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# Revision Series

## Polity & Governance

### (Week - 2)

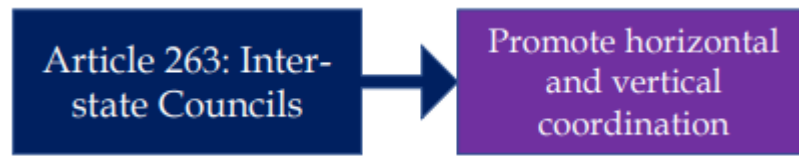
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## Inter - State Council



- Can be established by the President at any time it appears to him that the public interest would be served by its establishment.
- Duties to be performed by such a council and its organisation and procedure to be defined by the President.

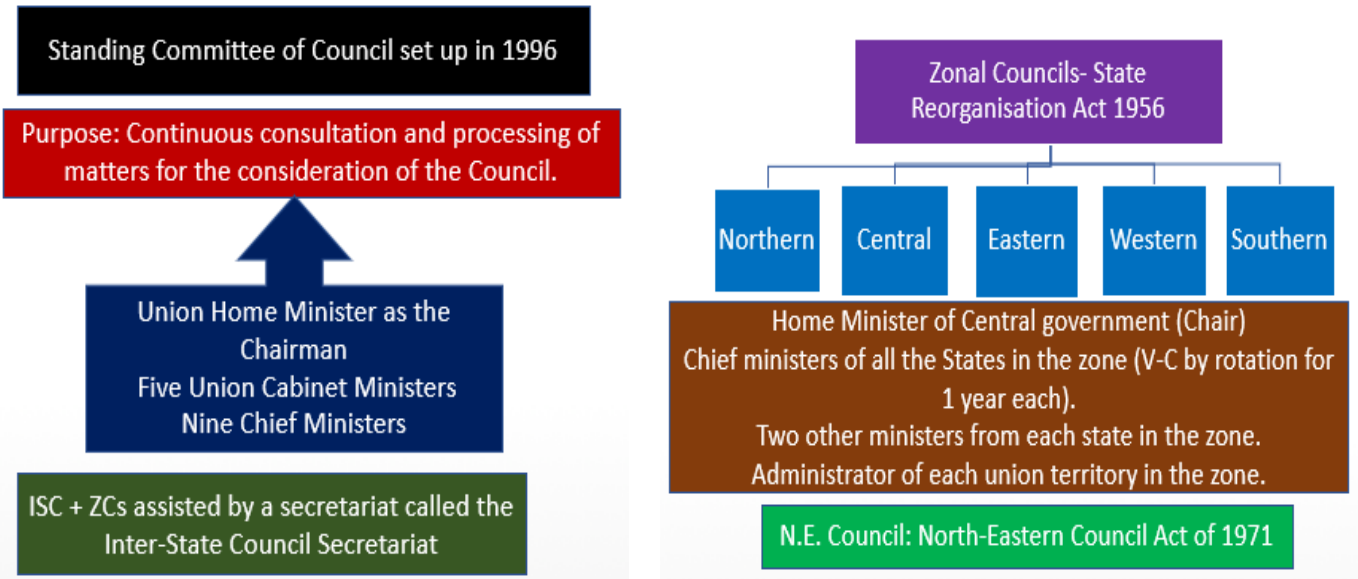


- **Sarkaria Commission** on Centre-State Relations (1983–87) recommended setting up the ISC. Established in 1990.

### Prime minister as the Chairman

- Chief ministers of all the states;
- Chief ministers of union territories having legislative assemblies;
- Administrators of union territories not having legislative assemblies;
- Governors of States under President's rule.
- Six Central cabinet ministers, including the home minister, to be nominated by the Prime Minister.

Five Ministers of Cabinet rank / Minister of State (independent charge) nominated by the Chairman of the Council (i.e., Prime Minister) are permanent invitees to the Council.



## Parliamentary Sessions

### Does India have a calendar for Parliament sessions?

- India does not have a fixed parliamentary calendar. By convention, Parliament meets for three sessions in a year.

### Is there a minimum number of times Parliament should convene?

- The summoning of Parliament is specified in Article 85 of the Constitution. Like many other articles, it is based on a provision of The Government of India Act, 1935. Not only the maximum gap between two sessions of Parliament cannot be more than six months. In other words, the Parliament should meet at least twice a year.

### Who summons a session?

- The President from time to time summons each House of Parliament to meet. However, the decision is taken by the Cabinet Committee on Parliamentary Affairs, which currently comprises nine ministers, including those for Defence, Home, Finance, and Law.

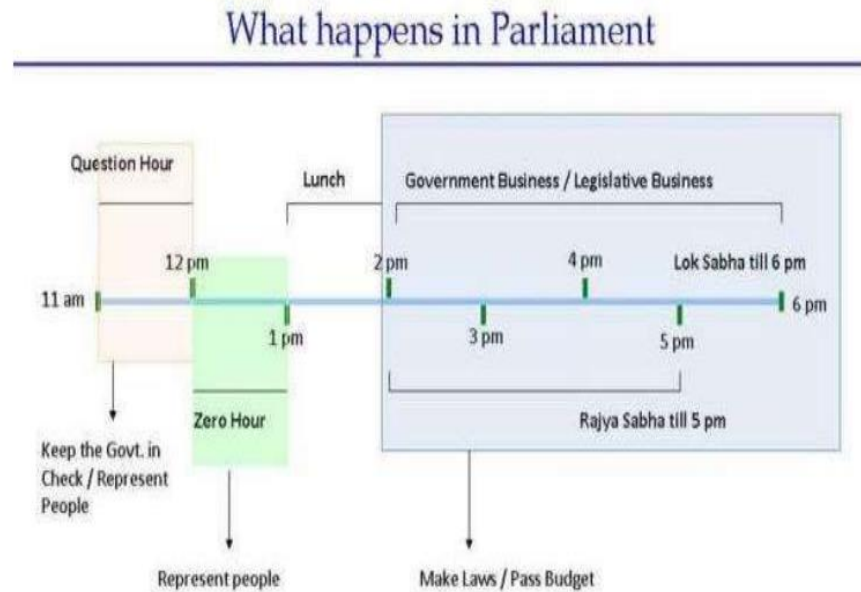
### What is a session and what sessions in Parliament?

- A 'session' of Parliament is the period spanning between the first sitting of a House and its prorogation (or dissolution in the case of the Lok Sabha).
- During a session, the House meets every day to transact business. The period spanning between the prorogation of a House and its reassembly in a new session is called 'recess'.

- There are usually three sessions in a year, viz,
  - the Budget Session (February to May);
  - the Monsoon Session (July to September); and
  - the Winter Session (November to December).

## Question Hour

- The first hour of every parliamentary sitting is slotted for this. During this time, the members ask questions and the ministers usually give answers. The questions are of **three kinds**, namely, **starred**, **unstarred** and **short notice**.



← Mentioned in the Rules of Procedure.

- **A starred question** (distinguished by an asterisk) requires an oral answer and hence supplementary questions can follow.
- **An unstarred question**, on the other hand, requires a written answer and hence, supplementary questions cannot follow.
- **A short notice question** is one that is asked by giving a notice of less than ten days. It is answered orally.
- **Questions to private members:** Addressed to a private member if the subject matter of the question relates to some Bill, resolution or other matter connected with the business of the House for which that member is responsible.



## Election of Speaker and Deputy Speaker

- Indian Constitution in Article 93 for Lok Sabha and Article 178 for state Assemblies states that these Houses “shall, as soon as may be”, choose two of its members to be Speaker and Deputy Speaker.
- The Constitution neither sets a time limit nor specifies the process for these elections. It leaves it to the legislatures to decide how to hold these elections.

In Lok Sabha and state legislatures, the President/Governor sets a date for the election of the Speaker, and it is the Speaker who decides the date for the election of the Deputy Speaker.

Speaker remains in office during the life of the Lok Sabha. However, he has to vacate his office earlier in any of the following three cases:

1. if he ceases to be a member of the Lok Sabha;
2. if he resigns by writing to the Deputy Speaker; and
3. if he is removed by a resolution passed by a majority of all the members of the Lok Sabha. Such a resolution can be moved only after giving 14 days' advance notice.

## Parliamentary Privileges

### What is Parliamentary Privilege?

- Parliamentary privilege refers to rights and immunities enjoyed by Parliament as an institution and MPs in their individual capacity, without which they cannot discharge their functions as entrusted upon them by the Constitution. Also provided to Attorney General of India and Union ministers.

### Are these Parliamentary Privileges defined in Constitution or a law?

- Some of the privileges are mentioned in Article 105 for Parliament and article 194 for state legislatures. However, there is no law that exhaustively defines them. In the absence of any such law, it continues to be governed by British Parliamentary conventions.

### What are sources of Privileges?

- Sources include, Constitution of India, various Parliamentary laws, rules of both Houses, Parliamentary conventions and judicial interpretations.

### What are the categories of Parliamentary Privileges?

#### Collective Privileges: These privileges belong to each House of Parliament collectively:

- Right to publish its reports, debates and proceedings
- Exclude strangers from its proceedings
  - Make rules to regulate its own procedure and the conduct of its business
- Punish members as well as outsiders for breach of its privileges
  - Institute inquiries and order the attendance of witnesses.

#### Individual Privileges: These privileges belonging to the members individually:

- Can't be arrested during the session of Parliament and 40 days before the beginning and 40 days after the end of a session (civil cases).
- Freedom of speech in Parliament.
  - Exempted from jury service.
  - May refuse to give evidence/ appear as witness in Court when Parliament is in session.

### What is breach of Privilege?

- When any individual or authority disregards or attacks any of the privileges, rights and immunities, either of the member individually or of the House in its collective capacity, the offence is termed as breach of privilege and is punishable by the House.



## What is Contempt of House?

- Contempt of the House has wider implications. Any act or omission which obstructs a House of Parliament, its member or its officer in the performance of their functions or which has a tendency, directly or indirectly to produce results against the dignity, authority and honour of the House is Contempt of House.

104<sup>th</sup>  
Constitutional  
Amendment  
Act (2019)



The amendment deals with Article 334 of the constitution.

It extends the deadline for the cessation for the reservation of seats for members from Scheduled Castes and Scheduled Tribes in the Lok Sabha and State Legislative Assemblies by a period of 10 years.

It does not, however, extend the period of reservation of the 2 Lok Sabha seats reserved for members of the Anglo-Indian Community and thus the practice of nominating two members of the Anglo-Indian community by the President of India under the recommendation of the Prime Minister of India was effectively abolished.

Fourteen states of India also had a nominated member each in their respective State Legislative Assemblies, which was ended as well.

## President's Rule

Article 355

Duty Centre to ensure that the government of every state is carried on in accordance with the provisions of the Constitution.

Article 356

In case of failure of constitutional machinery in state, impose President's Rule/ state emergency/ Constitutional Emergency.

44<sup>th</sup> CAA, beyond 1 year extension:  
National Emergency should be in operation.  
ECI certifies elections cant be conducted.

Article 356:

Empowers the President to issue a proclamation, if he is satisfied that a situation has arisen in which the government of a state cannot be carried on in accordance with the provisions of the Constitution. Notably, the president can act either on a report of the governor of the state or otherwise too.

Article 365:

It says that whenever a state fails to comply with or to give effect to any direction from the Centre, it will be lawful for the president to hold that a situation has arisen in which the government of the state cannot be carried on in accordance with the provisions of the Constitution

Must be approved by both the Houses of Parliament within two months from the date of its issue. Can be extended for a maximum period of three years with the approval of the Parliament, every six months.

## Office of Profit

- Office of profit has not been defined in the constitution or under Representation of People Act (RPA), 1951 but different courts have interpreted it to mean a position with certain duties that are more or less of public character.
- The Supreme Court in Pradyut Bordoloi vs Swapan Roy (2001) outlined the four broad principles for determining whether an office attracts the constitutional disqualification:
- Whether the government exercises control over appointment, removal and performance of the functions of the office
  - Whether the office has any remuneration attached to it.
  - Whether the body in which the office is held has government powers (releasing money, allotment of land, granting licenses etc.).
  - Whether the office enables the holder to influence by way of patronage.

### Article 239 A (1)

- It allows Parliament to create a law for Puducherry and thus Parliament enacted Government of Union Territories Act, 1963 which governs Puducherry and vests the legislative assembly with the power to make laws on any of the matters enumerated in the State List or the Concurrent List.

### Article 239 - AA





## Government of National Capital Territory of Delhi (Amendment) Act (GNCTD) 2021

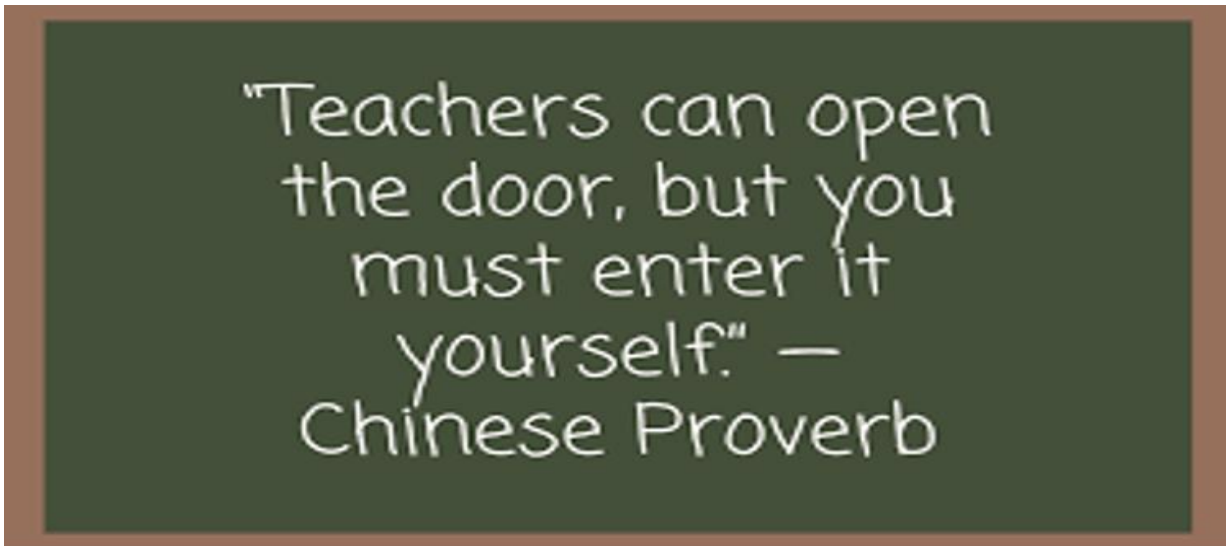
- It amends the Government of National Capital Territory of Delhi Act, 1991 for promotion of harmonious relations between the legislature and the executive.
- **Restriction on laws passed by the Assembly:** It provides that the term “government” referred to in any law made by the Legislative Assembly will imply Lieutenant Governor (LG).
- **Rules of Procedure of the Assembly:** The Act allows the Legislative Assembly to make Rules to regulate the procedure and conduct of business in the Assembly. The Amendment provides that such Rules must be consistent with the Rules of Procedure and Conduct of Business in the Lok Sabha.
- **Inquiry by the Assembly into administrative decisions:** The Amendment prohibits the Legislative Assembly from making any rule to enable itself or its Committees to:
  - Consider the matters of day-to-day administration of the NCT of Delhi and
  - Conduct any inquiry in relation to administrative decisions.

### Assent to Bills

- The Act requires the LG to reserve certain Bills passed by the Legislative Assembly for the consideration of the President: (i) which may diminish the powers of the High Court of Delhi, (ii) which the President may direct to be reserved, (iii) dealing with the salaries and allowances of the Speaker, Deputy Speaker, and members of the Assembly and the Ministers, or (iv) relating to official languages of the Assembly or the NCT of Delhi.
- The Amendment requires the LG to also reserve those Bills for the President which incidentally cover any of the matters outside the purview of the powers of the Legislative Assembly.

### LG's opinion for executive actions

- The Act specifies that all executive action by the government, whether taken on the advice of the Ministers or otherwise, must be taken in the name of the LG. The 2021 Amendment adds that on certain matters, as specified by the LG, his opinion must be obtained before taking any executive action on the decisions of the Minister/ Council of Ministers.



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