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State Legislature



PART VI: THE STATES [Article 152-237]

Article Mapping from Union to State level:

- Articles 73-111 (Parliament) + 89 (gives corresponding articles of State Legislature).
- Articles 112-213 + 90 (Corresponding articles for State Legislature).

Key Replacements:

- President→ Governor
- Parliament → State Legislature
- Prime Minister → Chief Minister
- Council of Ministers (Union) → Council of Ministers (State)
- Attorney General of India → Advocate General of State
- Consolidated Fund of India → Consolidated Fund of State

State Executive (Articles 153-167)

Consists of (Governor+CM+CoM+Advocate General)

Article 153: Governor of States

- There shall be a Governor for each State.
- 7th Constitutional Amendment allowed for the appointment of same person as the Governor of two or more states.

Article 156 : Term of Office of Governor

1. Governor holds office during the pleasure of the President.
2. Governor may, address his resignation to the President
3. Term: 5 years from the date of assuming office, subject to earlier removal or resignation.

Article 154 :

Executive Power of State

- Executive power of State vests in the Governor.
- Can be exercised directly or through subordinate officers.

Article 157 :

Qualifications for Appointment as Governor

Must be a Citizen of India and should have completed 35 years of age.

Article 155 : Appointment of Governor

Governor is appointed by the President by warrant under his hand and seal.

Convention

- Governor Should not be domiciled in that state
- CM to be consulted

Article 158 : Conditions of Governor's Office

1. Governor cannot be a member of Parliament or State Legislature; must vacate seat before entering office.
2. Governor cannot hold any office of profit.
3. Governor is entitled to use official residence without rent; emoluments and privileges as determined by the Parliament.

3(A). If serving multiple states, emoluments are shared as per Presidential order.

4. Emoluments and allowances cannot be reduced during his tenure.

Article 159 : Oath or Affirmation by Governor

Oath administered by Chief Justice of High Court, or in absence, senior-most judge.

Article 160 : Discharge of Governor's functions in contingencies

President can appoint a person to discharge functions of Governor during contingencies.

Article 161 : Power of Governor to Grant Pardons

Governor can grant pardons, reprieves, respites, remissions, or commute sentences.

But he cannot:

- Pardon death sentence (only President can).
- Use pardoning power against Martial Court sentences.

Article 162 : Extent of Executive Power of State

State's executive power extends to matters on which the State Legislature can make laws.

Article 163: Council of Ministers to Aid and Advise Governor

- Council of Ministers, headed by Chief Minister, aids and advises the Governor.
- Advice of Council of Ministers is not binding on the Governor.

Article 164:

Other Provisions as to Ministers

- Chief Minister is appointed by the Governor; other Ministers appointed on CM's advice.
- Council of Ministers is collectively responsible to the Legislative Assembly of the state.
- Ministers must take oaths of office and secrecy as administered by the Governor.
- A Minister who is not elected as MLA/MLC within 6 consecutive months ceases to be a Minister.
- Salaries and allowances determined by State Legislature.

Article 165 :

Advocate General for the State

1. Appointed by Governor; must be qualified to be a High Court judge.
2. Advises State Government on legal matters.
3. Holds office till the Governor's pleasure.

Article 166:

Conduct of Business of State Government

All executive actions must be expressed in the name of Governor.

Article 167:

Duties of Chief Minister

Communicate decisions of Council of Ministers to Governor.

State Legislature (Articles 168-212)

Article 168:

Constitution of Legislatures in States

Every State shall have a Legislature, consisting of the Governor.

- All states have a Legislative Assembly. (Unicameral legislature)
- 6 States have a Legislative Council as well. (Bicameral legislature), they are:

1. Andhra Pradesh
2. Bihar
3. Telangana
4. Maharashtra
5. Karnataka
6. Uttar Pradesh

3 UTs out of 8 have Legislative Assembly, they are Delhi, Puducherry and J&K.

Article 169:

Abolition or Creation of Legislative Councils

- Parliament can create or abolish Legislative Councils just by Simple Majority, based on a resolution passed by the State Legislative Assembly by Special Majority.
- Such a law is not considered an amendment under Article 368.

Article 170

Composition of Legislative Assemblies

- Legislative Assembly: not less than 60 and not more than 500 members should be elected by direct election.
- Constituencies should have roughly equal population-seat ratio.

Special Case:

- Goa, Arunachal Pradesh, Sikkim Minimum 30 members.
- Mizoram 40 members; Nagaland 46 members

Article 171:
Composition of Legislative Councils

1. Total members shall not exceed 1/3rd of Legislative Assembly, minimum 40 members. (Indirectly Elected)
2. Of the total no. members of the LC of a state:
    - (a) 1/3rd elected by members of local authorities (municipalities, district boards, etc.).
    - (b) 1/12th elected by Graduates of 3 years or more.
    - (c) 1/12th elected by Teachers with at least 3 years experience
    - (d) 1/3rd elected by Legislative Assembly members.
    - (e) 1/6th nominated by Governor (experts in literature, science, art, cooperative movement, social service) - Li SAS+ Cooperative movement

Article 172
Duration of State Legislatures

- Legislative Assembly term = 5 years from first meeting, unless dissolved earlier.
- Legislative Council: Permanent body; 1/3rd members retire every 2 years. (Hence, term of a member = 6 years)

Article 173
Qualifications for Membership

(a) Must be a citizen of India.

(b) Minimum 25 years for Legislative Assembly, 30 years for Legislative Council.

(c) Must possess other qualifications prescribed by Parliament.

Article 174
Sessions, Prorogation, Dissolution

1. Governor summons house of the Legislature; maximum gap between two sessions is 6 months.

2. Governor can:
(a) prorogue Houses or
(b) dissolve Legislative Assembly.

Article 175
Governor's Address and Messages

Governor may address and send message to Legislative Assembly or Council or both houses assembled together.

Article 176
Special Address by the Governor

At the commencement of first session of after general elections and the first session of each year, Governor addresses Legislature.

Article 177
Rights of Ministers and Advocate General

Ministers and Advocate General can participate in debates and proceedings but cannot vote if they are not a member of the House.

Article 178
Speaker and Deputy Speaker of Legislative Assembly

Legislative Assembly elects a Speaker and a Deputy Speaker.

Article 179
Vacation and Resignation or Removal of Speaker/Deputy Speaker

To be done by resolution passed by majority of the Assembly members.

Article 180
Duties of Deputy Speaker

Deputy Speaker acts as the Speaker when office is vacant or Speaker is absent.

Article 181

Speaker/Deputy Speaker not to preside during consideration of resolution for their own removal

Article 182

Chairman and Deputy Chairman of Legislative Council.

Article 183

- Vacation, Resignation, Removal of Chairman/Deputy Chairman
- Similar to provisions for Speaker and Deputy Speaker.

Article 184
Duties of Deputy Chairman

Deputy Chairman acts as Chairman when office is vacant or chairman is absent.

Article 185

Chairman or Deputy Chairman shall not preside when his removal resolution is being considered.

Article 186

- Salaries and Allowances of Speaker, Deputy Speaker, Chairman, Deputy Chairman.
- Salaries and allowances are determined by State Legislature.

Article 187
Secretariat of State Legislature

Appointed and regulated by State Legislature.

Article 188

Oath or Affirmation by Members

Article 190
Vacation of Seats

Seat vacated if:

- A person is member of both the houses,
- Member resigns
- A member becomes subject to disqualification

Article 189
Voting in Houses, Vacancies, and Quorum

(1) All questions in Legislature decided by majority of members present and voting.
(2) Presiding officer can vote in the first instance and also have a casting vote
(3) Legislature can act despite vacancies.
(4) Quorum for a meeting = 10% of total membership.

Article 191
Disqualifications of Membership

Disqualification if:

- Holds office of profit.
- Unsound mind.
- Undischarged insolvent.
- Disqualified under anti-defection laws or other Parliament-made laws.

Article 196
Introduction and Passing of Bills

- Bills can originate in either House (if bicameral).
- Bill must be passed by both Houses and assented by Governor to become a law.
- In case of an Ordinary bill, Legislative Assembly has upper hand over Legislative Council.
- When a bill originates in the LC, and if LA disagrees, then the bill lapses, and there is no provision for joint sitting in Part VI.

Article 197

Restriction on Powers of Legislative Council as to bills other than Money bill

Article 198
Special Procedure for Money Bills

- Money Bill can be introduced only in Legislative Assembly.
- Then sent to Legislative Council for recommendations, LC cannot reject the bill, it must return the bill within 14 days, with or without recommendations, if the council fails to do so, the money bill is deemed passed in its original form.

Article 192

Decision on Disqualification

- Decided by Governor + ECI

Article 193

Penalty for Sitting and Voting before taking Oath or when disqualified: fine decided by Legislature.

Article 194

Powers, Privileges, and Immunities of State Legislatures and Their Members

Article 195

Salaries and Allowances of Members

What happens when a bill originates in Legislative Assembly?

Case-1
From Legislative Assembly the Bill is forwared to Legislative Council then to Governor for his/her assent to become the Bill an Act.

Case-2
After a Bill passed by Legislative Assembly it is forwared to Legislative Council but Legislative Council May return the bill to Legislative Assembly for Reconsideration (Only one time), then Legislative Assembly may or may not alter the bill, then again sent to Legislative Council and Legislative Council have to pass the bill to the Governor for his Assent.

- In 2nd case, LC can only delay an Ordinary Bill by maximum 4 months i.e. 3 months in first instance and for 1 month in 2nd instance.

Article 199
Definition of Money Bill

Article 200
Assent to Bills by the Governor

Article 201
Bills Reserved for President's Consideration

Article 202
Annual Financial Statement (Budget)

Article 203
Procedure in Legislature with Respect to Estimates

Demands for grants made only on the recommendation of the Governor.

Article 204
Appropriation Bills

Article 205
Supplementary, Additional, and Excess Grants

Article 206
Votes on Account, Votes of Credit, and Exceptional Grants.

Article 207
Special Provisions for Financial Bills

Money Bills require prior recommendation of the Governor for introduction.

Article 211
Restriction on Discussion in the legislature

Article 212
Courts not to Inquire into Legislature Proceedings

Article 213
Power of Governor to Promulgate Ordinances during Recess of the legislature

Article 208
Rules of Procedure

Article 209
Regulation of Procedure Relating to Financial Business

Article 210
Language to be used in the Legislature

Article 214-231
High Courts

Article 233-237
Subordinate Courts