

(1 OF 1992)

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PART II  
LEGISLATIVE ASSEMBLY

**3. Legislative Assembly and its composition.**—(1) The total number of seats in the Legislative Assembly to be filled by persons chosen by direct election from territorial constituencies shall be seventy.

(2) For the purpose of elections to the Legislative Assembly, the capital shall be divided into single-member assembly constituencies in accordance with the provisions of Part III in such manner that the population of each of the constituencies shall, so far as practicable, be the same throughout the Capital.

(3) Seats shall be reserved for the Scheduled Castes in the Legislative Assembly, and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the Capital bears to the total population of the Capital and the provisions of article 334 shall apply to such reservation.

*Explanation.*—In this section, the expression "population" means the population as ascertained in the last preceding census of which the relevant figures have been published:

Provided that where such figures have not been published, then for the purposes of elections for the constitution of the first Legislative Assembly under this Act, the provisional figures of the population of the Capital as published in relation to the 1991 census shall be deemed to be the population of the Capital.

**4. Qualifications for membership of Legislative Assembly.**—A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly unless he—

(a) is a citizen of India and makes and subscribes before some person authorised in that behalf by the Election commission an oath or affirmation according to the form set out for the purpose in the Schedule;

(b) is not less than twenty-five years of age; and

(c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

**5. Duration of Legislative Assembly.**—The Legislative Assembly, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Provided that the said period may, while a Proclamation of Emergency issued under clause (1) of article 352 is in operation, be extended by the President by order for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the proclamation has ceased to operate.

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**14. Vacation of seats.**— (1) No person shall be a member both of Parliament and of the Legislative Assembly and if a person is chosen a member both of Parliament and of such Assembly, then, at the expiration of such period as is specified in or under the Representation of the People Act, 1951 (43 of 1951) and the rules made by the President under clause (2) of article 101 and clause (2) of article 190, that person's seat in Parliament shall become vacant unless he has previously resigned his seat in the Legislative Assembly.

(2) If a member of the Legislative Assembly—

(a) becomes subject to any disqualification mentioned in section 15 or section 16 for membership of the Assembly, or

(b) resigns his seat by writing under his hand addressed to the Speaker and his resignation is accepted by the Speaker,

his seat shall thereupon become vacant:

Provided that in the case of any resignation referred to in clause (b), if from the information received or otherwise and after making such inquiry as he thinks fit, the Speaker is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.

(3) If for a period of sixty days a member of the Legislative Assembly is without permission of the Assembly absent from all meetings thereof, the Assembly may declare his seat vacant:

Provided that in computing the said period of sixty days, no account shall be taken of any period during which the Assembly is prorogued or is adjourned for more than four consecutive days.

**15. Disqualifications for membership.**— (1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly—

(a) if he holds any office of profit under the Government of India or the Government of any State or the Government of any Union territory other than an office declared by law made by Parliament or by the Legislature of any State or by the Legislative Assembly of the Capital or of any other Union territory not to disqualify its holder; or

(b) if he is for the time being disqualified for being chosen as, and for being, a member of either House of Parliament under the provisions of sub-clause (b), sub-clause (c) or sub-clause (d) of clause (1) of article 102 or of any law made in pursuance of that article.

(2) For the purposes of this section, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State or the Government of any Union territory by reason only that he is a Minister either for the Union or for such State or Union territory.

(3) If any question arises as to whether a member of the Legislative Assembly has become disqualified for being such a member under the provisions of sub-section (1), the question shall be referred for the decision of the President and his decision shall be final.

(4) 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.

**16. Disqualification on ground of defection.**—The provision of the Tenth Schedule to the Constitution shall subject to the necessary modifications (including modifications for construing references therein to the Legislative Assembly of a State, article 188, article 194 and article 212 as references, respectively, to the Legislative Assembly, section 12, section 18 and section 37 of this Act), apply to and in relation to the members of the Legislative Assembly as they apply to and in relation to the members of the Legislative Assembly of a State, and accordingly: —

(a) the said Tenth Schedule as so modified shall be deemed to form part of this Act; and

(b) a person shall be disqualified for being a member of the Legislative Assembly if he is so disqualified under the said Tenth Schedule as so modified.

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### PART III DELIMITATION OF CONSTITUENCIES

**38. Election commission to delimit constituencies.**—(1) The Election Commission shall, in the manner herein provided, distribute the seats assigned to the Legislative Assembly under section 3 to single-member territorial constituencies and delimit them having regard to the following provisions, namely:—

(a) all constituencies shall, as far as practicable, be delimited in such manner that the ratio between the population of each of such constituencies and the total population of the Capital is the same; and

(b) constituencies in which seats are reserved for the Scheduled Castes shall, as far as practicable, be located in areas where the proportion of their population to the total population is comparatively large.

(2) The Election Commission shall—

(a) publish its proposals for the delimitation of constituencies in the Official Gazette and also in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(b) consider all objections and suggestions which may have been received by it before the date so specified;

(c) after considering all objections and suggestions which may have been received by it before the date so specified, determine by one or more orders the delimitation of constituencies and cause such order or orders to be published in the Official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

*Extracts from the Government of National Capital Territory of Delhi Act, 1991*

**39. Power of Election Commission to maintain delimitation orders up-to-date.**—The Election Commission may, from time to time, by notification in the Official Gazette,—

(a) correct any printing mistakes in any order made under section 38 or any error arising therein from inadvertent slip or omission; and

(b) where the boundaries of name of any territorial division mentioned in any such order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing such order up-to-date.

**40. Elections to the Legislative Assembly.**—(1) For the purpose of constituting the Legislative Assembly, a general election will be held as soon as may be, after the delimitation of all the assembly constituencies under section 38.

(2) For the purposes of sub-section (1), the Lieutenant Governor shall, by one or more notifications published in the Official Gazette, call upon all the said assembly constituencies to elect members in accordance with the provisions of the Representation of the People Act, 1951 (43 of 1951), and of the rules and orders made or issued thereunder as applicable under sub-section (3).

(3) The Representation of the People Act, 1950 (43 of 1950), the Representation of the People Act, 1951 (43 of 1951), the rules and orders made or issued under the said Acts and all other laws for the time being in force relating to elections shall apply with necessary modifications (including modifications for construing references therein to a State, State Government and Governor as including references to the Capital, Government of the Capital and Lieutenant Governor, respectively) to, and in relation to, the general election referred to in sub-section (1).

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**53. Power of President to remove difficulties.**— (1) If any difficulty arises in relation to the transition from the provisions of any law repealed by this Act or in giving effect to the provisions of this Act and in particular in relation to the constitution of the Legislative Assembly, the President may by order do anything not inconsistent with the provisions of the Constitution or of this Act which appear to him to be necessary or expedient for the purpose of removing the difficulty:

Provided that no order under this sub-section shall be made after the expiry of three years from the date of constitution of the first Legislative Assembly.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.