

UPSC Civil Services Examination

Political Science & International Relations

Topic: Attorney-General of India (Article 76) - Indian Polity Notes

Article 76 of the Indian Constitution under its Part-V deals with the position of Attorney-General of India. The topic is important for IAS Exam and its three stages - Prelims, Mains and Interview. It is an important section of Indian Polity which is a significant subject in the UPSC Civil Services Examination.

The article will mention the details about attorney-general, his powers and responsibilities. Aspirants may also download the notes PDF for the topic as it is important for UPSC Prelims and Mains GS-II which has Political Science as a subject.

Who is Attorney-General of India?

Article 76 of the constitution mentions that he/she is the highest law officer of India. As a chief legal advisor to the government of India, he advises the union government on all legal matters. He also is the primary lawyer representing Union Government in the Supreme Court of India. The Attorney General, like an Advocate General of a State, is not supposed to be a political appointee, in spirit, but this is not the case in practice.

Who appoints Attorney-General of India?

President of India appoints a person who is qualified for the post of Supreme Court Judge. There are the following qualifications:

1. He should be an Indian Citizen
2. He must have either completed 5 years in High Court of any Indian state as a judge or 10 years in High Court as an advocate
3. He may be an eminent jurist too, in the eye of the President

What is the term of Attorney-General's office?

There is no fixed term for him. The Constitution mentions no specified tenure of Attorney-General. Similarly, the Constitution also does not mention the procedure and ground of his removal.

You may know the following facts about his office:

- He can be removed by the President at any time
- He can quit by submitting his resignation only to the President
- Since he is appointed by the President on the advice of the Council of Ministers, conventionally he is removed when the council is dissolved or replaced

What is the role of Attorney-General of India?

He, being the chief law officer of the country, he has to perform the following duties:

1. Whichever legal matters are referred to him by the President, he advises the Union government upon the same.
2. President keeps on referring him legal matters that suits his interest and Attorney-General has to advise on those too
3. Apart from what President refers, he also performs the duties mentioned in the Constitution
4. The three duties that are assigned to him by the President are:
 - a. In any legal case where the government of India is related to, Attorney-General has to appear in the Supreme Court on its behalf
 - b. He has to represent the Union Government in any reference made by the president to the Supreme Court under Article 143 of the Constitution
 - c. He also appears in the High Court if any case is related to the Government of India

What are the limitations on Attorney-General?

To avoid conflict of duty, there are a few limitations that are posed on the Attorney-General which he should keep in mind while performing his duties:

1. He should not advise or hold a brief against the Government of India
2. He should not advise or hold a brief in cases in which he is called upon to advise or appear for the Government of India
3. He should not defend accused persons in criminal prosecutions without the permission of the Government of India
4. He should not accept appointment as a director in any company or corporation without the permission of the Government of India

Notes:

1. He can be part of any court in the Indian Territory
2. He got the right to speak and to take part in the proceedings of both the Houses of Parliament or their joint sitting and any committee of the Parliament of which he may be named a member
3. He has no right to vote when he participates in the proceedings of the Indian Parliament
4. Similar to Member of Parliament, he also enjoys all powers related to immunities and privileges
5. He is not considered as a government servant
6. He can practise privately too as he is not debarred from private legal practice