se</i> and it was also the Appellate Court on constitutional questions. Appeal, however, lay from the decisions of the Federal Court to the Privy Council until such appeal was abolished by the enactment of the Abolition of the Privy Council Jurisdiction Act, 1949.

The Government of India Act, 1935 was, in many ways, a landmark arrangement and many of the features of the said Act were adopted and incorporated in the Constitution of free India.

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