

# LEGISLATURE AT CENTRE & STATE

## **LEGISLATURE:**

Legislature occupies central place in modern democracies, it is one of three organs of government and makes laws. Legislative body is elected by people and it makes laws on their behalf. It is filled with actions, walkout, deliberations, dharnas, protests, unanimity on issues, concern, conflict and cooperation. Legislature is effective and efficient representation of people and helps in making the representatives responsible and accountable.

## **“WHY DO WE NEED A PARLIAMENT”**

The national legislature of elected representatives is called parliament, and at state level, legislative assembly.

The need of parliament is because of following reason;

(i) The parliament has the supreme power of legislation, and it makes amends and abolishes law.  
(ii) Parliament exercise some control over the executive, that is, prime Minister and his council of ministers they are answerable to the Parliament, and enjoy power only till they hold majority in people's house.

(iii) Parliament makes budget and public money cannot be spent unless it is sanctioned by the parliament.

(iv) Parliament provides a forum for discussion and debate on issue of public and national importance.

## **WHY DOES PARLIAMENT OF INDIA HAS TWO HOUSES:**

The origin of bi-cameral legislature in India is historical contribution. British Government through Government of India Act of 1919, established bi-cameral legislature which was further confirmed by government of India Act, 1935. The makers of Indian constitution established bi-cameral system, due to following reasons;

(i) India was in need of federal system for which bi-cameral legislature was necessary.

(ii) Indian Administrators were familiar with institution of bi-cameral legislature due to British Rule, so they found it convenient to carry on the system.

According to article 79. The parliament of India consists of the President and two houses of parliament, the Lok-Sabha/House of people and Rajya Sabha/ Council of states. Thus, in India no bill can become an act until it is approved by two houses of parliaments and then signed by President.

## ***HOW ARE THE PARLIAMENT AND THE STATE LEGISLATIVE ASSEMBLIES CONSTITUTED?***

## **UNION PARLIAMENT:**

The India Parliament is composed of two houses;

(i) Council of States / Rajya Sabha.

(ii) House of the People / Lok Sabha.

## **RAJYA SABHA:**

The upper house of the Parliament is known as 'Rajya Sabha'. It is a permanent House and the prominent leaders of the country are its members. It is a house of the States and includes representatives of States.

## **COMPOSITION:**

Rajya Sabha on whole has 450 members, 229 from States, 09 from Union territories and 12 are nominated by President for having special knowledge in respect of literature, science, art and commerce.

## **BASIS OF REPRESENTATION:**

Population of a State have been made the basis for the representation of states in Rajya Sabha. Therefore, states with greater population have been given greater representation in the Rajya Sabha, whereas States with less population have been given less number of seats.

## **ELECTION OF THE MEMBERS:**

Members of Rajya Sabha are elected by legislative assemblies of respective States, through Proportional representation by means of single transferable vote system. In regard to the twelve nominated members, President should be satisfied that they are specialized in their respective fields,

and , practical experience in literature, science, art and social science and country will be benefitted by their membership.

## **QUALIFICATION:**

- (i) He should be citizen of India.
- (ii) He should not be less than 30 years of age.
- (iii) He should possess the qualification, as prescribed by Parliament.
- (iv) According to the Representation of the people act, 1951, it is necessary that the State or Union Territory form where he seeks to contest elections, he should be voter of an electoral constituency of that particular State or Union Territory.

## **TERM:**

Rajya Sabha is a permanent house. The election for this house is not done for all members at the same time. Its members are elected for 6 years and after every 2 years, one – third of total membership retire and vacancy created is filled through elections.

## **OFFICIALS OF RAJYA SABHA:**

The Vice-President of India acts as chairman of Rajya Sabha. He is not regular members of House, but when house is equally divided for voting, he can use his vote. The upper house also has a deputy chairman, who is chosen by the House itself, and his job is to assist chairman.

## **POWERS & FUNCTIONS OF RAJYA SABHA:**

The powers of rajya Sabha can be examined under five headings.

- 1) Legislative Powers.
  - 2) Financial Powers.
  - 3) Administrative Powers.
  - 4) Powers regarding Constitutional Amendments.
  - 5) Miscellaneous Powers.
- 1) **Legislative Powers:** no bill can be considered as passed until it is passed by both the houses of parliament in same form. If there is dead lock between both houses over a bill, then the difference is sorted out in the 'Joint Sitting' of both houses. As in 'Joint Sitting' members of Lok Sabha are more than Rajya Sabha, so later cannot prevent a bill from becoming law permanently, but just for period of 6 months. Then the bill is considered passed.
  - 2) **Financial Powers:** Rajya Sabha is powerless in the financial sphere as financial bill is introduced only in lower house, and, then it is sent to upper house for recommendation, within 14 days. If Rajya Sabha does not approve bill within given time period, then it is considered passed.
  - 3) **Executive Powers:** As cabinet is responsible to Lok Sabha, Rajya Sabha cannot control it, and, does not possess powers to pass a motion of no-confidence. But through other methods, Rajya Sabha can establish its control over the administration.
    - (i) Through written or verbal questions it can seek information from the government in regard to functioning of its departments.
    - (ii) At the time of discussion on adjournment motion, functions of government are criticized in Rajya Sabha.
    - (iii) Through motions, the House opposes or supports certain policies. It also influences the cabinet.
    - (iv) During discussions on bills, the members get opportunity to express their opinion against the policy of the government.
  - 4) **Constitution Amending Powers:** Rajya Sabha has power to amend the constitution, and, for every amendment, the approval of 2/3<sup>rd</sup> majority of upper house is necessary. Therefore, if the Rajya Sabha rejects a constitutional Amendment Bill, then the constitution cannot be amended. Rajya Sabha is having absolute powers in matters of constitutional amendments.
  - 5) **Miscellaneous Powers:**
    - (a) The elected members of Rajya Sabha are the members of the Electoral College which elects President as well as Vice President of a country.
    - (b) In order to impeach President and Vice-President, the charge can be preferred by either houses of parliament and the charges should be contained in a resolution which has been

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moved after at least fourteen days notice in writing signed by not less than  $\frac{1}{4}^{\text{th}}$  of total members of house. If on fixed date, resolution is passed by a majority of not less than  $\frac{2}{3}^{\text{rd}}$  members of both house, then President or Vice-President stands removed.

- (c) The power to remove any Judge of High Court or Supreme Court for his disqualification is equally vested in both the houses of parliament. A resolution which is based upon the majority of total membership and  $\frac{2}{3}^{\text{rd}}$  majority of the present members of any House. If it is passed by absolute majority of both houses, then Judge is removed from office.
- (d) Rajya Sabha considers the report submitted by the Public Service commission and the comptroller General.
- (e) Rajya Sabha has the right to empower the parliament to make laws with respect to any matter enumerated in State list, considering it to be necessary for national interest. In such case law should be made by parliament with support of  $\frac{2}{3}^{\text{rd}}$  majority. This law remains in force for 2 years.
- (f) Rajya Sabha has power to begin new all India services in national interest, by a resolution supported by  $\frac{2}{3}^{\text{rd}}$  majority of house.
- (g) Rajya Sabha has power to confirm emergency by  $\frac{2}{3}^{\text{rd}}$  majority of its members within the month. In case of constitutional and financial emergency, confirmation of both houses is important.
- (h) The ordinance made by President cannot become law, until it is approved by both houses.

## **LOK SABHA:**

The lower house of Parliament in India is known as the "Lok Sabha". It consists of elected members/representatives of the entire country. In comparison to the legislatures of democratic countries of world, the Indian Lok Sabha represents the maximum number of people.

## **COMPOSITION:**

The total strength of Lok Sabha is 545, that is 530 from states, 13 from Union territories and 02 are nominated from Anglo-Indian sect in by President of India.

Features of Lok Sabha Elections: the following characteristics are important for Lok Sabha.

- (a) In India, people directly elect their representatives to Lok Sabha, on principle of Universal adult franchise.
- (b) The people of India elect their representatives through secret ballot. It is not revealed as to who cast his vote to which candidate.
- (c) In order to elect the representatives of the Lok Sabha, all the adult citizens, i.e., above age of 18 are given right to franchise.
- (d) From each electoral constituency, one representative is elected. The populations in these electoral constituencies are kept more or less equal all over India.
- (e) India follows joint electorate system, where members are elected from constituencies, irrespective of caste and religion.
- (f) There are certain castes in the country who could not develop as other castes in the country. Such castes, considered as untouchable and the backwards tribes have been given reservation of seats in Lok Sabha.

## **QUALIFICATION FOR THE MEMBERSHIP OF LOK SABHA:**

- He must be citizen of India.
- He should have attained the age of 25 years.
- His name should appear in the voter's list.
- He must possess such other qualifications as may be prescribed on that behalf by any law made by the parliament from time to time.

## **PRIVILEGES OF MEMBERS OF LOK SABHA:**

- (i) They have absolute freedom of speech in the House and they cannot be tried in any court of law for any remark made by them on the floor of the House.
- (ii) They cannot be arrested in connection with any civil proceedings against them during the session and forty days before and after session.
- (iii) The speaker protects the members against any infringement of their privileges.

## **DURATION:**

The term of Lok Sabha is five years from the date appointed for its first meeting. However it can be dissolved before five years either by Prime Minister or President, due to failure of constitutional machinery or any other reason.

## **OFFICIALS OF THE LOK SABHA:**

For the orderly and effective conduct of the house and in order to preside over it, the Indian constitution provided for two officers-Speaker and Deputy Speaker.

The speaker of Lok Sabha is elected in first sitting, on basis of majority decision. Speaker gets salary and allowances as decided by parliament from the consolidated Fund of India, free accommodation and other benefits. He can resign of his own and also could be removed by way of vote of no-confidence.

Deputy speaker too is elected by the House. He helps the speaker in the conduct of the business of the house, and in the absence of the speaker, presides over the house.

## **POWERS & FUNCTIONS OF THE LOK-SABHA:**

The role and functions of Lok-Sabha, could be divided into the following headings;

1. **Legislative Powers:** Parliament has immense powers in relation to law-making. Because of federal system in India, laws are made both at centre as well as in states. Centre makes law for whole nation and states for their respective regions. Thus, in relation to power of law making, there are three lists;

- (i) Union list                      (ii) State list                      (iii) Concurrent list

The union list with centre, state list with state and concurrent list for both. But if centre or state make law on same subject, then centre is more effective than state. The residuary subjects are also with centre.

2. **The Parliament has full control over the finance of the country.** According to the constitution, with due permission of the President, the Finance Minister, presents the complete description of income and expenditure of the country for the ensuing year, in the form of Budget, before Lok-Sabha. Unless Budget is passed by Lok Sabha, neither can tax be levied, nor can even a rupee be spent on any item and nor can loan be raised.

3. **Control over Council of Ministers:** The parliament controls the council of ministers through various methods;

(a) **Question Hour:** The first hour in the beginning of every working day of the parliament, is fixed for asking questions. The members of the parliament have the right to question the Ministers in regard to functions and policies of the government on important subjects.

(b) **Adjournment Motion:** In order to attract the attention of the Members of parliament towards an incident of great concern in the country, members can move adjournment motion in the parliament. The speaker can allow its presentation in the House for voting. If the requisite numbers of votes approve the motion then it is placed before House for its consideration. Adjournment motion is carried out after question hour. Council of ministers always opposes such bills because when the motion is debated, on the one hand, function and a policy of the government is subjected to severe criticism and on the other hand, if the motion is passed then it is considered as a no confidence against the council of Ministers.

(c) **Disapproval of Budget:** The lower House can express its lack of confidence in the council of Ministers by rejecting the Budget completely or by passing the cut-motion.

(d) **Cut in the Salary of Ministers:** If Lok-Sabha with majority passes a resolution to cut wages of the Ministers, then it is considered as no confidence against the council of Ministers.

(e) **No confidence Motion:** Lok Sabha can place a resolution of no-confidence against the council of ministers. On such a resolution an open discussion is held in the House and a critical evaluation of the performance of the government takes place.

4. **Judicial Powers:** Parliament can impeach the highest official, the president of country for his unconstitutional behaviour. After the passages of this resolution in both the Houses, President stands removed.

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Besides, the Judges of Supreme Court and High Court can be examined in the parliament for their unconstitutional activities and immoral behavior. If such an impeachment resolution is passed by both the House with requisite majority, then they stand removed from office.

5. **Electoral Powers:** Parliament elects President and Vice-President of India. In Presidential election, elected members of parliament and state legislature participate, but the Vice-President is elected only by Member Parliament.

6. **Constitution Amending Power:** Parliament has been provided with right to amend a greater portion of the constitution. For amending this greater portion, both the Houses have to pass a resolution in their separate sitting with  $2/3^{\text{rd}}$  majority of the sitting members. President has no partial veto regarding amendments. Some portion of constitution can be amended through simple majority also.

7. **Fundamental Rights Amending Powers:** Parliament has power to amend fundamental rights, but cannot amend basic structure of Indian constitution.

## STATE-LEGISLATURE:

Article 168, deals with the legislative department of various states in Indian federation. Every State should have its own legislative assembly, Governor and states can also have legislative council. The legislative assembly as lower house/Popular house, legislative council as upper house/permanent house including Governor is called as State legislature.

## LEGISLATIVE COUNCIL:

Legislative council is upper house or permanent house of a State.

## COMPOSITION:

According to article 171, the minimum number of members of legislative council must be 40 and maximum equal to  $1/3^{\text{rd}}$  of members of legislative Assembly.

## ELECTION OF MEMBERS:

The election of members for legislative council is held in following ways;

- (i)  $1/3^{\text{rd}}$  of total members are elected indirectly by an electoral college composed of members of District Boards, Municipal committees and other local bodies.
- (ii)  $1/3^{\text{rd}}$  members are elected by electorals comprising of members of legislative Assembly of state concerned.
- (iii)  $1/12^{\text{th}}$  of total members will be elected by graduates of state, who have passed their degree course at least 3 years before election.
- (iv)  $1/12^{\text{th}}$  of total members by teachers of Higher Secondary Schools and Colleges, with at least three years teaching experience.
- (v) Remaining  $1/6^{\text{th}}$  of members are directly nominated by Governor, amongst those who have distinguished themselves in sphere of literature, art, science or social service.

The elections are held by means of single transferable vote system.

## QUALIFICATION:

- i) The candidate must be citizen of India.
- ii) He must have completed 30 years of age.
- iii) He must be a voter of a constituency formed for election of representatives to the legislative Assembly.
- iv) He must not be insolvent.
- v) He must not hold a government post of profit.

## TERM:

Legislative council is a permanent House, like council of states, and is thus, never dissolved.  $1/3^{\text{rd}}$  of its members retire after every two years and new members are elected to fill up their seats. This method is also applicable to nominated members.

## OFFICE BEARERS:

There are two office bearers in legislative council – the chairman and Deputy Chairman. They are elected by the members of the legislative council from among themselves. They can resign as well as can be removed.

## **LEGISLATIVE ASSEMBLY:**

Legislative Assembly is lower house or popular house in States. It represents people of state and is powerful.

## **COMPOSITION:**

The number of members of legislative Assembly in each state depends on its population.

## **CHARACTERISTICS OF LEGISLATIVE ASSEMBLY:**

The characteristics of legislative Assembly are:

- i) Members of legislative assembly are elected on basis of universal adult franchise, i.e., by person above 18 years of age without any distinction.
- ii) Some seats are reserved for scheduled castes and scheduled tribes in legislative assembly.
- iii) Joint electorate system is followed, where candidates can contest elections irrespective of caste and religion.
- iv) Whole state is divided into constituencies and one member is to be elected from each constituency.

## **QUALIFICATION:**

- i) He must be citizen of India.
- ii) He must have completed 25 years of age.
- iii) His name must be in voter list. He must not hold any office of profit.
- iv) He must not be insolvent.

## **TERM:**

Generally the term of legislative assembly is five years, but house can be dissolved earlier also.

## **SESSION:**

There must not be gap of more than six months between two sessions of house. The minimum attendance for the is required to be at least one-tenth of total membership of house.

## **OFFICIALS OF LEGISLATIVE ASSEMBLY:**

There are two officials of the legislative Assembly –speaker and Deputy Speaker, both elected by members of assembly from among them.

## **HOW ARE THE LAWS MADE / PASSED?**

The legislative procedure is discussed under article 107 to 111 in the Indian constitution. The state legislative assemblies can legislate for their respective states under articles 196 to 207. The legislative procedure at centre and state is same.

## **BILL:**

The draft presented in parliament for legislative is known as Bill. The Bill becomes a law after it has been passed by both Houses of parliament and receives the assent of President. Bills are of two kinds:

- (a) Non-Money Bills                      (b) Money Bills.

- a) **Non-Money Bills**: This includes private bill and Government Bill.

**Private Bills**: The bills preferred in the house by opposition or private person are called as private bills. These bills can be preferred in any house of parliament, and, mover of the bill has to give one month's notice and along with it a copy of bill. Private bills do not have support of Government benches, so they have little chance to get passed.

**Government Bills**: Most of the bills essential for their respective departments are put forward by respective ministers. They are known as Government bills and get easily passed.

## **PROCEDURE FOR NON-MONEY BILLS:**

i) **Permission for Presentation**: When a bill is to be presented in any house, the government bill's are not subject to one month's notice. They are directly published in the government gazette, but one month's previous notice is essential for private bills. On the appointed day, mover asks the permission, to present the bill and reads the title of bill. If the majority is in favour, then private bill gets place in government gazette.

ii) **First Reading**: after publication of bill in government gazette, day is fixed for first reading of bill. The mover of the bill reads its title, throws light on main provisions and states its need. The bill

is not considered in detail in the first reading, generally private bills are rejected in this stage. Here the mover can present the following proposals regarding the bill,

- a) The house should itself consider the bill.
- b) The bill may be referred to the select committee.
- c) Must be published for knowing the public Opinion.

iii) **Second Reading**: If according to the wish of the mover, the bill instead of being referred to the select committee is considered by the house itself, the second reading of the bill begins. This is important stage as bill is discussed clause by clause. In this stage bill is considered.

iv) **Select Committee**: In India, all bills are not referred to select committee. Less important and undisputed bills are not referred to select committee. The most important bills are referred to select committee, it discusses the bill minutely and make amendments where necessary.

v) **Report Stage**: After finishing its work, select committee presents its report in house on appointed day and here second reading of bill takes place.

vi) **Third Reading**: In third and last stage, bill is read again and discussion takes place on general principles of bill, and, amendments regarding minor changes in the language are persisted. After this bill is put to vote.

vii) **Entry In Other House**: Non-Money bill can be preferred in any house. When one house has passed it after going through all the three readings, the bill is sent to other house. There also bill passes through all the stages. If here too it is passed in original form, then bill is sent to president's assent.

viii) **In case of Dissent of other Chamber**: In case the other house makes some amendments in the bill or totally rejects it, it is referred back to the House of its origin, and is reconsidered. If amendments are accepted in that house, the bill is deemed as to have passed by both houses and is sent to president's assent. If the house, where bill originates, does not accept the amendments, then President Calls for joint session of both houses, to reconsider the bill. If majority passes the bill, then bill is confirmed.

ix) **Assent of the President**: Finally, bill is sent to President for his assent and were he signs the bill. The President can refer it back to parliament, with his suggestions. Then it is upto parliament, whether they accept president's suggestion or not. If parliament passes the bill again in original form, then President has to accept it.

## **PROCEDURE REGARDING MONEY BILLS:**

Money bill can be originated in Lok-Sabha, only because it represents the people. Money bill after being passed by the Lok-Sabha is sent to Rajya Sabha, which considers over it in the following manner;

- i) Money bill can be passed by Rajya-Sabha in same form, as by Lok Sabha.
- ii) Upper house can totally reject bill within 14 days.
- iii) They can send bill back to Lok Sabha with amendments.
- iv) They may retain the bill even after the period of 14 days.

After 14 days, Money bill is considered passed by both houses, whether Rajya Sabha accepts it or rejects it, the will of Lok Sabha is final.

## **MONEY –BILL AND PROCEDURE ADOPTED FOR ITS ENACTMENT:**

Those bills which are generally related with following matters are known as Money bills.

- i) To levy taxes or decrease or increase tax.
- ii) To seek loan by the state, economic transactions or making of rules pertaining to them.
- iii) To draw funds from or deposit Money in the contingency fund or consolidated fund of India.
- iv) To charge any Government expenditure on the consolidated fund of India or increase the expenditure to be incurred from this fund.
- v) To spend from the consolidated fund of India.
- vi) To amend laws in regard to the Money bill transactions of Government.

The last step in Money-bill procedure is president's assent. President easily gives his assent to Money bill as it is he who under his own signature had presented the bill before Lok Sabha through the Finance Minister.

## **HOW IS THE EXECUTIVE MADE ACCOUNTABLE:**

Indian council of Ministers exist to co-operate and advice the president in the conduct of his functions. Its members are individually responsible as well as collectively responsible to each other. The executive is made accountable in following ways:

i) **Accountability of Cabinet towards President:** President is head of executive and all the functions of executive are conducted on his behalf. His powers are used by Prime Minister and council of ministers. Therefore, as per the Parliamentary system, Prime Minister and his council has to give information to the president in regard to decisions taken by the cabinet. In this manner, cabinet is responsible to president.

ii) **Accountability towards one another:** The second kind of responsibility lies in the responsibility of Ministers towards one another. There is saying “Ministers sail together and sink together”. It means that when the cabinet takes a decision, all the ministers get bound by it, even if a minister opposes the decision in meeting. No minister can criticize another department in public or in parliament. Ministers should support and defend each others policies in public as well as in parliament.

iii) **Accountability towards House of People:** Parliamentary system provides that until the House of the people has confidence in the council of ministers, it cannot be removed. In normal conditions, council of Ministers is constituted from the party which has majority in house of people. Therefore, the question of toppling it does not arise but members of both houses make them accountable by following ways:

a) **By asking questions:** Everyday, before the function of the Parliament begins; one house is fixed for asking questions. The parliamentary members have the right to question the government in regard to its functions and policies. Through it the drawbacks in the government are highlighted before the public.

b) **Adjournment Motion:** on any matter of importance, happening in the country, the members can serve an adjournment motion. Generally, council of Ministers oppose such a motion because when this motion is debated, the opposition severely criticizes the policies and functions of government and if this motion is passed, then it is considered as no-confidence of the House against the Council of Ministers.

c) **Cut Motion:** The house of people can express its lack of confidence the council of Ministers by rejecting the budget completely or by suggesting a cut in the budget and getting it passed. In such a situation Ministry shall have to resign. Therefore, Government defends budget completely.

d) **No-Confidence Motion:** If in the House of the people, through a simple majority, censure motion of or no-confidence motion is passed against a single Minister, then whole council has to resign.

e) **Passing a Resolution Against the Policy of Council of Ministers:** If the opposition in Lok Sabha passes a resolution against the council of Ministers and the latter keeps on defending it to the extent that it makes it a question of no-confidence or if the House does not pass a bill, which the council considers most important, then the council of Ministers resign.

f) **Use of Zero Hour:** In meetings of Parliament, the hour between twelve to one is known as ‘Zero hour’ period. The ‘Zero hour’ is of great importance to the members because, during this hour, for raising questions, there is no need to serve a notice much earlier. During this hour, because all members speak up, so there is confusion in house, resulting in disorder in the house.

## **THE CONSTITUTIONAL MEANS TO PREVENT DEFECTION:**

In Indian politics, the evil defection has become a subject of national worry. The members of parliament and state legislative assemblies, chosen by the people, keep changing their allegiance to party, in the fulfillment of their selfish motives. The quest of office and wealth has been the primary attraction for defection. This evil of defection has not only shaken the roots of Indian democracy, but also has attacked the moral ideas of our society. For the first time in year 1985, under Prime Minister Ship of Mr. Rajiv Gandhi. The Bill is called as ‘Anti-Defection constitution Bill-1985’ was passed.

Under this Bill, members are disqualified because of state of Defection. The act established the following system:

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- i) **Provision for Elected Members:** If a member of parliament or legislative Assembly,
  - a) Voluntarily leaves the membership of one's original political party.
  - b) Without prior permission, voting against party directions or abstaining from voting in house.
  - c) If party removes a particular candidate, the member is disqualified and his seat is declared vacant.

ii) **In the case of Split in the Legislative Party:** If split occurs in some party and if one-third members of legislative party leave their parent political party, and , form a separate party, then it will not be considered as defection and such members shall not be disqualified form the House.

iii) **In case of Merger of the one Legislature Party with Another:** Even if a minimum of one-third members of a legislative party of a political party, merge into another political party then it will not be considered as defection and such members of house shall not be considered as disqualified from the membership of the House.

iv) **Exemptions to Presiding officers of the House:** The tenth schedule of the constitution provides that if any member is elected as the speaker or Deputy speaker of Lok Sabha, Chairman and Deputy Chairman of upper house, and the chairman and Deputy chairman of legislative council or speaker or Deputy Speaker of Legislative assemblies, and for this reason he voluntarily resigns form his parent political party, and after he is relieved of his office, rejoins the political party. This is not considered as defection, so presiding officers do not stand disqualified.

v) The tenth schedule provides that the question of disqualification of a member under this schedule is kept outside the jurisdiction of Courts.

vi) Tenth schedule empowers presiding officers to make rules for preventing defection:

- a) To maintain register and record of members of various political parties.
- b) To provisionalise such an official in the House, who could keep rules, sub-rules and amendments of different political parties and in regard to the removal of their members.
- c) Systematize the submission of report by political parties in regard to admission or removal of members from the party.
- d) To make rules in regard to questions arising out of the membership of the members.

## 97<sup>th</sup> AMENDMENT ACT:

This is pertaining to change in the Anti-Defection Law and limiting the size of the council of Ministers at the centre and in the states:

- a) A member or a group of 1/3 members of a party of Parliament or the state legislature can be disqualified if he or they resign from his or their party.
- b) The act also seeks to debare a defector or defectors form holding any enumerative political post for the remaining tenure of the legislature or unless re-elected.
- c) The new law aimed at limiting the size of the council of Ministers to 15% of the lower House in case of the centre and in the states to prune the jumbo cabinets.

