

MCQ Question · mcqquestion.com

Emergency Provisions

Free · Share

Emergency Provisions

Think of a school fire drill.

On a normal day, every class follows its own timetable.

When the alarm rings, the principal takes charge and everyone follows one plan.

The Constitution has a drill like this too.

It is called an **Emergency**.

It sits in Part XVIII, Articles 352 to 360.



The Supreme Court of India, New Delhi. Photo: MohitSingh, Wikimedia Commons, CC BY 3.0. Resized.

Emergency provisions at a glance

Kind	Article	Trigger	Parliament must approve within
National Emergency	352	War, external aggression or armed rebellion	One month

Kind	Article	Trigger	Parliament must approve within
President's Rule	356	State Government cannot be carried on as the Constitution says	Two months
Financial Emergency	360	Financial stability or credit is threatened	Two months

Proclamation: the President's formal order that starts an Emergency.

Revoke: to cancel a Proclamation.

Approval by resolution: a vote in both Houses that keeps the Proclamation alive.

Judicial review: a court checking whether the Proclamation was valid.

Why does a Constitution need an emergency switch?

A switch for storms

In normal times, the Union and the States each have their own work.

A war or a collapse can need quick and united action.

So Part XVIII lets the Union take extra powers for a limited time.

There are three separate switches: Articles 352, 356 and 360.

Each has its own trigger and its own brakes.

Sources: legislative.gov.in

The duty behind the switch

Article 355 makes the Union responsible for every State.

It must protect each State from outside attack and internal trouble.

It must also see that each State Government follows the Constitution.

This duty is the root of Article 356.

Sources: legislative.gov.in

> **Quick check 1.** The Constitution has four kinds of Emergency. *(True or False?)* See answer ↓

What is a National Emergency under Article 352?

When can it be declared?

The President may declare it when the security of India, or any part, is under grave threat.

The threat must come from war, external aggression or **armed rebellion**.

The President may act early, if danger is imminent.

The Proclamation can cover all of India or only one part.

Sources: legislative.gov.in

The brakes on Article 352

The Union Cabinet must send its decision to the President in writing.

The Prime Minister alone is not enough.

Parliament must approve within **one month**, or the Proclamation ends.

Both Houses must pass a resolution.

After that, it lasts six months and can be renewed in six-month steps.

Sources: legislative.gov.in

Why “armed rebellion”?

Earlier, the ground was “internal disturbance”.

That phrase was vague.

The 44th Amendment replaced it with **armed rebellion**.

An ordinary protest or strike cannot be called an armed rebellion.

Sources: legislative.gov.in

What changes while the Emergency lasts?

Effects on States and rights

The Union may give directions to any State on how to use its executive power.

Parliament may make laws on matters outside the Union List.

In a war Emergency, Article 19 stops limiting the State.

The President may also suspend the right to move court for most rights.

Articles 20 and 21 cannot be suspended.

Sources: legislative.gov.in

> **Quick check 2.** The right to life under Article 21 can be suspended by a Presidential order during an Emergency. *(True or False?)*
>
> See answer ↓

Changing or cancelling

A later Proclamation can change or cancel an earlier one.

The President may act before a war begins.

The only test is that danger must be close.

So the power can be used early, and it can be undone.

Sources: legislative.gov.in

Two shields for the State

Article 358 works on its own.

While a war or external-aggression Emergency lasts, Article 19 cannot restrict the State.

Article 359 needs a Presidential order.

The order suspends the right to move court for the rights it names.

It may cover all of India or only a part.

A law made under these Articles must say that it relates to the Emergency.

Without that recital, the law gets no protection.

Sources: legislative.gov.in

Money and a spreading threat

Article 354 lets the President change how revenues are shared.

The change covers Articles 268 to 279.

It lasts no longer than the financial year in which the Emergency ends.

Suppose the Emergency covers only a part of India.

The Union’s powers can still reach other States if the threat comes from that part.

Sources: legislative.gov.in

What is President’s Rule under Article 356?

When does a State come under it?

The President acts on the Governor’s report, or otherwise.

The test is whether the State Government can carry on as the Constitution says.

The President may take over the State Government’s functions.

Parliament then exercises the State Legislature’s powers.

The High Court is kept out of this. Its powers cannot be taken over.

Sources: legislative.gov.in

How long can it last?

Parliament must approve within **two months**.

After approval, it lasts six months from the date of issue.

It can then be renewed in six-month steps.

It can never last longer than **three years**.

Sources: legislative.gov.in

> **Quick check 3.** Under Article 356, the State Assembly is dissolved automatically. *(True or False?)* See answer ↓

After one year

Past one year, two extra tests apply.

A National Emergency must be in force.

The Election Commission must certify that elections are hard to hold.

These tests aim to stop long President's Rule.

Sources: legislative.gov.in

What is a Financial Emergency under Article 360?

Trigger and brakes

The President may declare it if India's **financial stability or credit** is threatened.

Both Houses must approve it within two months.

The text sets no six-month limit and no renewal step.

Sources: legislative.gov.in

What can the Union order?

The Union may direct States to follow set canons of financial propriety.

The President may order salaries and allowances to be cut.

That includes the pay of Judges of the Supreme Court and High Courts.

The President may also have State Money Bills reserved for his consideration.

Sources: legislative.gov.in

The three Emergencies side by side

Each Emergency has its own approval clock.

Article 352 needs approval within **one month**.

Articles 356 and 360 need approval within **two months**.

Only Articles 352 and 356 have six-month renewal steps.

Article 356 also has a three-year ceiling.

Sources: legislative.gov.in

What did 1975 and the 44th Amendment change?

The ADM Jabalpur case

In ADM Jabalpur, a majority of four judges held that liberty is “a regulated freedom”.

Justice H. R. Khanna dissented.

In 2017, the nine-judge bench in Puttaswamy said this decision was wrong.

The Court wrote that ADM Jabalpur “must be and is accordingly overruled”.

Sources: indiankanoon.org

Fixes made by the 44th Amendment

The 44th Amendment replaced “internal disturbance” with **armed rebellion**.

It asked for written advice from the Union Cabinet.

It shielded Articles 20 and 21 from suspension.

It removed clause (5) of Article 352.

The 38th Amendment had added that clause in 1975.

Sources: legislative.gov.in

> **Quick check 4.** The 42nd Amendment inserted clause (5) of Article 352. *(True or False?)* See answer ↓

What did Bommai decide about President’s Rule?

Judicial review

S. R. Bommai v. Union of India was decided on 11 March 1994.

The Court held that a Proclamation under Article 356 is not immune from judicial review.

It can be struck down if it is mala fide or based on wholly irrelevant grounds.

The Court also held that the power belongs in truth to the Council of Ministers.

Sources: indiankanoon.org

No ending before approval

Until Parliament agrees, the Assembly can only be put on hold.

It cannot be ended.

If Parliament says no, the Proclamation lapses.

The old State Government comes back.

Sources: indiankanoon.org

The floor test

The Karnataka Chief Minister offered to prove his majority in the House.

The Governor still sent a report to the President.

The Sarkaria Commission said a Ministry should first get that chance.

The Court held the Karnataka Proclamation of April 21, 1989 unconstitutional.

Sources: indiankanoon.org

Secularism and a count of use

The Court called secularism a basic feature.

A State Government with unsecular policies can face Article 356.

The judgment noted 95 uses of Article 356 up to then.

In 23 cases, Assemblies were dissolved on the Chief Minister's advice or after resignations.

Sources: indiankanoon.org

Which Proclamations stood?

The Court looked at several State Proclamations.

The Court held the Karnataka and Meghalaya Proclamations unconstitutional.

The Madhya Pradesh, Rajasthan and Himachal Pradesh Proclamations of January 15, 1993 were not.

They came after the demolition at Ayodhya on December 6, 1992.

Sources: indiankanoon.org

> **Think it through: why should a Ministry get a floor test first?**
>
> A floor test counts votes in the House.
> It shows who really has the majority.
>
> A Governor's opinion is only an opinion.
> A vote is proof.

> **Quick check 5.** Bommai held that a Proclamation under Article 356 cannot be reviewed by a court. *(True or False?)* See answer ↓

What is Samvidhaan Hatya Diwas?

A day to remember

A notification published in the Gazette of India on July 13, 2024 declared June 25 as **Samvidhaan Hatya Diwas**.

June 25 is the day the 1975 Emergency began.

A petition in the Allahabad High Court challenged the notification in July 2024.

The High Court asked the Centre to reply.

Sources: deccanherald.com; legislative.gov.in

How has this been asked in exams?

Exam angle: four traps, each from a real question.

Trap 1: how many kinds?

Three, not four.

CDS I 2022 offered “Health Emergency” as the wrong option.

See the paper.

Trap 2: grounds for Article 352

“Internal disturbance” is no longer a ground.

CDS asked this twice.

See CDS II 2021 and CDS II 2016.

Trap 3: effects of Article 356

The State Legislature’s powers pass to Parliament.

But the Assembly is not automatically dissolved.

See UPSC CSP 2018 and UPSC CSP 2017.

Trap 4: 38th, 42nd or 44th?

The 38th Amendment (1975) added clauses (4) and (5) to Article 352.

The 44th Amendment (1978) removed clause (5).

The 44th also added written Cabinet advice and the Article 20-21 exception.

See CDS II 2021.

> **Think it through: why did "armed rebellion" replace "internal disturbance"?**
>
> The old words were vague.
> A vague ground is easy to stretch.
>
> The 44th Amendment used a narrow ground and also asked for written Cabinet advice.
> Both changes make it harder to misuse Article 352.

Quick Q&A

- **How many kinds of Emergency?** Three: Articles 352, 356 and 360.
- **What threats allow Article 352?** War, aggression from outside, or armed revolt.
- **Which case let courts check Article 356?** S. R. Bommai, decided on 11 March 1994.
- **What does Article 360 protect?** The financial stability or credit of India.
- **Which articles are shielded from suspension?** Articles 20 and 21.

- **Who must give written advice before Article 352?** The Union Cabinet.

Remember This

- **Three kinds**: 352, 356 and 360.
- **352**: war, external aggression or armed rebellion.
- **356**: State government fails as the Constitution says.
- **360**: financial stability or credit.
- **Bommai (1994)**: Article 356 is open to judicial review.
- **Articles 20 and 21**: never suspended.

Practice MCQ

Practice MCQs

1. Which Article deals with a National Emergency?

A. Article 356

B. Article 355

C. Article 352

D. Article 360

See answer ↓

2. Which word replaced "internal disturbance" as a ground for a National Emergency?

A. Armed rebellion

B. Public disorder

C. Civil unrest

D. Insurrection

See answer ↓

3. Within what time must Parliament approve a Proclamation of National Emergency?

A. Fifteen days

B. Two months

C. Six months

D. One month

See answer ↓

4. Which rights can never be suspended by a Presidential order during an Emergency?

A. Articles 14 and 15

B. Articles 19 and 22

C. Articles 20 and 21

D. Articles 25 and 26

See answer ↓

5. What is the longest period for which President's Rule can last in any case, as per the text of Article 356(4)?

A. One year

B. Two years

C. Three years

D. Five years

See answer ↓

6. In S. R. Bommai v. Union of India (1994), the Supreme Court held that a Proclamation under Article 356 is:

A. Beyond judicial review

B. Open to judicial review

C. Valid only for one month

D. Valid only with the Governor's consent

See answer ↓

Answer Key

1. **C.**
   Article 352 lets the President declare a National Emergency on grounds of war, external aggression or armed rebellion.
   Sources: Constitution, Art. 352 · Art. 352(1), grounds.
   ↑ Q1
2. **A.**
   The 44th Amendment replaced "internal disturbance" with "armed rebellion" in Article 352(1).
   Sources: Art. 352, 44th Amendment footnote · Art. 352(1), grounds.
   ↑ Q2
3. **D.**
   Article 352(4) says the Proclamation ends at the expiration of one month unless both Houses approve it.
   Sources: Art. 352(4), approval · Constitution, Art. 352.
   ↑ Q3
4. **C.**
   Article 359(1) excepts Articles 20 and 21 from suspension of the right to move court.
   Sources: Art. 359(1), rights suspended · Constitution, Art. 359.
   ↑ Q4
5. **C.**
   Article 356(4) says no such Proclamation shall in any case remain in force for more than three years.
   Sources: Art. 356(4), six months and three years · Constitution, Art. 356.
   ↑ Q5
6. **B.**
   The Court held that a Proclamation under Article 356 is not immune from judicial review.
   Sources: Bommai, conclusions on judicial review · S. R. Bommai v. Union of India (1994), judgment.
   ↑ Q6

Quick-check answers

1. **False.** It has three: National (Article 352), State failure (Article 356) and Financial (Article 360). ↑ 1
2. **False.** Article 359(1) excepts Articles 20 and 21. The 44th Amendment added these words. ↑ 2
3. **False.** Article 356 does not say so. The Assembly can be kept in suspended animation. Bommai said dissolution is not a matter of course. ↑ 3
4. **False.** The 38th Amendment (1975) inserted clauses (4) and (5). The 44th Amendment later removed clause (5). ↑ 4
5. **False.** Bommai held the opposite. It is subject to judicial review. ↑ 5

Curated by Arsalan Zuberi · mcqquestion.com

Scan to read online

https://mcqquestion.com/articles/emergency-provisions/