

### PARLIAMENT

#### **Disqualifications for membership – Article 102**

**102. (1)** A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

- (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;
- (b) if he is of unsound mind and stands so declared by a competent court;
- (c) if he is an undischarged insolvent;
- (d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State;
- (e) if he is so disqualified by or under any law made by Parliament.

A Member of Parliament cannot hold office of profit under the Government of India or that of any state as it would lead to conflict of interest. Minister's office is exempted from this. Parliament, by law, determines the offices which are exempted. In accordance, Members of Parliament (Prevention of disqualification) Act 1959 was enacted. This Act was amended in 2006, which added certain offices of profit to list, and was given retrospective effect. There is a Joint Committee on offices of profit in Parliament, which advises the Parliament on the offices which has to be added to the list, as and when new offices are created. Members can also be disqualified under any other laws made by the Parliament. E.g. Representation of Peoples Act 1951.

#### **Decision on questions as to disqualifications of members – Article 103**

**103. (1)** If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of article 102, the question shall be referred for the decision of the President and his decision shall be final.

**103. (2)** Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.

If a Member of Parliament is subject to disqualification under grounds mentioned in Article 102, the decision shall be referred to the President and the President shall act in accordance with the opinion of the Election Commission.

#### **Speaker of Lok Sabha**

- G V Mavalankar was the Lok Sabha speaker after independence. Sir Frederick Whyte was the first Lok Sabha speaker of British India. Vittalbhai Patel was the first Indian speaker during British India.
- According to Article 93, the Lok Sabha has to choose two members as Speaker and Deputy Speaker respectively.
- Speaker or Deputy Speaker shall vacate his office if he ceases to be the member of the House of the People.
- If the Speaker wishes to resign, he sends his resignation letter to Deputy Speaker and vice versa.
- A Speaker can be removed from his office by passing a resolution with a majority of the then members of the Parliament. A prior notice of 14 days has to be given before moving the resolution.
- Speaker need not resign when the Lok Sabha is dissolved. He continues to hold office until the first meeting of next Lok Sabha is held and the next speaker is elected.
- If the office of the speaker is vacant, the duties shall be performed by the Deputy Speaker. If the office of Deputy Speaker is also vacant, the President shall appoint a person to take over the proceedings of the House (Pro tem Speaker).

### Powers of Lok Sabha speaker

- He presides over the meeting of Lok Sabha.
- He has the final power to maintain order in the House and also to interpret the rules of procedure.
- Speaker decides whether a bill is money bill or not (available only to Lok Sabha speaker).
- He presides over the joint sitting of both the Houses of the Parliament.
- Speaker cannot vote in the first instance. If there is a tie in the first instance, then the speaker is allowed to vote to break the deadlock. This is called Casting Vote.
- During the removal procedure of the speaker, he is allowed to vote in the first instance.
- Speaker has the power to disqualify any member of the house, if the member is held guilty of any wrong doings.
- Speaker has the right to nominate members for certain committees of the Parliament.
- It is the speaker who decides who shall hold the floor (speak in the house).
- Speaker decides which points of order are accepted and rejected.

### Position of Chairperson of Rajya Sabha

- Article 63 creates the Position of Vice President of India.
- Vice President is the exofficio chairperson of Rajya Sabha, according to article 63.
- The tenure of Members of Rajya Sabha is 6 years whereas the tenure of chairperson of Rajya Sabha is 5 years.
- If the Vice President is discharging duties of the President, he shall not officiate as the chairperson of Rajya Sabha.
- Deputy Chairperson is elected from amongst the members of Rajya Sabha.

### Vacancy in the seat of a Member of Parliament in both Houses

- Vacancy can occur on account of death, resignation, disqualification.
- If the MP is not present in the proceedings of the house for a period of 60 days or more, without the permission of the house, MP can be disqualified.
- Dual Membership – MP is not allowed to hold membership of more than one house simultaneously. He is also not allowed to hold more than one seat in the same house.

### Legislative Procedures in the Parliament

- Legislative Procedures are the procedures through which bills become laws.
- Types of bills introduced in the Parliament –
  - ✓ Ordinary bills
  - ✓ Money bills
  - ✓ Financial bills – Class I and Class II Financial bills
  - ✓ Constitution Amendment bills
  - ✓ Private Member's bill
- If a minister wants to introduce a bill, a notice of not more than 7 days is required to be given.
- A longer notice period is required for a Private Member's bill.
- Any bill introduced in the Parliament has to go through 3 stages ( Reading of the bills)
  - ✓ **First Reading - Introduction of the bill**
    - Bill may be referred to a select committee
    - Bill may be referred to Joint Committee of both Houses of the Parliament
    - Bill may be circulated or eliciting public opinion
    - Bill may be taken for consideration
  - ✓ **Generally in the first reading, fundamentals of the bills are discussed.**
- **Second Reading ends after the house considers the bill on a clause-by-clause basis (in detail).**

- In the third Reading, the concerned MP will request the house (move a motion) to pass the bill.
- After the bill is passed in one house ( for e.g. Lok Sabha) the other house ( Rajya Sabha) can
  - ✓ Accept the bill and pass it to the President for assent.
  - ✓ It can completely reject it or pass it with amendments.
  - ✓ It might not do anything for a period of 6 months.
- If there is a deadlock, a joint sitting will be called by the President to resolve the deadlock.

#### Money Bill

- Article 110 and 199 describe what constitutes a money bill of Central and State Legislatures.
- On money bills, Rajya Sabha does not have much power.
- A money bill can be introduced only in Lok Sabha.
- Sanction of the President is required before the introduction of money bill.
- Rajya Sabha has the power to delay the passage of the money bill by at most 14 days.
- Rajya Sabha can offer suggestions and advice but it cannot amend the bill.

#### Financial Bill

- A bill that deals with certain matters, alongside the matters present in Article 110 or 199.
- All money bills are financial bills but all financial bills are not money bills.
- Special Provisions of Financial Bill Class I
  - ✓ Can be introduced only in Lok Sabha
  - ✓ Can be introduced only with the prior consent of the President.
  - ✓ Rajya Sabha has equal powers as the Lok Sabha on this bill
- Special Provisions of Financial bill Class II
  - ✓ They involve with some expenditure of money
  - ✓ They can be introduced in both the houses.
  - ✓ President's consent is required before the bill is taken up for consideration (2nd Reading begins).

#### Budget – Annual Financial Statement

- Article 112 and 202 of the Indian Constitution deals with the Annual Financial Statement of the Centre and State respectively. According to Article 112, either the President has to present the budget or ask one of his ministers to present it. By convention, it is the Finance Minister who presents the budget.
- No expenditure can be incurred without the approval of the parliament.
- Most of the expenditures are voted by the Parliament. There are certain expenditures on which voting does not take place exclusively. Such expenditures are referred to as expenditures charged on the Consolidated Fund of India.
- Charged expenditures on the Consolidated Fund of India
  - ✓ the emoluments and allowances of the president and other expenditure relating to his office
  - ✓ salaries and allowances of the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People
  - ✓ Debt charges
  - ✓ Salaries, allowances and pensions payable to or in respect of the Judges of Supreme Court
  - ✓ Salary, allowance and pension of CAG
  - ✓ Sums required to satisfy any judgment, decree or award of any court or arbitral tribunal

- ✓ Parliament by law can declare any other expenditure to be charged on Consolidated Fund of India.
- **Dual Budget** – India follows a system of Dual Budget i.e. Railway Budget is presented separately. This was done on the recommendations of Acworth Committee in 1921. This separation was done as Railway department was one of the most commercial ministries. Most of the other ministries were spending departments.
- Railway Budget precedes the General Budget.
- **Budget in the Parliament has to go through 6 stages**
  - ✓ It is first introduced by the Finance Minister on the last working day of February.
  - ✓ After this the General discussion on the budget happens (usually after 3 4 days after the budget is introduced. Generally the policies underlying the budget are discussed.
  - ✓ **Committee Stage** – Department Related Standing Committee (DRSC) was set up in 1993. There are 24 committees at present with each committee having 21 members from Lok Sabha and 10 members from Rajya Sabha. Demands of the ministries are submitted to the respective DRSC's, which study the budget in detail and prepare a report. DRSC's help the MP's to control the finances of the government in a more effective manner.
  - ✓ **Voting on Demands** – Here each department's demands would be taken up and discussed in detail. MP's have certain devices available to them to influence the budget known as cut motions.
    - Economy cut motion – aim of this motion is to make the demands more reasonable.
    - Token cut motion – aim of the token cut motion is to register a grievance on the records of parliament.
    - Policy disapproval cut motion – This is used by the Parliament to express disapproval about the underlying policies of the budget. This would virtually amount to no-confidence motion and the government has to resign.
  - ✓ **Appropriation Bill Stage** – Appropriation bill contains all the bills that have been passed along with the charged expenditure. Appropriation bill authorizes to withdraw from the Consolidated Fund of India.
  - ✓ **Finance Bill** – Taxation part of the budget is present in a separate bill called the finance bill.