

## The Parliament

The Parliament of India, representing as it does all politically organized shades of public opinion at the national level, occupies a pre-eminent and pivotal position in the country's constitutional set up. It has also, over the years, carved out for itself a unique place in the esteem and affection of the people as the forum through which they articulate and realize their grievances and aspirations and seek solutions to their problems.

### **Composition of Parliament**

The Constitution of India provides for a bicameral Parliament consisting of the President and two Houses known as the Council of States (RajyaSabha) and the House of the People (LokSabha).

### **Article 79**

Article 79 describes the **Constitution of Parliament**. It says that there shall be a Parliament for the Union, which shall consist of the President and two Houses.

- According to the Art. 79 the Parliament consists of the President, the Council of States and the House of People.
- Though the President is not a member of either House of Parliament, he is an integral part of it. He not only summons the two Houses of Parliament and dissolves the House of People, but also gives his assent before any legislation can take effect.

### **Composition of RajyaSabha (Article 80)**

- The Maximum Strength of the RajyaSabha is fixed at 250.
- 238 are to be the representatives of the states and union territories (Elected Indirectly).
- 12 are nominated by the President.
- At present, RajyaSabha has 245 members.
- Of these, 229 from states, 4 from union territories, 12 are nominated by the President.
- The fourth Schedule of the constitution deals with the allocation of seats in the RajyaSabha.

## **Composition of Lok Sabha (Article 81)**

- The maximum strength of the Lok Sabha is fixed at 552.
- 530 members are representatives of the states.
- 20 members are representatives of the union territories.
- 2 members are nominated by the president from the Anglo-Indian community.
- At present, Lok Sabha has 545 members.
- Of these, 530 from states, 13 from union territories and 2 are nominated by the Anglo-Indian members.

## **Lok Sabha Elections**

The members of Parliament (MPs) are elected/appointed from states, union territories or are appointed from a field of particular expertise. The elections to Lok Sabha occur every 5 years in the name of general elections.

The Constitution of India has adopted **universal adult franchise** as a basis of elections to the Lok Sabha and the state legislative assemblies.

### **Representation of States in Lok Sabha:**

- Members are directly elected by the people from the territorial constituencies in the states
- Election Principle used – Universal Adult Franchise
- Eligibility to Vote: Any Indian Citizen of/above 18 years of age

Note: Voting age was reduced from 21 to 18 years by the 61st Constitutional Amendment Act, 1988.

### **Representation of Union Territories in Lok Sabha:**

- Parliament is empowered to choose the members from the UTs in any manner as it desires
- Election Principle used – **Direct Election**

**Note: Union Territories (Direct Election to the House of the People) Act, 1965**, has been enacted by which the members of Lok Sabha from the union territories are chosen by direct election.

### **Representation of Nominated Members in Lok Sabha:**

President nominates 2 members from Anglo-Indian Community if they are not adequately represented.

**Note:** The provision to nominate Anglo-Indians was extended till 2020 by 95th Amendment Act, 2009.

- 1st Lok Sabha Election took place in 1952. There were 489 seats elected. Congress won 364 out of 489 seats. Jawaharlal Nehru became the first Prime Minister.
- 2019 Lok Sabha elections were country's 17th General Elections. Elections took place for 552 seats. BJP won 303 seats out of 552. Narendra Modi is the Prime Minister.
- In 1952, only 22 women were elected while in 2014, 49 women candidates were elected.
- Elections to Lok Sabha are carried out using a first-past-the-post electoral system.

## **Article 82**

Under Article 82 of the Constitution, the Parliament by law enacts a Delimitation Act after every census. After coming into force commencement of the Act, the Central Government constitutes a Delimitation Commission. This Delimitation Commission demarcates the boundaries of the Parliamentary Constituencies as per provisions of the Delimitation Act. The present delimitation of constituencies has been done on the basis of 2001 census figures under the provisions of Delimitation Act, 2002. Notwithstanding the above, the Constitution of India was specifically amended in 2002 not to have delimitation of constituencies till the first census after 2026. Thus, the present Constituencies carved out on the basis of 2001 census shall continue to be in operation till the first census after 2026.

## **Eighty Fourth Amendment Act, 2001**

### **▪ Amendments:**

Extended the ban on the readjustment of seats in the Lok Sabha and the state legislative assemblies for another 25 years (i.e., up to 2026) with the same objective of encouraging population limiting measures. In other words, the number of seats in the Lok Sabha and the assemblies are to remain the same till 2026. It also provided for the readjustment and rationalisation of territorial constituencies in the states on the basis of the population figures of 1991 census.

## **Eighty Seventh Amendment Act, 2003**

### **▪ Amendments:**

Provided for the readjustment and rationalisation of territorial constituencies in the states on the basis of the population figures of 2001 census and not 1991 census as provided earlier by the 84th Amendment Act of 2001.

### **SC/ST Reservation**

- The objective of providing reservations to the Scheduled Castes(SCs), Scheduled Tribes (STs) is basically aims to empowering them and ensuring their participation in the decision-making process of the State.
- Besides, the state is also keen to end practices such as untouchability.
- Scheduled Castes (SC) are given 15% quota in jobs/higher educational institutions while Schedule Tribes (ST) are given 7.5% quota in jobs/higher educational institutions.
- Reservation is provided not only with respect to direct recruitment but also with respect to promotions for SC/ST category (Article 16(4A)).
- There is no concept of 'creamy layer' with respect to SC/ST reservation. This means that irrespective of the income status or the government posts held by the parents,children of SC/ST parents will get SC/ST Reservation

### **Article 83 Duration of Houses of Parliament**

(1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law

(2) The House of the People, unless sooner dissolved, shall continue for 1 [five years] from the date appointed for its first meeting and no longer and the expiration of the said period of 1 [five years] shall operate as a dissolution of the House:

Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

### **Duration of Rajya Sabha**

Rajya Sabha is a permanent body and is not subject to dissolution. However, one third of the members retire every second year, and are replaced by newly elected

members. Each member is elected for a term of six years. The Vice President of India is the ex-officio Chairman of RajyaSabha. The House also elects a Deputy Chairman from among its members. Besides, there is also a panel of "Vice Chairmen" in the RajyaSabha. The senior most minister, who is a member of RajyaSabha, is appointed by the Prime Minister as Leader of the House.

### **Duration of LokSabha**

The LokSabha is composed of representatives of people chosen by direct election on the basis of Universal Adult Suffrage. At present, the strength of the House is 545. The term of the LokSabha, unless dissolved, is five years from the date appointed for its first meeting. However, while a proclamation of emergency is in operation, this period may be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case, beyond a period of six months after the proclamation has ceased to operate.

### **Article 84 (Qualification for membership of Parliament)**

A person shall not be qualified to be chosen to fill a seat in Parliament unless he—  
(a) is a citizen of India, and makes and subscribes before some person authorized in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;] (b) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age; and (c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament. 1. Subs. by the Constitution (Sixteenth Amendment) Act, 1963, s. 3 (w.e.f. 5-10-1963).

### **Article 101 (Vacation of seats)**

(1) No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other

(2) No person shall be a member both of Parliament and of a House of the Legislature of a State and if a person is chosen a member both of Parliament and of a House of the Legislature of a State, then, at the expiration of such period as may be specified in rules made by the President, that persons seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State

(3) If a member of either House of Parliament

(a) Becomes subject to any of the disqualifications mentioned in clause ( 1 ) or clause ( 2 ) of Article 102, or

(b) Resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, and his resignation is accepted by the chairman or the Speaker, as the case may be, his seat shall thereupon become vacant: Provided that in the case of any resignation referred to in sub clause (b), if from information received or otherwise and after making such inquiry as he thinks fit, the chairman or the Speaker, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation

(4) If for a period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof, the House may declare his seat vacant: Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

### **Article 99**

Oath or affirmation by members Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule.

### **Power, Privileges and Immunities of Parliament and its Members**

Art, 105 provides two types of powers and privileges to the Houses of Parliament.

(a) Those which belong to the House collectively.

(b) Those which are enjoyed by the members individually.

#### **Individual Privileges**

No action can be taken against a member of Parliament for any speech or words spoken by him in course of the proceedings of the House. However, under Art. 121 no discussion can take place in Parliament with respect to the conduct of any Judge of the Supreme Court or a High Court on the discharge of his duties except upon a motion for the removal of a Judge.

A Member of Parliament cannot be arrested and put in prison in a civil action within a period of 40 days before the commencement and 40 days after the termination of a session of the House.

A Member of Parliament has the right to refuse to give evidence and appear as a witness in case pending in a court of law when Parliament is in session.

The proceedings in Parliament shall not be inquired into by the Courts [Art. 122].

## **Collective Privileges**

- A House has power to punish a person whether its member or outsider, for its contempt or breach of privilege.
- The Parliament has a right to exclude strangers from its proceedings and hold its sitting in camera.
- A House has power to institute inquiries and order attendance of witnesses, and in case of disobedience, to bring witness in custody to the bar of the House.
- It has the power of publication of proceedings of the House.
- Parliament has power to punish its members for their offending conduct in the House and can also expel a member whose conduct is unfit for the membership whether inside or outside the House.
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## **Special Powers of RajyaSabha**

**Article 67** A resolution seeking the removal of Vice – President can originate only in RajyaSabha. After RajyaSabha passes such a resolution by majority of the then members of the House, it goes for approval of LokSabha.

**Article 249** A resolution seeking legislation on any subject of the State List can only originate in the RajyaSabha, if it thinks that such is necessary or expedient in the national interest.

**Article 312** Any resolution seeking creation or one or more All India Services, if such is necessary in the national interest, can only be initiated in the RajyaSabha only after RajyaSabha passes a resolution of this effect by a special majority i.e. two thirds of the members present and voting, the Parliament can legislate on this.

## **Special Power of Loksabha**

- 1.A confidence or no – confidence motion can be initiated and passed only in LokSabha.
- 2.Money Bill and Financial Bills can be introduced only in the LokSabha.
- 3.Under Art. 352 LokSabha in a special sitting can disapprove the continuance in force of a national emergency proclaimed by the President. In such a case, the President shall revoke the national emergency.

## **Presiding officers of the Parliament**

### **Presiding Officers of Rajya Sabha**

The Vice – President of India is the ex-officio Chairman of the Rajya Sabha [Art. 89 (1)]. The Deputy Chairman is elected by the members of the Rajya Sabha amongst themselves [89 (2)].

The Deputy Chairman can resign his office by addressing to the Chairman. He shall vacate his seat if he ceases to be a member of the Council. He can also be removed from his office by a resolution of a Council passed by a majority of all the then members of the Council [Art 90].

### **Presiding officers of Lok Sabha speaker and Deputy Speaker**

The Speaker and the Deputy Speaker of the Lok Sabha are elected by the members of the Lok Sabha from amongst themselves [Art. 93].

The Speaker is the presiding officer of the Lok Sabha.

When the office of the Speaker falls vacant or when he is absent from any sitting of the House, the Deputy Speaker.

### **Quorum (Article 100)**

Quorum is the minimum number of members required to be present in the House before it can transact any business. The quorum to constitute a meeting of the Lok Sabha is 1/10 of the number of members. If there is no quorum, it is the duty of the Speaker to adjourn the House or to suspend the meeting until there is quorum.

### **Sessions of the Parliament**

According to Art. 85, the President from time to time summons each House of Parliament to meet, but there should not be a gap of six months between two consecutive sittings. In other words, Parliament should meet at least twice a year.

Sessions There are three sessions in a year

**Budget Session (February to May)** It is the longest session. Since it is the first session of the year, it begins with an address of the President.

**Monsoon Session (July to September)** **Winter Session (November to December).**  
This is the shortest Session.

End of the Session

**Prorogation** It brings the session of House to end. This is done by the President on the advice of the Council of Ministers. This can be done even when the House is adjourned.

**Adjournment** It is a short recess within a session of the Parliament, called by the Presiding officer of the House. Its duration may be in minutes, hours, days or weeks.

**Adjournment Sine Die** The Presiding officer adjourns the House without fixing any date or time of the next meeting i.e. for an indefinite period.

### **Dissolution of the House (Article 85)**

RajyaSabha is a permanent body and is not subject to dissolution

LokSabha is subject to dissolution. A dissolution ends the very life of the House and general elections must be held to elect a new LokSabha. LokSabha dissolution takes place in either of two ways:

- (i) Automatic dissolution after five years.
- (ii) Before the completion of its tenure, by the President on the advice of Council of Ministers.

### **Position of Bills at the time of dissolution of LokSabha**

- 1.All Bills pending in LokSabha at the time of dissolution, whether originating in LokSabha or transmitted to it by RajyaSabha, shall lapse.
- 2.Bills passed by LokSabha but are pending in RajyaSabha, lapse.
- 3.Bills originating in RajyaSabha, which have not been passed by LokSabha, but are still pending before RajyaSabha, do not lapse.
- 4.Bills passed by both the Houses and sent to the President for assent do not lapse.
- 5.Bills passed by both Houses but returned by the President for reconsideration of the Houses do not lapse.
- 6.If a joint sitting of both the Houses has been notified by the President before the dissolution of LokSabha, the Bill does not lapse. (Art. 108(5))

### **Legislative Procedures in Parliament**

The Bills introduced in the Parliament are classified into 4 categories.

- 1.Ordinary Bills
- 2.Money Bills
- 3.Financial Bills
- 4.Constitution Amendment Bills

### **Ordinary Bills**

All the Bills, other than Money Bills, Financial Bills and Constitution Amendment Bills are Ordinary Bills

According to Art. 107, (1), such Bill can be introduced either in LokSabha or RajyaSabha without the recommendation of the President, except those Bills under Art. 3 which are related to reorganization of the territory of a State.

The Bills are passed by simple majority by both the Houses. But if there is a deadlock due to any reason it can be resolved by a joint sitting of both the houses called by the President.

President has the right to return such Bills for reconsideration of the Parliament once.

### **Assent of the President**

When a Bill is passed by both the Houses, it is presented to the President for his assent. The President may;

- (a) give his assent to the bill; or
- (b) withhold his assent to the Bill; or
- (c) may return the bill for reconsideration of the Houses

The Bills becomes an Act only if it gets the assent of the President.

If the Present returns the Bills for reconsideration and if it is passed by both the House again with or without amendments and presented to the President for his assent, the President must give his assent to the Bill.

### **Money Bills**

Money Bills is defined in Art. 110, according to which a Bill is deemed to be a Money Bill if it contains provisions dealing with all or any of the following matters:

- (a) imposition, abolition, remission, alteration or regulation of any tax;
- (b) regulation of borrowing of money or giving of any guarantee by the Government of India;
- (c) custody of Consolidated Fund or Contingency Fund of India, the payment of moneys into or withdrawal of moneys from any such fund;
- (d) appropriation of money from Consolidated Fund of India;
- (e) declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of amount of any such expenditure;
- (f) receipt or issue of money from Consolidated Fund of India and audit of accounts of Union or States; or
- (g) any matter incidental to any of the matters specified in sub - clauses (a) to (f)

If any question arises whether a Bill is Money Bill or not, the decision of the Speaker of Lok Sabha on it is final [Art. 110(3)].

The Speaker has to endorse on every Money Bill a certificate that it is a Money Bill.

- (a) when it is transmitted to the Rajya Sabha and
- (b) when it is presented to the President for his assent.

A Money Bill can originate only in the Lok Sabha after recommendation of the President. Art. 109 and Art. 117 prohibits the introduction of Money Bills in the Rajya Sabha.

A Money Bill after being passed by the Lok is transmitted to the RajyaSabha, [Art. 109 (2)] which has four options:

- (i) pass the Bill in original form;
- (ii) reject the Bill;
- (iii) take no action for 14 days; and
- (iv) send the Bill with suggestive amendments to the LokSabha.

When the RajyaSabha rejects the Bill or takes no action for 14 days, the Bill shall be automatically deemed to have been passed by RajyaSabha.

When RajyaSabha sends the Bill with suggestive amendments to LokSabha, the LokSabha has the sole authority to accept or reject one or all of the recommendation (s) and in this case also the Bill shall be deemed as passed with or without recommendations.

There is no provision for a joint sitting of the Parliament to pass Money Bills

After the Money Bill is passed by both the Houses, it is presented to the President for his assent. The President is not allowed to return a Money Bill for reconsideration [Art. 111].

### **Financial Bills**

A Financial Bill is a Bill which contains provisions of general legislation along with one or more matters mentioned in Art. 110.

A Financial Bill like a Money Bill:

- (i) can originate only in LokSabha, and
- (ii) they cannot be introduced without the recommendation of the President.

Financial Bills are of three kinds:

1. Money Bills – Art. 110
2. Financial Bills – Art. 117 (1)
3. Financial Bills – Art. 117 (3)

A Financial Bill falling under Art 117 (1) (containing matters enumerated in Art. 110 and some other provisions) cannot be introduced in the RajyaSabha and also cannot be introduced without the recommendation of the President. After this it behaves like an ordinary Bill.

A Financial Bill involving expenditure from the Consolidated Fund of India [falling under Art. 117 (3)] may be introduced in either House of the Parliament and does not require the Presidents recommendation for its introduction. But it requires President's recommendation for consideration in both the Houses and shall not be passed without it.

The Parliament's assent to a Financial Bill is similar to that of an Ordinary Bill.

### **Constitutional Amendment Bill**

Art. 368 deals with the power of the Parliament to amend the Constitution, and procedure therefore.

A Bill for this can be introduced in either House (Lok Sabha or Rajya Sabha) of the Parliament and President's recommendation is not required for its introduction.

Under Art. 368, such a Bill must be passed by not less than two-third of the members of the House present and voting.

There is no provision of a joint sitting for passing such a Bill.

After the Bill is passed by both the Houses, it is sent to the President for his assent.

The 24<sup>th</sup> Amendment Act, has made it obligatory for the President to give his assent to the Bill amending the Constitution.