

# The Parliament of India

1. The Parliament of India consists of the President, the Lok Sabha and the Rajya Sabha. {Ref.: Art. 79}.
2. The President is a part of the Legislature, even though he or she does not sit in Parliament.
3. The main functions of Parliament are : ? Providing the cabinet. ? Control of the Cabinet. ? Criticism of the Cabinet and of individual Minister. ? Parliament secures the information authoritatively. ? Legislation i. e. making laws {Ref.: Arts. 107; 118; 215} ? Financial control.
4. Bill passed by the House of Parliament cannot become law without the President's assent.

## Rajya Sabha and Lok Sabha

1. The Rajya Sabha is composed of not more than 250 members of whom 12 are nominated by the President and 238 are representatives of the states and the Union Territories elected by the method of indirect election {Ref. Art 80}.
2. The 12 nominated members are chosen by the President from amongst persons specialised in science, art literature and social service.
3. Representatives of each State are elected by the elected members of the Legislative Assembly of the state in accordance with the system of proportional representation by means of the single transferable vote.
4. Prescribed composition of the Lok Sabha is : ? Not more than 530 representatives of the States ; ? No more than 20 representatives of Union Territories. ? Not more than 2 members of the Anglo-Indian community, nominated by the President.
5. The representatives of the States are directly elected by the people of the States on the basis of adult suffrage.
6. Every citizen who is not less than 18 years of age and is not otherwise disqualified is entitled to vote at such election {Ref.: Art. 326}.
7. There is no reservation for any minority community other than the Scheduled Castes and the Scheduled Tribes {Ref.: Arts. 330,341, 342}. The Council of State is not subject to dissolution. It is a permanent body. 1 / 3 of its members retire on the expiration of every second year.

8. The normal term of the Lok Sabha is 5 years, but it may be dissolved earlier by the President.
9. The normal term of Lok Sabha can be extended by an Act passed by Parliament itself during Emergency.
10. The extension cannot be made for a period exceeding one year at a time.
11. Such extension cannot continue beyond a period of six months after the proclamation of Emergency ceases to operate.
12. Parliament must meet at least twice a year and not more than six months shall elapse between two sessions of Parliament.
13. A session is the period of time between the first meeting of Parliament and prorogation of Parliament.
14. The period between prorogation of Parliament and its re-assembly in a new session is called recess. Within a session, there are a number of daily sittings separated by adjournments which postpone the further consideration of a business for a specified time.
15. **The sitting of a House can be terminated by dissolution, prorogation or adjournment :**

- While the powers of dissolution and prorogation are exercised by the President on the advice of the Council of Ministers. The power to adjourn the daily sittings of Lok Sabha and Rajya Sabha belongs to the Speaker and the Chairman, respectively.
- A dissolution brings Lok Sabha to an end so that there must be a fresh election while prorogation merely terminates a session. Adjournment does not put an end to the session of Parliament but merely postpones the further transaction of business for a specified time, hours, days or weeks.
- On dissolution of the Lok Sabha all matters pending before the House lapse. If these matters have to be pursued, they must be reintroduced in the next House after fresh election.
- But a Bill pending in the Rajya Sabha which has not yet been passed by the Lok Sabha shall not lapse on dissolution.
- A dissolution does not affect a joint sitting of the two Houses, if the President has notified his intention to hold a joint sitting before the dissolution {Ref.: Art. 108(5)}.
- Adjournment has no such effect on pending business.

**Qualifications for becoming a member of Parliament are :**

1. Must be a citizen of India. ? Must not be less than 25 years of age in the case of Lok Sabha and 30 years in the case of Rajya Sabha.
2. Additional qualifications may be prescribed by Parliament by law {Ref.: Art. 84}.

**A person can be disqualified for being a member of either House of Parliament, if :**

1. He holds any office of profit under the Government of India or the Government of any State; ? He is of unsound mind and stands so declared by a competent Court; ? He is not a citizen of India or has voluntarily acquired citizenship of a foreign State or is under acknowledgment or allegiance or adherence to a foreign power; ? He is so disqualified by or under any law made by Parliament {Ref.: Art. 102}. ? In a dispute regarding qualification the President's decision in accordance with the opinion of the Election Commission, is final {Ref.: Art. 103}. ? The House can declare a seat vacant if the member absents himself from all meetings of the House for a period of 6 days without permission of the house.

**Speaker and Deputy Speaker of The Lok Sabha**

1. Speaker presides over the Lok Sabha.
2. The Speaker or the Deputy Speaker, normally holds office during the life of the House, but his office may terminate early in any of the following ways :
  - By his ceasing to be a member of the House.
  - By resignation in writing addressed to the Deputy Speaker, and vice versa.
  - By removal from office by a resolution, passed by a majority of all the then members of the House {Ref. Art. 94}.
3. A resolution to remove the speaker can not be moved unless at least 14 days notice has been given of the intention to move the resolution.
4. While a resolution for his removal is under consideration, the Speaker can not preside but he can speak, take part in the proceedings of the House and vote except in the case of equality of vote {Ref.: Art. 96}.
5. At other meetings of the House the Speaker can not vote in the first instance, but can exercise a casting vote in case of equality of votes.
6. The Speaker has the final power to maintain order within the Lok Sabha and to interpret its Rules of Procedures.

7. In the absence of a quorum the Speaker adjourns the House or suspends the meeting until there is a quorum.

8. The Speaker's conduct in regulating the procedure or maintaining order in the House can not be questioned in a Court {Ref.: Art. 122}.

9. The Speaker presides over a joint sitting of the two Houses of Parliament {Ref.: Art. 118(4)}.

10. When a Money Bill is transmitted from the Lok Sabha to the Rajya Sabha the Speaker may certify that it is a Money Bill {Ref.: Art. 110(4)}.

11. The decision of the Speaker on whether a Bill is Money Bill is final.

12. While the office of Speaker is vacant or the Speaker is absent from a sitting of the House, the Deputy Speaker presides, except when a resolution for his own removal is under consideration.

### **Chairman and Deputy Chairman of the Rajya Sabha**

1. Vice-President of India is ex-officio Chairman of the Rajya Sabha and functions as the Presiding Officer of that House so long as he does not officiate as the President.

2. When the Chairman acts as the President of India, the duties of the Chairman are performed by the Deputy Chairman.

3. The Chairman may be removed from his office only if he is removed from the office of the Vice-President.

4. The powers of Chairman in the Rajya Sabha are similar to those of the Speaker in the Lok Sabha except that the Speaker has certain special powers like certifying a Money Bill, or presiding over a joint sitting of the two Houses.

### **Privileges of Parliament**

1. The privileges of each House can be divided into two groups :

- Those which are enjoyed by the members individually.
- Those which belong to each House of Parliament, as a collective body.

2. **The privileges enjoyed by the members individually are :**

- Freedom from Arrest exempts a member from arrest during the continuance of a meeting of the House or Committee thereof of which he is a member and during a period of 40 days before and after such meeting or sitting.
- This immunity is confined to arrest in civil cases and not in criminal cases or under the law of Preventive Detention.
- A member cannot be summoned, without the leave of the House to give evidence as a witness while Parliament is in session.
- There is Freedom of Speech within the walls of each House.
- The limitation on freedom of speech is that no discussion can take place in Parliament with respect to the conduct of any judge of the Supreme Court or of a High Court in the discharge of his duties except upon a motion for removal of the judge {Ref.: Art. 121}.

### 3. The privileges of the House collectively are :

- The right to publish debates and proceedings and to restrain publication by others.
- The right to exclude others.
- The right to regulate internal affairs of the House.
- The right to punish members and outsiders for breach of its privileges.

### The Legislative Procedure in Parliament

1. The different stages in the legislative procedure in Parliament relating to Bills other than Money Bills are as follows : 1. Introduction of a Bill in either House of Parliament 2. Motions after introduction 3. Report by Select Committee 4. Passing of the Bill in the House where it was introduced 5. Passage in the other House 6. President's Assent

### Money Bills and Financial Bills

1. A Bill is called Money Bill if it contains only provisions dealing with all or any of the following matters :

- The imposition, abolition, remission, alteration or regulation of any tax. ? The regulation of the borrowing of money by the Government.

- The custody of or the withdrawal of moneys from the Consolidated Fund of India. ? The appropriation of moneys out of the Consolidated Fund of India. ? The declaring of any expenditure to be expenditure charged on the Consolidated fund of India. ? The receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State.

2. The procedure for passing of Money Bills in Parliament is :

3. A Money Bill can not be introduced in the Rajya Sabha.

1. After a Money Bill has been passed by the Lok Sabha, it is transmitted to the Rajya Sabha (with the Speaker's certificate that it is a Money Bill).

2. The Rajya Sabha can neither reject a Money Bill nor amend it. It must, within a period of fourteen days from the date of receipt of the Bill, return the Bill to the Lok Sabha with its recommendations. Lok Sabha may accept or reject all or any of the recommendations of the Rajya Sabha.

3. It is upto the Lok Sabha to accept or reject the recommendations of the Rajya Sabha. If the Lok Sabha accepts any of the recommendations the Money Bill is deemed to have been passed by both Houses with the amendment recommended by the Rajya Sabha and accepted by the Lok Sabha. ? If a Money Bill is not returned by the Rajya Sabha within fourteen days, it shall be deemed to have been passed by both Houses in the form in which it was passed by the Lok Sabha (Ref.: Art. 109).

4. Only those Financial Bills are Money Bills which bear the certificate of the Speaker as such.

5. Financial Bills which do not receive the Speaker's certificate are of two classes (Art. 117) :

- A Bill which contains any of the matters specified in Art. 110 but does not consist solely of those matters. It can be introduced in Lok Sabha only on the recommendation of President. Rajya Sabha can amend or reject such Bills.
- Any Ordinary Bill which contains provisions involving expenditure from the Consolidated Fund (Ref.: Art. 117(3)).

## Joint Sitings

1. The President can summon Lok Sabha and Rajya Sabha for a joint sitting in case of disagreement between the two Houses in following ways : If, after a Bill has been passed by one House and transmitted to the other House—
2. the Bill is rejected by the other House;
3. the Houses have finally disagreed about the amendments to be made in the Bill; or
4. more than six months have elapsed from the date of the reception of the Bill by the other House without the Bill being passed by it.
5. The Speaker presides the joint sitting. In the absence of the Speaker, Deputy Speaker or Chairman of Rajya Sabha or Deputy Chairman of Rajya Sabha a person chosen by the MPs may preside {Art. 118(4)} in the same order.

### **Financial legislation in Parliament**

1. At the beginning of every financial year, on behalf of the President of India, a statement of the estimated receipts and expenditure of the Government of India for that year is laid before both the Houses of Parliament.
2. This is known as the 'annual financial statement' (i.e., the 'Budget') [Ref. Art. 112]
3. It also states the ways and means of meeting the estimated expenditure.
4. The Annual Financial Statement or the Budget contains :
  - Estimates of expenditure. ? Ways and means to raise the revenue. ? An analysis of the actual receipts and expenditures of the closing year and the causes of any surplus or deficit in relation to such year. ? An explanation of the economic policy and spending programme of the Government in the coming year and the prospects of revenue. ? Estimates relating to expenditure charged upon the Consolidated Fund of India are not put to vote of Parliament but each House can discuss any of these estimates. ? Estimates of other expenditure are submitted in the form of demands for grants to the Lok Sabha and it has the power to assent, or to refuse to assent to any demand.
5. No demand for grant can be made except on the recommendation of the President. [Ref. Art. 113]
6. The scrutiny of budget proposals is done by the Parliament's Committee on Estimates in order to :

- Report to the House about the effect on economy, improvements in organisation, administrative reform etc. ? Suggest alternative policies. ? Examine whether the money is well laid out. ? Suggest the form in which estimates are to be presented to Parliament. ? The report of the Estimates Committee is not debated in the House.

7. The Comptroller and Auditor General is the guardian of the public purse and it is his function to see that not a paisa is spent without the authority of Parliament.

- The report of the Comptroller and Auditor General laid before the Parliament, is examined by the Public Accounts Committee.
- Public Accounts Committee is a committee of the Lok Sabha (has 15 members from that House), but seven members of the Rajya Sabha are also associated with this Committee, in order to strengthen it.

8. Public Accounts Committee examines that :

- The money disbursed was legally available and used for the right purpose.
- The expenditure conforms to the authority which govern it.
- Every re-appropriation has been made in accordance with the rules framed by competent authority.

### Parliamentary Terms

**Question Hour :** The day's business normally begins with the Question Hour during which questions asked by the members are answered by the Ministers. The different types of question are :

(i) Starred Question is one for which an oral answer is required to be given by the Minister on the floor of the House. Supplementary decides if a question should be answered orally or otherwise. One member can ask only one starred question in a day.

(ii) Unstarred Question is one for which the Minister lays on the table a written answer. A 10-day notice has to be given to ask such questions and no supplementary questions can be asked with regard to such questions.

(iii) Short Notice Question is one for which can be asked by members on matters of public importance of an urgent nature. It is for the Speaker to decide whether the matter is of urgent nature or not. The member has also to State reasons for asking the question while serving notice.

**Zero Hour :** This period follows the Question Hour and it generally begins at noon. Usually the time used by the members to raise various issues for discussion.



**Cut Motion :** A motion that seeks reduction in the amount of a demand presented by the Government is known as a cut motion. Such motions are admitted at the Speaker's discretion. It is a device through which members (generally of the Opposition) can draw the attention of the Government to a specific grievance or problem. There are three types of cut motions :

(i) Disapproval of policy cut : which is to express disapproval of the policy underlying a particular demand, says that 'the amount of the demand be reduced by Rs. 1.

(ii) Economy cut asks for a reduction of the amount of the demand by a specific amount. The aim is to affect economy in the expenditure.

(iii) Token cut : Is a device to ventilate specific grievances within the sphere of the Government's responsibility. The grievance has to be specified. Usually the motion in the form, "the amount of the demand be reduced by Rs. 100.

**Adjournment Motion :** It is a motion to adjourn the proceedings of the House so as to take up for discussion some matter of urgent public importance. Any member can move the motion and, if more than fifty members support the demand the Speaker grants permission for the motion. The notice for such motion has to be given before the commencement of the sitting on the day.

**Calling Attention Motion :** A member may, with prior permission of the Speaker, call the attention of a Minister to any matter of urgent public interest or ask for time to make a Statement.

**Privilege Motion :** It is a motion moved by a member if he feels that a Minister has committed a breach of privilege of the House or of any one or more of its members by withholding facts of a case or by giving a distorted version of facts.

**Point of Order** A member may raise a point of order if the proceedings of the House do not follow the normal rules. The presiding officer decides whether the point of order raised by the member should be allowed.

**Vote on Account** As there is usually a gap between the presentation of the Budget and its approval, the vote on account enables the Government to draw some amount from the Consolidated Fund of India to meet the expenses in the intervening period.

**Guillotine :** On the last of the allotted days at the appointed time the Speaker puts every question necessary to dispose of all the outstanding matters in connection with demands for grants. This is known as guillotine. The guillotine concludes the discussion on demands for grants.

**Quorum :** It is the minimum number of members whose presence is essential to transact the business of the House. Article 100 provides that the quorum of either House shall be one-tenth of the total number of members of the House.

**No-Confidence Motion :** According to the Constitution, the Council of Ministers stays in office only so long as it enjoys the confidence of the Lok Sabha; once the confidence is withdrawn the Government is bound to resign. The rules of parliamentary procedure accordingly provide for moving a motion to ascertain this confidence. The motion is generally known as the "no-confidence motion".

**Censure Motion :** A censure motion differs from a no-confidence motion in that the latter does not specify any ground on which it is based, while the former is based on the charges against the Government for which it is being moved. A censure motion can be moved against the Council of Ministers or against an individual Minister for failing to act or for some policy. Reasons for the censure must be primarily enumerated. The Speaker decides whether or not the motion is in order, and no leave of the House is required for moving it.

**Lame-duck Session :** Session held when a new Parliament has been elected but the old Parliament meets for the last time before it is dissolved. The lame-ducks are the members of the Parliament who have not got reelected.

**Shadow Cabinet :** A Parliament practice prevalent in the UK where senior members of the Opposition cover the areas of responsibility of the actual cabinet. They will form the cabinet if their party is elected to the government.

### **Leader of the Opposition**

1. Government has given statutory recognition to the leaders of the Opposition in the Lok Sabha and Rajya Sabha.
2. Necessary legislation to this effect was passed by Parliament in 1977 and the Rules framed thereunder were brought into effect on November 1, 1977.
3. For the first time Y.B. Chavan of the Congress (I) was given the official status of Leader of the Opposition in the Lok Sabha with the rank of a Cabinet Minister.

### **The Funds**

1. All money received by or on behalf of the Government of India is credited to either the Consolidated Fund of India, or the Public account of India.
2. **The consolidated Fund of India consists of :** All revenues received by the Government of India ? All loans raised by the Government of India. ? All money

received by Government in repayment of loans {Ref.: Art 266(1)}. ? All other public money received by or on behalf of the Government of India is credited to the Public Accounts of India.

**3.** Art. 267 of the Constitution empowers Parliament and the Legislature of a state to create a 'Contingency Fund' for India or for a State, as the case may be for meeting unforeseen expenditure.

### **Extents of the Powers of Rajya Sabha**

- 1.** A money Bill can not be introduced in Rajya Sabha.
- 2.** The Rajya Sabha has no power to reject or amend a Money Bill
- 3.** The Speaker of the Lok Sabha has sole and final power of deciding whether a Bill is a Money Bill
- 4.** Though the Rajya Sabha can discuss it cannot vote for the public expenditure and demands for grants are not submitted for the vote of the Rajya Sabha.
- 5.** The Council of Ministers is responsible to the Lok Sabha and not to the Rajya Sabha {Ref.: Art. 75(3)}.
- 6.** Rajya Sabha suffers by reason of its numerical minority, in case of a joint session to resolve a deadlock between the two Houses [Art. 108(4)].
- 7.** Parliament can legislate on State subject only if Rajya Sabha resolves for this by a 2/3 majority. [Ref.: Art. 24 ]
- 8.** New All-India services can be created only after Rajya Sabha resolves for this with a 2 / 3 majority. [Ref.: Art. 312]