

Government of NCT of Delhi (Amendment) Act, 2021

The Government of NCT of Delhi (Amendment) Act, 2021 received the presidential assent in March 2021. The bills were passed by both houses of the Parliament recently. This Act brings in some changes to the government of NCT of Delhi. In this article, you can read about the important provisions of the GNCT Act for the [UPSC exam](#).

Government of NCT of Delhi (Amendment) Act

The Act basically gives more power to the Lieutenant Governor (LG) of the National Capital Territory of Delhi and diminished the elected government's power. The Act also seeks to bring in some clarity on certain subjects in the Government of National Capital Territory of Delhi Act, 1991.

- The Act makes amendments to the Government of National Territory of Delhi Act, 1991.
- It gives more power to the LG in some respects while ensuring the Delhi Legislative Assembly's accountability.
- As per the Act's objects and reasons, it is aimed at ending the absence of clarity on what matters or proposals are needed to be submitted to the LG before orders could be issued.
- It also aims to "further define the responsibilities of the elected government and Lieutenant Governor (LG) in Delhi".

Background to the issue

- It was in 1991 that Delhi was given a fully elected legislative assembly and a responsible government through a constitutional amendment.
- The 69th Constitutional Amendment Act of 1991 conferred the Union Territory of Delhi with a special status, and redesignated it as the 'National Capital Territory of Delhi' and designated its administrator as the Lieutenant Governor (LG).
- Though a UT, Delhi was considered as a special case and given a special constitutional status by the Parliament.
- The 1991 act provided for a fully elected assembly and a council of ministers responsible to the assembly.
- It conferred on the assembly the power to legislate on all matters in the state list as well as the concurrent list except land, police and public order. However, the laws of Parliament prevail over those made by the Delhi Assembly.
- It also brought in a provision from the Government of Union Territories Act, 1963, namely, that in case of a difference between the LG and the council of ministers on any matter, it shall be referred to the [President](#) by the LG for his/her decision and pending such decision, the LG can take any action on the matter as he/she deems appropriate.

- Although the constitution bench of the Supreme Court has held that the government does not have to seek the concurrence of the LG on its decisions and that any differences between them should be resolved keeping in view the constitutional primacy of representative government and cooperative [federalism](#), the state government is under constant threat from the LG's power to differ with the government on important issues.
 - The verdict said that the LG was bound by the aid and advice of the council of ministers.
 - It also added that the decisions of the council should be communicated to the LG.
 - However, the SC has said that the LG cannot refer a matter mechanically or mindlessly and has to make all attempts to resolve the differences within the framework of the law and the Transaction of Business Rules.
- Encouraged by this verdict, the state government had stopped sending files on executive matters to the LG before implementation. It had been keeping the LG informed of all administrative developments, but not necessarily before implementing or executing any decision.
- This is the backdrop in which the new amendments have been brought about.

For more on the [statehood of Delhi](#), click on the link.

GNCT Act Provisions

Some of the important provisions of the Government of NCT of Delhi (Amendment) Act, 2021 are discussed below.

- The term 'government' mentioned in any law enacted by the legislative assembly of Delhi shall mean the LG. The Act defines 'government' as the LG.
- The Act provides discretionary powers to the LG even in matters where the Legislative Assembly is empowered to make laws.
- An additional clause added to Section 44 of the 1991 Act makes it mandatory for the government to obtain the opinion of the LG on all matters before any executive action can be taken, ensuring accountability. This means that the state government or cabinet would need to seek the LG's opinion before implementing any decision.
- The amendment also says that the "Legislative Assembly shall not make any rule to enable itself to consider the matters of day-to-day administration of the Capital or conduct inquiries in relation to the administrative decisions".

What is the need for the Government of NCT of Delhi (Amendment) Act, 2021?

In the 'objects and reasons' mentioned, the government states that there is no structural mechanism for effective time-bound implementation of Section 44 of the 1991 Act. Additionally, there is no clarity on what matters are required to be submitted to the LG before implementation.

The government also mentions in the 'objects and reasons' that the amendment was brought to give effect to the interpretation made in the Government of NCT of Delhi v/s Union of India case by the Supreme Court.

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Government of NCT of Delhi (Amendment) Act, 2021 Concerns

The opposition parties and the party in power in Delhi, the Aam Aadmi Party (AAP) have responded to the enactment of the GNCT Amendment Act by calling it unconstitutional. According to them, the amendments seek to reduce the power of the democratically elected government in the state of Delhi. They also say that the position of the Chief Minister of Delhi would be rendered meaningless and that this would have adverse consequences on the federal nature of the country.

The Act says that the Delhi assembly shall not make rules to enable itself or its committees to consider matters of day-to-day administration. It further says that no rule shall be made by the assembly to conduct inquiries in relation to administrative decisions.

One of the amendments requires that the state government obtain the LG's opinion before implementing any decision. This might curtail the power of the government to take quick decisions on pressing matters as it will have to wait till the LG gives his/her opinion. There is also no time frame for the LG to give his/her opinion.
